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# 78

JAN 15 2009

Blackland Neighborhood Association

Neighborhood Planning & Zoning

January 14, 2009  
Austin, Texas 78722  
512-474-6009  
[BlacklandNA@gmail.com](mailto:BlacklandNA@gmail.com)

Mayor Will Wynn and Councilmembers  
City of Austin  
P.O. Box 1088  
Austin, TX 78701

*Late Backup*

Ref.: Rezoning of 1600 – 1606 MLK  
Zoning Case # NPA-2007-0012.02

Dear Mayor Wynn and Councilmembers:

In light of a recent letter you may have received from the Blackland Community Development Corporation, I am writing to you hoping to avoid confusion on the above rezoning request.

Our neighborhood, Blackland Neighborhood Association, supports the rezoning request.

The Blackland Community Development Corporation (BCDC) is a separate entity focused on affordable housing issues.

This zoning request represents a year of hard work and negotiations between the Blackland Neighborhood Association, BCDC and Jacaranda Investment. The possible effects of this zoning request on the valuations of the surrounding properties come as no surprise to our membership. It was the subject of much discussion during the year. We have carefully weighed both the drawbacks and the benefits of this development in great detail over the months. In the end, the neighborhood voted overwhelmingly to support the rezoning. We now request that council do the same.

Sincerely,

Alan Hampton  
President  
Blackland Neighborhood Association

CC: Bo McCarver, Chair, Blackland Community Development Corp.  
Ryan Diepenbrock, Jacaranda Investment  
Robert Heil, Senior City Planner  
Kathleen Fox, Case Manager

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Neighborhood Planning & Zoning

DEED RESTRICTION

THE STATE OF TEXAS     §  
                                      §  
COUNTY OF TRAVIS     §

*Late Backup*

This Deed Restriction ("Restriction") is made by **E-MLK PROPERTIES, L.L.C.**, a Texas **limited liability company** ("Owner") as follows:

RECITALS

A. Owner is the present owner of certain real property located at 1600, 1602, 1604 and 1606 East Martin Luther King Jr. Blvd., Austin, Travis County, Texas, and being Lots 1, 2, 3 and 4, Block 2, C. R. Johns and Co. Subdivision of Outlot No. 45, Division "B," a subdivision in Travis County, Texas, according to the map or plat of record in Volume 1, Page 3, Plat Records of Travis County, Texas (the "Property").

B. Owner has applied to the City of Austin, Texas, for a zoning change and neighborhood plan amendment for the Property in Case Number NPA-2007-0012.02 and C14-2008-0099 ("Zoning Application").

C. Conditioned upon final approval of the Zoning Application by the City of Austin City Council, including modifications to the base zoning requested by Owner, Owner desires to impose a deed restriction against the Property to provide that in connection with any future development of the Property, such development will include the minimum affordable housing components required by the City of Austin, Texas Vertical Mixed-Use Zoning Overlay in effect at the time of the proposed development site plan submission (currently being 10% of units at 80% MFI).

NOW, THEREFORE, in consideration of the premises and conditioned upon final approval by the City of Austin City Council of the change in zoning pursuant to the Zoning Application for the Property, Owner imposes the following deed restriction against the Property:

1. Any future development of the Property shall include the minimum affordable housing components as required by the City of Austin, Texas Vertical Mixed-Use Zoning Overlay in effect at the time of the proposed development site plan submission (currently being 10% of units at 80% MFI).

2. This Restriction is conditioned upon final approval by the City of Austin City Council of the Zoning Application submitted by Owner to the City of Austin, with modifications to the base zoning as allowed by the existing CURE zoning overlay.

3. This Restriction shall be binding upon and inure to the benefit of Owner, Owner's successors and assigns.

Executed this 15<sup>th</sup> day of January, 2009.

**OWNER:**

E-MLK PROPERTIES, L.L.C. a  
Texas limited liability company

By: \_\_\_\_\_  
Jerry T. Springer, Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of January, 2009, by JERRY T. SPRINGER, Manager of E-MLK PROPERTIES, L.L.C., a Texas limited liability company, on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas

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## Blackland Community Development Corporation

*The Dream starts here...*

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January 14, 2009  
2005 Salina Street  
Austin, Texas 78722  
512-474-6009  
[bmccarver@austin.rr.com](mailto:bmccarver@austin.rr.com)

Mayor Will Wynn and Councilmembers  
City of Austin  
P.O. Box 1088  
Austin, TX 78701

Ref.: Rezoning of 1600 – 1606 MLK

Dear Mayor Wynn and Councilmembers:

This letter is to affirm that the Blackland Community Development Corporation remains on the valid petition against the rezoning of the property at 1600 – 1606 MLK. This rescinds an early letter sent on Dec. 11, 2008 that was hastily drafted without complete deliberation by our board and without a more complete analysis of the impact of the project on affordable housing in our neighborhood.

The owner of the properties has asked for \$1.25 million for the four lots and the applicants are asking for zoning that will allow the development of a structure that will recover that investment and produce a profit. Most lots in the area are appraised at \$100,000; if sold at the speculation rates, the lots would average \$315,500 each. Consultations with appraisers familiar with the area lead us to believe that if the rezoning is allowed and the sale goes through for a structure that large and expensive, nearby lots will be appraised much higher and create serious tax issues for marginal homeowners and residents of affordable rental units. Although the developers offer 10 percent affordable units and \$100,000 that would build one additional house, those seven units do not nearly off-set the loss of the four units already removed and at least two dozen other units in the area that will be taxed-out over time.

The Blackland Community Development Corporation will work with the neighborhood association and the developers to preserve and increase affordable housing opportunities. We believe, however, that the present proposal will greatly accelerate gentrification and rapidly erode the diversity of our historic neighborhood.

Sincerely,

Bo McCarver, Chair

CC: Alan Hampton, President, Blackland Neighborhood Association  
Ryan Diepenbrock, Jacaranda Investment  
Robert Heil, Senior City Planner

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Neighborhood Planning & Zoning

# Late Backup

#78

PSW Jacaranda, LLC  
3503 Bridle Path, Ste B  
Austin, TX 78703

1/15/09

Mayor Will Wynn,  
& Council Members  
City of Austin, Texas

We have received the letter from the Blackland Community Development Corporation withdrawing their support in the zoning case C14-2008-0099 for the properties located at 1600-1606 E. MLK Blvd. We are disappointed to put it mildly given we, the Blackland Community Development Corporation and the Blackland Neighborhood Association are all parties to a valid, signed and notarized agreement of support for the project that allows for legal recourse by each party in the event of a breach. Such agreements are rarely entered into "hastily"; indeed we have been in conversation with these parties and their key representatives for over 12 months. We have met numerous times with board members, special negotiation teams, land use committees, general membership and affordable housing consultants as we worked towards agreement. The impact of our project or the planned project for 1700-1705 E. MLK on property values is not a new issue, it has been discussed many times prior to reaching agreement.

The reality is property values and taxes in all of Austin have been going up and have been going up in this neighborhood long before we even thought of developing this property. MLK is a key East-West thoroughfare in Austin which is central to the heart of the city and this is why it earned the designation of Core Transportation Corridor. The subject properties are exceptionally close to downtown, the state office complexes west on MLK and the University of Texas campus. A Cap Metro bus stop is directly across the street and a quick walk bring you to Manor Rd, possible site of a future commuter train. The location is what drives the land value, not the development and this transaction isn't establishing new values, it's recognizing existing values and creating development that is appropriate given those values. A quick check of recent lot sales in the area confirms these valuation are not excessive or "speculative". The location and existing values are what is driving the development.

If we as a city under-utilize land that has such close proximity to downtown we will continue to force up the prices on near downtown residences and encourage further suburban sprawl. We can not simultaneously complain about the loss of moderate priced housing in the downtown area and limit the density of new developments with such close proximity to downtown. Land values will continue to increase as Austin grows, that is a given, the only way to offset that is to allow greater density so that high land costs are spread over more residences. This is exactly what we are trying to do and we have been consistent with our stated goal to produce moderate priced units ranging between \$236 and \$260sqft. Lower zoning means fewer units and that means higher prices, the math is

inescapable, hence the need for an appropriate zoning if we are to meet our goal of moderately priced, pedestrian friendly, near-downtown housing. Leaving this property as SF-3 guarantees that no affordable housing will get built on this land, the current land value will not support affordable housing without significant density of units.

Three last thoughts, first please know that the Blackland Neighborhood Association (BNA) stands by our agreement and supports the planned project, they are not party to the actions of the Blackland Community Development Corporation (BCDC). The BNA voted unanimously to support the project and the agreement we ultimately signed.

Second, to demonstrate our commitment to providing affordable housing we have persuaded the current owners to place a deed restriction on the properties that requires future development to incorporate affordable housing with a minimum of 10% of the units at 80% MFI just as required by Vertical Mixed Use. This requirement is not dependent on any variance from the Board of Adjustment although it is dependant on the properties being re-zoned as per applicant's request. This deed restriction was filed with Travis County today, January 15<sup>th</sup>, 2009 and is in process of being recorded.

Third, we intend to honor our commitments on affordable housing as per the Agreement of December XX, 2008. If we succeed in getting a height variance from the Board of Adjustment we will reduce the MFI and contribute portions of the project's profits to a non-profit housing organization to allow additional affordable housing units to be built elsewhere. We are in favor of affordable housing and have always planned for it to be part of the project, we intended to opt into V until we discovered it couldn't be modified in any way. Since many provisions of V conflict with the desires of the BNA we instead are seeking a base zoning with modifications that essentially substitutes for V. With the deed restrictions in place we have now added the affordable housing component of V back into the project.

We understand the concerns of BCDC but disagree that this is in anyway a sufficient or reasonable rationale to oppose the project. If it was then what development could ever move forward?

Sincerely,



Ryan Diepenbrock  
PSW Jacaranda, LLC

cc: Robert Heil, City of Austin, Alan Hampton, BNA, Bo McCarver, BCDC