



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

June 30, 2016

C9-12-01 Main Gate District Rezoning Amendment

BACKGROUND

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.

Land use policy direction for this area is provided by the *Plan Tucson* and the *University Area Plan (UAP)* and the *West University Neighborhood Plan (WUNP)*.

PUBLIC HEARING SUMMARY (Minutes Attached)

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 of Arizona 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.

FINDINGS OF FACT

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.

C9-12-01 Main Gate District Rezoning Amendment Rezoning Amendment

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 an historic exterior to the building or structure.

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)*, 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.

C9-12-01 Main Gate District Rezoning Amendment Rezoning Amendment

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."

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

C9-12-01 Main Gate District Rezoning Amendment Rezoning Amendment

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 lead 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 of Arizona 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

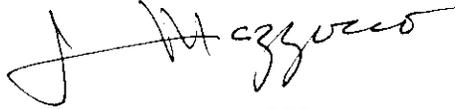
This amendment to the Main Gate District's Design Standards in Section C-19 should be revised as recommended in the Planning and Development Services staff report to prohibit balcony use in future multi-story group dwellings. The dangers and nuisance caused by immature student behavior has raised the 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.

**C9-12-01 Main Gate District Rezoning Amendment
Rezoning Amendment**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jim Mazzocco", written in a cursive style.

Jim Mazzocco, AICP
Zoning Examiner

ATTACHMENTS:
Public Hearing Minutes