

**NOTES on the ECC-NPCT Opposition the Fair Market Project
Submitted 8/25/2021**

Affordability Standards

The regulating plan for the Plaza Saltillo TOD Station Area is very clear that in order for a property to pay a fee in-lieu of meeting the Affordability Standards of the plan, they must demonstrate a compelling reason to not provide housing on-site.

In the months that we've spent discussing this project, in multiple public forums, Fair Market has not demonstrated, proven, or presented any compelling reason not to provide housing on site.

In fact, many other projects within the TOD have been able to meet this recommendation including the Corazon, a property adjacent to the Fair Market site that was developed in partnership with the applicant. The Corazon successfully completed a 60' tall mixed use project that includes 35 affordable units (or 11% of all units).

Nearby Saltillo TOD Mixed Use projects completed or promised:

Plaza Saltillo – 132 affordable units out of 811 (16%)
501 Waller – 66 affordable units out of 264 (25%)
Eastside Village - 66 affordable units out of 346 (19%)
Eastside Station – 51 affordable units out of 332 (15%)
Corazon - 35 affordable units out of 332 (11%)
Candela – 20 affordable units out of 115 (17%)
Indie – 15 affordable units out of 139 (11%)
400 Comal - 4 affordable units out of 24 (17%)

Density and Height Bonus Precedents

With the exception of the office building at the Saltillo development, which council agreed would not and should not set a precedent for our neighborhood, prior approvals for applications requesting both a density bonus and height bonuses have capped at a maximum base building height of 75'.

Density Bonus plus Height Bonus awards should only be reserved for projects that are putting their very best foot forward in their efforts to achieve the goals of the neighborhood plan.

THE FAIR MARKET OFFER

"Fair Market will do the park and \$12 a foot for bonus area or no park and \$18 a foot for bonus area. If the \$18 is more appealing we will work with you on where the extra \$6 a foot goes. Maybe a nonprofit of your choosing for housing?"

CHALLENGES WITH THE FAIR MARKET OFFER

1. "The Park" or Medina ROW (former Velasquez Park)

Through multiple emails and conversations with the players involved with the original attempt to develop the Medina ROW into a park (which the applicant was a development partner to) the ECC has come to understand the following:

When PARD considered partnering with Corazon to develop the ROW as Velasquez Plaza, an escrow account was set up for the project and was held by Heritage Title. An estimated \$500K of combined COA, Cap Metro, and AE funds were included. It's our understanding that APF pledged funds as well, maybe an additional \$100K.

The project met challenges as it was being developed. The COA originally determined that an existing failing retaining wall was not within the ROW and hence was the responsibility of the adjacent landowner (Corazon). Later, a third party survey proved this wrong. Subsequently, the construction documents were redrawn to include the demolition and rebuild of the retaining wall as part of the park project. This resulted in a much bigger price tag and COA paused the project.

Additionally, while the project is a "park", it was determined that dedicating it as parkland and transferring it to PARD was cumbersome and costly. Hence the project was designed and documented as a modified license agreement (a modification of the public ROW by a private developer, Corazon). The license agreement itself was never executed.

PARD staff have confirmed that the original funds (\$600K) are now with PARD and being used for the creation of Velasquez Plaza at Rendon Sr. Park / Festival Beach area. The funds are no longer available for this park project and the Fair Market site developer would potentially bear the costs alone.

Our conversations with the professionals associated with the former Media ROW Velasquez Plaza efforts have shared that bid costs were coming in north of \$1.5M and that the project cost could be closer to \$1.8M in today's market. To our knowledge, no value engineering effort was ever explored.

Our concern now lies with the true intent of the applicant (and former partner to the Corazon and Velasquez Plaza project) to provide the park as designed, as has been presented to our team and neighbors in both city-led meeting and in general meeting of the ECC-NPCT.

If the applicant intends to build the park design we've been shown, the design planned at the time of the Corazon development, we believe that \$1.8M is a more appropriate value to place either on the park or towards local non-profit projects working on affordable housing, property tax abatement, home renovations, in our neighborhood. The roughly \$448,000 (or \$6/SF x 74,691 Bonus SF) offered in addition to the standard fee in-lieu is not a comparable value add

to the neighborhood, nor will it be enough to complete the park as designed and presented to our team and neighbors.

2. Additional Fee in-Lieu

The offer of an additional \$6/SF Fee In-Lieu cannot legally go into the Housing Trust.

A private agreement regarding how additional fees may be administered cannot be regulated by the city.

The annual fee in-lieu adjustment provision of the Saltillo TOD regulating plan has not been realized. The Fee In-Lieu payment is grossly undervalued.

4.3 DENSITY BONUSES

4.3.2 Density Bonus

D. Fee In-Lieu

3. The fee amount is adjusted annually in accordance with the Consumer Price Index All Urban Consumers, US City Average, All Items (1982-84 = 100), as published by the Bureau of Labor Statistics of the United States Department of Labor. The City Manager shall annually determine the new fee amounts for each fiscal year, beginning October 1, 2008, and report the new fee amounts to the City Council.

Additionally, it seems that the funds paid by ECC projects are not geographically restricted to be redistributed in our neighborhood (staff verification requested). The city's open data portal shows that the ECC has contributed \$5.4M to the Housing Trust Fund, that's 73% of the District 3 contribution and 11% of the total Fee In-Lieu contributions to the fund). As per the data portal, \$0 have been returned to the ECC.

The ECC-NPCT has been actively working with it's non-profit affordable housing partners, community benefit partners to identify resources where additional fees may be administered for the benefit of realizing the goals of our neighborhood plan.

ADDITIONAL ISSUES

The project does not meet the criteria for Staff Recommendations

In addition, the application must be consistent with sound planning principles, and the amendment for an individual property must meet one of the following criteria:

Staff made an error in the plan.

NO

Denial of the application would result in a hardship (as defined in exemptions).
NO, where is this defined?

There has been a material change in circumstances since the adoption of the plan.
NO

The development is a S.M.A.R.T. Housing project.
NO

The development meets the goals and objectives of the plan.
NO

The development offers superior environmental protection.
NO

The development offers significant employment opportunities.
NO

The Project does not meet East Cesar Chavez Neighborhood Plan Goals for Land Use, Zoning, and Housing

LAND USE, ZONING, and CHARACTER

- 1. Provide zoning for a mix of business and residential land uses in commercial areas.**
Is TOD Mixed use already. Does not require 85' to achieve this goal.
- 2. Ensure that new structures, renovations and businesses are compatible with the neighborhood.**
60' is the area standard. 85' is not.

HOUSING

- 1. Preserve and increase the number of homeowners in the neighborhood.**
Does not meet or contribute to this goal.

TOD DEFINITIONS FOR REFERENCE

§ 25-2-766.04 - TRANSIT ORIENTED DEVELOPMENT DISTRICTS ESTABLISHED AND CLASSIFIED.

The Plaza Saltillo TOD district is established as a **neighborhood center** TOD district.

§ 25-2-766.02 - TRANSIT ORIENTED DEVELOPMENT DISTRICT CLASSIFICATIONS DESCRIBED.

A neighborhood center TOD district is located at the commercial center of a neighborhood. The average density is approximately 15 to 25 dwelling units for each acre. Typical building height is one to six stories. Uses include small lot single-family residential use, single-family

residential use with an accessory dwelling unit, townhouse residential use, low-rise condominium residential use and multifamily residential use, neighborhood retail and office uses, and mixed-use buildings.

The project is in a midway zone.

§ 25-2-766.03 - TRANSIT ORIENTED DEVELOPMENT DISTRICT ZONES DESCRIBED.

A midway zone is the area between a gateway zone and a transition zone, beginning at the outer boundary of the gateway zone and ending approximately 1,000 to 1,500 feet from the edge of the station platform. **This zone is predominately residential**, but it may also contain retail and office uses. The zone includes a variety of building types. A midway zone has density and building height that are lower than a gateway zone but higher than a transition zone.