

## Meredith, Maureen

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**To:** Ferris Clements; Estrada, Nancy  
**Cc:** Gavin Greenblum  
**Subject:** RE: Letter for Staff Report Regarding NPA-2023-0020.01\_4201 S. Congress Ave.

-----Original Message-----

From: Ferris Clements  
Sent: Friday, October 20, 2023 7:26 PM  
To: Meredith, Maureen <Maureen.Meredith@austintexas.gov>; Estrada, Nancy <Nancy.Estrada@austintexas.gov>  
Cc: Gavin Greenblum  
Subject: Re: Letter for Staff Report Regarding NPA-2023-0020.01\_4201 S. Congress Ave.

External Email - Exercise Caution

Maureen and Nancy,

Please update our case file/staff report to reflect the following dates we have met with the Neighborhood Contact Team via Zoom since the last Planning Commission. These are an addition to our initial Zoom meeting with the neighborhood on April 18th, as well as numerous phone calls with Mario Cantu over the summer.

Zoom Meetings:  
Thursday, September 28th  
Thursday, October 5th  
Tuesday, October 10th

We tried to schedule a meeting with the contact team this past week, but did not hear back from them regarding a time/date.

Thanks,  
Ferris

On Oct 17, 2023, at 3:34 PM, Meredith, Maureen <Maureen.Meredith@austintexas.gov> wrote:

Ferris:  
FYI, see attached and below.  
Maureen

From: Howard Curtis  
Sent: Tuesday, October 17, 2023 12:53 PM  
To: Meredith, Maureen <Maureen.Meredith@austintexas.gov>  
Cc: Estrada, Nancy <Nancy.Estrada@austintexas.gov>; Woods, Alice - BC <BC-Alice.Woods@austintexas.gov>; nadia.mojica.barrera@; Gene Adams < Mario Cantu

Subject: Letter for Staff Report Regarding NPA-2023-0020.01\_4201 S. Congress Ave.

Dear Maureen --

I am attaching a letter from Gene Adams and myself, both members of the Steering Committee of the Oldham Neighborhood Association, related to the proposed development at 4201 South Congress Avenue (NPA-2023-0020.01). My understanding is that a proposed zoning change for this property will be on the agenda of the October 24 Planning Commission meeting.

In preparing this letter expressing our current views on the matter, Gene Adams and I have been in consultation with Mario Cantu of the SCCNPCT. We wish to request, with Mr. Cantu's support, that his letter be included with the staff case report in preparation for the hearing.

Please feel free to contact me with any questions.

Best regards,

Howard Curtis  
Steering Committee -- Oldham Neighborhood Association

E-mail:  
Cell: (512)-547-7116

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October 17, 2023

Dear Members, Austin Planning Commission:

We are members of the Steering Committee of the Oldham Neighborhood Association in South Austin. .

The Oldham Neighborhood is located immediately south of St. Elmo between South Congress Avenue and South First Street, and thus will be impacted by current and future development along South Congress between Ben White and Stassney.

Over the last six months, we have been working with Mario Cantu and other members of the South Congress Neighborhood Plan Contact Team (SCCNPCT) in discussions and negotiations with the developers' representatives for three major projects planned for the South Congress Corridor. These projects are located at 5400 South Congress (NPA2023-0020.02 and C14-2023-0034), 300/440/600 Industrial Boulevard (NPA2023-0020.03 and C14-2023-0046), and 4201 South Congress (NPA-2023-0020.01 and C14-2023-0043).

It has been our experience in these interactions that the developers at 5400 South Congress and at the Industrial Boulevard properties have proactively engaged with our SCCNPCT group, have taken serious account of our neighborhoods' concerns, and have worked to address these needs and requests, including concessions and accommodations.

Unfortunately, the same cannot be said for the developer that plans to create a mixed-use project at 4201 South Congress – Redcar, Ltd. of Santa Monica, California. Until the last several weeks, it has been difficult for the Contact Team to secure the participation of the developer's representative, Mr. Ferris Clements, in meetings with our group. While the developer has now agreed to SCCNPCT requests in certain areas, such as sidewalks and lighting, we believe that the commitments the developer has made are primarily those required by City of Austin building codes, and that the developer has not shown willingness to go beyond what the City requires of them.

There are three areas, in particular, where we think that Redcar and their representatives need to demonstrate more flexibility and a spirit of compromise in addressing neighborhood requests. Specifically –

- The SCCNPCT wants the developer to commit to the inclusion of affordable units in the proposed project that go somewhat beyond the levels currently required by the City, whether this would take the form of more affordable residential units, affordable retail space, or some combination of the two. The developer has shown no willingness to provide more than the required minimums.
- The SCCNPCT seeks a Parkland Donation from the developer -- funds that would enhance public parks in the South Congress Corridor, to support the growing population in the area that is a direct result of major residential developments. Thus far, the developer has refused to make such a commitment.

- The SCCNPCT has requested that the developer confirm their commitments to our neighborhoods through the execution of a restrictive covenant, which would bind future development of the property consistent with the agreements reached between the developer and the SCCNPCT, in return for the zoning change which the developer seeks from the City. The use of a restrictive covenant would be consistent with what other developers along the South Congress corridor have previously provided. However, Redcar and their representatives have refused to execute a restrictive covenant, arguing that they prefer a letter-of-agreement, and that an LoA should be sufficient for our purposes. It is our belief that an LoA is a weaker legal instrument than a restrictive covenant, in that it binds two parties rather than imposing conditions on the development of the property itself. It is quite possible, for example, that the terms agreed to in an LoA could be found invalid after the zoning change, should the developer sell the property to a third party.

Further, the circumstances the SCCNPCT finds itself in at this point in our negotiations with the developer and their representatives at 4201 South Congress raise issues of equity. Whereas other developers along the South Congress Corridor have been proactive in negotiating with the SCCNPCT and responding to our reasonable requests in the areas documented above, Redcar has thus far resisted doing so. For the Planning Commission to respond by approving the applicant's request for a zoning change at this juncture would create a situation that is unfair to the majority of developers. It will also undercut the credibility and leverage that the SCCNPCT can bring to the table in future interactions with the development community.

While the Oldham Neighborhood Association is just one of the member organizations of the SCCNPCT, unless circumstances change, we will be advising Mr. Cantu, on behalf of our neighborhood, that we cannot recommend that the SCCNPCT express support for the agreement with the developer of 4201 South Congress Avenue, on the terms that are currently being proposed to us by the developer and their representative.

Please feel free to contact us with questions, or if clarifications are needed.

Best regards,

Howard Curtis; Gene Adams  
Steering Committee, Oldham Neighborhood Association

Cc: Mario Cantu, SCCNPCT; Alice Woods, Planning Commission – District 2; Nadia Barrera-Ramirez, Planning Commission – District 3

E-mail: [hcurtistx@gmail.com](mailto:hcurtistx@gmail.com)  
Cell: (512)-547-7116

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DATE: October 23, 2023

TO: Maureen.Meredith@austintexas.gov, nancy.estrada@austintexas.gov

CC: Jose.Velasquez@austintexas.gov

FROM: South Congress Combined Neighborhood Plan Contact Team – SCCNPCT

Re: SCCNPCT Requesting **Postponement to the November 28, 2023 Planning Commission Meeting**  
For Case Number: NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress Ave.

Dear City of Austin Planning & Zoning Departments, Maureen Meredith and Nancy Estrada.

We, the SCCNPCT, have been informed that the case NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress is scheduled to be heard at the October 24, 2023 Planning Commission meeting. Due to the circumstances outlined below, **the SCCNPCT is requesting postponement of this case to the November 28, 2023 Planning Commission Meeting.**

On Thursday, October 19 – with just two business days remaining prior to the October 24, 2023 Planning Commission meeting – the developer’s representative sent the SCCNPCT a message in which they communicated that the developer had decided to make a fundamental change in the shape of the proposed development at 4201 South Congress Avenue, eliminating the planned large residential building and focusing solely on office, retail, and restaurant space: “At the time of our site plan completeness check submittal on September 28<sup>th</sup> for this site (previously provided), and up until this week, our team’s plan was development of an apartment building on the southern portion of the Property. However, market conditions have shifted and we are re-evaluating and modifying our plans for to be fully commercial (office, retail, and restaurant) at this time.”

The developer has no site-plan schematic for the modified plan, and has not provided the SCCNPCT any details on what they now intend.

Further, on October 20, the applicant’s representative, Mr. Ferris Clements, sent to the SCCNPCT a draft letter-of-agreement between the developer at 4201 South Congress Avenue and the SCCNPCT, a document that the applicant’s representative had committed to provide within several days of our online meeting of October 10. While the draft LoA does cover several items of concern to the SCCNPCT, it does not address such major areas as the provision of affordable housing units or affordable commercial space, and includes no commitment to parkland support. In its present form, the draft LoA is not acceptable to the SCCNPCT, and the parties will need to conduct further discussion, interaction, and negotiation to reach mutual agreement. In addition, we at the SCCNPCT take the position that the agreements reached should be recorded in a restrictive covenant, rather than a letter-of-agreement.

The SCCNPCT needs to receive clarifications and details regarding the developer’s new project plan for 4201 South Congress, and we then need to conduct discussions related to that new plan with the developer’s representative. Further, additional negotiation is needed regarding the content of the draft letter-of-agreement. The timing of the delivery of these communications and documents by the developer’s representative to the SCCNPCT make it impossible to take these steps prior to the Planning Commission meeting of October 24.

The SCCNPCT thus requests a postponement.

Thank you,  
Mario Cantu, Chair  
SCCNPCT