



MEMORANDUM

TO: Jerry Rusthoven, Chief Zoning Officer
Austin Housing and Zoning Department

FROM: Kimberly A. McNeeley, M.Ed., CPRP, Director 
Austin Parks and Recreation Department

DATE: November 24, 2021

SUBJECT: 305 S. Congress Planned Unit Development Amendment/Statesman PUD

Parks and Recreation Department staff reviewed the 305 S. Congress Planned Unit Development Amendment, also known as the Statesman PUD, from the time of submittal, through various updates. On August 31, 2021, the applicant invoked Section 25-2-282(E) of the City Code, which required the initiation of the Boards and Commission process for the PUD.

Using the last update submittal of the PUD as a starting point, staff brought the PUD forward to the Parks and Recreation Board on September 28, 2021. With regard to Parkland, staff found the PUD to be Fair but not Superior and presented a list of items that would need to be worked through in order to gain superiority.

At the September 28th, 2021, meeting, the Board voted to not recommend the PUD amendment as superior with regards to Parkland and directed staff to continue working with the applicant to negotiate unresolved superiority items and Board concerns.

At the October 26th, 2021, Board meeting, board members voted to clarify and amend the minutes related to the 305 S. Congress Planned Unit Development Amendment to read as follows:

Board Member Cottam Sajbel made a motion to recommend that the Statesman PUD, the 305 S. Congress PUD, is not superior with further recommendation for staff to continue to work with the applicant to negotiate the items listed in the resolution which include the following Board and Department items:

Parks and Recreation Board Items

- Signature parkland must be properly deeded to the City of Austin, rather than left as easement in the PUD amendment, and the deeding of that parkland must be triggered by specific deadlines or progress in new development.
- Parkland dedicated to the City must be approximately nine acres. Six of the acres offered in the PUD Amendment are on land that is unbuildable, due to the waterfront overlay.
- Control over programming of the public parkland and trail must be awarded to the City of Austin, for public transparency.

- The Grand Staircase, with ADA compliance, must remain located next to Ann Richards Congress Avenue Bridge for public visibility and access to the parkland.
- Retention ponds with runoff from the development must be mitigated; As currently shown, one large pond under the bats would be deep enough to require fencing, and all three retention ponds locate runoff from the development on public land, taking valuable land from the signature park.
- The proposed 70-foot landing must be moved away from the sensitive area below the bats and shortened to 30 feet, the length required by the ordinance governing building on Lady Bird Lake.
- The trail must be adjusted according to recommendations set by the recently completed Safety and Mobility Study.
- Parkland dedication must increase by 20% per unit, as developers propose additional height and density, in addition to the full nine acres designated in the approved Vision Plan.
- The PUD amendment must provide for appropriate parkland amenities, such as playscapes.
- The PUD must comply with the updated land development code and with the codified rules and regulations for the South Central Waterfront.

Parks and Recreation Department Items

1. Land Dedication
 - a. Dedicate by deed as public parkland at least 6.78 acres along Lady Bird Lake.
 - b. Remove from deed any conditions regarding park programming.
 - c. Dedicate by park easement, granting public access at least 1.59 acres of plazas and connections; this will need to increase to include all ROW and street connections.
2. Park Development
 - a. Include investment of at least \$100 / per unit beyond current code (not expressed as a fixed amount).
 - b. Include in the PUD a park plan that commits to specific improvements.
 - i. Committed to even if they are beyond investment in A, above.
 - ii. Tied to and triggered by a phase of development.
3. Triggering
 - a. Set trigger for full dedication of park segments.
 - b. Trigger for each phase, in the first half of each phase.
4. Circulation
 - a. Provide pedestrian access from S. Congress to trail and bat viewing area that is fully public, direct, and ADA accessible. (Great Steps does not meet all criteria).
5. Water
 - a. Remove pond from bat viewing area.
 - b. Demonstrate an amenitized design for ponds and rain gardens within parkland.
 - c. Include in PUD, cap on square footage of ponds in park area.
6. Land Uses
 - a. Remove the following land uses permitted in parkland: Personal Services, Personal Improvement Services, Pet Services.

Chair Lewis seconded the motion. The motion passed on a vote of 6-1 with Board Member Rinaldi abstaining, Board Member Hugman absent and two vacancies. Those voting aye were: Chair Lewis, Board Members Barnard, Cottam Sajbel, Di Carlo, Faust and Taylor. Those voting nay were Board Member DePalma.

The staff identified items are listed below. There are some similarities between the staff items and the Board list. Staff has continued to work with the applicant. This work included notating items on which agreement has been reached and others where additional ideas have been raised or clarification

needed. These notes are underlined below. The Department requests that the Planning Commission also endorse the Parks and Recreation staff's items, including any agreements reached, and that Council ensure all of these items are contained within the final PUD ordinance.

Based on and inclusive of all items listed below, the Department staff find the PUD to be superior with regards to Parkland.

1. Land Dedication:

- A. Dedicate by deed as public parkland at least 6.78 acres along Lady Bird Lake.

This number has been corrected to a minimum of 6.53 acres; the previous 6.78 figure included the area of a pier and boardwalk. The minimum required dedication is 6.53 acres, comprised of 1.6 acres of unencumbered land (i.e. outside of the Critical Water Quality Zone and easements) at 100% credit; 4.07 acres of encumbered land (i.e. in the Critical Water Quality Zone) at 50% credit; and 0.86 acres of inundated land at 0% credit. This does not count parkland easements, addressed below. These acreages are listed as minimums with the idea that they can increase, but not decrease through the process of development, and if any areas are subtracted from, that an equivalent credited areas would be added.

The current plan provides credit for 250 units (see attached spreadsheet); any additional parkland dedicated will receive credit according to the same formulas. Land requirements beyond the land proposed for dedication will be converted to fees in lieu. PARD would convert those fees in lieu fees to development fees which can be accounted for and spent on park improvements.

- B. Remove from deed any conditions regarding park programming.

The applicant agrees to and would like to ensure that they have a say in programming via an enforceable agreement, such as a Parkland Improvement Agreement, or similar instrument. The Parks and Recreation Department will provide this agreement, separate from the PUD or parkland dedication process.

- C. Dedicate by park easement, granting public access at least 1.59 acres of plazas and connections; this will need to increase to include all ROW and street connections.

The applicant agrees to this. The easement area will include all connections to the ROW; the Great Steps; and proposed parkland areas that would be above a (below grade) parking garage.

2. Park Development

- A. Include investment of at least \$100 / per unit beyond current code (not expressed as a fixed amount).

The applicant agrees to this. This item refers to the Park Development Fee and is not inclusive of any parkland fees in lieu. This park investment will be used to construct items including but not limited to park amenities; rough grading; sod and revegetation; and irrigation.

- B. Include in the PUD a park plan that commits to specific improvements.

i. Committed to even if they are beyond investment in A, above.

It is understood that the park exhibit shows entitlements to construct, but NOT commitments to build. Improvements will be built using park development fees, and remaining parkland fees in lieu. In addition, innovative economic tools such as a TIRZ can used to fund park improvements, although this is outside the purview of the PUD.

ii. Tied to and triggered by a phase of development.

See 2Bi above.

3. Triggering

A. Set trigger for full dedication of park segments.

The applicant has split the site area into 3 phases (see phasing plan). The parkland segment for each phase will be dedicated prior to the issuance of the Certificate of Occupancy for the northernmost building(s) in each phase. PARD has agreed to this.

B. Trigger for each phase, in the first half of each phase.

See 3A, above.

4. Circulation

A. Provide pedestrian access from S. Congress to trail and bat viewing area that is fully public, direct, and ADA accessible. (Great Steps does not meet all criteria).

Applicant has agreed to provide public ADA access via the Great Steps, and to provide a minimum of 5 ADA access points to the trail and parkland throughout the site. Other ADA access points will be from each location where the ROW intersects or touches proposed parkland or park easement.

5. Water

A. Remove pond from bat viewing area.

The applicant has agreed to create an underground rainwater cistern in this location, which will replace the former plan for an above ground pond. Maintenance of the cistern and the rainwater gardens will be performed and paid for by the owner at their expense.

B. Demonstrate an amenitized design for ponds and rain gardens within parkland.

The applicant has agreed to make all ponds (with the exception of the underground cistern) into Rain Gardens. Per the applicant, rain gardens will include 30+ species of native pollinator plants and will be managed to <5% invasive species. Applicant commits to adding educational signage to describe the ecosystem benefits and benches on the perimeter of the gardens. All water quality controls will be green infrastructure and designed in accordance with the Environmental Criteria Manual design specifications. This is acceptable to the Parks and Recreation Department.

C. Include in PUD, cap on square footage of ponds in park area.

The applicant has set forth a cap of 0.9 acres of pond surface area, which does not include the underground cistern. This is acceptable to PARD.

6. Land Uses

A. Remove the following land uses permitted in parkland: Personal Services, Personal Improvement Services, Pet Services.

The applicant has agreed to set land use regulations in Area 1 as equivalent to the "P" zoning category. This is acceptable to the Parks and Recreation Department.

The Board's additional items are as follows:

- Signature parkland must be properly deeded to the City of Austin, rather than left as easement in the PUD amendment, and the deeding of that parkland must be triggered by specific deadlines or progress in new development.

The applicant has agreed to this. At least 6.53 acres will be fully deeded, and at least 1.59 acres will be dedicated by easement.

- Parkland dedicated to the City must be approximately nine acres. Six of the acres offered in the PUD Amendment are on land that is unbuildable, due to the waterfront overlay.

The applicant has not agreed to this. See commitments above.

- Control over programming of the public parkland and trail must be awarded to the City of Austin, for public transparency.

The applicant has agreed to this and has also requested a Parkland Improvement Agreement or similar instrument to be involved in decision making for the adjacent park.

- The Grand Staircase, with ADA compliance, must remain located next to Ann Richards Congress Avenue Bridge for public visibility and access to the parkland.

The applicant has not agreed to this, but as an alternative has agreed to provide ADA access via the Great Steps.

- Retention ponds with runoff from the development must be mitigated; As currently shown, one large pond under the bats would be deep enough to require fencing, and all three retention ponds locate runoff from the development on public land, taking valuable land from the signature park.

See 5A, B, and C, above.

- The proposed 70-foot landing must be moved away from the sensitive area below the bats and shortened to 30 feet, the length required by the ordinance governing building on Lady Bird Lake.

The applicant has not agreed to this, and discussions related to this item are best addressed by another City Department.

- The trail must be adjusted according to recommendations set by the recently completed Safety and Mobility Study.

The applicant agrees and is committed to reconstructing the approximately 1,700 linear feet of trail to the best practice standards from the Final Report of the Safety & Mobility Study commissioned by The Trail Foundation.

- Parkland dedication must increase by 20% per unit, as developers propose additional height and density, in addition to the full nine acres designated in the approved Vision Plan.

See 2A, above.

- The PUD amendment must provide for appropriate parkland amenities, such as playscapes.

See 2B, above.

- The PUD must comply with the updated land development code and with the codified rules and regulations for the South Central Waterfront.

The applicant has not agreed to this. If approved, the PUD will be the regulating document.

Based on and inclusive of all items listed above, the Department finds the PUD to be superior with regards to parkland. Through negotiation and compromise the end product provides benefit to the community.

If you have any questions, please reach out to my office at (512) 974-6717.

cc: Liana Kallivoka, PhD, PE, LEED Fellow, Assistant Director
Lucas Massie, M.Ed., CPRP, Assistant Director
Suzanne Piper, DBA, Chief Administrative Officer
Ricardo Soliz, Division Manager, Park Planning
Randy Scott, Program Manager, Park Planning
Scott Grantham, Planner Principal, Park Planning