



City of Austin

Parks and Recreation Department
200 South Lamar Blvd, Austin, TX 78704

January 8, 2021

Michael McHone
Authorized Agent
mchone1234@sbcglobal.net

Dear Mr. McHone:

The Parks and Recreation Department (PARC) is in receipt of your December 3, 2020 request to pay a fee in lieu of dedicating parkland in connection with the pending site plan for the property located at 4802 S. Congress Avenue (Wilder SP-2019-0600C) (the "Site Plan"). This letter serves as a denial of your request.

City Code § 25-1-605 governs the Parks and Recreation Department's (PARC) determination of whether to allow payment in fee in lieu of the dedication of parkland. Specifically,

(A) The director [of PARC] may require or allow a subdivision or site plan applicant to deposit with the City a fee in-lieu of parkland dedication under Section 25-1-605 (*Dedication of Parkland*) if:

(1) the director determines that payment of a fee in-lieu of dedication is justified under the criteria in Subsection (B) of this section; and

(2) the following additional requirements are met:

(a) less than six acres is required to be dedicated under Section 25-1-602 (*Dedication of Parkland*); or

(b) the land available for dedication does not comply with the standards for dedication under Section 25-1-603 (*Standards for Dedicated Parkland*).

Because the land to be dedicated is less than six acres, the Site Plan satisfies the requirements of § 25-1-605(A). Therefore, the question is whether it also satisfies the requirements of § 25-1-605(B):

(B) In determining whether to require dedication of land under Section 25-1-602 (*Dedication of Parkland*) or allow payment of a fee in-lieu of dedication under this section, the director shall consider whether the subdivision or site plan:

(1) is located within the Deficient Park Area Map;



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- (2) is adjacent to existing parkland;
- (3) has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;
- (4) is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map; or
- (5) would provide increased connectivity with existing or planned parks or recreational amenities.

With regard to the Site Plan, the answer to each of these criteria is “yes”: the Site Plan is located within the Deficient Park Area Map; is adjacent to existing parkland; has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures; is needed to address a critical need for parkland or to remedy a deficiency; and would provide increased connectivity with existing or planned parks or recreational amenities. In sum, none of the criteria justifies a decision by PARD to allow payment of a fee in lieu as to this Site Plan, and PARD thus does not have the authority to allow such payment. Rather, the only thing that the Code authorizes PARD to do is to require the dedication of parkland.

Please be advised that you are entitled to appeal PARD’s decision deny your request to pay a fee in lieu:

If the director rejects a request to pay a fee in-lieu of dedication under Subsection (B) of this section, the applicant may appeal the director's decision to the Land Use Commission consistent with the procedures in Article 7, Division 1 (*Appeals*) of this chapter. Before the Land Use Commission considers the appeal, the director shall present the case to the Parks Board for a recommendation, but failure by the Parks Board to act shall not prohibit the Land Use Commission from considering the appeal.

City Code § 25-1-605(f). The appeals procedure that both parties must follow is set forth in §§ 25-1-181 through 25-1-192. Please note that § 25-1-182 provides that you have 20 days from the date of this letter to initiate an appeal and § 25-1-183 describes the information you must include in your appeal.

Best regards,

Scott Grantham, PARD, Principal Planner
Cc: Randal Scott, PARD, Program Manager