

From: [Shani Madden](#)
To: [Planning Comp Plan-UDO](#); [Esteli Juarez](#)
Subject: IDO Comments
Date: Wednesday, April 12, 2017 5:56:28 PM

To Whom it May Concern:

I am a Nob Hill homeowner having resided in my O/R property for the past 19 years. The office-residential zoning has consisted of just that; an “office” or a “residence;” The office traffic has been construed in the past as one customer per hour. To rezone the OR into MXT would cause injury to the quality and intended purpose of the property and negatively affect the quality of life of those residing and or conducting business in these and surrounding properties; The proposed OR to MXT zoning change would be injurious through traffic, crime, and noise. The intended buffer zone OR provides from the business on Central Ave. would be eliminated. If using the “changing conditions of the neighborhood” argument to implement the rezoning, please review the biggest change Nob Hill has undergone is the current construction of Albuquerque Rapid Transit (ART)- a project that was not on the ballot and undertaken without an that did not provide our residents Environmental Impact Study (a requirement for federally funded transit projects). I find the proposed "mass-transit-area bonus" a capricious “impact” after-the-fact.

I feel the rezoning of Nob Hill and the legislation required with zoning, rezoning, and changes to an adopted sector plan is nothing short of my property being taken from me without legal merit or just compensation. Please review City zoning Resolution 270-1980; I do not see these requirements met. I have also noted some case law below.

Thank You,

Shani Madden
203 Richmond Dr. SE
Albuquerque, NM 87106

Village of Euclid v. Ambler Realty Co.
272 U.S. 365 (1926)

It is true that when, if ever, the provisions set forth in the ordinance in tedious and minute detail come to be concretely applied to particular premises, including those of the appellee, or to particular conditions, or to be considered in connection with specific complaints, some of them, or even many of them, may be found to be clearly arbitrary and unreasonable. But where the equitable remedy of injunction is sought, as it is here, not upon the ground of a present infringement or denial of a specific right, or of a particular injury in process of actual execution, but upon the broad ground that the mere existence and threatened enforcement of the ordinance, by materially and adversely affecting values and curtailing the opportunities of the market, constitute a present and irreparable injury, the court will not scrutinize its

provisions, sentence by sentence, to ascertain by a process of piecemeal dissection whether there may be, here and there, provisions of a minor character, or relating to matters of administration, or not shown to contribute to the injury complained of, which, if attacked separately, might not withstand the test of constitutionality.

The Supreme Court of Illinois, in *City of Aurora v. Burns*, supra, pp. 93-95,

in sustaining a comprehensive building zone ordinance dividing the city into eight districts, including exclusive residential districts for one and two-family dwellings, churches, educational institutions and schools, said:

"The constantly increasing density of our urban populations, the multiplying forms of industry, and the growing complexity of our civilization make it necessary for the State, either directly or through some public agency by its sanction, to limit individual activities to a greater extent than formerly. With the growth and development of the State, the police power necessarily develops, within reasonable bounds, to meet the changing conditions. . . ."

". . . The harmless may sometimes be brought within the regulation or prohibition in order to abate or destroy the harmful. The segregation of industries commercial pursuits and dwellings to particular districts in a city, when exercised reasonably, may bear a rational relation to the health, morals, safety and general welfare of the community. The establishment of such districts or zones may, among other things, prevent congestion of population, secure quiet residence districts, expedite local transportation, and facilitate the suppression of disorder, the extinguishment of fires, and the enforcement of traffic and sanitary regulations. The danger of fire and the risk of contagion are often lessened by the exclusion of stores and factories from areas devoted to residences, and, in consequence, the safety and health of the community may be promoted. . . ."

". . . The exclusion of places of business from residential districts is not a declaration that such places are nuisances or that they are to be suppressed as such, but it is a part of the general plan by which the city's territory is allotted to different uses in order to prevent, or at least to reduce, the congestion, disorder and dangers

Page 272 U. S. 393

The Supreme Court of Louisiana, in *State v. City of New Orleans*, supra, pp. 282-283, said:

"In the first place, the exclusion of business establishments from residence districts might enable the municipal government to give better police protection. Patrolmen's beats are larger, and therefore fewer, in residence neighborhoods than in business neighborhoods. A place of business in a residence neighborhood furnishes an excuse for any criminal to go into the neighborhood where, otherwise, a stranger would be under the ban of suspicion. Besides, open shops invite loiterers and idlers to congregate, and the places of such congregations need police protection. In the second place, the zoning of a city into residence districts and commercial districts is a matter of economy in street paving. Heavy trucks, hauling freight to and from places of business in residence districts, require the city to maintain the same costly

pavement in such districts that is required for business districts; whereas, in the residence districts, where business establishments are excluded, a cheaper pavement serves the purpose. . . ."

"Aside from considerations of economic administration, in the matter of police and fire protection, street paving, etc., any business establishment is likely to be a genuine nuisance in a neighborhood of residences. Places of business are noisy; they are apt to be disturbing at night; some of them are malodorous; some are unsightly; some are apt to breed rats, mice, roaches, flies, ants, etc. . . ."

W. OLD TOWN NEIGHBOR. ASS'N v. Albuquerque 927 P.2d 529 (1996) 122 N.M. 49517

Based on the foregoing, we conclude that the Sector Plan was intended to create zoning for the West Old Town area which became operative for this property at the time of annexation. We decline to follow the City's theory that the Council was free to enact any zoning it wished regardless of the Sector Plan and without following the defined criteria for rezoning. Such a theory would, in so many words, give the City one free pass when zoning annexed land. It would ignore one of the purposes of zoning ordinances, which is to protect comprehensive planning and zoning in anticipation of annexation. Accepting the City's position would undercut the carefully balanced compromises on which sector plans are based and would jeopardize the ability of residents living near city boundaries to rely on the zoning already designated in these plans. In this case, residents of Old Town were directly involved in fashioning and then amending the Sector Plan to limit annexed land to RA-1; they should be able to rely upon the Sector Plan for predictable, stable land use policies for their area. Cf. *Miller v. City of Albuquerque*, 89 N.M. 503, 506, 554 P.2d 665, 668 (1976) (even though property owners have no vested right in a particular zoning classification, they have a right to rely on compliance with the proper procedures for amending a zoning ordinance).

Aragon v. Brown, 2003-NMCA-126, ¶ 10, 134 N.M. 459, 78 P.3d 913.

{10} Plaintiff relies on the notion that the covenants should be enforced to ensure the stability of an open and inviting neighborhood in accordance with the express terms of the covenants, while Defendants rely on the notion that the covenants were drafted to allow for change in appropriate circumstances such as those found by the trial court. We believe that Plaintiff has the better argument.

Shani Madden
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Barkhurst, Kathryn Carrie

From: bgrothus@aol.com
Sent: Monday, April 17, 2017 4:11 PM
To: Planning Comp Plan-UDO
Subject: Reynolds Addition Letter regarding area of consistency

Follow Up Flag: Follow up
Flag Status: Completed

Please let me know if you have the letter from the RANA board in your documents from the ABCtoZ process regarding the east blocks of the Reynolds Addition from 8th to 10th Streets. This is a neighborhood of mostly one story homes, this is a historic area (not protected any other way) and should be considered an area of consistency.

This letter needs to be submitted as part of the IDO process by Thursday. If you don't find it, please let me know immediately if it needs to be resubmitted from the neighborhood.

thank you,

Barbara Grothus 905 Silver SW

From: [Margfish2](#)
To: [Renz-Whitmore, Mikaela J.](#); [Webb, Andrew](#); [Planning Comp Plan-UDO](#); [Brito, Russell D.](#); [Ortega, Crystal L.](#)
Subject: Comment/ input from RANA (Raynolds Addition Neighborhood Association)
Date: Thursday, November 03, 2016 12:30:37 AM

The Raynolds Addition Neighborhood Association (RANA) submits this comment as input to the ABC to Z Comp Plan and IDO process. While we understand that current zoning permits development in the portion of our neighborhood from 10th to 8th streets, it is important to us that any development in this area respect the traditional and historic nature of our older neighborhood and integrates these aspects into its design. As the current sector plan for RANA states, RANA has an “architecturally coherent scale, (and) presents a unique opportunity in Albuquerque for neighborhood conservation”. The residents of RANA strongly support the language of the sector plan and want any new development in the neighborhood, especially in the blocks from 10th to 8th streets, to honor the intent within the sector plan. The residents of Raynolds Addition appreciate the small scale aesthetic character and feel of our neighborhood and want the current fabric of our neighborhood to be preserved and respected, rather than usurped or overwhelmed by newer, larger development practices.