

July 10, 2020

RE: C14-2017-0010 - 4500 Nuckols Crossing Road Rezoning
NPA-2016-0014.01 Plan Amendment - 4500 Nuckols Crossing Road Rezoning

To Planning Commissioners and City Council Members,

Based on information received at the 07/08/2020 meeting with City Staff, Applicant, Austin Transportation Department, SE Combined Neighborhood Plan Contact Team and concerned neighbors, the Los Arboles Homeowners' Association OPPOSES the proposed development at 4500 Nuckols Crossing. Some of the considerations for opposition are listed below.

1. The proposed driveway to 4500 Nuckols Crossing will be only 150 ft from Viewpoint Dr on the east side of Nuckols Crossing and an entrance to Woodway Village Apartments on the west side of Nuckols Crossing. The accepted distance between driveways should be 500 ft.
2. The proposed solution to the driveway problem of adding turn lanes with vertical delineators in the middle of Nuckols Crossing will cause a major hazard, in our opinion. Nuckols Crossing/E St Elmo is used as a thoroughfare for many commuters in SE Austin to and from downtown. Traffic that is driving from the blind curve at E St Elmo onto Nuckols Crossing must go up a hill which will make it difficult to see the vertical delineators in the middle of the street. And the traffic driving north from Stassney and Teri Rd on Nuckols Crossing will need to go around the vertical delineators onto a widened area of the right of way before swerving back onto the main road, a short distance from the blind curve where the road turns into E St Elmo.
3. Traffic on Nuckols Crossing is already 10 times the amount that this road is designed to ideally handle. Traffic counts taken in February 2020 indicate that existing vehicle trips is at 14,929. According to Section 25-6-116 of the Land Development Code, streets which have pavement width less than 30 feet are considered to be operating at an undesirable traffic level if the average daily traffic volume for such roadway exceeds 1,200 vehicles per day. Nuckols Crossing Road is currently operating at an undesirable level and will continue to do so with the addition of site traffic. These statistics, and the opinion that Nuckols Crossing is currently at an undesirable level, are taken directly from the Zoning Review Change Sheet provided by City Staff. The proposed development will add another 979 vehicle trips, an increase of over 13%.
4. The City has no plan to improve Nuckols Crossing/E St Elmo. It is a narrow 2 lane road in very poor condition with no curbs, gutters, sidewalks or bike lanes, or even enough right of way to add them. There is a very sharp curve with no sight lines where Nuckols Crossing becomes E St Elmo, just a short distance from the proposed driveway for this development. Vegetation and low water bridges contribute to the narrow lanes. The developer's proposal to add improvements would only cover the small area in front of the development and would not improve the quality of this road. There is no safe way for pedestrians or bikes to reach the bus stop at Pleasant Valley and Todd Ln.

5. The developers have applied for S.M.A.R.T. housing credits stating that this will make the development a needed addition to the neighborhood. There are already 6 existing affordable housing complexes in a one and a half mile radius and more in the near East Riverside/Oltorf area. Of course affordable housing is desirable, but not at the cost of creating a major traffic crisis for SE Austin.

6. COA recommends SF2 zoning rather than MF4, which the applicant is asking for. Applicant states they need this MF4 in order to build a bigger complex so they can make more profit. The Applicant's desire for profit should not supersede the neighborhood's right to safely travel one of the main roads through it.

7. The proposed 5 story building does not fit into the aesthetics of the neighborhood which is single family (Los Arboles) and townhome apartments (Woodway Village). The 2 apartment complexes on E St Elmo, Kingfisher Creek and Rosemont, are set back from the road so aren't easily visible. This proposed development can't move further away from the road due to environmental constraints. Even with landscaping it will be very visible as you enter SE Austin and the Dove Springs area.

8. Los Arboles is not opposed to development; we want to see it done in coordination with our neighborhood and drivers on Nuckols Crossing. This proposed development does not meet these standards.

We ask the Planning Commissioners and City Council Members to review this proposal with the realistic view of what Nuckols Crossing/E St Elmo actually looks like and determine that this development would not be a benefit to the neighborhood but instead create a major traffic hazard and clash with the existing aesthetics.

On behalf of the Los Arboles Homeowners' Association,
Laurel Francel
Los Arboles HOA Vice President/Secretary
5609 Apple Orchard Lane
Austin, TX 78744
l.francel@yahoo.com

Rhoades, Wendy

From: Jose Rodriguez <[REDACTED]>
Sent: Monday, July 13, 2020 10:39 AM
To: Rhoades, Wendy
Subject: Fwd: Case number C14-2017-0010.SH
Attachments: Planning Commision_00001.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

*** External Email - Exercise Caution ***

Please see attached form expressing my objection to the change in zoning from Single Family to Multi-family. There are already three apartment complexes in the area, and the addition of another one will only increase the traffic on E. St. Elmo, which was never designed to hold that much traffic. The entrance to the proposed lot would have to be near a curve and a hill, that would not only cause congestion, but additionally make it dangerous for those using the road. Furthermore, developing the area, would cause an increase in flood waters down Williamson Creek.

Thank You,
Jose L Rodriguez
4910 Maufrais Ln, Austin TX 78744

Attachment.

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to CSIRT@austintexas.gov.

Begin forwarded message:

From: Jose Rodriguez <[REDACTED]>
Subject: Case number C14-2017-0010.SH
Date: July 13, 2020 at 10:38:04 AM CDT
To: Wendy.rhoades@austintexas.gov

Please see attached form expressing my objection to the change in zoning from Single Family to Multi-family. There are already three apartment complexes in the area, and the addition of another one will only increase the traffic on E. St. Elmo, which was never designed to hold that much traffic. The entrance to the proposed lot would have to be near a curve and a hill, that would not only cause congestion, but additionally make it dangerous for those using the road. Furthermore, developing the area, would cause an increase in flood waters down Williamson Creek.

Thank You,
Jose L Rodriguez

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to participate in a public hearing, you are not required to participate. This meeting will be conducted online and you have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for information on how to participate in the public hearings online. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. 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.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

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

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

Case Number: C14-2017-0010.SH
Contact: Wendy Rhoades, 512-974-7719
Public Hearing: July 14, 2020, Planning Commission

Jose L. Rodriguez
Your Name (please print)

4910 Maufrais Ln Austin, TX
Your address(es) affected by this application

I am in favor
 I object

[Signature]
Signature

Daytime Telephone: 512 656 0783

7/13/2020
Date

Comments: The increase in apartment housing will increase the traffic on St. Elmo street which is not design for High Traffic. Entrance to complex is too close to the curve, and uphill which will make it difficult for in & out Traffic. Also Williamson creek would flood if all that area is paved for housing.

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

City of Austin, Planning & Zoning Department
Wendy Rhoades
P. O. Box 1088, Austin, TX 78767

Or email to:
wendy.rhoades@austintexas.gov

7. Is it typical for Smart Housing agreements like the one proposed in the backup to have a term of only 5 years?
8. Why isn't ATD recommending connecting to Heflin from MLK through Elmsgrove Dr. to improve connectivity?

B-09 / B-10 4400 Nuckols Crossing Road

1. SMART housing agreement states "*The project is subject to a minimum 5-year affordability period after issuance of certificate of occupancy, unless project funding requirements are longer.*" Does this mean that the commitment to provide affordable housing only last 5 years? **RESPONSE:** The Applicant's has stated that their project funding requirements are significantly longer than the SMART Housing requirement. My understanding is that the Applicant, McDowell Housing Partners, has entered into a private Restrictive Covenant with the Texas Department of Housing and Community Affairs for a minimum 40-year affordability period.
2. Please provide a Future Land Use Map for the NP amendment. (Maureen provided this)
3. Why is applicant asking for MF3 when they are not proposing construct to that unit density? **RESPONSE:** The Applicant has requested MF-4-NP zoning primarily for the purpose of allowing for a building that exceeds 40 feet in height (the limit allowed by the MF-2 and MF-3 base districts).
4. What concerns does Watershed have related to this increase in density in the proximity to so many CFEs? **RESPONSE:** Due to the known number of environmental features on this property and for general site planning purposes, the Applicant undertook an Environmental Resource Inventory (ERI) in January 2018. Watershed Protection Department (WPD) Staff has not reviewed the Applicant's ERI, but will have the opportunity with a site plan application. Zoning Staff received general information from WPD Staff about buffers that would apply to the environmental features which is included on page 6 of the Staff report.
5. Staff Meetings with the Applicant, Contact Team and Neighborhood Representatives was held on July 8, 2020. Most of the correspondence from neighborhood pre-dates this meeting. Based on the lack of more recent correspondence it appears that they are not aware that this NP amendment and zoning case are moving forward. Has there been adequate public outreach to surrounding community since Feb. 2017 meeting? **RESPONSE:** There were approximately 20 attendees at the July 8th Microsoft Teams meeting to provide an update about the zoning case and Staff recommendations. All correspondence received on or prior to July 8th is attached to the backup. Correspondence received after July 8th will be posted as late backup. Additionally, a public hearing notice for the July 14th Planning Commission meeting was mailed on July 1st and a public hearing notice for the July 30th City Council meeting was mailed on July 8th. The Applicant has also communicated with the Neighborhood Plan Contact Team outside of the meetings hosted by Staff.

B- 16 1006 Baylor Street

Rhoades, Wendy

From: Victoria <[REDACTED]>
Sent: Monday, July 13, 2020 5:32 PM
To: Rhoades, Wendy
Subject: FW: Nuckols Crossing Rezoning and NPA cases

Follow Up Flag: Follow up
Flag Status: Flagged

*** External Email - Exercise Caution ***

Wendy,

To be included with late back-up please.

Thank you,
-V

From: Victoria
Sent: Monday, July 13, 2020 2:25 PM
To: ANA AGUIRRE <a-aguirre@prodigy.net>
Subject: RE: Nuckols Crossing Rezoning and NPA cases

Ana –

We have been communicating the issue of the approaching deadlines with Staff starting in May. None of this would have been an issue if not for the slow down due to the pandemic. We were ready to have the neighborhood meeting as promised back in March/April when the timeline was not a concern. However, it became clear that social distancing was going to be needed for a much longer period of time, we started engaging with Staff about the plan to move forward with a virtual meeting with the Neighborhood. While we offered to host a ZOOM meeting back in April, City Staff would not allow and needed time to research their preferred method for virtual meetings. My concern grew for the timelines needing to be met and I communicated this with Staff back in May. No one could have known that we would be where we are. I apologize that the concern was not communicated to the NPCT all along. It was not intentional. Rather our efforts were purely focused on getting Staff to set the date and their process so that we could deliver on our word to have another meeting with the Neighborhood to follow up on the driveway and traffic concerns. We did not anticipate need for additional delays through postponements as this last meeting was intended to bring forth the information that was requested by Commission and the Neighborhood at the public hearing back in April of 2018 so that the public hearing could move forward to completion with PC.

Regarding the McDowell's timeline, the zoning needs to be complete by end of August in order for them to meet their requirement to move this project forward.

When looking at Commission and Council schedules, there is very little to no wiggle room. Since Council is obligated by code to grant a first request, we need to save the PP for Council hearing. Seeing that the public hearing with Planning Commission began for this case in April of 2018, we believe it best to move forward to completion with PC and if the Neighborhood needs to request PP, that they do so at City Council.

I understand the neighborhood has concerns for safe access and traffic matters, please know that all engineers involved, both on the private public sides, have reviewed the solution and have said it is safe. These individuals are credentialed to make such determinations and I implore the Neighborhood to please trust and have faith in their ability to do so.

I understand that Kensington Park is a separate entity from the NPCT. My point in bringing them up is to show that already, there is a neighborhood organization that is staunchly opposed and a postponement is not going to change their stance. From everything that we have heard, we do not believe that a postponement will lend any additional information to what is already known at this time and that would be provided to Commission or Council. However, it is recognized that we cannot know what the NPCT will or will not support. Therefore, we would like to know if the Neighborhood see's any ability to get behind this project and further, what would the NPCT need to be in a position to support this project?

I hope these reasons help to address your questions and I understand that you needed to move forward with the PP request with Staff. We remain open and available to discuss further or answer any additional questions. If I can get the traffic modeling data in time, I will certainly forward that along. It may be that some of this will need to be addressed at the PC hearing when everyone will be present, including all traffic engineers.

Thank you,

Victoria Haase

Throuwer Design

www.throuwerdesign.com

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Mail: P.O. Box 41957

Austin, Texas 78704

512-998-5900 Cell

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From: ANA AGUIRRE <a-aguirre@prodigy.net>
Sent: Monday, July 13, 2020 10:32 AM
To: Victoria <Victoria@throuwerdesign.com>
Cc: Ana Aguirre <a-aguirre@prodigy.net>
Subject: Re: Nuckols Crossing Rezoning and NPA cases

Good Morning Victoria,

Hope all is well. Thank you for providing this information and attachments. It is appreciated.

In regards to the SCNPCT membership's concerns, I know people are still reviewing and processing the information provided during the neighborhood meeting on July 8th. The main questions have to do with the traffic and public safety. Those, I'm sure, can mostly be answered by ATD staff. I know there are other questions/concerns, and I have asked they be provided at tonight's meeting. Additionally, now that we know about the funding deadline that you shared with me on Thursday, we are curious about the details on the deadline. What exactly is the deadline that is approaching for the release of the funds? What steps must happen by what dates? Why were we not told of this this deadline earlier?

Additionally, although some of the SCNPCT members and other Neighborhood Association representatives participated in the July 8th meeting, we (SCNPCT) do not have any control over the votes/actions the neighborhood associations take. Those meetings are conducted separately from the SCNPCT meetings. Each group brings a different perspective to the table. The SCNPCT has always made an effort to coordinate the neighborhood meetings with city staff to help the city staff and applicants provide one presentation so they don't have to make multiple duplicate presentations on the same case.

In response to the last sentence in your email below, your request for an assurance of support before supporting our postponement request suggests it could be postponed with no problem. The way the SCNPCT works is that we do not promise support before we have all the facts, which we don't have. I sincerely hope we are allowed the additional time to get the answers to all the questions we have.

Thank you. Ana

Ana Aguirre
Immediate Past Chair
SCNPCT

Sent from my iPhone

On Jul 12, 2020, at 2:58 PM, Victoria <[REDACTED]> wrote:

Ana –

I wanted to send you an email on Friday and instead I waited in hopes of receiving more information to include with this email. Unfortunately, that information did not come as I had hoped. Still, I have included all of the information that I have at this time.

The concern for McDowell Housing Partners remains with meeting the deadline to achieve the release for funding of this affordable housing project. There are many pieces of this project that do not move forward with planning, etc. until the zoning is in place. Therefore, a request to postpone is significant in that it has the potential to kill this project. It has been very clear from the recent virtual meeting as well as previous meetings that many people are opposed to any up-zoning at this site. Lee Sloan, on behalf of Kensington Park, has made their position clear. Additional data is not going to change their stance. To that end, I ask what the other neighborhood organizations believe is possible with a two week postponement? Do they believe there is a chance to get behind and support this project? What would it take to get the Neighborhood's support on this rezoning for this project?

1. To address the concern for seniors being asked to vacate the affordable housing after a few short years, I've attached the RHDA loan guidelines and TDHCA Chapter 10 Uniform Multifamily Rules Subchapter F Compliance Monitoring. These guidelines are required in order to receive funding for the project.

- Please refer to page 25 of the RHDA Guidelines – minimum 40 years.

B. Affordability Period

When RHDA funds are used to assist rental projects, income and rent restrictions apply to the RHDA-assisted units for a defined period of time called the "affordability period." A project's affordability period is enforced using a legally binding document, a "Restrictive Covenant Running with the Land" that will be filed for record in the Official Public Records of the County. All RHDA funded projects are required to be affordable for a 40-year minimum period regardless of the funding amount. AHFC/NHCD, at its discretion, may require a project to utilize a longer affordability period than those stated above. The affordability period shall not be shortened for any reason, including if the loan is repaid before the end of the affordability period. Affordability requirements and restrictions will remain in force throughout the Affordability Period regardless of transfer of ownership unless ownership of the property is transferred through foreclosure proceedings.

- Please refer to page 43 of §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period – minimum 30 years
HTC properties allocated credit in 1990 and after are required under §42(h)(6) of the Code to record a LURA restricting the Development for at least 30 years. Various sections of the Code specify monitoring rules State Housing Finance Agencies must implement during the Compliance Period.

2. Unit count and levels of affordability are included in the table below.

In summary, there are 109 x 1-bedroom units and 70 x 2-bedroom units. McDowell's RDHA Commitment is for 60 of the 2-bedroom units **at or below 50% MFI**. Therefore, only 10 of the 2BR units will be offered to renter at the higher income bracket of 80% MFI. **Most of the units will be for individuals at or below 50%MFI.**

Type	# of Units	% Total Units	% AMI	Net Rent	Income
1/1	5	3%	30%	\$470	\$20,520
1/1	55	31%	50%	\$836	\$34,200
1/1	49	27%	80%	\$1,386	\$54,720
2/2	5	3%	30%	\$558	\$23,430
2/2	55	31%	50%	\$997	\$39,050
2/2	10	6%	80%	\$1,657	\$62,480

3. Concern for level of traffic generated by this development.

Traffic data shows that a senior housing development of this number of units will generate 200 LESS daily vehicular trips than a traditional multifamily development. A traditional MF development, with no age restriction, generates 900 daily vehicular trips. A senior living MF facility generates 700 daily vehicular trips. The peak hour numbers are also less with Senior

Southeast Combined Neighborhood Plan Contact Team

Ana Aguirre
Immediate Past Chair
PO Box 19748
Austin, TX 78760
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July 14, 2020

Conor Kenny, Chair
Yvette Flores, Secretary
Greg Anderson
Claire Hempel
Carmen Llanes Pulido
Patricia Seeger
Jeffrey Thompson
Richard Mendoza

Fayez Kazi, Vice-Chair
James Shieh, Parliamentarian
Awais Azhar
Patrick Howard
Robert Schneider
Todd Shaw
Don Leighton-Burwell
Ann Teich

RE: Neighborhood Plan Amendment Case Number: NPA-2016-0014.01.SH
Rezoning Case Number: C14-2017-0010.SH
Project Location: 4400 Nuckols Crossing Road

Dear Honorable Chair Kenny and Commissioners:

The Southeast Combined Neighborhood Plan Contact Team (SCNPCT) has a history of supporting responsible development. Our Future Land Use Map (FLUM) area consists of single-family, multifamily, mixed use, commercial, office, civic, warehouse/limited office, and industry zones. With Austin Bergstrom International Airport (ABIA) being so close, we also have to consider the Airport Overlay.

With this in mind, the SCNPCT met on Monday, July 13, 2020, to discuss the presentation and information received during a neighborhood meeting held on July 8, 2020, on the two following requests pertaining to the property located at 4400 Nuckols Crossing: 1) Neighborhood Plan Amendment to change the land use designation on the FLUM from single-family to multifamily land use; and 2) Rezoning from single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to multi-family residence-moderate-high density-neighborhood plan (MF-4-NP) combining district zoning. The SCNPCT took into consideration input from neighborhood associations representing residents immediately adjacent or across the street from the property as well as residents who use and are familiar with public safety (traffic and pedestrian) concerns on Nuckols Crossing.

With a quorum present, and based on the information provided, the SCNPCT membership voted to request a postponement of up to 60 days or sooner, if the answers to our questions are provided.

The postponement request is based on the following unresolved concerns voiced by the SCNPCT membership:

- Late Notice of the New Information
 - Meeting on 7-8-2020
- Public Safety Concerns
 - Traffic
 - Pedestrian
 - Bicyclists
- Traffic Concerns
 - Request follow-up meeting(s) with ATD
- MF-4 Zoning Request

The membership's primary concerns are based on the current status of the substandard road infrastructure provided to the Southeast Austin residents who use Nuckols Crossing and the positioning of the proposed development directly on the exit of a rising blind curve from eastbound Saint Elmo to southbound Nuckols Crossing on a substandard road with no shoulders or sidewalks. Upon receiving the information provided during the July 8, 2020 meeting, additional questions arose specific to the ATD's new proposed traffic mitigation related to this proposal. We respectfully request the Planning Commission approve the postponement request and provide the SCNPCT an opportunity to meet with ATD staff and the applicant to address the community's public safety concerns, and the applicant's new request for moderate-high density. The 2018 request was for medium density. We hope to have the opportunity to thoroughly review the new traffic report and the staff's recommendation as it relates to the public's safety.

Respectfully submitted,



Ana Aguirre, Immediate Past Chair
Southeast Combined Neighborhood Plan Contact Team (SCNPCT)

CC: Wendy Rhoades, Planning and Zoning Department