

**APPEAL TO
PLANNING COMMISSION
PARKLAND REQUIREMENT
REVIEW SHEET**

CASE NUMBER: SP-2020-0419C **Parks Board:** September 14, 2021
Planning Commission: September 28, 2021

CASE NAME: Koenig Lane Multifamily

DISTRICT: 4

ADDRESS: 403 Koenig Lane

ZONING: CS-MU-V-CO-NP

APPELLANT: Michael Whellan

APPLICANT: Michael Whellan

OWNER: 201 E Koenig Lane Management, LLC, John Needham

**NEIGHBOR-
HOOD**

PLAN: North Loop

PARKS AND RECREATION BOARD ACTION:

September 14, 2021: Board Member Barnard made a motion to recommend to the Planning Commission to deny the applicant's request to exclusively pay fee in lieu of land dedication for Koenig Multifamily (SP-2020-0419C); Board Member Cottam Sajbel second the motion. The motion passed on a 6-0 vote with Vice Chair DePalma and Board Members Hugman and Rinaldi absent and two vacancies.

PLANNING COMMISSION ACTION:

To be heard on September 28, 2021

PROPOSED DEVELOPMENT:

The applicant is proposing to construct 434 multifamily units and 2,500 sq ft of mixed commercial use in a multi-story building with a multi-level parking garage, driveways to Koenig Lane, Avenue F and E 56th Street, and site utilities.

APPEAL REQUEST:

The Appellant filed an appeal of the Parks and Recreation Department (PARC) decision to require land for this site plan, and requested to pay fee in lieu. This action is described in Land Development Code 25-1-605 (F); the appeal is to the Planning Commission, who will make the final decision. The case has already been heard by Park and Recreation Board, and a recommendation made (see above).

SUMMARY STAFF RECOMMENDATION:

Staff recommends upholding PARD's original requirement to dedicate land as part of this site plan; and denial of the applicant's request to pay fee in lieu.

This Site Development Permit is requesting an appeal of the park land determination under 25-1-605 (F). This site plan is located on 6.5 acres in a critically park deficient area and proposing 434 multifamily units owing 6.9 acres of parkland. The applicant is required to dedicate 0.98 acres of parkland (15% gross site area Urban Core Cap) on the site, and pay the remaining amount in fees-in-lieu to satisfy parkland dedication requirements (per code criteria 25-1-602(B)). Due to the 15% Urban Core Cap, the applicant is satisfying the majority of their park requirements (86%) with a fee in-lieu payment.

The criteria for the decision of whether to require land vs. fee in lieu are listed in 25-1-605.

(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;
- (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.

These criteria are applied, and responded to below:

- (1) is located within the Deficient Park Area Map.

True - The site is located with the Deficient Park Area map with no parks within a quarter mile. This map is used to indicate the areas where the City is actively trying to acquire parkland, and is public on the City's Property Profile site.

- (2) is adjacent to existing parkland;

False – There is no parkland within a 5 minute walk of this site, it is critically park deficient

- (3) has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;

True – the site is 6.5 acres and almost entirely unencumbered by easements, topographical constraints or floodplain. The site has plenty of frontage on ROW and has sufficient acreage to provide a park larger than the minimum 0.25 acres specified

- (4) is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map;

True – The parkland would address a critical need for parkland in this neighborhood, which is more than a mile away from the nearest neighborhood park. There is limited alternative unencumbered, available land for parkland acquisition in this neighborhood that could remedy the parkland deficiency identified in the map.

- (5) would provide increased connectivity with existing or planned parks or recreational amenities.

True – This parkland would increase connectivity with the planned Urban Trail along the Redline Railroad. The park would act as a recreational node and trail head for the planned trail

PARD staff met with the applicant early to work on a configuration that would maximize parkland while minimizing impacts to their developable site. The applicant refused a Parkland Early Determination letter which would have entitled them to feedback on the park configuration prior to submitting for their SDP. The applicant claims the park configuration that is approved by PARD will detrimentally impact their proposed unit count. PARD staff is not authorized under code to consider impact to proposed units as criteria when considering whether parkland dedication will be satisfied with land rather than fees-in-lieu. There are many other code requirements, such as utilities, fire lanes, parking and compatibility, that also impact the buildable units of a development. These requirements are all part of developing a healthy, compact and connected city as contemplated by the Imagine Austin Comprehensive Plan.

It is particularly critical that parkland is dedicated with this site plan as it will take approximately 1,100 existing residents and 730 new residents out of the parkland deficient zone and there is little to no other land available in the vicinity suitable for parkland. By making parkland part of the development requirements for a residential SDP, the code treats parkland as critical infrastructure. PARD is tasked with administering the code by requiring parkland dedication for sites that are critically parkland deficient in order expand parkland service to walking distance for all Austin residents. The applicant is already satisfying 6/7th of their parkland dedication requirement with a fee in-lieu payment, which is over \$1 million. The 0.98 acres required by the code The appeal was reviewed by Parks and Recreation Board on September 14th, 2021. District 4.

Please contact PARD reviewer Robynne Heymans with any questions at robynne.heyman@austintexas.gov.

SUMMARY COMMENTS ON SITE PLAN:

The 6.5 acre subject property is located along Koenig Lane in District 4. The site was previously owned and operated by the Texas Gas company. The site is located in a critically park deficient

area, it is largely unencumbered. It is bordered on the north and south by single family homes, on the west by a multifamily development and on the east by the railroad then a car dealership/commercial use. The project will bring nearly 740 new residents to this park deficient neighborhood. 90% of the units are market rate, and the project also proposes 2,500 sq feet of commercial space. The driveway in the center of the site is to satisfy the internal circulation route requirements of Subchapter E, but is not required to provide vehicular connectivity. The ICR is not required to be located in the center of the block, only to reduce the block to less than 5 acres. The sidewalk, bike lane, planting strip and pedestrian hybrid beacon are all transportation requirements per the TIA. Per the VMU designation the development is subject to a 40% parking requirement reduction. The proposed parking scheme represents a 20% reduction in parking.

A decision from Planning Commission will allow the applicant to move forward with either dedication of parkland or payment of fee in lieu, following PARD's process for whichever is decided. A decision for parkland dedication will allow the applicant to proceed with an Environmental Site Assessment, survey, and getting assistance from the City's Real Estate group to dedicate 0.98 acres of code-compliant parkland. A decision for fee in lieu will direct PARD to invoice the applicant for the calculated amount.

PROJECT INFORMATION

TOTAL SITE AREA	287,428 square feet	6.59 acres	
EXISTING ZONING	CS-MU-V-CO-NP		
TRAFFIC IMPACT ANALYSIS	Required		
PROPOSED ACCESS	Koenig Lane, Avenue F, E 65 th Street		
	Allowed	Existing	Proposed
FLOOR-AREA RATIO	2:1	364,943:1	2:1
BUILDING COVERAGE	95%	70.32%	95%
HEIGHT	60'	60'	60'
NUMBER OF UNITS	-	0	434

SURROUNDING CONDITIONS (ZONING/ LAND USE)

North: E Koenig Lane, then SF-3-NP / E Koenig Lane, the single family

South: E 56th Street, then SF-3-NP / E 56th Street, then single family

East: Railroad tracks, then CS-MU-V-CO-NP / Railroad tracks, then industrial

West: Avenue F, then CS-MU-V-CO-NP / Avenue F, then multifamily

CASE MANAGER: Clarissa Davis
Senior Planner
Clarissa.Davis@austintexas.gov

PARKS AND RECREATION DEPARTMENT STAFF:

Robynne Heymans

Senior Planner

Robynne.Heymans@austintexas.gov

EXHIBITS:

A. Slide Presentation

B. Correspondence with Applicant

C. Correspondence with Interested Parties

EXHIBIT 1: SLIDE PRESENTATION

Austin Parks and Recreation Department

Appeal of the Parkland Dedication Land Requirements for Koenig Multifamily (SP-2020-0419C)

Planning Commission
September 28, 2021

Robynne Heymans, Senior Planner, Parks and Recreation Department

Overview

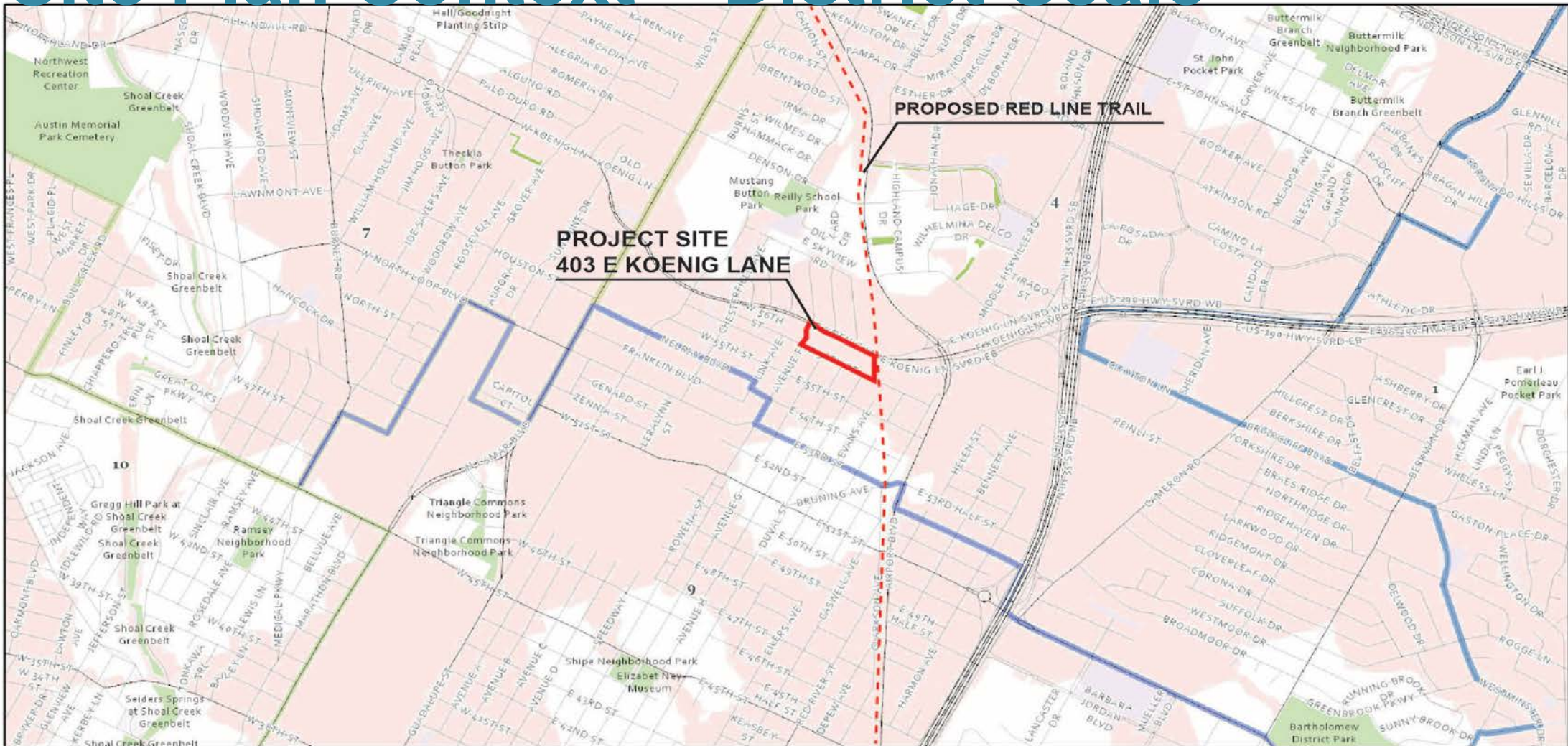
- Consider an Appeal by the Applicant.
- **PARD is requiring land dedication. The developer requests to pay fee in-lieu.**
- PARD Recommendation to Planning Commission: **Support PARD's request for land dedication and deny the applicant's request to pay fee in lieu (of land dedication).**
 - Code Context
 - Site Plan Context
 - Application of Code Criteria
 - Additional Considerations
 - Park Alignments
 - Recommendation to Planning Commission

Code Context

- City Code 25-1-605 (B) lists **criteria** for PARD's requirement to dedicate parkland vs. pay fee in lieu.
 - **Based on these criteria, PARD must require land, and does not have the authority to accept fee in lieu.**
- City Code 25-1-605 (F) indicates that PARD's decision may be **appealed** to the Land Use Commission, and that PARD shall first present the case to the Parks and Recreation Board for a recommendation.
- Applicant has appealed the decision.
- **Parks Board denied appeal request 6-0** on September 14th, 2021.
- North Loop Neighborhood Association voted to deny the applicant's appeal request.

B-10 Site Plan Context – District Scale

10 of 72



Koenig MF Park



23 August 2021 heymanstr

0 500 1,000 2,000 Feet



- Parkland Deficient Area
- Project Site
- Redline Trail

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by the Parks and Recreation Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Site Plan Context – Neighborhood Scale

11 of 72



Koenig MF Park



23 August 2021 heymansr

0 195 390 780 Feet



PARK DEFICIENT AREA



PROJECT SITE



WALLER CREEK



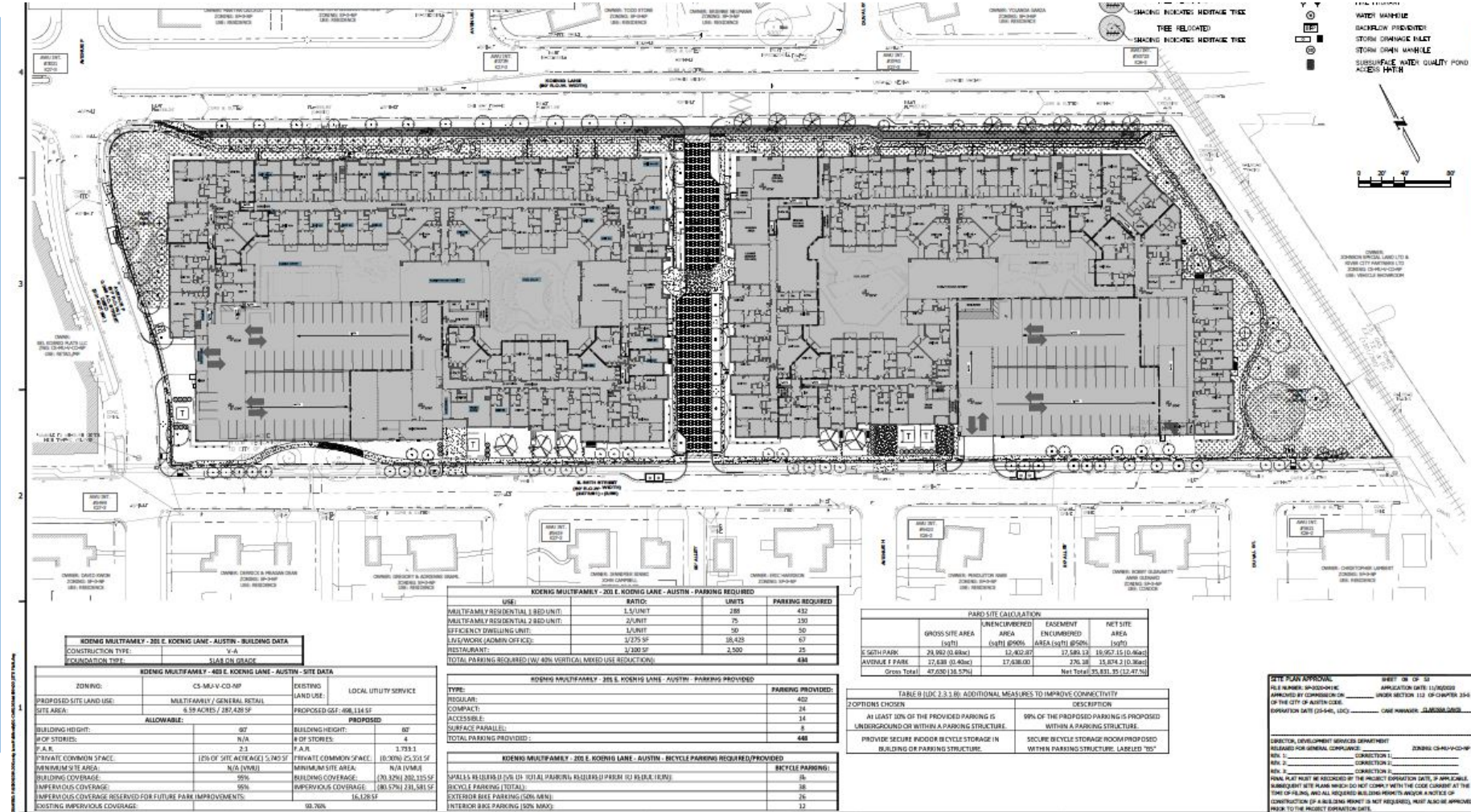
DISTRICT BOUNDARY



PLANNED REDLINE TRAIL

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by the Parks and Recreation Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

- Proposing 434 Units, 10% affordable under VMU
- Parkland demand generated by development: **6.93 acres**
- Site is 6.5 acres: 15% urban core cap is **0.98 acres**



Application of Code Criteria – Fee in-lieu

§ 25-1-605 (A) - FEE IN-LIEU OF PARKLAND DEDICATION

(A) The director may require or allow a subdivision or site plan applicant to deposit with the City a **fee in-lieu of parkland** dedication under Section 25-1-602 (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).

§ 25-1-605 (B) - FEE IN-LIEU OF PARKLAND DEDICATION

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

Based on these criteria, PARD must require land, and does not have the authority to accept fee in lieu.

Application of Code Criteria- Parkland Standards

§ 25-1-603 (B) – Dedication of Parkland

A subdivision or site plan applicant shall provide for the parkland needs of the residents by the dedication of ***suitable land for park and recreational purposes*** under this article

City Code § 25-1-603 Standards for Dedicated Parkland

(B) The director shall determine whether land offered for dedication complies with the standards for dedication under Subsection (A)

City Code § 25-1-604 Private Parkland

(D) Yards, setback areas, and private personal open spaces required by this title **may not be counted as private parkland under this section**, except for a required setback or yard that includes a public trail.

PDOP 14.3.7 Supplemental Standards for Dedicated Parkland

(3) The proposed land **shall not be encumbered by recorded easements**, or easements proposed to be recorded, such that it prevents construction of recreation amenities desired on the parkland.

(7) If the Parks Department finds it necessary for optimum park placement, tracts to be dedicated may be split into two (2) or more separate park sites as long as:

(a) **No site is less than ¼-acre in size**

Application of Code Criteria- Parkland Standards

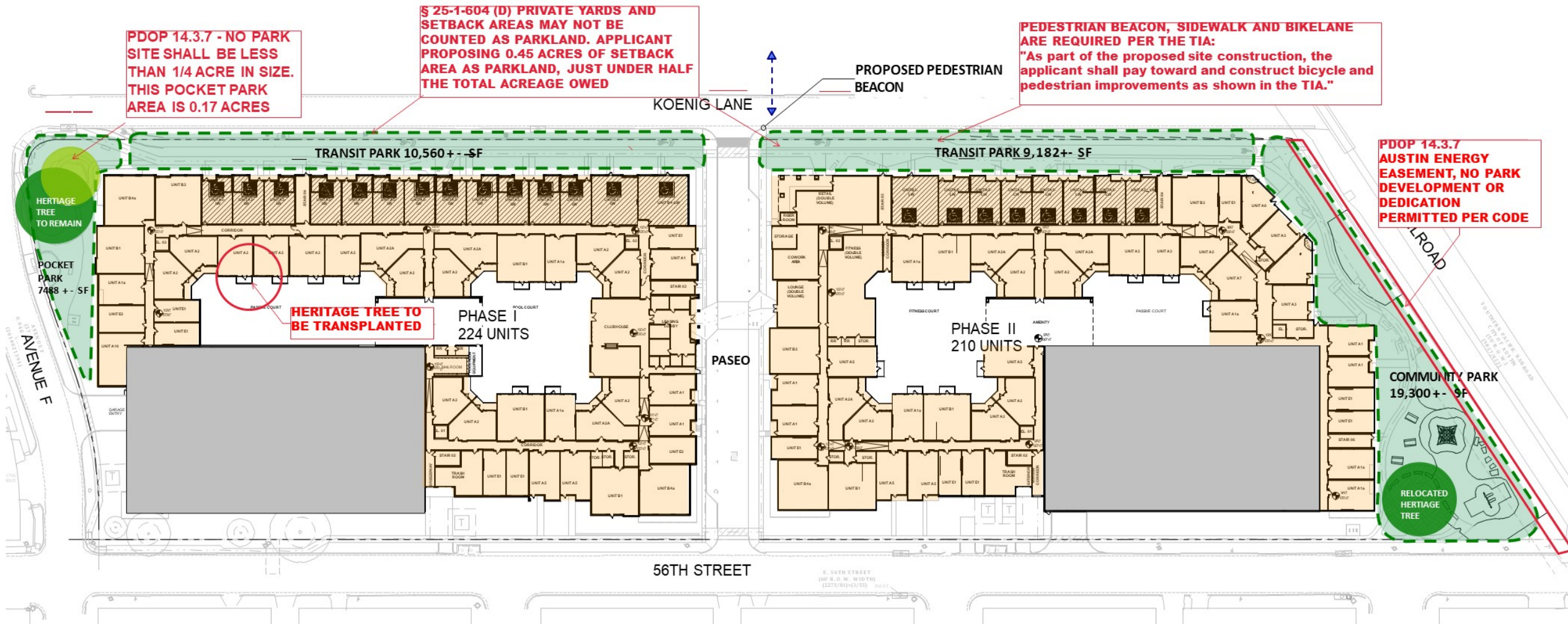
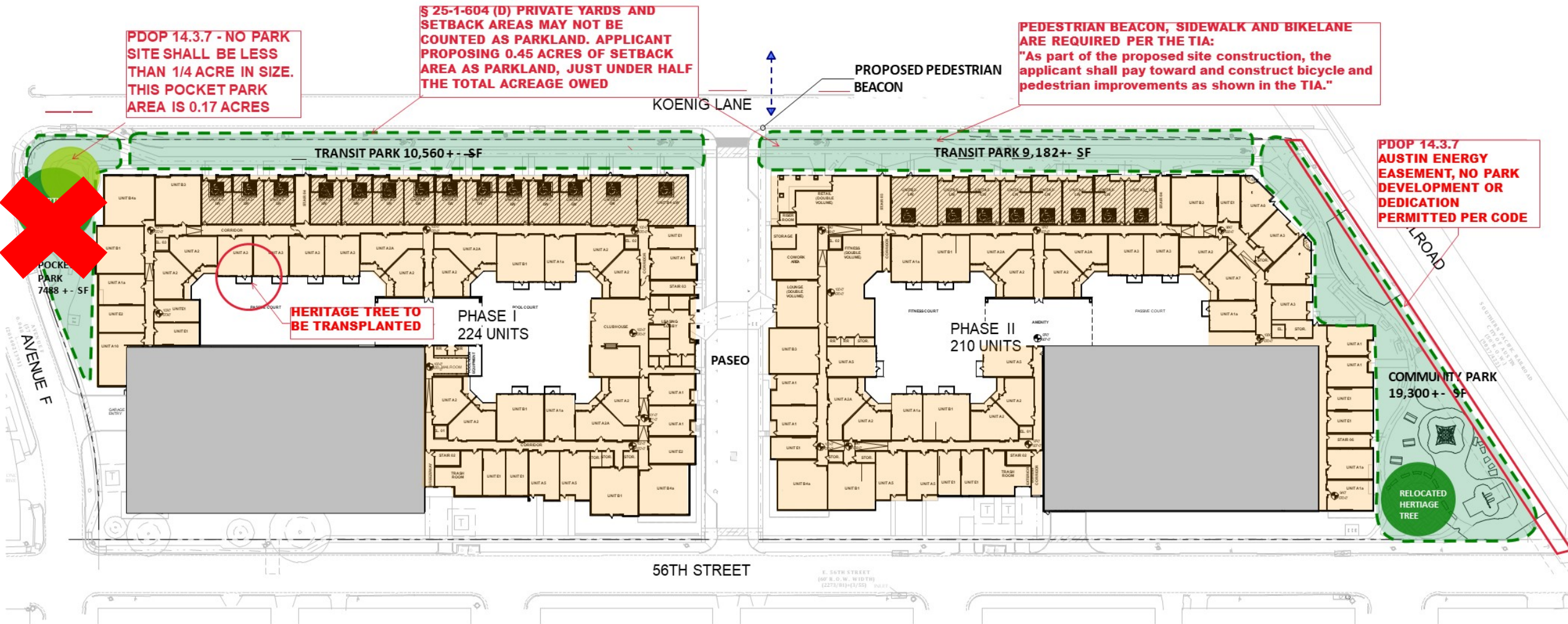


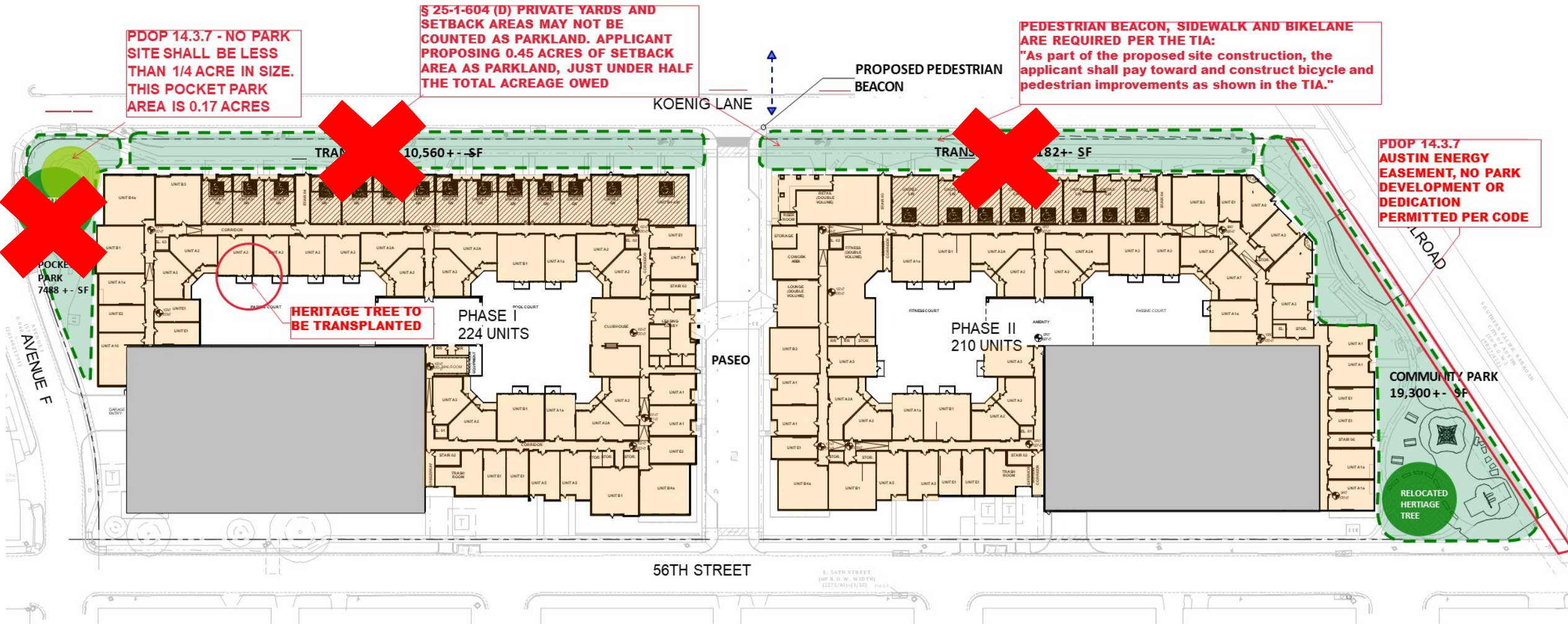
FIGURE A - CURRENT PROPOSED SITE PLAN / PARK PLAN



Application of Code Criteria- Parkland Standards



Application of Code Criteria- Parkland Standards



Application of Code Criteria- Parkland Standards

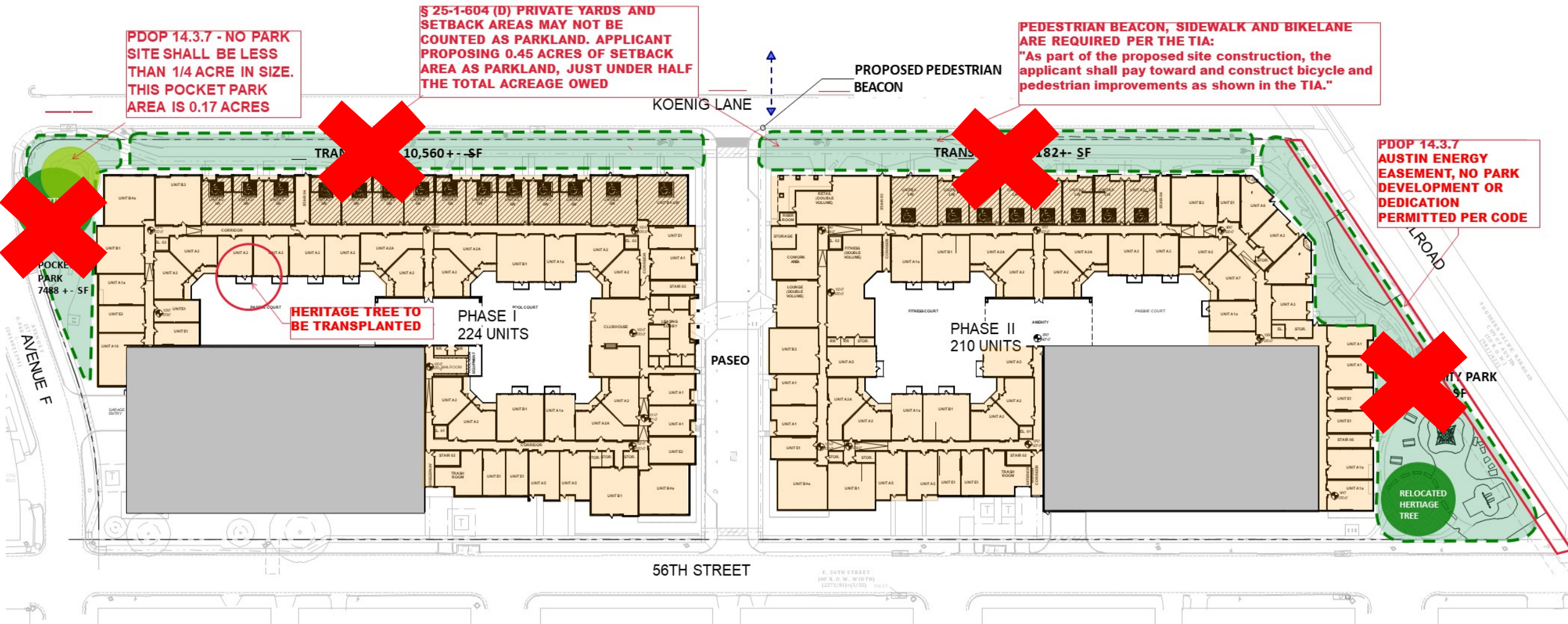


FIGURE A - CURRENT PROPOSED SITE PLAN / PARK PLAN



Additional Considerations

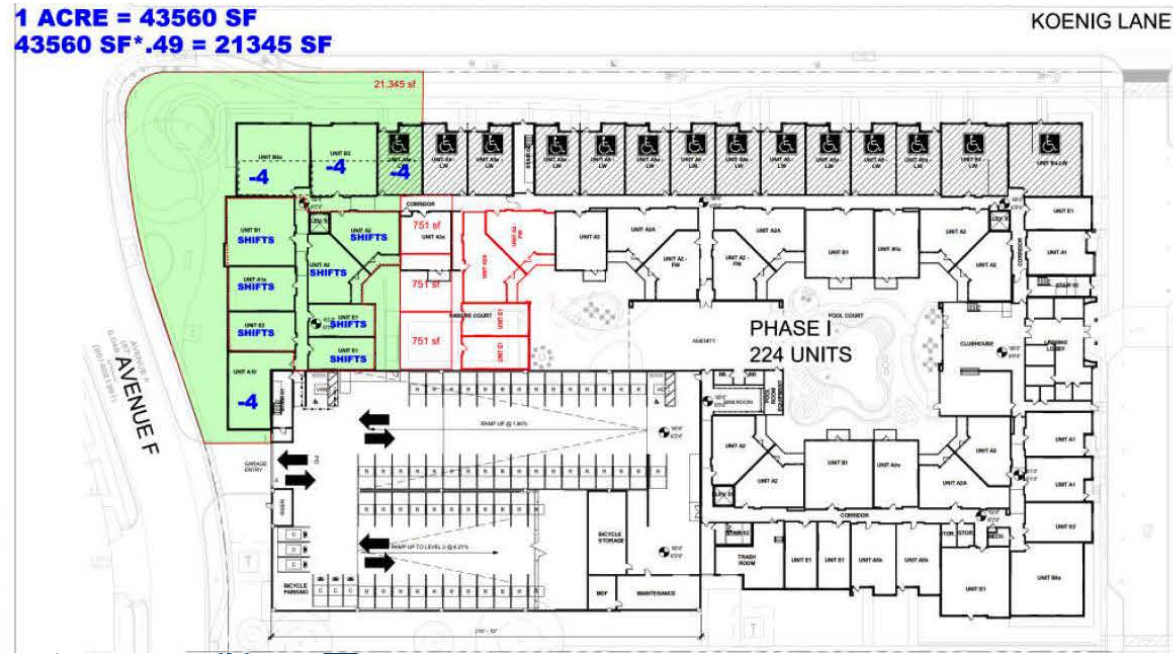
- Applicant is satisfying parkland dedication with a combination of land dedication and fees in-lieu as authorized under City Code § 25-1-605(E). **The majority (86%) of their parkland requirement will be met with fees in-lieu due to the 15% Urban Core cap.**
- No available land to purchase for parkland within a quarter mile of the site- 100% fees-in-lieu not useful for land acquisition in this neighborhood. Actual cost per acre of parkland is higher than fee average cost per acre.
- Impact to non-SMART affordable units is not a code criterion related to parkland dedication requirements. Applicant could increase density and affordable housing in neighborhood with Affordability Unlocked program.
- Paseo required as an internal circulation route- not required to have vehicular use, only pedestrian and bicycle.

The Director is not authorized to accept in-kind land donations in lieu of land dedication requirements. In-kind land donations are not code criteria listed in current code 25-1-605 B for considering whether land or fee may satisfy parkland dedication.

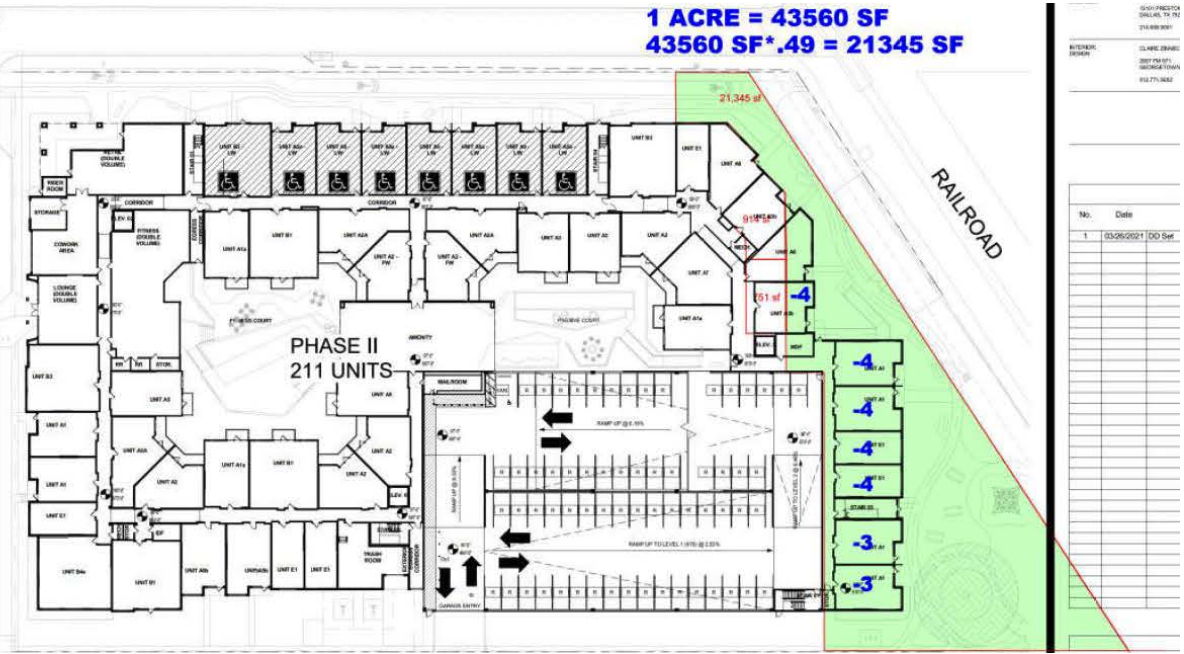
B-10 Applicant Prepared/PARD Approved Alignment 20 of 72

- The applicant prepared this proposed alignment.
- PARD approved the alignment as it satisfies the parkland dedication standards outlined in code and the parkland/recreational needs of the neighborhood stakeholders.
- Applicant is not willing to comply with this parkland alignment and is instead appealing the land dedication requirements.

1 ACRE = 43560 SF
43560 SF * .49 = 21345 SF



1 ACRE = 43560 SF
43560 SF * .49 = 21345 SF



Recommendation

Staff recommends that **Planning Commission deny the applicant's request to exclusively pay fee in lieu of land dedication for Koenig Multifamily (SP-2020-0419C).**

- This development **adds 434 units** and about **737 new residents** to this **already park deficient neighborhood**.
- Accepting applicant's appeal request would **result in no enforceable parkland** being dedicated with this site development.

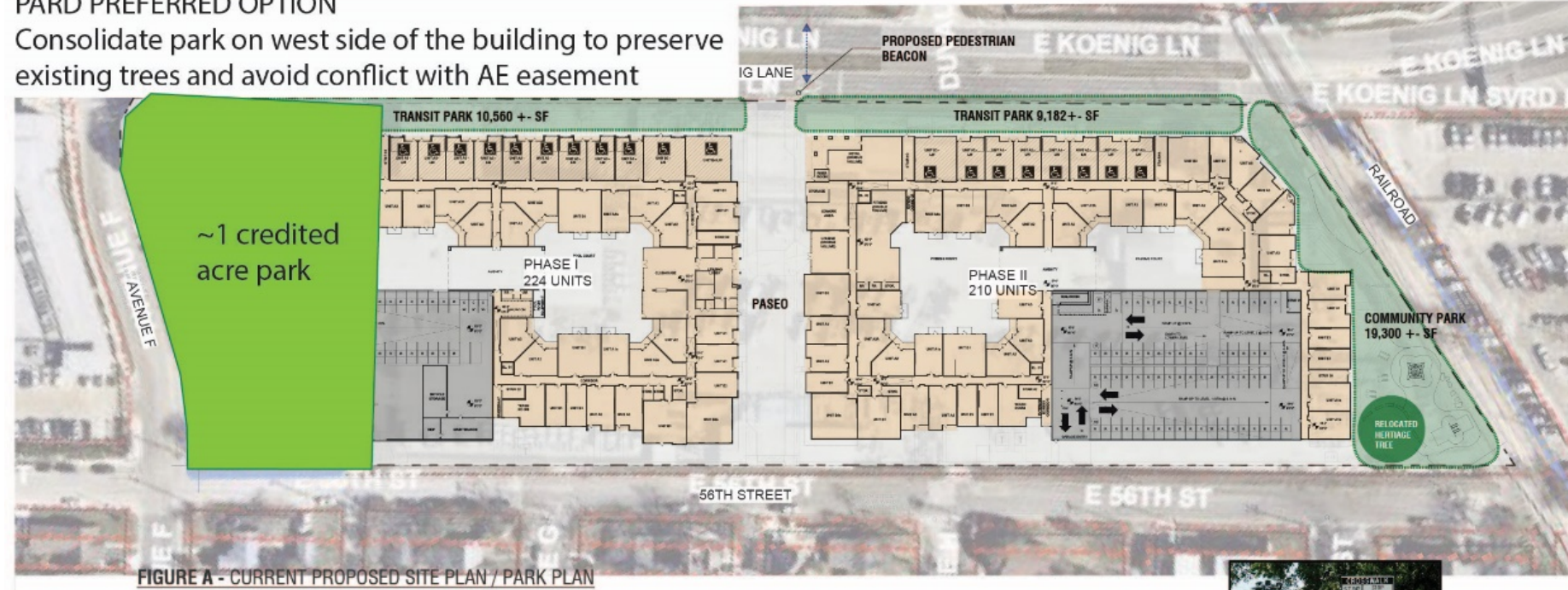


Alternate Site Layouts

PARD presented several acceptable options for park alignment in order to minimize impact to buildable site area. PARD preferred a consolidated park, but is authorized to accept two parks under **PDOP 14.3.7 (7)**

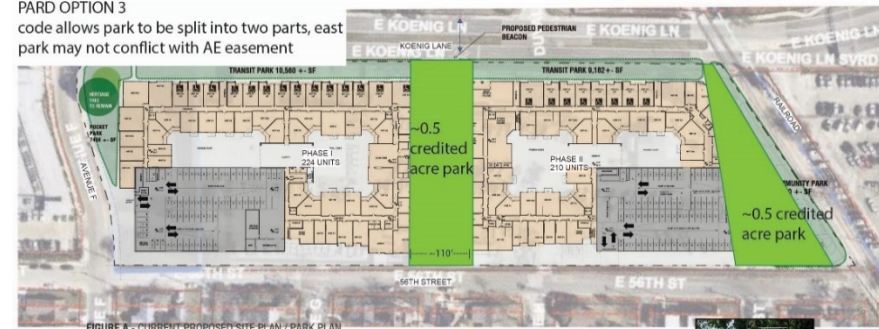
PARD PREFERRED OPTION

Consolidate park on west side of the building to preserve existing trees and avoid conflict with AE easement



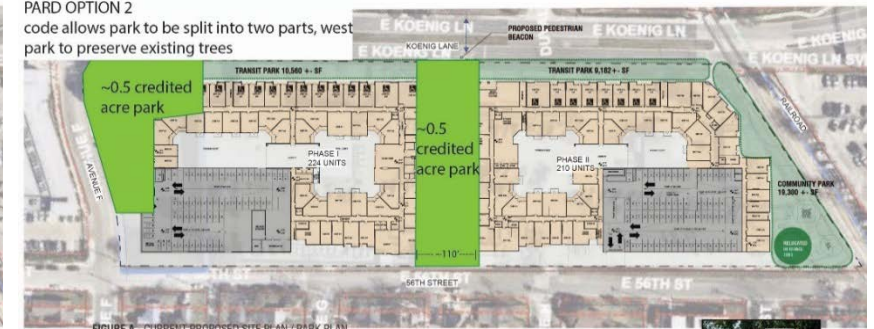
PARD OPTION 3

code allows park to be split into two parts, east park may not conflict with AE easement



PARD OPTION 2

code allows park to be split into two parts, west park to preserve existing trees



Application of Code Criteria- Parkland Standards

PDOP Supplemental Criteria for Evaluating Fee In-Lieu Requests 14.3.6

(3) onsite parkland would further goals of the Imagine Austin Comprehensive Plan by providing:

- (a) gathering areas and outdoor play in corridors and centers;
- (b) opportunities for health-enhancing activities for residents;
- (c) green infrastructure with recreation amenities, or
- (d) increased connectivity for pedestrian and bicycle traffic

Parkland should provide *increased* connectivity. The bike lane and sidewalk required by the TIA does not provide sufficient *increased* connectivity. There are no opportunities for group gathering, outdoor play or health-enhancing activities that the required sidewalk doesn't already provide

Code Requirements vs Applicant's Proposal

PARD approved alignment provides parkland on the North West corner of the site and a much larger park service area.



Applicant proposal includes only one approved park on the South East corner of the site and no parkland at Koenig and Ave F.



Code Requirements vs. Applicant's Proposal

0.98 acres code approved parkland

Value: \$178,586.50 credit against fee in-lieu of parkland

Remaining fee in-lieu of parkland*:
\$1,085,295.28

Development fee*: **\$228,496.66**

*Park development value may equal remaining fees.

Fiscal posting guarantees amenities are built to City standard and are TAS/ADA/ASTM Compliant.

Full fee in-lieu of parkland*:
\$1,263,881.78

Full Development fee*: **\$228,496.66**

Unenforceable voluntary donation:

0.43 acres code approved parkland

Required sidewalk easement not accepted as parkland.

\$458,000 applicant proposed park improvements

Development amount not reviewed by PARD. Amenities not guaranteed as TAS/ADA/ASTM compliant.

Code Requirements vs. Applicant's Proposal

0.98 acres parkland

+

\$1,313,791.94 park development or fees

0 acres parkland*

+

\$1,492,378.44 parkland fees

*No guarantee or enforcement of voluntary parkland donation or park development.

0.98 acres fully developed park > \$178,586.50 delta in fees paid**

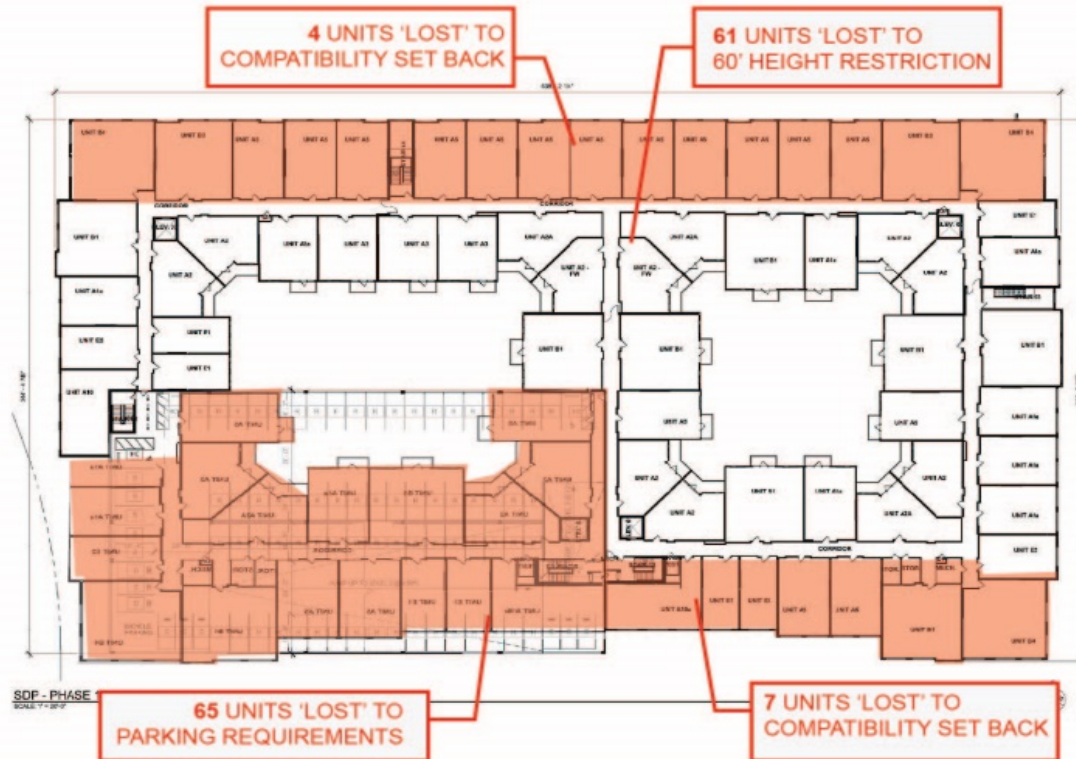
**typical cost per acre of parkland in 2020/2021 was around \$490,000

PARD Prepared Unit Impact Study

PROPOSING:
434 UNITS
43 AFFORDABLE
391 MARKET RATE

VS.

AFFORDABILITY UNLOCKED:
743 UNITS (GAIN 309 UNITS)
372 AFFORDABLE (GAIN 329 AFFORDABLE)
371 MARKET RATE (LOSS 20 MARKET RATE)



PHASE 1:
PROPOSING: 224 UNITS
23 AFFORDABLE
201 MARKET RATE

AFFORDABILITY UNLOCKED:
NO COMPATIBILITY SETBACK: + 11 UNITS
NO PARKING REQUIREMENTS: + 65 UNITS
1.25 MAX HEIGHT (5 STORIES): +79 UNITS
TOTAL PHASE 1 GAIN: +155 UNITS



PHASE 2:
PROPOSING: 210 UNITS
21 AFFORDABLE
189 MARKET RATE

AFFORDABILITY UNLOCKED:
NO COMPATIBILITY SETBACK: + 12 UNITS
NO PARKING REQUIREMENTS: + 65 UNITS
1.25 MAX HEIGHT (5 STORIES): +77 UNITS

TOTAL PHASE 2 GAIN: +154 UNITS

Parkland cases disputed by applicant

- SP-2019-0352C.F1 Symphony Square, Land accepted for park expansion, connectivity
- SP-2020-0331C Stonehollow Multifamily, Land accepted for trail extension, connectivity
- SP-2016-0300C Marriott Hotel development, downtown – land did not meet criteria in 25-1-605 B
- SP-2017-0129C Huston on IH-35 between 11th and 12th streets, land did not meet criteria in 25-1-605 B
- SP-2016-0474C.SH RBJ Center, we took land here
- SP-2017-0343C The Pearl, parkland dedicated in this case
- SP-2017-0210C Saint Elmo Public Market 4323 South Congress – served by existing parkland, did not meet criteria in 25-1-605 B
- C8-2019-0032.0A Three Hills, Code-compliant parkland dedicated in this case
- SP-2018-0159C The Travis, in the CBD, and parkland already on site, land did not meet criteria in 25-1-605 B
- SP-2019-0509C Fairfield at Metric, on Hwy 183/Research Blvd. Land did not meet criteria in 25-1-605 B
- SP-2019-0495C Presidium at Waterford, on Hwy 183/Research Blvd. Land did not meet criteria in 25-1-605 B

EXHIBIT 2: CORRESPONDENCE WITH APPLICANT

From: [Scott, Randy](#)
To: [Heymans, Robynne](#)
Subject: Fwd: Koenig Lane Discussion
Date: Tuesday, July 27, 2021 12:32:16 PM

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From: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>
Sent: Tuesday, July 27, 2021 11:28 AM
To: Michael Whellan
Cc: Munoz, Jonessa
Subject: RE: Koenig Lane Discussion

Michael-

Please know I studied this situation again based upon your most recent feedback. I reviewed the feedback in relationship to the Code and the examples provided. I appreciate you allowing me ample time to research. Below are responses. Admittedly, they are very similar to the feedback previously provided.

I recognize the ideal solution for you and your client is to provide 100% fee-in-lieu and you also made the offer to donate a public easement over the 0.4 acre park in the S/E corner of the site adjacent to the rail road. I believe the best path forward to pursue the your stated ideal is to prepare for an appeal process. Of course, the offer to continue to work with the Planning Team is on the table. The Team is prepared to assist with either decision.

§ 25-1-605 - FEE IN-LIEU OF PARKLAND DEDICATION.

(A)The director may require or allow a subdivision or site plan applicant to deposit with the City a fee in-lieu of parkland dedication under Section 25-1-602 (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).

As I understand the calculations, and explained previously, the required acreage is actually more than 6 acres but the 15% cap has been applied thereby reducing the total acreage required to less than 1 acre. It seems there is opportunity to provide 1 acre of parkland to serve the approximate 393 residential units considering the acreage request is already reduced. Below are additional items taken under consideration during the additional review/study of the request

(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;
- (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.

Precedential Examples

SP-2018-0159C: fee paid for 623 dwelling units and 200 hotel room units, on a 2.29-acre site. The project referenced is adjacent to parkland. The PARD Team worked with developer to coordinate with planned trail improvements. The topography and existing access made the site unsuitable for parkland dedication Per 25-1-605 A(2)(b).

SP-2019-0495C: fee paid for 633 dwelling units on a 6.76-acre site (in parkland deficient area). Project in NBG planning area- no open space contemplated for this site. Site adjacent to raised decks of 183, unsuitable for parkland per 25-1-605A(2)(b). There is a supplemental plan in place for this development (a park vision plan) that contemplates alternative parkland service options.

SP-2019-0509C: fee paid for 390 dwelling units on a 4.67-acre site (in parkland deficient area). Project in NBG planning area- no open space contemplated for this site. Site adjacent to raised decks of 183, unsuitable for parkland per 25-1-605A(2)(b). There is a supplemental plan in place for this development (a park vision plan) that contemplates alternative parkland service options.

I review topography of the potential development we have been discussion and did not see any concerns that deemed the property unsuitable for parkland.

Best Regards-

Kimberly McNeeley, CPRP
Director, Austin Parks and Recreation
512-974-6722

From: Michael Whellan
Sent: Friday, July 16, 2021 3:27 PM
To: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>
Cc: Michael Whellan <
Subject: FW: Koenig Lane Discussion

I wanted to provide you with (i) additional authority for making the decision to allow fee in-lieu for all of the units, and (ii) 3 examples of where you have done this recently -- we can find additional examples if that would help.

We have spent months working on this with you and PARD staff representatives; we have reached a fair and equitable resolution; and now we have the additional authority and precedents to allow you to proceed without us having to appeal.

I would please ask you to reconsider your position in the email below that you do not have the authority in light of this one-page analysis AND the precedents which demonstrate that you have the authority to reach the compromise decision: PARD (i) accepts 100% fee in-lieu of parkland dedication to have a "high equity impact" (as described in the last paragraph of the one-pager) AND (ii) gets publicly accessible property voluntarily contributed as set forth on the site plan application.

Perhaps one last phone discussion would make sense -- cell 512-417-9076.

Thanks.

MJW.

From: Michael Whellan

Sent: Thursday, June 24, 2021 2:56 PM

To: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>

Cc: Kallivoka, Liana [PARD] <Liana.Kallivoka@austintexas.gov>; Munoz, Jonessa <Jonessa.Munoz@austintexas.gov>; Curless, Sammi <Sammi.Curless@austintexas.gov>; Michael Whellan

Subject: RE: Koenig Lane Discussion

Thank you for your email; we can regroup when you get back. However, I thought the conclusion we reached was that -- in this case -- "less than six acres is required to be dedicated under Section 25-1-602" because of 25-1-602(J):

(J) The amount of parkland required to be dedicated within the Parkland Dedication Urban Core may not exceed 15% of gross site area for the development required to provide the dedication except upon consent of the applicant or as authorized under this subsection.

I don't think we can ignore subparagraph (J) which would "require" less than 6 acres for any site less than 40 acres within The Parkland Dedication Urban Core.

Therefore, the plain language of the Code does seem to authorize you to allow fee in-lieu, based on the language from 25-1-605 below. As we indicated, we would pay fee in-lieu and separately coordinate with the Office of Real Estate Services to dedicate a public access easement for the land identified as parkland on the current site plan.

Perhaps we can talk when you are back.

All good.

MJW.

From: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>
Sent: Thursday, June 24, 2021 8:40 AM
To: Michael Whellan <>
Cc: Kallivoka, Liana [PARD] <Liana.Kallivoka@austintexas.gov>; Munoz, Jonessa <Jonessa.Munoz@austintexas.gov>; Curless, Sammi <Sammi.Curless@austintexas.gov>
Subject: Koenig Lane Discussion

Michael,

Good Morning. In advance of getting on a plane, I am writing about our meeting. I appreciate the creativity and the sentiments of your client. I reviewed this situation thoroughly one last time very carefully connecting it to code and then discussing with the Law Department (on multiple fronts). Here's the hiccup, based upon Code, the Director cannot grant an exception to the land requirement and accept 100% fees-in-lieu when the requirement is more than 6 acres. When we spoke, I talked through the Code. Specific to the acreage, you mentioned it was more and then I said it was about an acre. I reviewed this more thoroughly. The acre is the allowable 15% cap. So, the development is already receiving the opportunity to provide less parkland and as an alternative pay fee-in-lieu. I also attempted to review other cases for consistency in the application of the Code. Based upon this review it seems the best course of action is to appeal- as I originally suggested. Below is an overview and I've highlighted the additional requirements.

25-1-605 Fee in Lieu of Parkland Dedication.

(A)The director may require or allow a subdivision or site plan applicant to deposit with the City a fee in-lieu of parkland dedication under Section 25-1-602 (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).

This site owes more than 6 acres of parkland (as outlined above). The development is already receiving a reduction in required dedication based upon the 15% cap. And the land is suitable for dedication in that it meets our Standards for Dedicated Parkland.

I accept responsibility for the mixed response.

Staff is happy to continue working with you on the proposed parkland configuration

To pursue paying fees-in-lieu please submit a formal request to appeal the parkland dedication requirement for SP-2020-0419C. The appeal must go to the Parks Board for a recommendation and then to Planning Commission for a

determination. I will work to expedite. I do not believe the Planning Commission will consider an appeal of the configuration of the parkland, only whether to accept 100% fees-in-lieu of parkland or land dedication per 25-1-605 F. Below outline the process as I understand it-

(F) 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.

I am out of the office so I copied Liana and Sammi to assist with any appeal decisions.
Best- Kimberly

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ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

MICHAEL J. WHELLAN
(512) 435-2320
mwhellan@abaustin.com

July 30, 2021

Via EmailKimberly McNeeley, Director
City of Austin
Parks and Recreation Department
200 S. Lamar Blvd.
Austin, TX 78704

Re: Parkland Appeal for SP-2020-0419C

Director McNeeley,

Please accept this letter as an official notice of appeal pursuant to Section 25-1-605(F) of the Land Development Code. I am submitting this appeal due to the decision made by the City of Austin Parks and Recreation Department ("PARD") to reject the parkland dedication proposal described in this letter related to the Vertical Mixed-Use project with income-restricted affordable units proposed in site plan SP-2020-0419C ("the Project").

I am also providing the following information, as required by Section 25-1-183:

- Appellant Name: Michael J. Whellan
- Appellant Address: 100 Congress Ave., Suite 1300
- Appellant Phone: 512-435-2300
- Appellant Status: Agent for property owner.
- Appealed Decision: Parkland dedication determination (described below).
- Date of Decision: July 27, 2021
- Reasons for Appeal: As described below.

Our team reached out to PARD last summer, in August 2020, to discuss the Project and the configuration of on-site parkland. We then officially submitted a site plan application in late November 2020, and received our first comments from PARD in February 2021.

For nearly a year, we have engaged extensively with PARD regarding the configuration of our parkland and ways to meet PARD's requirements, including obtaining Austin Energy's approval to implement parkland improvements within an existing electrical easement area. This easement area – roughly 3,740 sf of amenitized space achieved through the applicant's efforts – would expand the usable parkland area above and beyond the space owed by the applicant. The applicant undertook this effort to help meet PARD's desire for additional space and is not requesting any parkland dedication credit for this area.

The Project is located in an Imagine Austin Center (Highland Mall Station) and is surrounded on three sides by Transit Priority Network roadways, marking it as a priority area for additional housing, and especially for long-term, affordable, income-restricted housing, which the Project will provide. Fully embracing affordable housing in these areas is particularly important given that the city has progress to make on its affordable housing goals. The Project is located in District 4, for which City Council has established an annual goal of 311 affordable units. However, over just the first two years of reporting alone, the city has already fallen 186 units short.

Projects like this one (located in an Imagine Austin Center and participating in a city affordability program) are critical to making up this affordability gap and meeting our affordability goals, especially considering that it is already located just a 10-minute walk from an existing park (Reilly School Park) and less than a 5-minute drive from three new parks at the Highland Mall redevelopment – including the Highland Greenway Park, which is within a quarter-mile of the Project.

These high-level goals and policies establish the city's vision, and the site plan process often drives its outcomes. In this case, a number of constraints common to infill projects limit the ways in which the project can move forward. To the north and south, single-family homes trigger compatibility height limitations. To the east, a 20-ft. wide electrical/public utility easement impinges on buildable area. To the west, grade changes and existing protected trees create particular design challenges.

Within this context, a further meaningful reduction to buildable area will have a significant negative impact on the site, threatening both the applicant's ability to build the Project and the Project's ability to deliver on the city's goals and vision.

Given these factors, we believe it is appropriate to approach the Project with the dual goals of providing on-site parkland access in a way that ensures full affordability and Project viability. To that end, we have proposed over one acre of parkland across the site, with two larger areas on the eastern and western edges of the site that connect across the front of the site ("Applicant Compromise Plan") (Exhibit 1).

This Applicant Compromise Plan includes a wide variety of public amenities including bicycle and pedestrian pathways, a dog park and wash station, natural flower and stone garden, preservation of an existing heritage tree as well as a variety of planted shade trees, stationary fitness stations, benches, tables, and children playscapes. Under this proposal, the parkland area constitutes 15.27 percent of the site, slightly more than the maximum 15 percent that the Land Development Code allows PARD to require. And, with the additional uncredited easement area that the applicant helped secure (described above), the effective total parkland area represents over 16 percent of the site.

This configuration helps provide parkland while also ensuring a financially feasible mixed-use Project with 434 units, including 44 income-restricted housing units at 80 percent of Median Family Income for 40 years. Our plan also addresses broader North Loop neighborhood concerns related to pedestrian connectivity across Koenig Lane (via an Austin Transportation Department-sponsored, developer-funded Pedestrian Hybrid Beacon), purpose-built commercial space for restaurant/retail uses, and traffic-easing mechanisms (bisecting vehicular connection between 56th Street and Koenig Lane).

However, PARD has rejected this proposed Applicant Compromise Plan and instead is requiring configurations that will meaningfully impact the Project's housing and affordability – eliminating between 11 to 23 percent of all affordable units, depending on the configuration – and damage the Project's viability.

PARD's three options for required configuration are as follows, in order of PARD preference:

- **PARD's Western Consolidation Plan** (PARD's Top Configuration), which shifts all parkland to the western side of the site, resulting in a 92-unit loss (82 market and 10 affordable) (Exhibit 2).
- **PARD's Eastern Consolidation Plan**, which shifts all parkland to the eastern side of the site, resulting in a 68-unit loss (62 market and 6 affordable) (Exhibit 3).
- **PARD's Withheld Credit Plan**, which requires parkland on both the eastern and western sides of the site, similar to the Applicant Compromise Plan – but instead withholds parkland credit for the portion of parkland that provides connectivity between the two parks. By withholding credit for that connector, PARD is instead requiring expanded eastern and/or western park areas, which (conservatively) results in a 42-unit loss (37 market and 5 affordable) (Exhibit 4).

We have discussed with PARD the impact that each of these scenarios would have on the Project, especially in contrast to the Applicant Compromise Plan. The Applicant Compromise Plan addressed PARD's stated goals, while maintaining the Project's ability to provide needed housing and income-restricted affordable housing.

As a final offer, we also put forward a plan by which we would offer to privately implement the Applicant Compromise Plan outside of the city's parkland requirements while simultaneously paying the full fee-in-lieu for the total parkland owed ("On-Site Parkland and Full Fee Compromise Plan"). This proposal would ensure on-site parkland while also providing PARD with the full parkland dedication and parks development fees – estimated at more than \$667,000 – which PARD could use to further equitable parkland priorities in the area.

PARD specifies that, after land acquisition, they prioritize parkland dedication fee expenditures on new park amenities within a two-mile radius of the site, within the relevant PARD planning area, or at the nearest district or metropolitan park.

Based upon these criteria, there are a number of eligible parks in the area where fee investments would have, in PARD's own words, a "high equity impact" according to "the population served, median household income, people of color served, and children served." This includes the following, listed in order of highest "equity impact" according to PARD's equity criterion: Buttermilk Neighborhood Park, St. John's Pocket Park, T.A. Brown Neighborhood Park, Earl J. Pomerleau Pocket Park, Highland Neighborhood Park, and Reilly School Park.

Parkland dedication and parks development fees are a major source of funding for improvements at existing parks, including for "high equity impact" parks projects. The more resources that PARD requires to be focused at the new Vertical Mixed-Use Project, the fewer PARD can direct toward "high equity impact" parkland needs in the area.

We believe that both our Applicant Compromise Plan and our subsequent On-Site Parkland and Full Fee Compromise Plan offered reasonable compromises to meet PARD's goals while also ensuring full affordable housing and Project viability. Ultimately, however, PARD has directed us to initiate an appeal of their stated ruling.

At this time, PARD's position is that applicants can *only* appeal the denial of a fee-in-lieu and *cannot* appeal the precise configuration of parkland. So, while our goal has been to put forward a compromise

vision that meets PARD's preferences as well as the city's unmet housing and affordability needs, we have been informed that we must limit our appeal only to a narrow request to pay fee-in-lieu, rather than to a more comprehensive approval of a compromise vision. The Planning Commission may separately wish to revisit the wording of the Land Development Code to allow a more nuanced and context-sensitive appeals process for future cases.

While our appeal must, procedurally, be limited to one of a fee request only, we intend to proceed substantially with our proposed compromise configuration. Approving this appeal would thus allow this configuration to move forward on the eastern and western portions of the site while also ensuring on-site affordable housing and fees that PARD can use on equitable parks investments.

We believe that an appropriate compromise is possible that can satisfactorily meet all parties' goals, and appreciate the opportunity to present that compromise for Planning Commission consideration. I am available to answer any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael J. Whellan', written in a cursive style.

Michael J. Whellan

Exhibit 1: Applicant Compromise Plan



FIGURE A - CURRENT PROPOSED SITE PLAN / PARK PLAN



SITE INFO

Zoning: CS-V-MU-NP
 Site Area: 287,428 sf (6.598 ac)
 Parkland Dedication via easement: East Park @26,197 sf + 17,690 sf = **43,887 sf provided**
 Parkland Dedication percentage: 43,887 sf provided / 287,428 sf = **~15.27%**



FIGURE B - PEDESTRIAN BEACON
EXAMPLE (AUSTINTEXAS.GOV)



FIGURE C - DISTANCE TO NEAREST PARKLAND



KOENIG LANE MF - PROPOSED SITE / PARK PLAN 06/11/2021
 201 EAST KOENIG LANE, AUSTIN, TX

Exhibit 2: PARD Western Consolidation Plan

GDA
ARCHITECTS

Project

KOENIG LANE
MULTIFAMILY
AUSTIN, TX



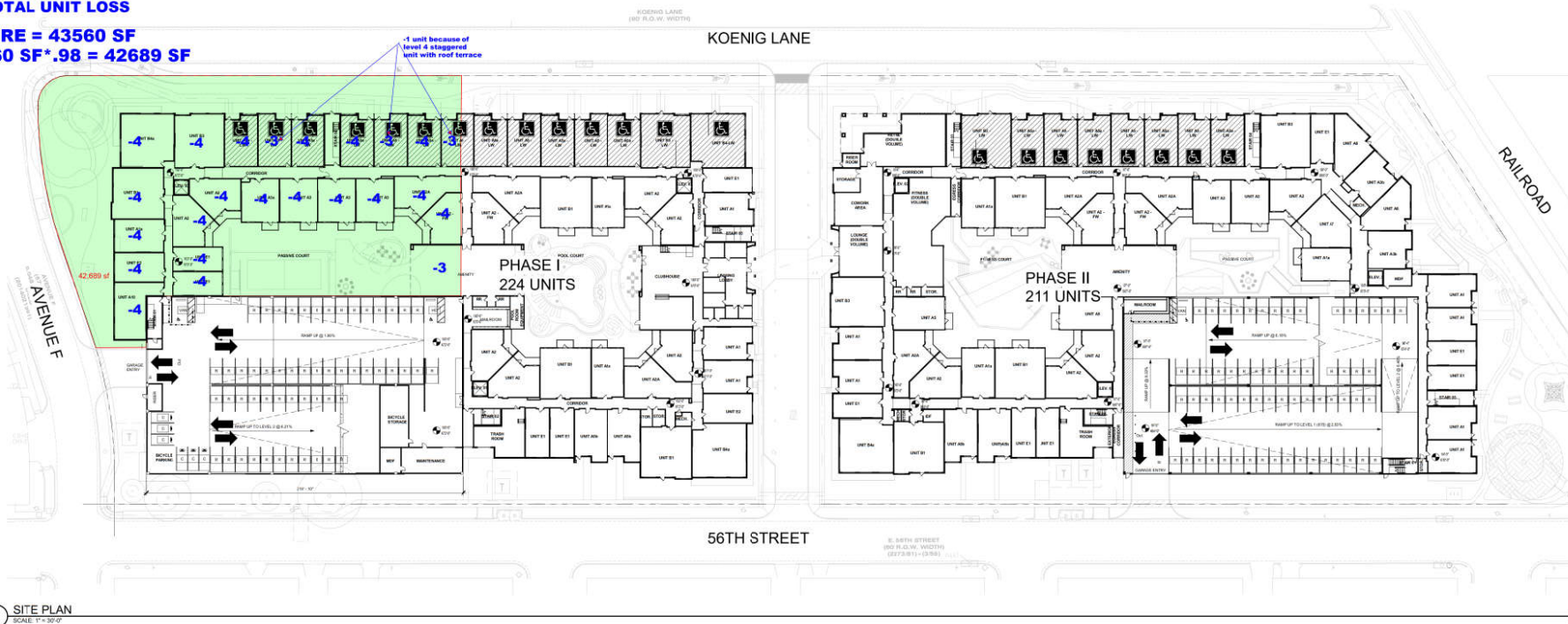
Authorization

PRELIMINARY
NOT FOR
REGULATORY
APPROVAL,
PERMITTING OR
CONSTRUCTION

Design Team

OWNER:	SECO VENTURES 160 COMMERCE AVENUE, SUITE 400 AUSTIN, TX 78701 512.344.8175
ARCHITECT:	GDA ARCHITECTS 1800 COMMERCE AVENUE, SUITE 400 AUSTIN, TX 78701 512.344.8175
DATE:	08/01/2011
PROJECT:	1600 COMMERCE AVENUE, SUITE 400 AUSTIN, TX 78701 512.344.8175
ARCHITECT:	SECO VENTURES 2001 E. 21ST STREET AUSTIN, TX 78701 512.344.8175
ARCHITECT:	SECO VENTURES 2001 E. 21ST STREET AUSTIN, TX 78701 512.344.8175
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ARCHITECT:	SECO VENTURES 2001 E. 21ST STREET AUSTIN, TX 78701 512.344.8175

82 TYPICAL UNIT LOSS
10 AMFI UNIT LOSS (AFFORDABLE)
92 TOTAL UNIT LOSS
1 ACRE = 43560 SF
43560 SF * .98 = 42689 SF



Issue Package

No.	Date	Description
1	08/01/2011	100 Set

Job No.

20010.00

Sheet Title

SITE PLAN

Sheet Number

A1.100

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Exhibit 3: PARD Eastern Consolidation Plan



FIGURE 'A' - BUILDING IMPACT DIAGRAM

15% CONSOLIDATED PARKLAND BUILDING / UNITS IMPACTED

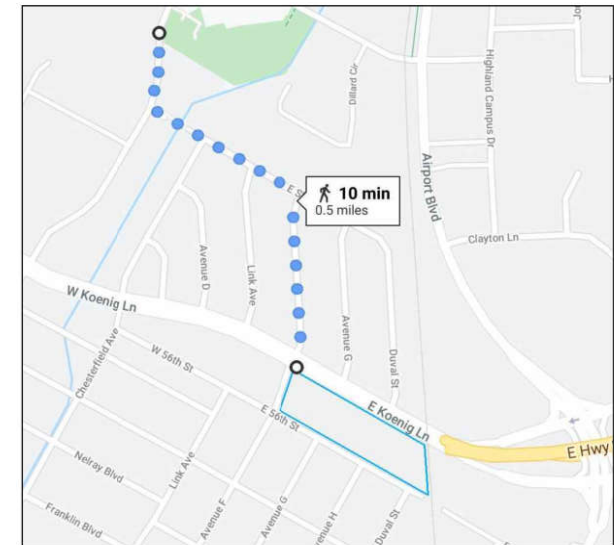


FIGURE 'B' - EXISTING PARKS WITHIN 10-MINUTE WALK:
REILLY SCHOOL PARK AND MUSTANG PARK



GDA
ARCHITECTS



SECO
VENTURES

Design Team

Digitized by Google

ARCHITECT ODA ARCHITECTS
3800 MONASTRO ST., SUITE 300
DALLAS, TX 75219
214.871.3070

Civil
ENGINEER

**LAURENCE AND
ARCHITECT**

STRUCTURAL
ENGINEER

44-38861-1017	44-38861-1017
NAME EMPLOYEE	NAME 1501 PRESTON ROAD, SUITE 604 DALLAS, TX 75201

INTERIOR DESIGN	CLARE ZINBACHER DESIGN 2007 PIA 001 CLARE ZINBACHER DESIGN, INC. BOSTON
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952,779,5652

Issue Pack		
No.	Date	Description

No.	Date	Descr.
1	03/26/2021	DD Set

A small grid with a red line and a green shaded area.

[illegible]

Job N

20010.0
Sheet Title

SITE PLAN

A1 100

Copyright © 2004

1 ACRE = 43560 SF
43560 SF*.49 = 21345 SF



From: [Grantham, Scott](#)
To: [Heymans, Robynne](#)
Subject: FW: Meeting?
Date: Tuesday, September 21, 2021 6:08:03 PM

Best - Scott

Scott Grantham

Principal Planner

City of Austin | Parks and Recreation Department

919 W 28 ½ Street | Austin TX | 78705

Tel | 512.974.9457

Email | scott.grantham@austintexas.gov



Austin is growing and so is our park system – visit our Parkland Dedication Storymap to learn more!

www.austintexas.gov/atxparkland

From: Michael Gaudini [mailto:]

Sent: Monday, August 10, 2020 12:24 PM

To: Grantham, Scott <Scott.Grantham@austintexas.gov>

Subject: RE: Meeting?

Hope you had a good weekend!

That works -- how about 4pm Thursday?

Michael

From: Grantham, Scott <Scott.Grantham@austintexas.gov>

Sent: Thursday, August 6, 2020 10:55 AM

To: Michael Gaudini <

Subject: RE: Meeting?

Sure – Thursday afternoon 8/13?

Best - Scott

Scott Grantham

Principal Planner

City of Austin | Parks and Recreation Department

919 W 28 ½ Street | Austin TX | 78705

Tel | 512.974.9457

Email | scott.grantham@austintexas.gov

From: Michael Gaudini []
Sent: Thursday, August 6, 2020 10:47 AM
To: Grantham, Scott <Scott.Grantham@austintexas.gov>
Subject: RE: Meeting?

Thanks! Hmm – my afternoon is pretty booked up tomorrow – do you have any windows of time next week?

Michael

From: Grantham, Scott <Scott.Grantham@austintexas.gov>
Sent: Thursday, August 6, 2020 10:30 AM
To: Michael Gaudini <
Subject: RE: Meeting?

Michael,

Nice to hear from you! I'd be free tomorrow (8/7) any time after 2:30 if you'd like to do a call then?

Take care!

Best - Scott

Scott Grantham

Principal Planner

City of Austin | Parks and Recreation Department

919 W 28 ½ Street | Austin TX | 78705

Tel | 512.974.9457

Email | scott.grantham@austintexas.gov

From: Michael Gaudini [] **Sent:** Tuesday, August 4, 2020 11:38 AM
To: Grantham, Scott <Scott.Grantham@austintexas.gov>

Subject: Meeting?

*** External Email - Exercise Caution ***

Scott,

Hope you're doing well!

I wanted to see if I could get on your schedule for a Microsoft Teams meeting with you (and/or any other relevant PARD Planners) regarding a development we're working on near Koenig and Airport that would include a parkland component. We are not asking for a determination letter (there are still a lot of moving pieces we're working through and would like to maintain an open dialogue as we work through them), but would like the opportunity to get some initial feedback from y'all that can inform our work as we prepare for site plan.

Would you have any time on your schedule to meet virtually on that?

Thank you!

Michael



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From: Michael Whellan
To: [Heymans, Robynne](#); [McNeeley, Kimberly](#)
Cc: [Scott, Randy](#); [Michael Whellan](#)
Subject: Miscommunication - 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C
Date: Monday, May 17, 2021 9:01:39 PM

I think we had a miscommunication (or I hope so); we were NOT proposing updated designs. We went through an effort to study the loss of Affordable Units due to PARD design proposals. Our currently filed site plan dedicates more than 15% of the site to parkland – we are prepared to voluntarily dedicate the land identified in SP-2020-0419C as parkland, AND, in addition, pay parkland fee in-lieu for the remaining units.

We are unwilling to redesign in a way to losses units, including Affordable Units, and will wait for your response to our updated site plan before appealing PARD's decision.

Thank you.

MJW.

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Sent: Monday, May 17, 2021 7:15 PM
To: Michael Whellan McNeeley, Kimberly
<Kimberly.McNeeley@austintexas.gov>
Cc: Scott, Randy <Randy.Scott@austintexas.gov>
Subject: 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

Hi Michael,

Thank you very much for sending the updated designs and working with us to find a code-compliant solution at this site. We have reviewed both designs and are amenable to accepting either to satisfy parkland dedication. The neighborhood expressed a strong preference for consolidating the parkland into a single area, with a slight preference for the east side of the tract adjacent to the railroad. PARD is able to accept parkland split into two tracts so long as neither is less than 0.25 acres. If the park is to be split into two tracts, as shown in your exhibit attached, the neighborhood voiced an interest in playground type amenity on the east side of the tract and a dog park facility on the west side. Please don't hesitate to send over park designs for review ahead of formal submittal so we can begin to finalize the fiscal surety posting.

Thank you for working so diligently to provide 392 new housing units in addition to ~ acre of meaningful parkland for this community. I look forward to seeing the parkland updated on your next submittal.

Thank you,
Robynne

From: Michael Whellan **Sent:** Monday, May 10, 2021 5:38 PM

To: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>

Cc: Scott, Randy <Randy.Scott@austintexas.gov>; Heymans, Robynne <Robynne.Heymans@austintexas.gov>; Michael Whellan <

Subject: Loss of Affordable Units with PARD Plan - 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

We have had an opportunity to meet with Randy Scott and Robynne Heymans to review the site constraints previously discussed below and reflected on the attach. In response, they asked us to either create a 1-acre park on the West side of the site (Koenig-Study 1) or split the Parkland in two ½ acre areas on the East and West (Koenig – Study 2). We have now gone through that exercise, including shifting some of the units to minimize the loss of Affordable Units – per attached. Losing 5 Affordable Units, along with 27 market rate units is meaningful, given the need and in the context of an applicant who is willing to provide parkland in a reasonable configuration - - especially with existing parks .5 miles away!

During our conversation with Randy and Robynne we also offered to voluntarily provide the parkland that we proposed (see PARD site Exhibits attached) and pay fee in-lieu for all of the market units - - so there would be no reduction for the voluntary donation of the parkland onsite. Rough proportionality limits the City's ability to extract; however, rough proportionality does not limit a landowners ability to make a voluntary contribution. I believe that this proposal is a way for both PARD and the landowner to reach an amicable solution to this without going further.

I hope you will consider this proposal, so we can clear PARD's comments and proceed with the site development application process.

Thanks.

MJW.

From: Michael Whellan

Sent: Monday, April 19, 2021 1:43 PM

To: Kimberly McNeeley (kimberly.mcneelely@austintexas.gov) <kimberly.mcneelely@austintexas.gov>

Cc: Michael Whellan <

Subject: 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

We have now had a chance connect with Austin Energy and shared with them the attached drawing (AE access exhibit), which they have indicated would be acceptable – thereby allowing park related uses within the easement area. I have also attached a compatibility study that shows the way in which compatibility – triggered from nearby residences – limits the height on the site. We still plan to have a sidewalk/bike lane through the required mid-block drive to allow for connectivity to the parkland on this site and across Koenig.

We have examined the other suggestions and the same constraints outlined previously make it impossible to further modify the site without the loss of affordable units (see PARD site Exhibits

previously sent).

The Applicant has submitted an update to the site plan that reflects the previously designated parkland; if you believe a conversation with the engineer and architect would be helpful to review the constraints (including building code restrictions and city code requirements such as Subchapter E), we can definitely arrange for that to occur this week or next. Certainly want to earn PARD's approval of the site plan - I know that this design will be one that you will be proud of - connectivity, dog park portion (which neighbors want), shaded area for crossing Koenig, and maximizing affordable units.

Thanks.

MJW.

From: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>
Sent: Monday, March 29, 2021 1:59 PM
To: Michael Whellan <
Cc: Munoz, Jonessa <Jonessa.Munoz@austintexas.gov>
Subject: RE: 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

Michael-

Thank you for meeting with me on Friday. I was able to look into the situation and have some feedback for consideration.

First, I have come to understand AE is not agreeable to allow parkland usages or easements under utility lines which I believe is causing some constraints on the site for both teams. I did talk through some ideas with the team and thought maybe, if agreeable, the project engineer or person performing the site development function might be able to coordinate with the PARD team to think about some other ideas.

I talked about some of the following:

- Allowing some access to the court yards, but realize this may be an amenity or feature the development hoped to keep private- but it's a thought.
- Is it possible to build up on the development? I did not ask you or the team about height restrictions.
- Maybe a roof top park on the parking lot?
- Is the pass through between buildings pedestrian or vehicular? I was thinking maybe there is a way to make that park if it is bike and pedestrian.
- Is it possible to create a different type of parking structure and consolidate parking in a single space and have the open area for park?
- Or is there land within a ¼ mile radius that could be purchased and dedicated as to not interfere with the site development?

These are all my amateur ideas- but the point of this email is to tell you I talked with the team who is both willing and able to revisit some ideas and thought maybe additional collaboration could get everyone to an agreeable spot and work around the site constraints.

May I have Robyn connect with you again? I can have Jonessa schedule a meeting. Thoughts!

Best Regards-

Kimberly McNeeley, CPRP
Director, Austin Parks and Recreation
512-974-6722

From: Michael Whellan <
Sent: Friday, March 26, 2021 9:53 AM
To: McNeeley, Kimberly <Kimberly.McNeeley@austintexas.gov>
Cc: Michael Whellan <
Subject: FW: 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

Transit park along Koenig is 25' wide and approx. 900' long!!!

MJW.

From: Michael Whellan <
Sent: Wednesday, March 24, 2021 11:29 AM
To: Kimberly McNeeley (kimberly.mcneeley@austintexas.gov)
<kimberly.mcneeley@austintexas.gov>
Cc: Michael Whellan <
Subject: FW: 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

I know tomorrow is a Council day; perhaps you and I could chat on Friday? I am flexible Friday afternoon.

MJW.

From: Michael Whellan <
Sent: Thursday, March 11, 2021 4:01 PM
To: Kimberly McNeeley (kimberly.mcneeley@austintexas.gov)
<kimberly.mcneeley@austintexas.gov>
Cc: Heymans, Robynne <Robynne.Heymans@austintexas.gov>; Scott, Randy
<Randy.Scott@austintexas.gov>; Michael Whellan <Rowlinson, Thomas

<Thomas.Rowlinson@austintexas.gov>; Michael Gaudini <

Subject: 201 W. Koenig Lane - parkland dedication - redesigning the site - SP-2020-0419C

Kimberly –

We need to meet as a group; it is simply untenable to redesign the building as PARD is suggesting in comments related to this site plan (SP-2020-0419C) and suffer the consequences, which include the loss of Affordable Units. PARD's suggestion to shift the building East up against the railroad tracks is simply unworkable. Given the site constraints, we made an effort to maximize the amount of parkland that could be consolidated. We produced a workable plan (page 1 of the attached), which was a revision from the original plan to accommodate PARD informal requests for more land along the railroad because of planned connectivity in that location.

Please note that Page 1 of the attached, which was then submitted as a site plan, put parkland on the East side of the building next to the RR tracks as PARD requested, but did not consolidate all of the parkland (which was also a PARD request) because of the site constraints.

We would ask that PARD please clear the site plan review comment, given the following constraints and consequences:

1. Loss of more than 6 Affordable Units --- per page 2 of the attached exhibit (page 2 shows consolidation on the East side, there would be much more loss of Affordable Units if the building had to shift to accommodate all parkland on the West side, because the design has less parkland currently on the West side of the site).
2. Putting residents up against the railroad tracks; instead of the park which is used periodically and for shorter periods of time (and PARD requested the parkland on the East side as part of a strategic long-term planning effort for trails)
3. The neighbors want a paseo to relieve vehicular/pedestrian pressure on Avenue F
4. ATD has approved the garage entrances on page 1 of the attached exhibit
5. The service extension request for water and wastewater has been approved with specific connection locations
6. Site orientation does not allow for a straight shift of site to the East because of easements (10' electric and 10' PUE) and the shape of the lot.

Shifting the building as you suggest puts an extraordinary burden on the residents, since they will now be right up against the RR tracks (vs. people in the parkland area for shorter periods). In addition, because the lot angles as it approaches the railroad tracks (see attached) AND the parking garages are a code-required size to efficiently use the lot (drive aisle and parking space requirements), jamming the dwelling units up against the RR tracks will absolutely lose more than 62 units (more than 6 of which will be affordable).

Requiring all of the parkland on either the West side or the East side of the site guarantees the loss of Affordable Units.

We appreciate the initial feedback we received from PARD and incorporated some of that feedback

into the design submitted with the site plan and reflected on page 1 of the attached. A wholesale reconfiguration is simply not possible; we hope that PARD will acknowledge the compromises we have made and the parkland that will be dedicated with this design, which meets many other important City policies.

Thank you.

MJW.

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>

Sent: Thursday, March 4, 2021 5:25 PM

To: Michael Whellan <; Rowlinson, Thomas
<Thomas.Rowlinson@austintexas.gov>

Cc: Scott, Randy <Randy.Scott@austintexas.gov>

Subject: RE: 201 W. Koenig Lane - parkland dedication

Michael,

I have spent a significant amount of time reviewing this site by making site visits in person, reviewing your formal submittal, utilizing our spatial analysis tools and meeting with the case manager and other reviewers for this site. We are sparing no consideration.

Can you tell me more about the limitations and challenges with siting the park on the western portion of your tract? I believe there is ample room on the site to provide an approximately 1 acre park and preserve the proposed units by creatively reworking the building plans.

Can you tell me more about the paseo that passes through the center of the site? Is that a code requirement?

In short, I do not believe we have a zero sum situation with this site plan - it does not have to be either parkland or affordable units, it can be both. If you're able to provide a little more information about the challenges you're facing, I can discuss with the group and get back to you with some workable solutions for this project.

Thank you,
Robynne

From: Michael Whellan <

Sent: Thursday, March 4, 2021 3:50 PM

To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>; Rowlinson, Thomas
<Thomas.Rowlinson@austintexas.gov>

Cc: Scott, Randy <Randy.Scott@austintexas.gov>; Michael Whellan **Subject:** RE: 201 W. Koenig Lane - parkland dedication

The cell tower and billboard leases both expire this year and will be removed. All overheads will be

pulled back to the existing electrical easement; I believe all of this is noted on the demolition sheet - CD100.

Most of the parkland on the East side as shown on page one makes the most sense from a compatibility (and mobility) perspective for the neighborhood, residents and the affordable units. By having the parkland along the frontage of a busy street, people can more readily get to a protected crossing to access other nearby (larger) parks and the Cap Metro Red Line.

If you are not going to reconsider please let me know. [We are prepared to do what is shown on page 1 of the attached; page 2 of the attached demonstrates what would be loss in terms of units if you forced all of the parkland either on the East side of the site or the West side of the site - - loss of units, including Affordable Units].

Thank you.

MJW.

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>

Sent: Thursday, March 4, 2021 2:16 PM

To: Michael Whellan Rowlinson, Thomas
<Thomas.Rowlinson@austintexas.gov>

Cc: Scott, Randy <Randy.Scott@austintexas.gov>

Subject: RE: 201 W. Koenig Lane - parkland dedication

Michael,

The rail road tracks are on the East side of the site. We would like the parkland to be consolidated on the WEST side of the site- along Ave F. The parkland area shown on page 2 is not suitable due to the location of the cell tower and overhead electric lines.

As always, I'm happy to work directly with the engineers to find a park layout that provides community recreation benefits and preserves units to the greatest extent possible.

Thanks,
Robynne

From: Michael Whellan <

Sent: Thursday, March 4, 2021 1:32 PM

To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>; Rowlinson, Thomas
<Thomas.Rowlinson@austintexas.gov>

Cc: Scott, Randy <Randy.Scott@austintexas.gov>; Michael Whellan **Subject:** RE: 201 W. Koenig Lane - parkland dedication

Cell and overhead are not included in calculation.

To clarify, PARD's current position is that we should eliminate affordable units in order to consolidate the park area next to the RR tracks – as shown on page 2 of the attached?

MJW.

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Sent: Wednesday, March 3, 2021 6:32 PM
To: Rowlinson, Thomas <Thomas.Rowlinson@austintexas.gov>; Michael Whellan
Cc: Scott, Randy <Randy.Scott@austintexas.gov>
Subject: RE: 201 W. Koenig Lane - parkland dedication

Michael,

Thank you for reaching out about this site. Please note that the formal review comments request that you consolidate the parkland on the western portion of the tract as there are several conflicts with the eastern end of the tract.

PR 3: Parkland dedication credited acreage area should be equal to 15% of the total site area. The park as shown conflicts with the existing cell tower and overhead utilities. Please consolidate the parkland on the western side of the tract.

As always, I'm happy to work directly with the engineers to find a park layout that provides community recreation benefits and preserves units to the greatest extent possible.

Thank you,
Robynne

From: Rowlinson, Thomas <Thomas.Rowlinson@austintexas.gov>
Sent: Wednesday, March 3, 2021 5:24 PM
To: Michael Whellan
Cc: Scott, Randy <Randy.Scott@austintexas.gov>; Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Subject: RE: 201 W. Koenig Lane - parkland dedication

Michael,

Thank you for the exhibits. Robynne is working on the actual permit now. I believe we have come to a good solution here.

Thanks,
Tom

From: Michael Whellan [<mailto:MWhellan@abaustin.com>]
Sent: Wednesday, March 3, 2021 4:48 PM

To: Rowlinson, Thomas <Thomas.Rowlinson@austintexas.gov>

Cc: Michael Whellan Scott, Randy <Randy.Scott@austintexas.gov> **Subject:** 201 W. Koenig Lane
- parkland dedication

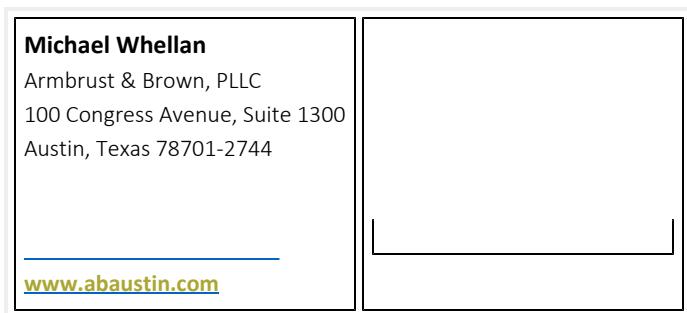
*** External Email - Exercise Caution ***

Tom – see the attached exhibit that shows the consequences of your decision to require the parkland to be consolidated on the East side of the property - - loss of 6 affordable units. Given the proximity of other parks, the community benefit and importance of affordable units, and the fact that our proposal (page 1) provides 16% of the site for parkland, I just wanted to ask you to please reconsider. I understand park policy preference may be to have consolidated parkland; however, that is not a mandatory requirement when other factors are in play.

Please give me a call to discuss.

Thank you.

MJW.



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EXHIBIT 3: CORRESPONDENCE WITH INTERSTED PARTIES

From: Greg Graml
To: [Curless, Sammi](#)
Cc: [Heymans, Robynne](#);
Subject: SP-2020-0419C Parkland Dedication - comment letter
Date: Tuesday, September 14, 2021 3:30:50 PM

*** External Email - Exercise Caution ***

Parks Board Members,

Thank you for the opportunity to provide input. I own a house directly across 56th Street from the proposed development. I understand the developer has identified an amount of parkland that would be sufficient to meet the required 15% parkland dedication, but that some of land is questioned as to whether it should qualify. I also understand that the developer will be landscaping other areas around the perimeter of the property that are not being counted as "parkland" that will include numerous new trees along 56th street, and there will be a continuous sidewalk circling the entire development.

As a compromise, I understand the developer has offered to pay the fee-in-lieu in addition to providing the dedicated parkland identified in the compromise plan. As a nearby property owner, the on-site parkland and landscaping are the most important elements. If the proposed parkland will be dedicated and developed to the full extent as identified in the proposed compromise, in addition to the payment of fees, and a commitment to the additional trees and landscaping along 56th Street, I support the developer's proposed compromise.

I would also note that this would be a vast improvement over the outcome at Koenig Flats which added zero on-site parkland and built-out very close to the streets.

Thank you, Greg Graml

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From: Derrick Dean
To: [Heymans, Robynne](#)
Subject: Multifamily development at 403 E Koenig Ln.
Date: Thursday, May 13, 2021 8:38:56 PM

*** External Email - Exercise Caution ***

Hello Robyn Heymans,

I got your name from the PARD Design reviewer section of the Austin Build + Connect site. I am writing in reference to Permit Case 2020-181585 SP for Multifamily development at 403 E Koenig Ln. In reviewing the site plan it appears to me that the developer is including paved bicycle lanes and sidewalks in their Parkland Dedication contribution to the City. I am interested in learning if there is anything that the City or neighbors can do to entice the developer to include greenspace in the parkland dedication. I believe this development will increase demand for greenspace for dogs and will not induce demand for additional bicycle paths. The parkland dedication does not appear to meet the additional demand the project will create. Is there anything the neighborhood can do in this situation?

Thank you,
Derrick Dean

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From: Brian Bedrosian
To: [Heymans, Robynne; j](#)
Cc: [Grantham, Scott; Scott, Randy; Jason Burroughs; Kaye Warren](#)
Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Planning Commission September 28th
Date: Tuesday, September 21, 2021 11:45:18 AM

Hey Robynne.

We have called another meeting for tomorrow night to further discuss the site. It won't result in a vote and will not effect the previous vote but may provide a bit more nuance to neighborhood response. Our plan right now is for me to return in my role as speaker on behalf of the neighborhood association, as I did last time, in lieu of a formal letter. Love your thoughts on this and any direction on how best to prepare for that meeting, when we need to sign up as speakers, etc. I expect at least as many folks to show up as did the Parks Board and likely more.

Happy to take a phone call also if you want to speak about this in more depth.
Talk soon

b

Brian Bedrosian

baldrigeARCHITECTS
5120 Burnet Road | Bldg 1, Ste 100
Austin, Texas 78756

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Sent: Tuesday, September 21, 2021 11:40 AM
To: Brian Bedrosian <
Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy
<Randy.Scott@austintexas.gov>; Jason Burroughs; Kaye Warren

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Planning Commission September 28th

Hi Brian,

I hope you're doing well. Has the neighborhood had an opportunity to prepare the letter of opposition to the applicant's request to pay fee-in-lieu at this site? I'd like to be able to include it in the backup that I am submitting today.

The Planning Commission may also be reached directly at the contact found on this page:
<https://austintexas.granicus.com/boards/w/e8a392f100751db>

thanks!
Robynne

From: Brian Bedrosian <

Sent: Monday, September 13, 2021 5:28 PM

To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>; **Cc:** Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>; Jason Burroughs <Kaye Warren

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Great, thanks for all this info Robynne, very helpful. Look forward to seeing you this evening!b

Brian Bedrosian

baldrigeARCHITECTS

5120 Burnet Road | Bldg 1, Ste 100
Austin, Texas 78756

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>

Sent: Monday, September 13, 2021 5:11 PM

To: Brian Bedrosian <

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>; Jason Burroughs <Kaye Warren

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Thanks so much for the update. I'm available all evening, 7:40 works great, but I can be flexible as well. Thanks also for the clarification on the parameters of the appeal and the 'for/against' language.

You had asked a question about the fees for this project. This information is found on our website:

<https://austintexas.gov/department/parkland-dedication>

The Council-adopted parkland dedication fee schedule is updated annually, and will take affect October 1. The updates account for the changing value of parkland and park amenities, as required by City Code. The value of land in the City has increased recently, affecting the cost to purchase new parkland. The latest fee update reflects the moving average of purchasing parkland over the past five years. Parkland dedication fees are issued according to the time of review approval, and may be updated so long as the requirement has yet to be satisfied (prior to approval for developments currently in review). All unpaid fees will be adjusted accordingly on September 30.

2022 Fees	Fee In-Lieu of Land	Park Development Fee	Total Fee per Unit
Low Density Fee (Less than 6 units per acres)	\$4,796.51	\$867.16	\$5,663.67
Medium Density Fee (6 to 12 units	\$3,768.69	\$681.34	\$4,450.03

per acres)

High Density Fee (more than 12 units per acre)	\$2,912.17	\$526.49	\$3,438.66
Hotel/Motel Density	\$1,252.23	\$226.39	\$1,478.62

This project is High Density, so on October 1 the fees will be:

Fee in lieu of land: \$2,912.17 / unit

Development Fee: \$526.49 / unit

The amount of fees owed depends on how much land is dedicated and credited against the land requirement. In this case they will dedicate 0.98 acres out of 6.93 total acres owed: $0.98/6.93 \times 100\% = \sim 14\%$ parkland requirement met with land dedication.

That means the remaining 86% of their land requirement must still be satisfied by the payment of fees in-lieu. You would simply multiply the 86% x total fee in-lieu of land requirement determined by multiplying the \$2912.17 land fee x # units.

The development fee may only be reduced with the development of park amenities. We have an amenity cost booklet that sets the cost of a bench/picnic table/ playground etc so that the development fees are administered consistently across cases. This also ensures the parkland amenities are up to our standards, many site furnishings that are appropriate for private spaces may not hold up well to public spaces because of a higher intensity of use etc.

There are some circumstances in which some or all of the remaining fee in-lieu of land may be credited toward the park development fee through an internal process developed by the PARD review team. This allows for a more fully developed park. This particular case could potentially be a candidate for that fee transfer.

Let me know if you need any more information on the fees. The fee totals are directly tied to the number of units provided. Note that SMART housing certified affordable units are not subject to these fees, however this project does not have any SMART certified affordable units, only those provided under the VMU density bonus program.

Thanks!
Robynne

From: Brian Bedrosian

Sent: Monday, September 13, 2021 1:19 PM

To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>;

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>; Jason Burroughs ; Kaye Warren

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Hey Robynne – I just sent out an updated schedule for tonight's meeting – Joshua from SECO is getting on a flight right after the meeting and trying to be fair and give him some breathing room. We are also trying to allow time for Brendan Wittstruck of NCINC to participate in our discussion on I-35 and he is going to be at the Hyde Park meeting earlier tonight as well.

Please let me know if you have any issues with the time – look forward to seeing you then. If you have any issues getting access to the zoom meeting please call my cell at 512 203 4612

Thanks!

b

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>

Sent: Monday, September 13, 2021 9:59 AM

To: Brian Bedrosian <

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>; Jason Burroughs <>; Kaye Warren <>

>

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Hi Brian and all,

I've put together some information on the Parks Board meeting tomorrow. As a reminder, this appeal is not a discussion on the configuration or the development of the parkland. It is simply a determination of whether the applicant is required to dedicate parkland or pay 100% of their fees in-lieu. PARD is not authorized to consider an 'in-kind' donation of land in exchange for waiving parkland dedication requirements as mandated by code on this site. If the appeal goes in the applicant's favor, the City will not have the authority to mandate the land donation, and there will be no parkland dedicated at this site. Our current Parkland Dedication Ordinance is a robust tool with a lot of teeth to ensure critical parkland infrastructure is provided as part of new development.

Please see the following information regarding the schedule for tomorrow.

1. Sign up to speak before 6:00pm at the Zilker Auditorium at the Botanical Gardens.
2. COVID protocols in City facilities require a mask to be worn at all times

The schedule is as follows:

Item B

1. Parkland Dedication Storymap Presentation (around 35 min)
2. Bond acquisition spending to date – video (around 20 min)

Item C

1. Koenig Ln Appeal- This is the appeal. Please note that if you are in support of PARD requiring

that land be dedicated at this site, then you are 'AGAINST'. The appeal is framed from the perspective of the appellant/developer's request to pay fees in-lieu of land dedication. The order will go as follows:

We will utilize the format for Speaker Testimony Time Allocation for Planning Commission meetings which is below or available at: <http://www.austintexas.gov/edims/document.cfm?id=367176> and will go in the following order:

1. Staff presentation
2. Appellant presentation
3. Speakers for
4. Speakers against
5. Appellant rebuttal

Speaker Testimony Time Allocation

PUBLIC HEARING

Speaker	Number	Minutes	Maximum Speaking Time (w/ donated time)
Applicant / Agent	1	5 min.	10 min. (Additional 3 minute rebuttal)
Speakers For	Up to 3	3 min.	10 min.
Speakers For	Unlimited	1 min.	5 min.
Speaker	Number	Minutes	Maximum Speaking Time (w/ donated time)
Primary Speaker	1	5 min.	10 min.
Speakers Against	Up to 3	3 min.	10 min.
Speakers Against	Unlimited	1 min.	5 min.

Please don't hesitate to reach out with any questions. Brian, please send over the information for the meeting this evening so I can join and be available for any questions.

Thank you!

Robynne

From: Brian Bedrosian <

Sent: Friday, September 10, 2021 11:13 AM

To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>;

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>; Jason Burroughs <; Kaye Warren

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

I have meetings through 2:30 – are you available this afternoon? Let me know or feel free to call my cell at (512) 203-4612.

To the issues you bring up below:

We had assumed the letter for the 28th was the big one and were not even aware that a letter could be a part of the board meeting. We will send reps, for sure.

I would suggest we set aside no more than 15min for PARD and 15min for SECO – does that sound okay? Too little, too much from your end?

We can discuss this more on the phone, but my personal preference, outside of a wonderful piece of land like Hancock Golf Course, or the chunk of land adjacent to Waller Creek on the west side of the State Hospital Cemetery which have intact natural features to highlight, would be a focus on quality of space of quantity of space. Yes, Pease has very large play fields and shoal creek – full stop. But it's the quality of playground space that really sets it apart right now. Portland OR has been very good at implementing high quality creative play spaces on relatively small pieces of land within their city, and we have begun to do this as well with places like Peas, Auditorium Shores and Ramsey – to name a few (and I am sure there are tons of others you could make me aware of). If the developer is willing to spend more per acre while still contributing his full fee in lieu, I am not sure that it is something that I am entire confident we should completely ignore. That being said, I am very likely mistaken in my thinking about this. I do know that the folks that were in favor of supporting the developer – or perhaps more accurately – open to other options are those that felt that the Koenig site was not an ideal park location and preference density in the urban core with more concentrated moments of open space. I am not necessarily in their camp, but I do understand their position.

Lets chat later today – look forward to talking more soon

Thanks!

b

Brian Bedrosian

baldridgeARCHITECTS

5120 Burnet Road | Bldg 1, Ste 100
Austin, Texas 78756

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>

Sent: Friday, September 10, 2021 10:58 AM

To: Brian Bedrosian <

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy
<Randy.Scott@austintexas.gov>; Jason Burroughs <; Kaye Warren
<

Subject: Re: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Hi Brian,

Thank you for your thoughtful response. Yes, we would be happy to attend to the meeting if you

have time for us and give a short presentation on the Parkland Dedication opportunities at this site. Please let me know how long you have for us to speak and I will prepare something accordingly.

I will also get together some information on signing up to speak. A letter of support will be more important at the Planning Commission meeting, which is the 28th, so you will have to the end of next week to write it.

I'd love to discuss your concerns about the development of the park. Do you have time for a call today? I could even meet you at Pease or at the Koenig site to discuss the park development and the size of the park on site. Note that even if the developer dedicates the acre of parkland required, 100% of their development fees (around \$526/unit) and 86% of their fee in-lieu of land (around \$2900/unit) is still available to invest into the park or into additional land acquisition in the neighborhood. There should not be any reason why the dedication of a full acre of unencumbered land, as opposed to 0.4 of an acre plus the sidewalk, would prevent either the developer or PARD from developing something similar to what we have at Pease. In fact, a larger park area would allow for more playground development, especially considering that playground equipment needs to be spaced with fall zones which limit the amount of equipment you can fit in a small space.

Let me know if you're available to talk. We appreciate your support.

Thank you,
Robynne

512.922.4403

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From: Brian Bedrosian

Sent: Thursday, September 9, 2021 6:26:00 PM

To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>;

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>; Jason Burroughs ; Kaye Warren

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

*** External Email - Exercise Caution ***

Hey Robynne, thanks for reaching out, my apologies for my delayed response to you previous email – busy times these.

I am including Jason and Kaye, the other members of our board into this response as well so that they can add any additional thoughts they may have.

I do plan to attend the meeting next week and would love some information as to how sign up for that. We have postponed our regular September meeting until this coming Monday, September
th

13 , to better position ourselves to respond to comment period for TXDOT. Having a vote on writing a letter of support by tomorrow evening therefore would simply not be possible. With that said, I will encourage those who have an opinion to share it via the letters you mentioned or plan to attend the meeting in person.

Joshua of SECO has requested an audience at our upcoming meeting this coming Monday to make his case for keeping the Park in the orientation that they are currently showing. At the end of the day I need to allow this to go to a vote and the results of that vote will be what I take to the board on Tuesday. I do believe the neighbors are likely to side with PARD, but I know not all are leaning that way. If someone from your team would like to come to the meeting as well to make a case for PARD, I would be happy to have you as well.

Speaking only for myself in this regard, and not for the NA – I am torn. If I had to chose between the large open greenspace that the PEARL built vs a smaller park that was kit out with the logs, swings, climb ons, and stone walls that they installed at PEASE I am going to lean towards the latter. PEASE is flat out a home run.

I fully support PARD and everything that you do and thank you for the work that you do for our community, full stop. But if I am looking for a space to take my kids, the space at PEARL meets the space requirements for parkland dedication but it is not the type of park I personally would be excited to have for my family – and I do have fear that pushing for space could mean starving it of purpose. Once again, just my personal thoughts and would love to hear your counterpoint.

Look forward to seeing you soon
b

Brian Bedrosian

baldrigeARCHITECTS

5120 Burnet Road | Bldg 1, Ste 100
Austin, Texas 78756

From: Heymans, Robynne <Robynne.Heymans@austintexas.gov>

Sent: Thursday, September 9, 2021 2:18 PM

To: Brian Bedrosian

Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>

Subject: RE: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Hi Brian,

I hope you're doing well. I'd like to follow up on the process for the Parks Board Meeting on September 14th. Do you have any questions about appearing in person? Did your group want to submit a letter supporting the Park's Departments efforts to ensure we have an acre of parkland dedicated with this site plan, as is required by code.

Please reach out with any questions!

Thank you,
Robynne

From: Heymans, Robynne
Sent: Tuesday, August 31, 2021 6:55 PM
To: Brian Bedrosian <Brian.Bedrosian@cityofaustin.gov>
Cc: Grantham, Scott <Scott.Grantham@austintexas.gov>; Scott, Randy <Randy.Scott@austintexas.gov>
Subject: Koenig Multifamily Appeal_Case SP-2020-0419C_Parks Board September 14th

Hi Brian + all,

I wanted to update you on the scheduling of the Parks Board and Planning Commission Parkland Appeal Hearings. Parks Board will be a special called, in-person meeting on September 14th at 6pm at the Zilker Botanical Garden. We welcome all who are able to attend to sign up to speak. We also encourage you to send a letter expressing the neighborhood's support of Parkland Dedication land requirement for this project. I can submit that letter as backup for the meeting, the deadline is this Friday. Please let me know if you have any questions or would like to discuss. I'd be happy to meet with your group ahead of the Parks Board meeting and go through the presentation to educate your group about the appeal.

Planning Commission will be held on September 28th at 6pm at City Hall. I believe you may have the option to call into that one in-lieu of appearing in person but I will double check. Neighbors within 500 feet of the proposed development will be receiving the attached notice, and they can indicate their support or opposition to the appeal mail that notice back per the instructions on the last few pages. The language is a little confusing, but you would indicate that you are AGAINST the appeal (even though you are 'for' the parkland).

Let me know if you would like to discuss further!

Thank you,
Robynne

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From: Dana Markus-Wolf
To: [Heymans, Robynne](#)
Cc:
Subject: Re: SP-2020-0419C OBJECTION TO VARIANCE
Date: Monday, September 13, 2021 10:18:49 PM

Thank you Robynne!

We were luckily able to join the neighborhood meeting on Zoom, and while in the meeting, we became neighborhood association members. We were also able to voice our support for PARD. We need green space on the south side of the proposed building where it could actually be used by the community.

This little proposed “park” on the east side of the building hardly welcomes the neighborhood. The neighborhood is the afterthought...”hey, give them a curb cut!”

I hope what I am saying makes sense.

The option of having “parkland” between the building and Koenig Lane is what most of us call a 25 foot setback, if you catch my drift. I’m curious where the building falls in relation to the right-of-way line.

I do support a bike lane to a future train station tho, for sure. If it were me, I would want to ride my bike on 56th street then cut across to the train station on the east side of the building-walking/riding along Koenig is just scary. Back to the green space between the building and Koenig...

for people in the neighborhood to picnic? “Honey, let’s go have a picnic next to Koenig Lane” or “Hey let’s throw a frisbee next to Koenig Lane”...

We’ll see you at the meeting tomorrow at Zilker.

Thank you again and have a nice evening.

Dana

Sent from my iPhone

On Sep 13, 2021, at 4:54 PM, Heymans, Robynne
<Robynne.Heymans@austintexas.gov> wrote:

Dana,

Thank you very much for reaching out and supporting PARD’s efforts to provide parkland to this neighborhood. It will be up to the Planning Commission to determine whether the applicant is allowed to appeal PARD’s requirement to dedicate land at this site. Testimony from the community makes a huge difference in these appeals, so I encourage you to sign up to speak at the Park’s Board meeting tomorrow night or at the Planning Commission meeting on September 28th if you are willing and able. Unfortunately both of these meetings will be in person, but COVID precautions are put in place.

Let me know if you'd like any additional information. I will be presenting at the neighborhood meeting tonight and am available to answer questions any time.

Thank you!
Robynne

From: Dana Markus-Wolf
Sent: Monday, September 13, 2021 2:25 PM
To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Cc:
Subject: SP-2020-0419C OBJECTION TO VARIANCE

*** External Email - Exercise Caution ***

Dear Ms Heymans:

I own a home at _____ which is very close to the building that is soon to be built, about half a block away. Robynne, the closest thing we have to green space is a church yard and parking lot.

I am telling you, we are desperate for green space. Please, please, please do not grant this variance.

Thank you,

Dana

Dana A. Markus-Wolf

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From: [Heymans, Robynne](#)
To: [Toti Larson](#)
Subject: RE: SP-2020-0419C
Date: Monday, September 13, 2021 4:11:00 PM

They are only sent out to people within 500 feet of the development, that is a Development Services standard. I will make sure they have my email address and can pass along the comments.

Thanks!
Robynne

From: Toti Larson
Sent: Monday, September 13, 2021 3:38 PM
To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Subject: Re: SP-2020-0419C

Thanks!

I will see you tonight. Tonight it would be good to make sure people know how to get the forms and how to mail it in. I talked with a few neighbors. I got one in the mail, but some where not aware of it. They may have discarded it on mistake,

Thanks!,
Toti

On Mon, Sep 13, 2021 at 2:56 PM Heymans, Robynne <Robynne.Heymans@austintexas.gov> wrote:

Hi Toti,

I believe it needs to be mailed back, however you're welcome to scan it or take a picture to send to me digitally ahead of mailing it.

Looking forward to seeing you tonight at the meeting. Please let me know if you have any questions.

Thanks,
Robynne

From: Toti Larson
Sent: Sunday, September 12, 2021 3:29
To: Heymans, Robynne <Robynne.Heymans@austintexas.gov>
Subject: SP-2020-0419C

*** External Email - Exercise Caution ***

Hi Robynne,

Hope you are well. I was writing to ask if the public hearing form to comment that was mailed to us needs to be physically mailed, or can it be emailed some way?

Thanks!

Toti Larson

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PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

A zoning ordinance amendment may include a conditional overlay which would include conditions approved by the Land Use Commission or the City Council. If final approval is by a City Council's action, there is no appeal of the Land Use Commission's action.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact listed on a notice*); or
 - appearing and speaking for the record at the public hearing;
- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
 - is the record owner of property within 500 feet of the subject property or proposed development; or
 - is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/devservices.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: SP-2020-0419C

Contact: Robynne Heymans, robynne.heyman@cityofaustin.org

Public Hearing: Parks Board, Sept. 14, 2021

Planning Commission, Sept. 28, 2021

DANA MARKUS-WOLF

Your Name (please print)

☐ I am in favor
☒ I object

5509 AVE G

Your address(es) affected by this application

Dana Markus-Wolf

Signature

9-13-21

Date

Daytime Telephone: **512 659 9900**

Comments: **We desperately need green space + park land in our neighborhood. I do not support the applicant's appeal + fervently reject it. We have no green space, this is our only chance to have some. Please insist that the applicant provide AT LEAST 0.98 ACRE of dedicated parkland. Rats packed in too tightly start to eat one another.**

If you use this form to comment, it may be returned to:

City of Austin

Development Services Department

P. O. Box 1088

Austin, TX 78767-1088