



**CITY OF
TUCSON**
ZONING
EXAMINER'S
OFFICE

PRELIMINARY REPORT

June 23, 2016

City of Tucson
Attention: Nicole Ewing Gavin and Dan Bursuck
Planning and Development Services Department
201 N. Stone Avenue 3rd floor
Tucson, AZ 85701

**SUBJECT: C9-12-01 Main Gate District Rezoning Amendment
Public Hearing: June 16, 2016**

Dear Ms. Ewing Gavin and Mr. Bursuck,

Pursuant to the City of Tucson's Unified Development Code (UDC) and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter is the Zoning Examiner's written notification of the summary of rezoning findings for rezoning case **C9-12-01 Main Gate District Rezoning Amendment**.

At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

If any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

SUMMARY OF FINDINGS

This proposal will amend the Main Gate District's development document's Design Standards so that multi-story group dwellings will be prohibited to have balconies. The Mayor and Council initiated the amendment on April 6, 2016.

In August 2012, Mayor and Council adopted the current Main Gate District, (MGD) which is an urban overlay district. The *West University Neighborhood Plan (WUNP)* Transition Area and the MGD allow for residential, commercial and office uses.

On June 28, 2011, the Mayor and Council initiated amendments to the *West University Neighborhood Plan* to facilitate transit-oriented development in the plan's Transition Area (a subarea of the WUNP).

The MGD overlay has portions covered by two historic designations, namely the West University Historic Preservation Overlay Zone (HPZ) and portions covered only by the West University National Register District, which is not a zoning overlay but instead allows for a tax incentive for continuance of a historic exterior to the building or structure.

At the June 19, 2016 Zoning Examiner's Public Hearing, staff reported there were five letters supporting and eleven letters in protest of the amendment. There were three speakers who spoke in support of the amendment.

General Location The Main Gate District is a 54-acre urban overlay district with a mixture of historic buildings, hotel, restaurants, general indoor commercial, offices, multi-story private student housing buildings known as group dwellings, an historic church, and the University's student dormitories. To the north are arterial commercial uses, to the east the University of Arizona campus, and to the south and west are historic residential neighborhoods.

Land Use Plans – As noted the land use policy direction for this site is provided by the *West University Neighborhood Plan (WUNP)*. Additionally, the *University Area Plan (UAP)* and *Plan Tucson*.

Plan Tucson designates the University of Arizona as "Campus Area" on its Future Grown Scenario Map. The Campus Area Building Block of the map includes and surrounds large master-planned educational, medical, or business facilities. A fully-realized Campus Area serves the local workforce and student population and includes a range of housing, a variety of retail opportunities, and convenient transit options. Campus Area often accommodates businesses that are the spin-off of economic development opportunities generated by the primary employers.

The *Plan Tucson* Public Safety Policy PS3 supports taking preventative measures to reduce potential harm to life and property from hazards resulting from human activities and development.

The *UAP* supports pedestrian-oriented areas around the University of Arizona, including the Main Gate area and University Boulevard, and encourages uses that

continue the vitality of the area. The *UAP* Policy 9.9 related to defensible space guidelines supports coordination between development and the Tucson Police Department through the review of development proposals for compliance with Crime Prevention. Through Environmental Design (CPTED) principles.

The *WUNP* promotes transit-oriented infill development in the Transition Area as a major part of coordinating land use and transit planning around the modern streetcar route. The *Transit-oriented Design Guidelines*, do not mention balconies but state in Policy 3, *Architectural Design* that the use of undifferentiated or blank buildings facades should be avoided. This policy suggests that projected and recessed walls and potentially balconies can be part of creating interesting and varied building facades.

April 6, 2016 Planning Commission Study Session on Main Gate District Balconies – The Commissioners had varied comments. They remarked that balconies are not the issue but student behavior is, removing balconies will remove a place where dangerous and bad behavior cannot be located, interior courtyards both may be acceptable or also are candidates for prohibition, outdoor space like that provided by balconies is valuable and mitigation should be looked for elsewhere, and better coordination with building owners and the police should be pursued.

May 25, 2016 Public Meeting Regarding Student Housing and Balconies - Approximately 17 people were in attendance at the meeting facilitated by the Planning and Development Services Department. In attendance were representatives from the Islamic Center of Tucson, West University Neighborhood Association, Feldman's Neighborhood Association, Samos Neighborhood Association, Blenman Elm Neighborhood Association, Tucson Residents for Responsive Government, and property owners from the general area.

The Department reported that the key issues discussed included the removal of all balconies on group dwellings; potential expansion of a balcony ban for group dwellings to other neighborhoods or the entire city; concern about meeting fire and safety codes, the need to better enforce and control criminal behavior, and legal responsibility for incidents.

Design Considerations - The MGD development document has similarities to a Planned Area Development (PAD) document as separate zoning and design standard document. MGD's goal is to allow transit-oriented development near the modern streetcar route.

North of University Boulevard the building height profile allows for multi-story buildings of varying height. Additionally, there are zoning and design standards

and a design review process through which new development is reviewed. A design review committee reviews proposals for various historic and design issues.

Among the Design Standards listed in Section C-19 of the MGD development document is subsection C-19-1 that states, “*Architectural elements such as balconies, outdoor stairs, ornaments and surface details shall be used to enhance the architectural style of the building.*”

The PDSD recommended change is to have Section C-19-1 state,

“Architectural elements such as balconies, outdoor stairs, ornaments and surface details such as screening, cladding and other types of fenestration, shall be used to enhance the architectural style of the building. For group dwellings, balconies shall be not allowed.”

At the June 16, 2016 Zoning Examiner’s public hearing, there were speakers from the Islamic Center and the West University Neighborhood Association. They spoke in favor of the amendment. Several points were raised. Items have been thrown from the balconies at the Islamic Center’s mosque causing roof damage as well as broken glass and debris in their parking area. At Friday’s religious services, there are normally 800 attendants who are potentially endangered by thrown objects. There have been incidents of yelling hate speech at attendants to the mosque from the adjacent student housing property. The balconies are a source of noise and cause a liability to the building’s property owners. The buildings with balconies require more police monitoring. The dormitories run by the University have no balconies.

When asked about allowing internal balconies, the speakers felt that they are still a liability, dangerous, and requiring police monitoring. In discussing the student population having its largest portion being freshmen, there appears to be a high likelihood of future residents being freshmen who tend to be considered the most immature group of students and the most likely group to engage in immature and nuisance behavior.

It should be noted that the basis of encouraging balconies in the MGD through Section C-19 is that balconies have for hundreds of years and in current modern urban areas continue to be looked at as a beneficial feature of architectural design and residential living. Balconies have a long tradition of adding variation to a building’s elevation and providing air and sunlight into the interior living space. Additionally, they provide outdoor open space for residents to enjoy fresh air, to be a place to have a small garden, and to recreate and live. There are modern versions of balconies that are completely screened and enclosed that would prevent throwing things yet allow fresh air into the indoor living space.

It is unfortunate that a negative characteristic of a balcony is that, if put in the hands of an immature resident, it can be a place to throw things from and, at its worst, serve as a physical platform to commit hate crimes as well as being a possible location of a fatal accident due to immature behavior.

It appears these negative effects have led to a desired need to limit balconies in future buildings where a transient student population comes and goes and the threat of nuisance and criminal behavior remain a threat on some type of regular basis. It is also unfortunate that most student residents with balconies have been law abiding and respectful. Note there are several three to four story student residential buildings in the general area that have had balconies for years without a major incident.

As Tucson continues to create urban areas with Tucson-oriented design standards, balconies should not be overly regulated, since they can fit very well into a Tucson lifestyle. Balconies for multi-story student housing, however, have been identified with immature behavior and may need to be limited. In that the University has set a precedent of not having balconies on its dormitories, it seems that standard could also apply to future private group dwellings in the same area.

Further, student housing managers of the current buildings in the MGD should meet regularly with local neighborhood associations and the Islamic Center to discuss concerns and about being good neighbors. Where the balconies will become non-conforming uses by this amendment, the right to have a room with a balcony should be delayed until the resident has some record of mature behavior, especially with freshmen residents.

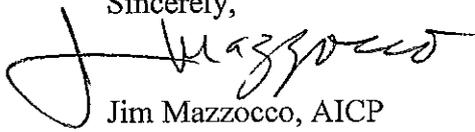
CONCLUSION

This amendment to the Main Gate District's Design Standards in Section C-19 should be revised as recommended in the Planning and Development Services staff report to prohibit balcony use in future multi-story group dwellings. The dangers and nuisance caused by immature student behavior has raised the focus on this otherwise benign architectural feature as a point of community concern. Using the precedent of the University of Arizona's dormitories to not use balconies is a standard that should be considered throughout the Main Gate District.

RECOMMENDATION

The Zoning Examiner recommends approval of the amendment to Main Gate District's development document's Section C-19 as recommended by the Planning and Development Services Department.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Mazzocco". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke extending to the right.

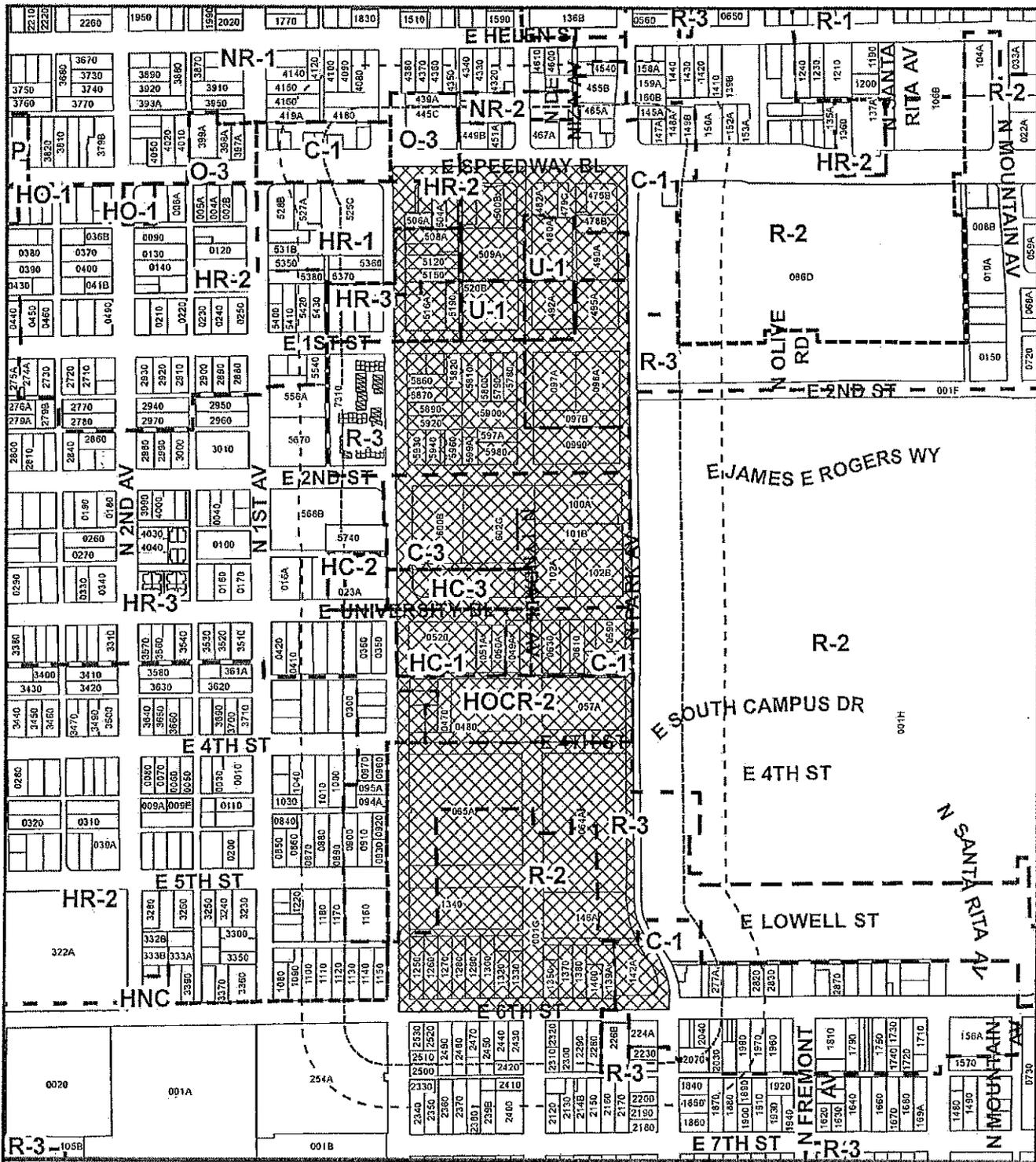
Jim Mazzocco, AICP
Zoning Examiner

ATTACHMENTS:

Rezoning Amendment Case Map

cc: City of Tucson Mayor and Council

Main Gate District (MGD) Urban Overlay Amendment to Overlay Zone



- Area of Rezoning
- 300ft notification area
- 150ft protest area
- Zone Boundaries

Address: North of E 6th ST, South of E Speedway Boulevard, East of N Euclid Ave, and West of N Park Ave
Ward: 6

Created by: DB, 05/10/2016

0 195 390 780 Feet

