

Case: C9-12-01 Main Gate District (MGD)
Rezoning Amendment to the MGD Overlay (Ward 6)
City of Tucson Zoning Examiner Public Hearing 06/16/16

ZONING MEMBERS PRESENT:

Jim Mazzocco, Zoning Examiner
Dan Bursuck, Planning & Development Services
Bambi Flores, City Recording Clerk

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1 ZONING EXAMINER: Next case is C9-12-01 Main Gate
2 District Rezoning Amendment to the Main Gate District Overlay.
3 Staff report, please.

4 MR. BEALL: This is a request by the City of Tucson to
5 amend the Main Gate District Urban Overlay District to address
6 behavioral issues related to group dwellings. The Main Gate
7 District UOD is bounded by Speedway Boulevard on the north, Park
8 Avenue on the east, 6th Street on the south, and Euclid Avenue on
9 the west, covering an area of approximately 54 acres. The
10 amendment to the UOD proposes to restrict balconies on group
11 dwellings within the Main Gate District UOD.

12 On March 22nd, 2016, Mayor and Council directed Staff
13 to explore options for amending the Main Gate District UOD to
14 mitigate general safety issues related to balconies on group
15 dwellings. Since the Main Gate District UOD was authorized and
16 effectuated in 2012 for student housing projects, group dwellings
17 have been built utilizing the Main Gate District Urban Overlay
18 District.

19 Since late 2014, there have been a series of incidents
20 involving students throwing objects from upper floor balconies to
21 the ground below. The proposed amendment would disallow

1 balconies for group dwellings within the MGD-UOD. The proposed
2 amendment to the Main Gate District UOD is consistent with Plan
3 Tucson policies. The amendment to the Main Gate District
4 provides a solution that addresses the concern of balcony use for
5 group dwellings that was discussed in the Mayor and Council
6 community meeting.

7 Approval of the requested amended Main Gate District
8 UOD zone is appropriate. As of to date, June 16th, 2016, there
9 have been five approvals and 17 protests. The, by owner, there
10 have been five approvals and three protests as those 17 protests,
11 the majority of those were by one single owner.

12 Protests within 150 feet are six. Outside the 150 feet
13 are eleven. Protests by percentage to the north 7.7%, to the
14 south zero percent, to the east zero percent, and to the west
15 3.1%.

16 ZONING EXAMINER: Okay. I realize this is initiated by
17 Mayor and Council. We'll have another, the Applicant or the
18 Representative of the City come forward to make a presentation.

19 MR. BURSUCK: Thank you, Mr. Mazzocco. So I'd just
20 like to make a couple of clarifications regarding this and one is
21 that this is only an amendment to the Main Gate document and only
22 applies to the Main Gate District.

23 Additionally, it only applies to group dwellings, it
24 does not apply to apartments, it does not apply to hotels.

1 Group dwellings as, as defined in the UDC, which is units that
2 have five or more people who are unrelated living together. And
3 then additionally, it is only applying to future development. So
4 it does not apply to existing development. I'd be happy to take
5 any questions that Staff or the Zoning Examiner may have.

6 ZONING EXAMINER: And I assume what you're saying is
7 when you're saying group dwelling, you're talking multi-story
8 group dwelling is obvious maybe. Can't put a balcony on the
9 first floor.

10 MR. BURSUCK: That is correct, yes.

11 ZONING EXAMINER: Or maybe you can. You can have an
12 opening, but who cares what you do from there.

13 MR. BURSUCK: Yeah.

14 ZONING EXAMINER: Okay. Have you received any input at
15 all from the property owners of the student group dwellings that
16 have been, you know, involved in these incidents?

17 MR. BURSUCK: Staff has notified the group dwellings,
18 but has not received any input from them.

19 ZONING EXAMINER: Okay. So first I'm going to, unless
20 you have anything else to say, Mr. Bursuck, I'm going to ask, is
21 there anybody in favor of the amendment who wants to speak? And
22 everybody was sworn in who is raising their hand? Okay. Ma'am,
23 why don't you come first?

24 MS. MIR: Good evening. My name is Maryam Mir. My

1 address is 9427 East 33rd Street. I've been a member of Islamic
2 Center of Tucson for 37 years. I want the City to, City Zoning
3 Commission to seriously consider this amendment for the safety of
4 all of Tucson, whether it's a student living in a dorm, or a
5 guest in a dorm, or public down on the street because basically
6 it gets down to the fact that human life is more valuable than
7 the almighty dollar. So I appreciate your time and thank you for
8 letting me speak.

9 ZONING EXAMINER: Okay. Thank you. Okay.

10 MR. GANS: Mr. Mazzocco, Mr. Beall, Mr. Padilla, Chris
11 Gans, 130 East University, Tucson, current President of the West
12 University Neighborhood Association. Fully support this
13 amendment.

14 We wouldn't be here if we had, as a neighborhood
15 association, been listened to when this process was first started
16 in the rezoning and - 'cause we brought up a lot of objections
17 about issues that happened up in Tempe, including a couple of
18 deaths from the same developer's project up there. A large
19 number of offenses.

20 The public, public safety is paramount, and whether
21 it's our neighbors at the mosque, our neighbors in businesses,
22 people on the street, students in the buildings, public safety
23 should be the first thing. And removing the possibility of
24 future balconies on any other high rises in this area of group

1 dwellings is important for the safety of our citizens of this
2 city.

3 A lot of police resources have gone into dealing with
4 issues at the towers, and we don't need - we have a strapped
5 police department already, we don't need to have continued issues
6 like these that will continue to drain those resources and to
7 deal with more important things in our city. So I encourage the
8 City to move this forward.

9 I also brought up a couple of issues at meetings, and I
10 know this is just actually about balconies tonight, but also
11 issues about how the (inaudible) happens in the Main Gate because
12 it's turned out that we've had a lot of amphitheaters built that
13 project noise to the west, and to neighbors around the area that
14 there's this constant drone of noise during the school year. And
15 so I'm hoping that at some point that can get changed so that
16 (inaudible) maybe can be pointed towards the University or
17 towards the south as opposed towards (inaudible) to the west.

18 I'd also like to see some changes in the Main Gate
19 Design Review Board, and would include at least one design
20 professional architect (inaudible)

21 ZONING EXAMINER: Okay. Mr. Gans, -

22 MR. GANS: Yes.

23 ZONING EXAMINER: - this amendment would apply to
24 balconies on multi-story group dwellings. I understand the part

1 about them when they're facing a property line or a right-of-way,
2 but this would also apply if they're even internal. Do you have
3 anything to say about internal balconies?

4 MR. GANS: You know, I think internal balconies can be
5 a hazard to students, to people who come in. You know, if, if
6 there are parties going on, I mean one of the issues that
7 happened up in Tempe, and this is kind of an internal issue.
8 Police were called to deal with issues there. And they got
9 pelted with so much stuff from balconies that they had to
10 retreat.

11 And so I think that - I don't know. I mean I think it
12 can get an issue of noise, there surely can be an issue of
13 safety. We've seen even after repeated offenses, it hasn't
14 stopped at the - I don't know what it's called. I call it the
15 Tower of Bottles. It's the Level, and now it's something else, I
16 don't know what it's called now, but it hasn't stopped.

17 And so I think unless there's an issue with building
18 safety and having balconies on the interior, it certainly needs
19 to be looked at in terms of, in terms of exit safety in case of
20 fire, or whatever might happen. I think that that still can be a
21 hazard to the people that live there, so -

22 ZONING EXAMINER: Okay. Okay. Thank you.

23 MR. GANS: Thank you.

24 ZONING EXAMINER: Anybody else? Okay.

1 MR. ALABAGI: Good evening, and thank you for taking
2 the time. My name is Mahmmod Alabagi. I'm a Board of Directors
3 Member at the Islamic Center of Tucson which is located at 901
4 East First Street. It's actually adjacent to one of the group
5 dwellings that is currently existing.

6 So the reason I'm here today is because of the, the
7 amount of instances that happened, the incidents of objects being
8 thrown, people yelling different, different things to our -
9 people at our building. And it really has, has affected parking.

10 So there are many parcels that are in the area that I
11 guess have been under consideration to purchase to make new group
12 dwellings, and to our community, it is a problem. So the Islamic
13 Center of Tucson, the ICT, has been a part of the University
14 District, Main Gate District from about 1990.

15 So there have been incidents of glass bottles and other
16 potentially harmful products, items thrown from as high as 14
17 stories high, including the roof where they have a swimming pool.
18 Items were very close to hitting different citizens. In fact
19 during different holidays, like Halloween, items such as whole
20 pumpkins have been thrown off the balconies.

21 There are incidents that have been reported to Tucson
22 Police Department with case numbers. There are other incidents
23 where the victims did not choose to stick around and just wanted
24 to leave, so there's no Tucson Police Department case number.

1 So really I want to bring up the issue liability for
2 everyone involved. We tried communication with the owners of the
3 building. However, they're not a locally owned company, and
4 getting in contact with them has been extremely difficult in the
5 past. And when talks do arise, as they happened approximately
6 two years ago, the property was sold to a new owner and talks
7 (inaudible) So as far as liability is concerned, and when the
8 issue's brought up with (inaudible) about internal balconies and
9 external balconies, it really raises a issue for me personally.

10 External balconies are a liability for everyone outside
11 because if they throw an item, they can be affected, but as well
12 as the tenants themselves and their guests. Many of the people
13 living in these balconies are students, or all of them are
14 students. Some of them are freshmen, a lot of them are freshmen
15 because that's the highest amount of population the University of
16 Arizona has.

17 I was a University of Arizona student not too long ago.
18 And reality is students are in these dorms, having parties and
19 are intoxicated. Some of the times they're underage. And they
20 act recklessly. So the incidents of, for example, a few years
21 ago, a dorm which is owned by the University not too far from the
22 district we're talking about, a student was climbing a balcony
23 'cause he was intoxicated, ended up falling off and passing away.
24 So really it causes a risk to not only those who live in the

1 dorms, but everyone involved including a liability to themselves.

2 We've encountered many repairs due to these group
3 dwellings, including roof repair in our own building because they
4 are higher than us. They'll throw glass bottles to our roof
5 which will cause damage to our roof which we won't realize until
6 it rains, and then we have water damage (inaudible)

7 It also is a very high dense area. Our center
8 ourselves have approximately 800 attendees on our Friday prayer
9 which is a highly, very, very dense area. So in that area when
10 there's so many people and glass, glass bottles being thrown,
11 someone is very likely to be injured.

12 Lastly, I, I do also oppose the internal balconies
13 because of the many, many violations of the noise complaints that
14 we've gotten, as well as again the injury to themselves where
15 students are intoxicated. They all act recklessly, and sometimes
16 are even underage drinkers and really do cause (inaudible)

17 Thank you for your time.

18 ZONING EXAMINER: Could I ask you, you were a student.
19 Is this mainly, in your opinion, do you think this is a problem
20 of freshmen, or is it upper classmen, too, or is there a big
21 difference in being a freshman versus an upper classman in
22 causing these kinds of incidents?

23 MR. ALABAGI: Well, in, in my opinion, this is just my
24 opinion, I really think it's the freshmen, and I've - we've had

1 to deal with multiple students from the high rise who were
2 throwing bottles, we would like to speak to them. And a lot of
3 times they end up being freshmen.

4 That is the, the highest population of group of
5 students at the University of Arizona. They do admit a lot more
6 freshmen. Then people end up either failing out or leaving to
7 different universities. So I have seen a bigger issue with
8 freshmen than any other class.

9 ZONING EXAMINER: I was reading the reviews, and the,
10 the couple there, and you had actually upper classmen complaining
11 about this issue, too, and saying this is mainly a freshmen
12 issue. That upper classmen wouldn't be participating in this
13 kind of behavior.

14 MR. ALABAGI: Exactly.

15 ZONING EXAMINER: I don't know if that's absolutely
16 true, but from my experience, it seems the most immature behavior
17 of students is gonna be from the freshmen.

18 MR. ALABAGI: Exactly. And one thing that we realize
19 is that as a student progresses through his university career,
20 he's more serious about his career, and acts less recklessly
21 rather than students who choose to act recklessly, and really
22 these balconies just provide them the opportunity to act
23 recklessly.

24 ZONING EXAMINER: Uh-huh.

1 MR. ALABAGI: So to us, it's, it's, it's really crucial
2 that these balconies don't impose a risk on the entire community
3 in the area.

4 ZONING EXAMINER: Okay. Okay. Thank you very much.

5 MR. ALABAGI: Thank you.

6 ZONING EXAMINER: Mr. Bursuck, -

7 MR. BURSUCK: Yes.

8 ZONING EXAMINER: - do you have any other remarks you
9 want to make?

10 MR. BURSUCK: I think that's it.

11 ZONING EXAMINER: Okay. So if I understand correctly,
12 there were a couple of public meetings on this, if you will. One
13 in April with the Planning Commission where it was a study
14 session, is that correct?

15 MR. BURSUCK: That is correct.

16 ZONING EXAMINER: And there was a summary of their
17 remarks, and I noticed that the architects on the Planning
18 Commission were much more hesitant to say we should get rid of
19 balconies. They kind of defended balconies as legitimate kind of
20 public, you know, or, or open space use of a, of a urban
21 building.

22 MR. BURSUCK: That was one of the sentiments that was
23 expressed at the Commission, that's correct.

24 ZONING EXAMINER: And you also had a meeting in May,

1 and that seemed to have been attended mainly by neighborhood
2 groups?

3 MR. BURSUCK: Yeah. It seemed like neighborhood
4 groups, members from the Islamic Center as well were there.

5 ZONING EXAMINER: Uh-huh.

6 MR. BURSUCK: And at that meeting, there were many
7 discussions regarding the existing, the existing structures, the
8 problems they were having, and then how we could move forward.
9 There was a general consensus towards the end.

10 We asked most the people there to raise their hands and
11 whether they would be in support of getting rid of all balconies.
12 And overwhelmingly the majority of people there raised their
13 hands.

14 ZONING EXAMINER: And when you say getting rid of all
15 balconies, that is for group dwellings focused in on a student
16 population?

17 MR. BURSUCK: That is correct, yes.

18 ZONING EXAMINER: Okay. There was one letter I just
19 wanted to mention that I read that was protesting saying these
20 buildings may not always be used for student residents. And one
21 should watch themselves as they limit the use of balconies in the
22 future. Do you have any comment on that?

23 MR. BURSUCK: My only comment to that would be that the
24 floor plans of these buildings are set up directly and

1 intentionally for these group dwellings. There wouldn't be many
2 adaptive reuse, kind of other uses that could actually go into
3 them.

4 ZONING EXAMINER: Okay. Okay. Well, thank you very
5 much. One last comment?

6 MR. GANS: I was also at the Planning Commission
7 meeting, and I think there's a real lack of grasp of the issues
8 that were going on. And, and some of the Planning Commission
9 Members would say one thing, then one woman said, "Oh, you know,
10 they shouldn't take balconies off." And then she said, "Well,
11 they don't allow balconies on campus."

12 And I think that there really wasn't a lot of context
13 for them about issues really at hand that people deal with on a
14 daily basis there. And so I, you know, listened to the comments
15 and disagreed with a lot of the reasoning in that meeting. I
16 just don't think that they were really thinking in long-term.

17 And the reality is all those buildings would have to
18 shift to residential market rate because no one over 22 or 23
19 would live around a couple thousand students in that environment.
20 So I think the argument that this could be converted, I just
21 don't think that's an argument either, so -

22 ZONING EXAMINER: Great. Great. Well, thank you for
23 the clarification, or your opinion on that. Okay. Is there
24 anyone else that wants to speak on this? Okay.

1 MR. KOZACHIK: (Inaudible)

2 ZONING EXAMINER: Oh. So I'll swear you in when you
3 get up here. Do you swear or affirm to tell the whole truth and
4 nothing but the truth?

5 MR. KOZACHIK: Yup. Yes.

6 ZONING EXAMINER: Okay.

7 MR. KOZACHIK: And I know I, I know I can't (inaudible)
8 for the reasons it's a Zoning Examiner hearing. I'm not up here
9 advocating -

10 ZONING EXAMINER: Uh-huh.

11 MR. KOZACHIK: (Inaudible) I just want to provide a
12 little clarification.

13 ZONING EXAMINER: And, and even though I know you
14 (inaudible)

15 MR. KOZACHIK: Steve Kozachik, Ward 6 City Council
16 Member. So this is not from the standpoint of advocacy. I can't
17 because of the quasi-judicial nature of this hearing. But I did
18 speak at the Planning Commission and felt that I wanted to
19 clarify the notion that the architects were opposed to what we're
20 proposing here.

21 In fact, what they were proposing was, it was sort of
22 all over the map. Some of them said, "Why, why are you just
23 limiting it to the exterior? Why don't you do it on the interior
24 as well?" Some said maybe there are other ways to mitigate the

1 danger, and that would be by blocking off the balconies with some
2 opaque or screened, screened material.


3 So the, so the idea that the architects were saying
4 these are architectural elements that, that we don't want to get
5 rid of, I think doesn't really capture the, the robust
6 conversation that we, that we really had. And I would encourage
7 you to maybe go back and re-read the transcript.

8 ZONING EXAMINER: Okay. Anybody else? Okay. With
9 that, as there's nobody else to speak, I'm gonna close the public
10 hearing, and I will issue a preliminary report on this case
11 within five days. And with that, I don't believe we have any
12 other cases on the agenda. So this hearing is closed. Thank you
13 all for coming, and have a safe trip home.

14 (Case: C9-12-01 was closed.)

I hereby certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: 06/23/16



KATHLEEN R. KRASSOW - Owner
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