

**COMMENTS TO THE ENVIRONMENTAL COMMISSION
ON THE ZILKER PARK ACL STAGING AREA AND PARKING LOT PROPOSAL
from the Zilker Neighborhood Association (June 20, 2018)**

The Executive Committee of the Zilker Neighborhood Association opposes the proposed project to cover dedicated park land with crushed rock in order to locate a permanent staging area for the ever-expanding Austin City Limits Music Festival (ACL). When ACL began, the City started allowing this park site to be used as a temporary staging and parking area. Over the years, these increased staging and parking activities have disrupted or damaged the cover overlying the landfill. In 2016, the City's Parks and Recreation Department (PAR) brought in loads of crushed rock, covering much of the grass, to allow wet-weather operation of the staging area for ACL. PAR said this was temporary. PAR is now proposing a much larger permanent staging area for ACL with the stated purpose of protecting the landfill cover. No other major events require the site for a staging area. James Russell, the current primary organizer for the Trail of Lights and the Austin Kite Festival, has stated that this area is not required as a staging area for these events, although he does acknowledge that he uses the area for parking of sponsors, volunteers, and attendees. Keeping the site as green space for recreational use should be the primary purpose of dedicated park land, not developing it primarily for a use that lasts for only one month of the year.

PAR acknowledges that the site will also be used for parking (1000+ spaces by some estimates) and claims that it will eventually move parking occurring on the Polo Field to this site. However, at the same time PAR is claiming in the Site Plan application that the development is not a parking lot. It is unclear how to rationalize these two positions. In any case, the Parkland Events Task Force recommended developing a parking and traffic solution for parks that would reduce usage of green space parking, not transfer it from one location in the park (the Polo Fields) to another.

While ZNA appreciates the need to protect the cap, we are also concerned about turning park land into a permanent parking lot and believe that the cap can be protected with drainage and grading improvements and by limiting its use for staging and parking. Other alternatives need to be investigated.

Impervious Cover

The proposed project appears to violate the Waterfront Overlay's impervious cover limits in the secondary setback from Lady Bird Lake (see Attachment A). In the 23 Mar 2018 Site Plan submittal, the impervious cover in the secondary setback was incorrectly calculated as 26.14%. It should have been 44.4%. In the 15 May 2018 Site Plan submittal, two additional tracts of land were added to the project area so that the impervious cover in the secondary setback could be lowered to 20.9%. It appears that the City of Austin Development Services Department (DSD) allowed this tactic, but ZNA believes it is inconsistent with how DSD has evaluated impervious cover percentages in the past and believes the impervious cover calculations should be based on the property tract upon which the project lies. If the DSD and Watershed Protection staff are allowing developments to exceed impervious cover limits within the Waterfront Overlay by arbitrarily including nearby tracts, the Environmental Commission needs to ask staff to provide a written explanation of that interpretation of the Code.

TCEQ Landfill Regulations

The Butler Landfill was an unpermitted landfill closed prior to the promulgation of landfill regulations and is governed by TCEQ's Subchapter T regulations. Care should be taken not to conflate the post-closure regulations for permitted Subchapter K landfills with the post-closure regulations for unpermitted Subchapter T landfills. The Subchapter T post-closure regulations in 30 TAC §330.954(e) are fairly minimal:

(e) Authorization to disturb final cover for non-enclosed structures.

(1) The integrity of the final cover of a closed MSW landfill shall not knowingly be violated, disturbed, altered, removed, or interrupted in any way without the prior authorization of the executive director, except where soil tests are being performed in accordance with §330.953 of this title.

(2) Penetrations of the final cover or liner systems will not be allowed without the prior authorization of the executive director. These include, but are not limited to, borings, piers, spread footings, foundations for light standards, fence posts, anchors, deadman anchors, manholes, on-site disposal systems, recreational facilities, and any other kind of non-enclosed structures.

(3) An authorization to disturb final cover issued by the executive director under this subchapter is not an authorization for the management of solid waste. An application for authorization shall comply with those requirements in this subchapter.

(4) The authorization request must be received at least 45 days prior to the proposed commencement of construction over the closed MSW landfill unit.

Although best management practices should be followed, one can see from the preceding regulations, there is actually no specific regulation requiring prevention of ponded water or erosion over Subchapter T landfills as there is in the following excerpt from the Subchapter K regulations:

The owner or operator shall retain the right of entry to the closed unit and shall maintain all rights-of-way and conduct maintenance and/or remediation activities, as needed, in order to maintain the integrity and effectiveness of all final cover, facility vegetation, and drainage control system(s), to correct any effects of settlement, subsidence, ponded water, erosion, or other events or failures detrimental to the integrity of the closed unit and to prevent any surface run-on and run-off from eroding or otherwise damaging the final cover system.

Miki Chilarescu in the Municipal Solid Waste Permits Section of the TCEQ stated that the TCEQ would not investigate a landfill such as Butler Landfill unless there was excessive methane generation, waste was exposed, or there was some problematic water quality issue identified. She left the impression that the trees or wetlands were not an issue as long as the landfill cover was not knowingly disturbed. It was the Subchapter T application for the crushed rock staging area that triggered additional requirements.

Questions for PARD

ZNA still has many questions related to the project that were presented to Environmental Commission members prior to their June 6 meeting. We again urge the Commission to ask these questions of PARD staff and receive answers:

1) The landfill along Stratford on the west side of MoPac has been turned into a junkyard with construction debris and discarded materials from PARD and visible rutting caused by vehicles (see Attachment B). ***If PARD is concerned about the integrity of the landfill and damaging the landfill cover, why are damaging activities allowed to continue on the west side of MoPac?***

2) There are two wetland areas which currently exist over the landfill, although in some recent maps submitted in support of this project, part of the landfill has been eliminated (see Attachment C). ***Why has the most eastern portion of the landfill been eliminated from the landfill boundaries? Is there any evidence that the landfill does not extend to the Zephyr railroad tracts as originally determined in early site assessments? If PARD and the Watershed Protection Department (WPD) believe that wetland areas should not exist over closed landfills, why are they only concerned with the western wetland area and why is nothing being done about the eastern wetland area which is also over the landfill?***

3) There are numerous trees that will be allowed to remain within the landfill area of the project. These include the trees along the berm between the swale and the hike and bike trail, some of which seem big enough to penetrate the cover, and the trees near the intersection of Stratford Drive and Lou Neff Drive. Additionally, numerous trees are located over the portion of the landfill that is west of MoPac. It has been stated that the trees along the hike and bike trail were planted in accordance with strict EPA guidelines for planting over landfills. ***What are the criteria that allow these trees to remain over the landfill when others must be removed? Could other trees be planted over the landfill if these criteria were met?***

4) The only purpose for the water quality control structure is to capture pollutants that will be transported from the crushed rock surface of the proposed staging area and parking lot. Otherwise, it would not be required. ***If the purpose of the water quality control structure is to capture the pollutants that will be coming off of the staging and parking surface, why is the water quality control structure being built as Phase II after construction of the crushed rock surface instead of being built before the crushed rock surface is installed?***

5) PARD has often stated that it was difficult to grow grass on the landfill, and their implication seems to be that it is because of the existence of the closed landfill. The more likely reason that grass will not grow is because of the vehicular traffic during ACL and other events and the lack of irrigation. Grass in the swale and on the northern edge of the crushed rock parking seems to be thriving probably because there is not much traffic in those areas and perhaps because the grass in this area is getting more water during rainfall events. ***What evidence does PARD have that grass would not grow if traffic was kept to a minimum and the field was irrigated?***

6) PARD Director Kimberly McNeeley indicated in her briefing to the Parks and Recreation Board that it was her intent to eliminate parking at the Polo Field and transfer it to the Stratford Field over a period of time. ***What is the PARD timeline to eliminate parking on the Polo Field***

and transfer it to the Stratford Field? Because of the extra walking distance to Barton Springs Pool, will this have the unintended consequence of causing more people to park illegally (in the park or along Azie Morton Road) or in the surrounding neighborhoods?

7) In the Site Plan application, responses by the applicant to staff comments specifically state that the proposed project is to be the ACL staging area and not a parking lot. However, it is quite clear that PARD intends to also use the site as a parking lot. ***Given that the site would be used as the ACL staging area for only about one month of the year and for parking the remaining 11 months, why does the applicant insist that it is not a parking lot? Does being a parking lot have implications with respect to some City ordinance or State regulation?***

8) The water quality control structure will be an empty basin most of the time (it must be emptied within 48 hours). The construction drawings call for a foot of soil over a geomembrane and for it to be landscaped with grasses. It will be much more exposed than the current wetland which is now surrounded by trees and will be readily visible from the main park area. ***What are the maintenance plans to maintain the grass and prevent it from becoming a weedy eyesore?***

ATTACHMENT A

APPLICANT'S IMPERVIOUS COVER CALCULATIONS FROM 23 MAR 2018 CONSTRUCTION DRAWINGS

In the 23 Mar 2018 Site Plan submittal, the applicant appropriately based the total tract area on the TCAD tract and City lot upon which the proposed parking lot sits. However, the applicant incorrectly used the total tract area instead of the secondary setback area within the total tract area to calculate the proposed percent impervious cover for the secondary setback area. Instead of the 26.14% that was calculated and shown in the table below, the actual proposed impervious cover in the secondary setback area is 7.96 ac divided by 17.93 acres, or 44.4%. This is over the 30% impervious cover allowed in the secondary setback area.



The red line in the aerial photo above is the boundary of the total tract area (30.45 acres) used in the table below. It consists of one TCAD tract (PID #105461). This tract is the same as the lot shown on the City of Austin Property Profile Report and Zoning Profile Report. The dashed green lines are the primary and secondary Waterfront Overlay setbacks.

SITE DATA		
	AREA (AC)	PERCENT
TRACT AREA	30.45	100
PRIMARY SETBACK AREA	12.52	41.12
SECONDARY SETBACK AREA	17.93	58.88
EXISTING IC IN PRIMARY SETBACK AREA	0.20	0.66
EXISTING IC IN SECONDARY SETBACK AREA	0.49	1.61
TOTAL EXISTING IC	0.69	2.27
PROPOSED BUILDINGS	0.00	0.00
PROPOSED IC IN PRIMARY SETBACK AREA	0.20	0.66
PROPOSED IC IN SECONDARY SETBACK AREA	7.96	26.14
TOTAL PROPOSED IC	8.16	26.80

Table from Sheet 14 of Construction Drawings dated 23 Mar 2018.

APPLICANT'S IMPERVIOUS COVER CALCULATIONS FROM 15 MAY 2018 CONSTRUCTION DRAWINGS

In the 15 May 2018 Site Plan submittal, the applicant added two TCAD tracts (the Great Lawn tracts) to the total tract area in an attempt to solve the impervious cover problem in the 23 Mar 2018 submittal. So, the total tract area no longer includes just the TCAD tract and City lot upon which the proposed parking lot sits which is the normal method of determining impervious cover percentages. It also includes the Great Lawn. No justification for this change was provided. The sole purpose seems to be to add enough additional land to the overall area so that the secondary setback impervious cover calculation would produce a value that is less than the maximum 30%. As a result of inappropriately adding these additional lots, the applicant was able to calculate the proposed impervious cover in the secondary setback as 20.9%.



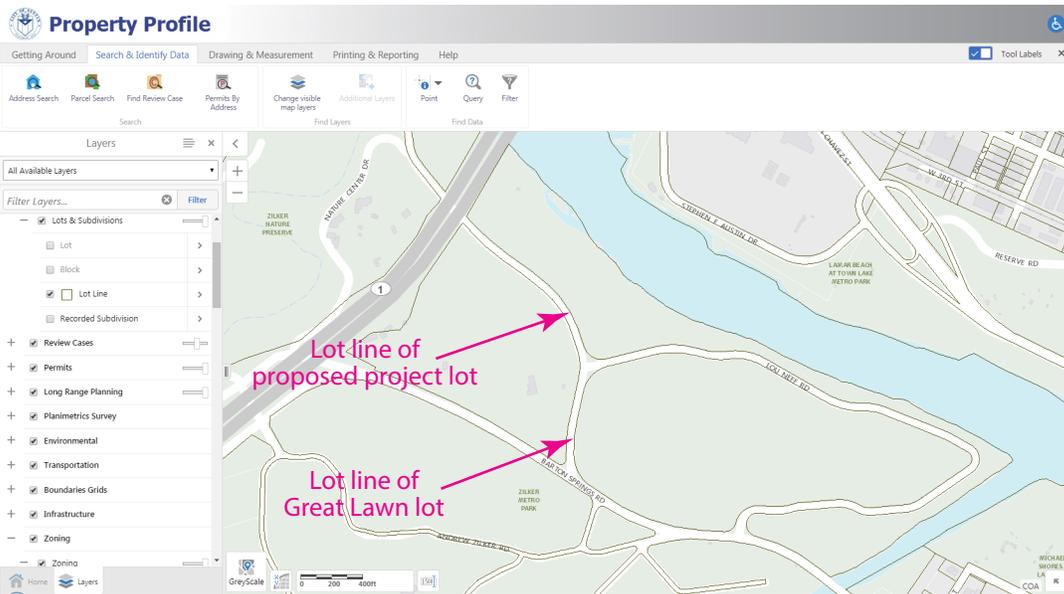
The red line in the aerial photo above is the boundary of the total tract area (81.16 acres) used in the table below. It consists of three TCAD tracts (PID 105461, 105462, and 105144). This tract is the same as the two lots shown on the City of Austin Property Profile Report and Zoning Profile Report plus the Lou Neff Road ROW. The dashed green lines are the primary and secondary Waterfront Overlay setbacks.

SITE DATA TABLE			
	TRACT	PRIMARY SETBACK	SECONDARY SETBACK
AREA (AC)	81.16	29.09	52.07
EXISTING IC (AC)	4.08	0.58	3.50
EXISTING % IC	5.0%	2.0%	6.7%
PROPOSED BUILDINGS (AC)	0.00	0.00	0.00
PROPOSED PERVIOUS SURFACE (AC)	0.00	0.00	0.00
PROPOSED IC (AC)	7.39	0.00	7.39
PROPOSED IC %	9.1%	0.0%	14.2%
TOTAL IC (AC)	11.47	0.58	10.89
TOTAL IC %	14.1%	2.0%	20.9%

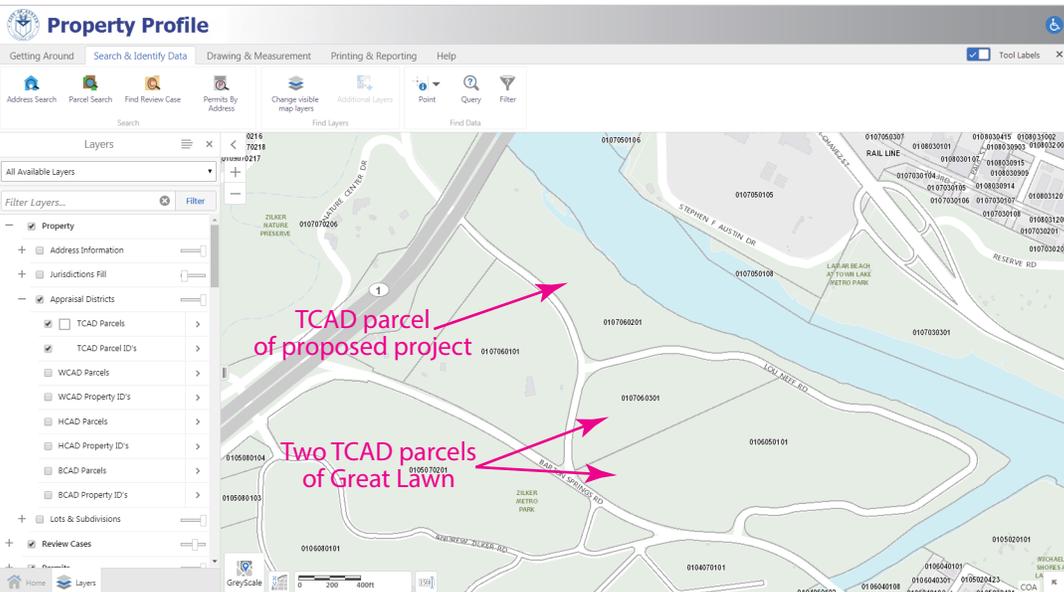
From Sheet 14 of Construction Drawings dated 15 May 2018.



Screenshot of TCAD map showing the proposed project property tract (PID 105461) and the two Great Lawn tracts (PID 105462 and PID 105144)



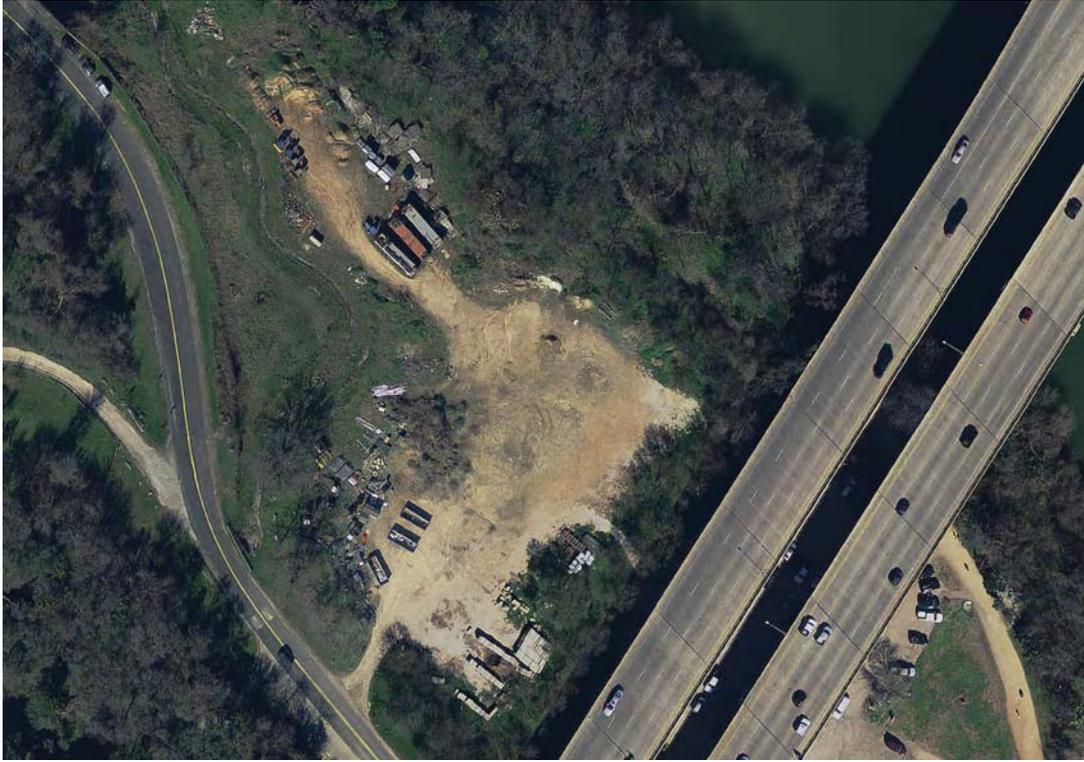
Screenshot of CoA Property Profile map showing the lots lines for the proposed project lot and the Great Lawn lot



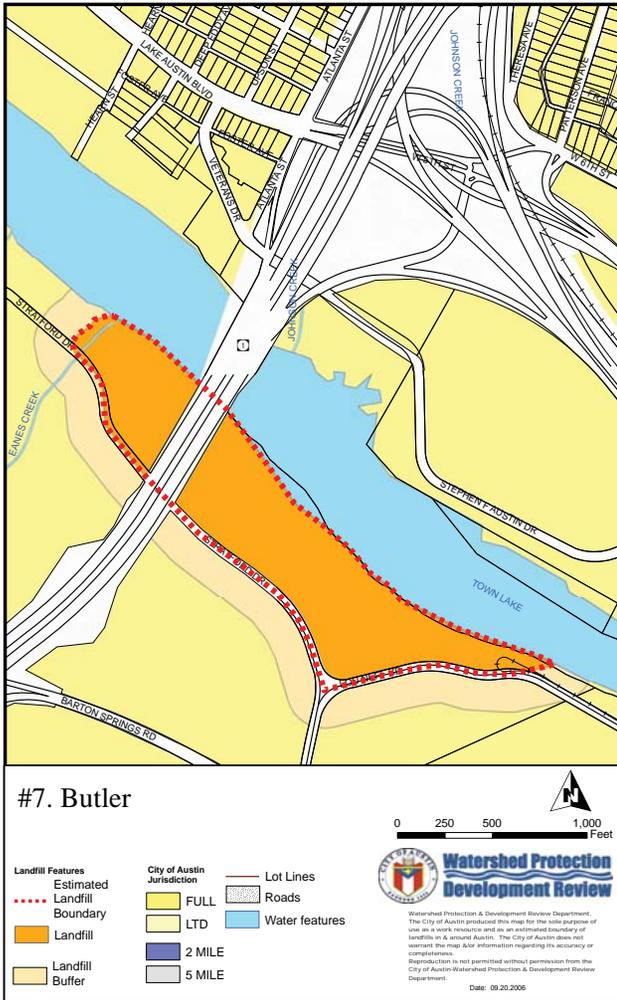
Screenshot of CoA Property Profile map showing the proposed project TCAD parcel (GID 0107060201) and the two Great Lawn TCAD parcels (GID 0107060301 and GID 0106050101)

ATTACHMENT B

BUTLER LANDFILL PARKLAND WEST OF MOPAC BRIDGE



ATTACHMENT C



Map from Watershed Protection Department showing landfill boundaries extending under Zephyr railroad tracks and eastern wetland area.



Map from Parks and Recreation Department showing landfill boundaries not extending under Zephyr railroad tracks nor under the eastern wetland area.

Zilker Metropolitan Park

Legend



0 125 250 500 750 Feet

Date: 2/16/2017