

Bolen, Rebecca A.

From: kathleen adams <kadamscairo@yahoo.com>
Sent: Tuesday, December 14, 2021 8:54 AM
To: City of Albuquerque Planning Department
Subject: Public Comment for Environmental Planning Commission

To: Commissioner Timothy MacEachen and Fellow Commissioners

From: Kathy Adams, La Luz Landowners Association

Dear Commissioners,

Thank you for your service and for your attention to the following comments.

We all appreciate the work of the City Planning Staff and the EPC as you review and analyze the proposed IDO amendments. It is complex on all levels. The complexity of the IDO amendments and the review process is challenging for you, but it is **monumentally** challenging for citizens who want to be involved in the process and understand all of the changes that are proposed.

1. Timing

I know that it sounds simplistic to state that we need more time to talk, but we do. We want to meet and work with our neighbors and have informational meetings and discussions. Time is a huge factor when attempting to have genuine engagement and participation. It takes time to develop an appropriate level of comprehension in order to communicate meaningfully to neighborhood associations and community organizations. People truly do want to understand the IDO and the amendments. It is your job to facilitate that; I am sure that you want widespread citizen input in order to ensure the very best final product. We should work together to make this happen. Time is a factor when attempting to hold neighborhood and community meetings.

2. Transit Definitions for Parking Reductions

All west side residents are experiencing the problems/ frustrations associated with reduced parking limits. For example, if there are not enough parking spaces in an apartment complex, there is significant overflow into the streets. This becomes very dangerous in all respects, but it is particularly dangerous for pedestrians. At this time, the transit system is not efficient enough to be used by large numbers of west side residents... particularly for those of us who do not commute on a regular schedule but need to go across the river for appointments and meetings. The transit schedules do not meet the needs of my neighbors even though we would like to have the system be more accessible. Please proceed with caution when assessing the ramifications of parking reductions. I am hoping to hear some robust discussion on this topic.

3. General Discussion

it is important for us to hear Commissioner discuss the amendments. We want to hear what you think and what your opinions, ideas, and concerns are. Please talk at the meetings; we can learn and feel more engaged and involved as you put your ideas into words.

Thank you again for your service and your careful consideration of all of the proposed amendments. I believe that there are unfortunate, unintended consequences that can result if changes are not carefully analyzed.

Respectfully,

Kathy Adams
La Luz Landowners Association

Bolen, Rebecca A.

From: Jane Baechle <jane.baechle@gmail.com>
Sent: Monday, December 13, 2021 5:08 PM
To: City of Albuquerque Planning Department
Subject: Written Comments for EPC Committee Meeting on 12/16/2021
Attachments: Written comments for 12162021.pdf

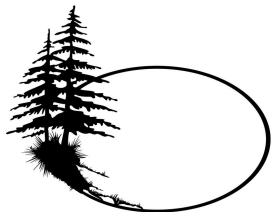
Please find attached written comments from Santa Fe Village Neighborhood Association.

These are addressed to Chairman MacEachen and submitted for the EPC meeting of December 16, 2021.

This is a new document from the SFVNA. Although it addresses similar concerns, it is not simply a resubmission of our original comments of November 2021 submitted in advance of the Staff Report.

Thank you for your prompt response to questions directed to the Planning Department and your assistance in assuring documents are submitted to the EPC.

Jane Baechle
President, SFVNA



Santa Fe Village Neighborhood Association

5601 Bogart Ave. NW Albuquerque, NM 87120

www.sfvna.org www.facebook.com/SFVNA

SFVNA2014@gmail.com

Date: December 13, 2021

To: Timothy MacEachen
Chair, EPC

From: Jane Baechle
President, SFVNA

Re: Proposed 2021 Amendments to the IDO

After reviewing the most recent spreadsheet of the city-wide amendments and the Planning Staff report and listening to the EPC Study session held on December 9, 2021, I am writing to reiterate the Santa Fe Village Neighborhood Association (SFVNA) concerns and positions outlined in our communication of November 26, 2021. Nothing I have reviewed has provided any rationale for adopting a different position or alleviated the concerns we presented.

I am again presenting our positions in the order in which these proposed amendments appear on the spreadsheet provided for the IDO Annual Update 2021.

- **IDO Section 1-3**

Purpose

Add new subsection as follows:

"Provide processes for development decisions that balance the interests of the City, developers, property owners, and residents and ensure opportunities for input by affected parties."

The SFVNA *opposes* this amendment. The Planning Staff report clearly states that "the IDO is a regulatory tool" whose intent is to assure the implementation of the Albuquerque-Bernalillo County Comprehensive Plan and the goals outlined in it. The processes already exist to amend it to respond to changing priorities or to address individual requests related to development. These processes unfold in public meetings under commission or council rules where there should be no question of transparency in decision making.

- **IDO Section 1-8(A)(3)**

Relationship to Other Regulations

Revise the first sentence as follows:

"When any area-specific regulation (i.e. for Centers, Corridors, or small areas) conflicts with any citywide regulation in Part 14-16-2 (Zone Districts), Part 14-16-4 (Use Regulations), Part 14-16-5 (Development Standards), or Part 14-16-6 (Administration and Enforcement), the area-specific regulations prevail for development within the specified area regardless of whether the area-specific regulation is more or less restrictive than the citywide regulation, unless specified otherwise in this IDO."

The SFVNA *opposes* this amendment. We continue to believe the final phrase is overly broad and undefined. As such, it provides a potential mechanism for voiding the protections outlined in the CPOs and VPOs in the current IDO.

- **Table 4-2-1**

Overnight Shelter

Add a (P) to make this use permissive in MX-M and change from conditional (C) to permissive (P) in MX-H.

The SFVNA *opposes* this amendment. The issues here are unchanged. The change from “conditional” to “permissive” effectively removes neighborhood association and nearby residents and home owners from the decision making process in the establishment of a use with a potentially significant impact on those adjacent neighborhoods. Overnight shelters are currently not a permitted use in MX-M zones. If this were to pass, overnight shelters would not only be a permissive use, they would also be a new use in the MX-M zones, occurring without adequate review and consideration of the impact of such a change.

This amendment conflicts with two policies in the IDO. The first is assurance of public engagement; to “Provide regular opportunities for residents and stakeholders to better understand and engage in the planning and development process.” Removing a use from the public review process required to approve a conditional use effectively disenfranchises the residents with the largest stake in a proposed use and its impact on them.

Secondly, Policy 4.1.4-Neighborhoods states that it will “Enhance, protect and preserve neighborhoods and traditional communities.....” It is hard to see how creating a permissive use for an overnight shelter complies with this policy statement when areas zoned MX-M can be surrounded by residential or low intensity development.

I can provide a specific example in the general vicinity of Santa Fe Village (SFV). A review of the IDO interactive zoning map identified a piece of undeveloped property at the intersection of

Tesuque and Santo Domingo, a short walk from SFV, which is zoned MX-M. This land is surrounded by single family homes or low intensity development. It is a short walk from two Bee Hive Homes, a law office, a dental practice and other small offices and a two story apartment complex. Under the 2021 proposed amendments, a 25,000 square foot structure built to provide overnight shelter, would be a permissive use and subject to no public review or comment when it would clearly be inconsistent with the character and current development in this area.

Additionally, the SFVNA continues to maintain that the IDO is not the appropriate place to address the significant and complex issues related to homelessness. The Planning Staff Report states without any evidence that providing additional structures or temporary sources of shelter will make “homelessness rare, short-term and non-recurring.” This is an inadequate and naive analysis of the many reasons an individual or family may experience homelessness. To the best of my knowledge, there is no agreement among social services experts on the scope of services that are required to significantly decrease the number of people without assured shelter. For anecdotal evidence, one can review recent publications about the occupancy and difficulties associated with the Tiny Homes Village. There is also no evidence provided to support the expectation that making zoning more permissive will assure equitable distribution of shelter and resources across the city. I submit that the opposite, the concentration of shelters and campgrounds in low or middle income, older neighborhoods which already see the impact of homelessness, is as likely or more so than the stated outcome of shared distribution of shelters and responsibility to address the needs of those experiencing homelessness.

- **Table 5-7-1**

Walls and Fences, Maximum Height

Revise Wall in the front yard or street side yard as follows:

Residential: 4 ft. ~~3 ft.~~

Mixed-use: 4 ft. ~~3 ft.~~

Non-residential: 4 ft. ~~3 ft.~~

The SFVNA *opposes* this amendment. Again, this is an amendment that conflicts with two stated policies of the IDO. It removes the option for public comment on a planning matter with implications for the neighborhood and its residents. It also has the potential to change the character, scale and walkability of a neighborhood rather than protecting, preserving or enhancing it.

- **IDO Section 6-2 (E)(1)**

Review & Decision-making Bodies, Environmental Planning Commission

Revise to read as follows:

"The EPC shall include a resident of each City Council District, with experience in community, urban, or natural resource planning; community organizing; architecture; landscape architecture; urban design; real estate development and/or finance; transportation; civil engineering; and/or land use or environmental law..."

The SFVNA *supports* this amendment. Again, I would emphasize that the SFVNA recognizes that serving as a commissioner on the EPC is a demanding task requiring thoughtful consideration of detailed and highly technical information and knowledge of the entirety of the IDO. We are grateful to those who agree to serve and devote considerable time to this responsibility. We also believe it will be an asset to the EPC and to the City for those who serve to bring perspectives from additional professions and experiences as they act to assure adherence to the IDO in planning, zoning and development across the city.

- **IDO Section 6-5 (G)(1)(e) 1.c**

Administrative Decisions, Site Plan - Administrative

Revise as follows:

"All conversions of existing non-residential development to a residential use containing no more than 200 ~~400~~ dwelling units."

The SFVNA *opposes* this amendment. This is another amendment that conflicts with the stated policy of assuring public engagement in planning and development. It also removes a potentially impactful development from public review and comment. Both assuring conversion of existing structures to a useful purpose and expanding the stock of housing, especially affordable housing, are highly desirable. The process of presenting a development plan to the EPC certainly takes time but is not that onerous and seems unlikely to unduly delay a beneficial change. The interests of all concerned, residents, nearby neighborhoods, potential occupants of new dwelling units, developers and the City benefit from maximally transparent, thoroughly vetted and thoughtful review.

- **IDO Section 7-1 and 7-1 [new]**

Definitions, Transit Definitions Peak Service Frequency

Revise as follows:

"The transit route frequency during peak periods (7:00 A.M. to 9:00 A.M. and 3:00 P.M. to 6:00 P.M.), as calculated by the City Transit Department using published transit schedules and mapped by AGIS. This frequency is generally calculated for the most frequent route, or combination of paired routes that act as one route, that stops at the transit stop or station in question and is based on the average frequency of the route.

Definitions, Transit Definitions Transit Route Frequency

Add a new term with definition as follows:

"The average amount of time between buses arriving at transit stops or stations calculated by the City Transit Department using published transit schedules. This frequency is generally calculated for the most frequent route, or combination of paired routes that act as one route. For routes with segments that have frequencies with substantially different levels of service, different transit route frequencies may be designated by segment of the route. See Peak Service Frequency ."

The SFVNA *opposes* this amendment. This definition is still inadequate to capture the effect of available public transportation on new development. The likelihood that individuals will use public transit rather than a personal vehicle depends on multiple factors, not just the frequency of service on a given bus route or combination of paired routes. A definition of transit frequency which justifies allotting less area on site to parking and more to development that increases use (and profit), should also consider transit availability outside of peak periods, the extent to which the designated routes serve all relevant areas of the city for the users of the development and actual ridership.

These considerations are clearly not met by public transit options along Coors Boulevard or other areas on the westside of Albuquerque. According to Apartments.com, the Andalucia Villas apartments at 5300 Antequera Rd. NW are categorized as "Car-Dependent" with a rating of 45/100 and the comment that "most errands will require a car." The Transit Score is 34/100 with the comment, "You'll likely want a car when living in this area since it has few transit options." This area continues to have undeveloped land where a parking reduction will likely be requested even though the available public transit options are severely limited no matter how often the 790 bus runs or the fact that it is designated as ART.

Thank you again for your thoughtful consideration of these issues.

Bolen, Rebecca A.

From: Michael Brasher <eastgatewaycoalition@gmail.com>
Sent: Tuesday, December 14, 2021 6:33 AM
To: City of Albuquerque Planning Department
Subject: IDO Annual Update 2021 – EPC Submittal (Please Acknowledge Receipt)

Re: IDO Annual Update 2021 – EPC Submittal

To: EPC Chair Timothy MacEachen (sent via email abcto@cabq.gov)
From: Michael Brasher, President, Inter-Coalition Council
Agenda Number: 03
Project #: PR-2018-001843
Case#: RS-2021-00048
Hearing Date: December 16, 2021

Commissioner MacEachen,

The Inter-Coalition Council appreciates the work of Planning staff in reviewing our earlier submission. We were, however, hoping for more time to engage others in the community and the Inter-Coalition Council. While the period between October 28, 2021, when the Staff submitted proposed changes into the City's review/decision process, and December 6, 2021, when comments were due, appears to be a significant amount of time, in fact the period is too short for coalitions of neighborhoods to review and comment given the volume of changes and given that the coalitions are made up of community volunteers. Accordingly, we request that more time for review and comment be provided.

It should be apparent from the many comments submitted by the Inter-Coalition Council that changes from Conditional to Permissive are not desirable, as those changes remove rights to be notified and undermine ability of community members to provide comments regarding concerns they may have about proposed projects and land use issues.

Again, because of the volume of changes, the Inter-Coalition Council believes Substantive proposed changes should be separated from Technical changes in order to help the community focus on the Substantive proposed changes. The adoption of the 2019 IDO Annual Update in November 2020 established two types of annual IDO updates which might serve as a template for making the distinction:

- Amendment to IDO Text-Citywide [Subsection 14-16-6-7(D)]
- Amendment to IDO Text-Small Areas [Subsection 14-16-6-7(E)].

The Inter-Coalition Council volunteers have worked hard in submitting very thoughtful and insightful comments. We kindly request that the comments be given careful consideration by the EPC and City Council.

Sincerely,
Michael Brasher

Bolen, Rebecca A.

From: lisa burkstaller <lburkstaller@yahoo.com>
Sent: Sunday, December 12, 2021 4:07 PM
To: City of Albuquerque Planning Department
Cc: Lisa Burkstaller
Subject: Proposed IDO Zoning Changes - Parkland Hills

Attn: Timothy MacEachen, Committee Chair

I am a homeowner and a resident of PHNA and am writing to express my strong disagreement with the proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, ~~to~~ Permissive Use. Being a resident near the proposed Gateway Gibson Center concerns of unlimited bed capacity are raised by this change to "Permissive Use" which I do not support. I do strongly support the value of requiring neighborhood input into the process for permitting overnight shelters. Thank you for the opportunity to provide feedback and for your consideration of my input.

Sincerely,
Lisa Burkstaller
1300 Ridgecrest Dr SE
Lburkstaller@yahoo.com

Bolen, Rebecca A.

From: kari converse <kariconverse.abq@gmail.com>
Sent: Sunday, December 12, 2021 3:52 PM
To: City of Albuquerque Planning Department
Subject: Gateway project

I am writing in opposition to the Gateway project. I know that Mayor Keller has decided, against studies, criteria, etc, that it's going to be there and nowhere else, but am hoping we can at least limit the damage to the surrounding neighborhoods.

I am a resident of Parkland Hills, and have been since 2002. I just attended the panel discussion last Monday on addiction, that Mayor Keller attended, and where he voiced support for far more resources for addiction treatment. He needs to put his money where his mouth is with this project.

Sam Quinones was the keynote speaker at this conference, and he talked about the STRONG connection between the new formulation of meth coming out of Mexico (and flooding our community) and homelessness. Today's Journal had two long articles about fentanyl addiction, and how people who are addicted will do pretty much anything - prostitution, armed robberies, burglaries, to ease their craving for these new uber-addictive drugs. So plopping a homeless shelter smack int he middle of a residential neighborhood is just brilliant.

Quinones also talked about how the media is really doing a poor job of covering the connection between homelessness and addiction because it's not politically correct. They're not homeless people, they're "temporarily unsheltered individuals," or some other such PC speech, and we don't want to stigmatize them by talking about their drug use. Other journalists have told him how they're just not allowed to publish the truth about how strong the link is. So we should not let the lack of coverage guide sound decision making.

This shelter should provide EXTENSIVE drug treatment, and should not allow any drug use whatsoever. If there's any hope of preserving Parkland Hills, South San Pedro, Siesta Hills, Elder Homestead, etc, this shelter cannot be allowed to become a magnet for addicts who will commit crime and leave drug debris on their way to it. The size should be limited, drug screening and (if + test or otherwise indicated) treatment should be requirements to use the facilities there. And we should not repeat the disasters of Gary Johnson and private prisons - rushing to just get it up and running without a plan, without treatment, without programming.

Thank you.

Kari Converse

--

This email has been checked for viruses by AVG.

[https://ddec1-0-en-](https://ddec1-0-en-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=https%3a%2f%2fwww.avg.com&umid=0b6ed9d7-bd75-4869-98dc-1fdeb432b476&auth=307405480ca3e49a8b1deb4e49ca5cd244e7e096-a238cd19471164d782c0d1ee593e97e82a1a8023)

[ctp.trendmicro.com:443/wis/clicktime/v1/query?url=https%3a%2f%2fwww.avg.com&umid=0b6ed9d7-bd75-4869-98dc-1fdeb432b476&auth=307405480ca3e49a8b1deb4e49ca5cd244e7e096-a238cd19471164d782c0d1ee593e97e82a1a8023](https://ddec1-0-en-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=https%3a%2f%2fwww.avg.com&umid=0b6ed9d7-bd75-4869-98dc-1fdeb432b476&auth=307405480ca3e49a8b1deb4e49ca5cd244e7e096-a238cd19471164d782c0d1ee593e97e82a1a8023)

Bolen, Rebecca A.

From: Mary Darling <mldarling56@yahoo.com>
Sent: Sunday, December 12, 2021 4:49 PM
To: City of Albuquerque Planning Department
Subject: IDO zoning changes

To: Timothy MacEache, Chair EPC

From: Mary Darling (mldarling56@yahoo.com)

RE: Proposed IDO Zoning Changes

I have been a resident of Parkland Hills for for fifteen years. I have lived in the southeast heights since 1989. Most importantly I hold a Master's Degree in Community Health Education. As an educator I created and implemented programs for at risk populations for over 18 years. As a citizen, I very much want the City of Albuquerque to create impactful ways of aiding our shelterless citizens.

My experience with at risk populations and my status as a citizen living in a neighborhood near the proposed Gateway Gibson Center offers me the right to document my opposition to a proposed zoning change from Conditional Use to Permissive Use. Removing the requirement of neighborhood input regarding neighborhood impact is autocratic and destructive. My concerns regarding unlimited bed capacity as a neighbor is deserving of public discussion. Doing "something" about homelessness is not the same as making decisions that will have a long term positive impact on our shelterless citizens. Stooping to bureaucratic methodologies in order to plow forward with a plan sans input from neighbors who may indeed care deeply and know more about the population needing services than administrative bureaucrats is disheartening and should be beneath the Keller administration.

Mary Darling
mldarling56@yahoo.com
(505)220-1854

Bolen, Rebecca A.

From: Mary Vi Gleason <mvg301@hotmail.com>
Sent: Sunday, December 12, 2021 6:06 PM
To: City of Albuquerque Planning Department
Subject: zoning concern

I am a resident of Parkland Hills and am concerned about proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use to Permissive Use. It seems there was not enough neighborhood input about preventing significant adverse impact. I was under the impression that neighborhood input was required, but not fully implemented. Respectfully submitted. Dr. M. Gleason, mvg301@hotmail.com

Sent from [Mail](#) for Windows

Bolen, Rebecca A.

From: Dave Hancock <hancock.dave54@gmail.com>
Sent: Sunday, December 12, 2021 4:03 PM
To: City of Albuquerque Planning Department
Subject: Gateway Center

Dear Chair Timothy MacEachen,

I am a resident of PHNA and do not support proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, **to** Permissive Use. Being a resident near the proposed Gateway Gibson Center the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support.

I, also, strongly support the value of requiring neighborhood input into the process for permitting overnight shelters.

I sincerely hope the wishes of our neighbors are respected and heard.

We are already very negatively impacted by a homeless situation destroying our neighborhood.

Please respect our input and continue to allow us a voice on how **our** neighborhood is impacted by this facility.

Respectfully submitted.

J David Hancock

Sent from my iPhone

Bolen, Rebecca A.

From: Rene' Horvath <aboard111@gmail.com>
Sent: Tuesday, December 14, 2021 1:36 AM
To: City of Albuquerque Planning Department; Lehner, Catalina L.; Aranda, James M.; Jolene Wolfley; Renz-Whitmore, Mikaela J.
Subject: TRNA IDO comments
Attachments: Taylor Ranch Neighborhood Association.docx

Dear Catalina,
I am sending you TRNA comments for the Dec. 16th EPC hearing regarding the IDO, to meet the 48 hour rule.
Let me know you received them.
Thank you,
Rene' Horvath
TRNA



Virus-free. www.avg.com

Taylor Ranch Neighborhood Association

To Promote, Preserve and Improve the Quality of Life in Taylor Ranch Since 1980

December 12, 2021

Re: Proposed 2021 IDO Amendments:

Dear Mr. Timothy MacEachen, and fellow Commissioners,

The Taylor Ranch Neighborhood Association has worked with the Inter-Coalition and WSCONA in reviewing the IDO Amendments, and agrees the process of reviewing 66 amendments is difficult and time consuming, and would appreciate a better review process. We appreciated the two Zoom meetings the Inter-coalition arranged with Ms. Renz-Whitmore, which were helpful. Not all questions could be answered, as some amendments came from another source. We would like to support a better review process such as the presentation provided by Ms. Wolfley and Ms. Barkhurst to the Neighborhoods during the last IDO review as it laid out the pros and cons of significant zoning amendments. Going over the significant amendments in more detail helped everyone understand the amendments better, highlighting the more problematic ones, to seek improvements before being submitted.

We agree with the questions and comments raised by the Inter-coalition, WSCONA and Santa Fe village NA. Here are a few specific amendments we would like to focus on:

1. Overnight Shelters/Campgrounds/Religious Institutions/permissive use: There were several questions related to these amendments which Ms. Renz-Whitmore could not answer, because the amendments came from the Mayor's office. These amendments need more explanation at a community level to demonstrate how overnight shelters would work and to ensure they would not impact the community. Currently there are no good examples or models to demonstrate how overnight shelters or campgrounds would successfully work to avoid negative impacts to neighborhoods. These amendments should not be approved until there is a good model with a proven record of success before spreading them out into the Albuquerque communities. We need community input to help develop a better product. See photo below.

2. Campgrounds: Does this mean there will be tent cities in the parking lots of churches? There are no models or an explanation of how this would look either. The concern is that churches are integrated within the neighborhoods through out Albuquerque. From what we see from outside the walls of the Tiny Home village, it is important that tent cities, trash and drugs do not get integrated into the neighborhoods as well, which is prevalent outside the tiny home project.

3. Walls: a.) There is no Neighborhood support to change the wall height from 3 ft. to 4ft. Neighborhoods feel strongly about this. b.) There appears to be a new wall amendment (pg. 309) (5-7(B)(1) in the staff report that needs more explanation on what it is proposing. There are also no illustrations to demonstrate what the wall designs would look like for the new amendment or for the amendment regarding the 5 ft. wall in MX zones

4. Transit definitions/ for parking reductions: The west side does not support parking reductions in our shopping areas or apartments. Nor do we support using the transit definitions regarding bus service frequency to justify reducing the parking space for apartments or shopping centers, etc. We have seen numerous conflicts associated with not enough parking for our shopping areas and apartments, especially with the more recent developments. We have consistently communicated this over the years. There is a trend to cram more into the building footprint and more intensive uses onto small parking areas; making the parking lots more congested with poor traffic circulation and less safe to maneuver within the center. This also leads to parking in residential neighborhoods much to the inconvenience of the homeowners. Apartment people also have said they have to park in the shopping centers at night because there is not enough parking at their apartments. We need the parking spaces to shop and preserve the quality of life for our citizens. For the older shopping centers with larger parking areas those lots have been very useful to serve as park and ride spaces for bus riders. We have seen many employees and UNM students do this. This encourages more transit ridership.

We hope this helps with your IDO review. Thank you for your consideration to address our concerns.

Rene' Horvath
TRNA Land Use Director



Tents Outside the Tiny Home Village - December 13, 2021

Bolen, Rebecca A.

From: Shannon Jeffery <slanted13@gmail.com>
Sent: Monday, December 13, 2021 7:09 PM
To: City of Albuquerque Planning Department
Subject: Gateway shelter open comment: Not in support of IDO Zoning changes

To EPC Chair,

Hello, I am a resident of PHNA and do not support proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, **to** Permissive Use. Being a resident near the proposed Gateway Gibson Center the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support. I, also, strongly support the value of requiring neighborhood input into the process for permitting overnight shelters.

Respectfully submitted,

Dr. Shannon Jeffery, resident of Parkland Hills
slanted13@gmail.com



NH

LUCILLE & PATRICK LONG
308 SOLANO DR. S.E.
ALBUQUERQUE, NM 87108
505-250-3860; LUCYLONGCARES@GMAIL.COM

A

CONTACT

PLANNING COMMISSIONERS-CITY OF ALBUQUERQUE

Dear Planning Commissioners for the City of Albuquerque:

We are residents of Nob Hill and have been in leadership roles striving to make Nob Hill economically viable by creating a safer Nob Hill and are concerned about the new proposed changes to the IDO that would allow overnight shelters under permissive use. As a resident of Nob Hill, we sincerely empathize with our homeless population that especially struggles with mental illness and often self-medicates with illicit drugs and alcohol.

By allowing overnight shelters to go under permissive use, Nob Hill neighbors are severed from the decision-making process in being able to have input as to what safeguards would be in place to consider overnight shelters. Data from APD shows that calls for service on overnight facilities that contract or have contracted with the CABQ and have been excessive. While revenue from the CABQ may be appealing to various shelter providers, there is limited vetting and are often left without safeguards in place such as behavioral health professionals on staff, security guards and other support services needed to make these successful. Promoting permissive use and releasing our behavioral health population out on to our streets in the morning without treatment or an action plan of care is inhumane.

We urge you to vote against permissive use for overnight shelters and urge you to keep the code as Conditional Use.

In addition, we would like to propose an amendment to Cp0-8 converting it to small are HPO-5 particularly in relations to Cannabis.



EMAIL



TWITTER HANDLE



TELEPHONE



LINKEDIN URL

NH

OBLUCILLE & PATRICK LONG

Sincerely,
OBLUCILLE & PATRICK LONG
308 sOLANO dR. s.e.
aLBUQUERQUE, nm 87108
505-250-3860; LUCYLONGCARES@GMAIL.COM
a



EMAIL



TWITTER HANDLE



TELEPHONE



LINKEDIN URL

Bolen, Rebecca A.

From: Lucille Long <lucylongcares@gmail.com>
Sent: Tuesday, December 7, 2021 8:59 AM
To: City of Albuquerque Planning Department
Subject: Letter of concern
Attachments: Planning Comm. letter Perm. Use. Nov. 2021.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Planning Commissioners.

Both my husband and I have been sick and I'm very late in getting this to you but I hope that you take this attached letter into consideration.

Thank you for the dedication to improving our city.

Kind Regards,
Lucille and Patrick Long

Bolen, Rebecca A.

From: Raimund <raimund@mcclain-yu.com>
Sent: Sunday, December 12, 2021 2:15 PM
To: City of Albuquerque Planning Department
Subject: Proposed IDO zoning changes

Dear EPC Chair:

I am a business owner and resident of PHNA and do not support proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, to Permissive Use. Being a resident near the proposed Gateway Gibson Center the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support. I, also, strongly support the value of requiring neighborhood input into the process for permitting overnight shelters.

Raimund McClain AIA
Raimund@mcclain-yu.com
McCLAIN +YU
Architecture & Design
(505) 266-2142

Bolen, Rebecca A.

From: mona <mcscherrell@msn.com>
Sent: Sunday, December 12, 2021 10:43 PM
To: City of Albuquerque Planning Department
Subject: Gateway Center

I am a resident of the Parkland Hills neighborhood, close to the proposed Gateway Center. I am writing to express my opposition to the proposed IDO zoning change for land zones MX-H and MX-M from conditional use to permissive use. The current conditional use requires neighborhood input about the impact of the land use on the neighborhood. The proposed change to permissive use will allow the Gateway Center to have unlimited bed capacity, which would have a significant adverse impact on my neighborhood. It is very important that the city be required to get neighborhood input into the process for overnight homeless shelters. The city has stated repeatedly that they plan to have several smaller homeless shelters in other areas of the city and allowing a change this significant to the zoning without neighborhood input would show that the city has no interest in citizen input, and has not been truthful with the information they have shared about their plans to provide homeless supports.

Respectfully,
Mona Sherrell
mcscherrell@msn.com

Sent from [Mail](#) for Windows

Bolen, Rebecca A.

From: Peggy Neff <peggyd333@yahoo.com>
Sent: Tuesday, December 7, 2021 11:01 AM
To: City of Albuquerque Planning Department
Cc: Michael Brasher; Dan Regan
Subject: For the IDO 2021 Annual Update Record
Attachments: Neighborhood-Legal-Letter-to-DRB-11-18-2021 (Hess re BarstowAlameda).pdf

TO: EPC Chair Timothy MacEachen
FROM: Peggy Neff, Summit Park NA Member
DATE: 12/5/22

Dear Commissioner MacEachen,

Please, I would like to ask that the attached letter (Neighborhood-Legal-Letter-To-DRB-11-18-21) be added to the record for EPC- Commissioners' review of the IDO 2021 Update/Amendment process. I ask again that you call a special meeting of the EPC to address the current IDO Amendment Processes. The contents of this letter can be used to prompt discussions.

Another proposed metric that I ask you to add in the creation of necessary metrics for the Commission to use (as proposed in my email of 12/6/21): 3, Does this update/amendment change the zoning map?

I stand for questions, but I'm afraid the issues are too complicated for me to understand completely. I don't know the specific line on the list of updates for your reference but it's on the first page and creates a significant change to the way previous regulations are used to revise the IDO. Its the same thing as the DRB informing the IDO, (wrong) the previous regulations were supposed to have a full and comprehensive interpretation into the IDO (the process was faulty for the North I-25 Sector Plan - this can be documented in a meeting between WLCNA Pres and Ms. Renz-Whitmore prior to the adoption of the IDO).

Kind regards,

Peggy Neff

Peggy Neff Other Path LLC 505-977-8903

November 18, 2021

VIA E-MAIL – agomez@cabq.gov

HESSEL E. YNTEMA, III

Mikaela Renz-Whitmore, Chair
Development Review Board
City of Albuquerque

Project: #PR-2019-002496
Alameda Luxury Apartments Complex
DRB Remand Meeting on December 3, 2021

Dear Chair Renz-Whitmore and DRB Members:

This firm represents the opponents of the referenced project listed at the end of this letter (the “Opponents”) for the remand meeting following the decision of the District Court in Bernalillo County District Court No. D-202-CV-2020-03644 to reverse and remand the applicant’s site plan approval to the City for further proceedings. The Opponents hope that the applicant will revise its project to better fit with the neighborhood. This letter is intended to provide evidence and argument for the remand meeting scheduled for December 3, 2021, at the Development Review Board (“DRB”). Please place this letter and attachments in the record for the DRB remand meeting.

1. Background

The District Court’s decision entered June 2, 2021 ruled that the City’s decision was not in accordance with law, and remanded the site plan approval decision to the City for reconsideration in a quasi-judicial hearing process. The District Court’s main ruling (Order p. 2) was:

The Court reverses the City’s determination in its appellate capacity, concluding that the decision was not in accordance with the law requiring a quasi-judicial hearing, and remands the matter for further proceeding consistent with this Opinion. As a result, the Court does not consider Appellants’ other appellate issues or the issues presented pursuant to the Declaratory Judgment Act.

The District Court stated concerning R-2019-035 (p. 5):

The City’s application of R-2019-035 plainly resulted in substantial confusion for the present matter which necessitates reversal and remand.

The District Court further ruled (p. 11):

On remand, the City is directed to explicitly set out the date upon which the Developers’ application was deemed complete,

November 18, 2021

as this fact was subject to some confusion, with further explanation as to the finding by the DRB following the July 17, 2019, meeting that there were comments made by the DRB which needed to be addressed prior to any action on the application, as well as outstanding issues, including grading and drainage plans, infrastructure list, and other comments that necessitated deferring action from the August 14, 2019, DRB meeting, requiring further supplementation of their application.

The District Court also ruled (p. 15):

The City, on remand, is directed to allow the DRB to analyze and explain Duran's legislative rezoning, a comparably simple matter which nonetheless took nearly a year to complete, Appellants' arguments concerning the intersection between § 1-10(B), other ordinances and the Official Zoning Map, and provide a detail written decision.

As to DRB quasi-judicial hearings, the District Court stated (p. 17):

The problem was created by the City's enactment of R-2019-035, which purported to amend or revise procedures under the IDO, and provided that "DRB is a staff board for technical reviews and does not make discretionary decisions or hold quasi-judicial hearings."

The Opponents request that the entire record of the prior proceedings in PR-2019-002496 and related proceedings be included in this case for reference. The Opponents submit additional materials (Exhibits 1-32) with this letter and request that these exhibits be entered into evidence at the DRB remand meeting. The exhibits include demonstrative exhibits, e-mail strings obtained through the Inspection of Public Records Act ("IPRA"), e-mail strings related to the remand meeting, City enactments, materials from the City's website, and records of some of the Opponents.

The Opponents request that the DRB members who have had material ex parte contacts with the applicant, the applicant's representatives, or Planning Department employees concerning this PR-2019-002496 proceeding, R-2019-035, or any related cases, recuse themselves from the meeting. Ms. Renz-Whitmore should recuse herself from involvement as a quasi-judicial decision-maker in this matter, because of her active involvement in the City's enactment of R-2019-035 in response to the decision of the City's Land Use Hearing

VIA E-MAIL – agomez@cabq.gov
Mikaela Renz-Whitmore, Acting Chair
Development Review Board
City of Albuquerque

November 18, 2021

Officer (“LUHO”) in AC-18-20 (Exhibits 2-5) concerning excluding the DRB from quasi-judicial decisions. Ms. Renz-Whitmore apparently also was involved in the pre-application neighborhood meetings for PR-2019-002496. Her participation in the decision-making body in this matter is not appropriate.

The Opponents request that cross-examination be allowed of all witnesses at the meeting, and that representatives of the Planning Department be on hand as witnesses for cross-examination on relevant matters.

The Opponents should be allowed reasonable time to respond to any further submissions by the applicant or the Planning Department following the submission of this letter.

The Opponents object to an online DRB meeting. The DRB meeting should be conducted in accordance with the New Mexico Open Meetings Act.

2. A December 3, 2021 DRB meeting is premature

Important preliminary matters need to be resolved before a DRB decision meeting should be scheduled, including concerning the authority of the DRB to hold a quasi-judicial hearing and how “completeness” of an application is to be determined (discussed below). As noted above the District Court Order directed the City to explicitly set out the date on which the application was deemed complete. That date and the written analysis of how that date was determined should be in the record and available to the Opponents at least a few weeks before the meeting. The District Court also directed the DRB to analyze and explain the legislative rezoning of [redacted] Duran’s property. The City has the best access to information on that process, and the City’s analysis should be written and made available to the Opponents some weeks before any meeting to approve the site plan. The District Court also stated that R-2019-035 was “the problem”: City staff should explain in writing if the provisions of R-2019-035 were in effect when the application was filed, and if those provisions are in effect today, and further if the City Council has repealed R-2019-035.

This matter also should be deferred until an adequate record is available to the Opponents and the public. The records should include all communications to and from the Planning Department and other City departments concerning the application and the decision process. The record should be ordered chronologically and be numbered consecutively to allow for meaningful review on appeal. The District Court Remand Order should be part of the record.

November 18, 2021

It appears that City Staff, not the DRB, is running the decision process. It appears that substitute DRB members are being specially appointed for the December 3 decision meeting. City staff has set the date for the DRB meeting apparently without any DRB involvement. City staff, not the DRB, also has determined that the initial record for the matter will consist of only the initial application and the District Court's Order, or of unnumbered papers (Exhibit 1). As further discussed below, the past IDO was and the current IDO is intended to prohibit and prohibit the DRB from holding a quasi-judicial hearing on a site plan. Under these circumstances, the process being imposed in response to the District Court Order is contrary to the District Court Order and sets up a sham proceeding.

3. The latest version of the Integrated Development Ordinance should apply

The subject remand meeting is to be under the City's Integrated Development Ordinance ("IDO"). The Opponents have been informed by the City Attorney that the IDO effective in 2018 ("2018 IDO") applies to the meeting (Exhibit 1). However, from the perspective of the Opponents, under New Mexico law, discussed further below, legislation enacted by a governing body or law established while a development application is pending applies to that development application. For example, the District Court Order in this matter applies to the application and the DRB proceedings. Upon information and belief, the version of the IDO applicable as of the date of this letter is the version "amended as of November 2020" ("2020 IDO"), and thus the 2020 IDO should apply for the remand.

4. The DRB lacks authority to hold a quasi-judicial hearing

Under either the 2018 IDO (whether or not modified by R-2019-150) or the 2020 IDO, the DRB is not authorized or prepared to conduct quasi-judicial hearings. IDO Table 6-1-1 in both versions of the IDO indicates that DRB site plan decisions are conducted as "public meetings" rather than as "public hearings". Under 2020 IDO Section 6-4(M), public meetings explicitly are not quasi-judicial. 2018 IDO Section 6-4(L) does not have the explicit language re public meetings not being quasi-judicial hearings, but whether any public discussion is allowed is discretionary, which is contrary to quasi-judicial standards allowing testimony and cross examination. In both IDOs the DRB is limited to "technical" review. The apparently current DRB Rules of Procedure (Exhibit 32), from 2013, do not provide for a quasi-judicial hearing format, for example the current DRB rules do not allow for cross-examination, and the DRB Rules provide for decision by consent rather than by vote. Upon

November 18, 2021

information and belief, the DRB has never conducted a quasi-judicial hearing, which is understandable as the City Council apparently has never authorized the DRB to conduct a quasi-judicial hearing. Even if the DRB somehow had authority to conduct a quasi-judicial hearing for a site plan application in 2019, that authority was withdrawn under the 2020 IDO which included restrictions on DRB quasi-judicial hearings imposed by R-2019-035 (earlier known as Resolution 19-150) (discussed in the District Court's Order). The City's current website for the "Legislative History" for the IDO (Exhibit 13) states that "Effective May 24, 2019, interim procedures related to the Development Review Board were adopted by the City Council via Resolution 19-150, which amended IDO text in Part 5 Development Standards and Part 6 Administration and Enforcement. These changes were incorporated into the 2019 IDO Effective Draft" (which 2019 IDO Effective Draft is the version which became effective November 2, 2020). The 2020 IDO Annual Update (page ii) identifies R-2019-035 as an "Adoption and Amendments" item (Exhibit 14).

In enacting the IDO, the City withdrew substantial site plan decision authority from the Environmental Planning Commission ("EPC") and placed that site plan decision authority with the DRB, but denied that such DRB site plans decisions were to be decided quasi-judicially. The City Council has never enacted a quasi-judicial hearing process for non-EPC site plan decisions. The City Council has not considered or acted upon the District Court Order that a quasi-judicial hearing is required for this matter.

The City's views of the DRB process are incompatible with quasi-judicial proceedings. As stated by the Planning Director in his Memo dated October 19, 2019 (Exhibit 11):

... The DRB was created to offer efficient considerations of technical standards, a one-stop shop for property owners and developers alike, which would have otherwise required an applicant to meet individually with the City staff experts from divisions and departments across the city. The DRB streamlines the application process by bringing together key department staff responsible for the specialized/expert review of projects as the[y] relate to the IDO in a forum where the staff and applicant meet to discuss projects and the public can ask questions and share input for those decisions. The DRB is not a policy making board and performs no administrative adjudicatory functions regarding individual legal rights, duties or privileges. As such, the DRB staff communicates with the public and the applicants....

November 18, 2021

Again, the DRB is a technical review board of the City staff and does not hold quasi-judicial hearings. By definition of the DRB and its purpose, the DRB staff members are required to communicate with the public and applicants. The DRB is a consensus board and requires each designated staff member, an expert in a specific area, to have no objections to an application. For each application, each member is asked whether they object. If there are no objections, meaning the application follows the requirements of the IDO, the application is approved with a consensus vote. The remaining alleged Open Meeting Act violations (“going in and out of public meetings and effectively into smaller group closed meetings”) are fabrications of Appellant.

5. The DRB is not an impartial decision-maker for this matter

The Opponents object to the DRB, as presently constituted and operated, deciding this matter, because the DRB is not an impartial decision-maker for this matter. The configuration of this matter at this point appears to be that the DRB is to conduct a quasi-judicial hearing for approval of the applicant’s site plan. Due process requires that the parties will have an impartial decision-maker. Procedural due process requires a fair and impartial hearing before a trier of fact who is “disinterested and free from any form of bias or predisposition regarding the outcome of the case”. New Mexico Bd. of Veterinary Medicine v. Riegger, 2007-NMSC-044, ¶27, 142 N.M. 248. Parties are entitled to an impartial tribunal, i.e. having had no pre-hearing or ex parte contacts concerning the question at issue. Albuquerque Commons Partnership v. City Council of the City of Albuquerque, 2008-NMSC-025, ¶34, 144 N.M. 99. In this case, substantive decisions to approve the site plan apparently have already been made outside of a public hearing by the Planning Department and then imposed on the DRB, for example that the 2018 IDO applies, that the prior case record shall not be part of the remand hearing record, what process the DRB will follow, and even setting an accelerated date for the remand hearing.

The DRB is controlled by the Planning Department. The DRB is chaired by the City Planning Department Director or its assignee and the Zoning Enforcement Officer (“ZEO”) also is a member, under both the 2018 IDO Section 6-2(D)(1) and the 2020 IDO Section 6-2(D)(1). Given the history of this case, it is not reasonable to have Planning Department employees control the decision process.

November 18, 2021

The City has always organized and operated the DRB outside of quasi-judicial standards. In AC-18-20 (Exhibit 2), the LUHO ruled on March 28, 2019 that for certain variances the DRB would have to conduct quasi-judicial proceedings. City staff responded quickly against the LUHO decision, proposing a City Council resolution to make clear that, notwithstanding the LUHO decision, the DRB was not to conduct quasi-judicial proceedings (Exhibits 3-6). The then Planning Director, David Campbell, wrote on April 8, 2019, in response to a meeting about the proposed resolution:

The DRB is a technical board who should not be acting on discretionary items. I am not sure how we get there except to remove the process through DRB and move to ZHE or EPC. The DRB members can supply comments to the ZHE or EPC as commenting agency(s) vs. being the decision making body. Also as a sidebar, I would suggest removing Public Hearing items from the DRB and make all actions Public Meeting items.

City staff and the City Council responded by enacting R-2019-035 on May 20, 2019 (Exhibit 8) on an expedited “holdover” basis without discussion or even explanation of what they were doing (Transcript is Exhibit 7). After R-2019-035 was enacted, City staff sought the opinion of the LUHO about the effect of R-2019-035 (Exhibits 9, 10). The LUHO stated (Exhibit 10): “the changes are superficial, changing labels only.” Nonetheless, the City Council apparently has proceeded with the 2020 IDO continuing to applying R-2019-035 standards to DRB site plan decisions.

The DRB’s methods of operation and structure are incompatible with the requirements for quasi-judicial proceedings. The DRB essentially conducts its business in a “rolling quorum” method. See NM Attorney General’s Open Meetings Act Compliance Guide (2015), pp. 7-8. The DRB’s methods allow an applicant to obtain separate, private persuasion of or approvals from the DRB members outside of the public hearing. The quorum is acting outside of an open public meeting even as the members are separated physically.

In this matter, there is confusion about the record, whether the record should be numbered, and whether “normal” DRB procedures should apply (Exhibit 1). It appears that R-2019-035 still is in effect and has not been repealed or revised.

The 2018 IDO and the 2020 IDO are fatally flawed for DRB site plan approvals, because state law and even the various IDO versions require a quasi-judicial hearing for a site plan approval, but neither IDO provides a quasi-

November 18, 2021

judicial hearing process for such site plan applications. The City Council should review the District Court Remand Order and revise the IDO to create a quasi-judicial hearing process for site plan approvals.

6. The Planning Director has not determined that the Application at issue is complete

In this matter the applicant submitted its application on June 17, 2019. Both 2018 IDO Section 6-4 (H) and 2020 IDO Section 6.4 (G) require that an application must be “complete” to be considered. The Planning Director “shall determine whether the application is complete”. Incomplete applications are not to be set for a hearing. However, possibly due to the ex parte, rolling quorum manner in which the Planning Department and the DRB conduct development application reviews, the Planning Director never determined that the application was “complete”. Despite that “no development application shall be reviewed for compliance or scheduled for a public meeting or hearing by any decision-making body until it is determined to be complete” the application apparently was set for a hearing on July 17, 2019 concurrently with the filing of the application. Similarly the pending December 3, 2021 meeting date for this remand hearing has been set without clarity as to if and when the application was determined to be complete. The current DRB Rules allow for consideration of an incomplete application, and it would appear that the Planning Department and the DRB operate with that approach. City Planner Maggie Gould’s testimony at the August 14, 2019 DRB meeting (Exhibit 29) indicates that the Planning Department follows “kind of a two-step process” in determining if an application is complete.

The determination of completeness is not a merely clerical matter because, according to the City’s interpretations of the IDO, that determination of completeness vests the applicant with rights as to how the IDO will apply. The determination of completeness, under the IDO as interpreted by the City, constitutes a discretionary decision which changes property rights or entitlements for a particular property, and thus itself requires a quasi-judicial hearing under 2018 IDO Section 6-4(M)(3) and 2020 IDO Section 6-4(N)(3). The City Council should amend the IDO to provide for a quasi-judicial process to determine “completeness” of an application.

Exhibit 15, an e-mail string (last date June 27, 2019) involving the then DRB Chair and the applicant’s representative, indicates that the application was not complete as of June 27, 2019 because an owner’s letter of authorization was lacking.

November 18, 2021

At its July 17, 2019 meeting about the application, the DRB ruled that additional submissions were required from the applicant (Exhibit 28). At its August 14, 2019 meeting about the application, the DRB ruled again that additional submissions were required from the applicant (Exhibit 30). The application was a work in progress even at the end of the DRB meeting of September 11, 2019: the DRB required “updating” and delegated review and approval for various matters (Exhibit 31). The actual drawings for which the applicant seeks approval at this point are dated November 27, 2019.

7. The IDO “Neighborhood Edges” Provisions Apply to the Applicant’s Site Plan

The lots of various Opponents on Tierra Morena NE adjacent to the subject property are zoned “R-1B”. Under the 2018 IDO’s and 2020 IDO’s “Neighborhood Edges” provisions (Section 5-9) these lots are entitled to certain “step-down” and other protections which are not provided in the applicant’s site plan.

On August 5, 2019, the City Council approved “Batch 1” of the IDO legislative rezonings which included the property (home) of one of the Opponents, Duran, at Tierra Morena NE (Exhibits 19, 20). Duran’s property abuts the subject development site and the rezoning imposes the “Neighborhood Edges” protections on the site plan. According to the Planning Department in one interpretation, that rezoning became final on September 8, 2019. The position of the Opponents is that the legislative rezoning approved August 5, 2019 applies to the development application filed June 17, 2019 because that application was pending when the legislative rezoning was enacted and under New Mexico law development applications are subject to changes in law during the approval process. An applicant does not obtain “vested rights” in the law applicable to a development application until the development is approved and the applicant invests some level of resources into the development.

In the prior administrative proceedings, the City did not consider important underlying facts and circumstances about the Neighborhood Edges provisions. The City relied upon and interpreted 2018 IDO Section 1-10(B), within the “Transitions from Previous Legislation” Section, which states:

Any application that has been accepted by the City Planning Department as complete prior to the effective date of this IDO, or any amendment to this IDO, shall be reviewed and a decision

November 18, 2021

made based on the standards and criteria in effect when the application was accepted as complete.

The City ultimately interpreted this provision to mean that the IDO or the neighboring zoning were frozen, for the applicant's application, as of the date the Planning Department considered that the applicant's application was "complete". This interpretation is problematic because the provision, located in the "Transitions from Previous Legislation" Section and addressing initially applications submitted before the effective date of the IDO, does not appear to be intended to have such far reaching consequences (that legislative rezoning, legislative amendments to the IDO or other City regulations do not apply to an application which has been for a hearing). "Completeness" of an application is considered at 2018 IDO Section 6-4(H) and contemplates a determination by the Planning Director that an application is "complete", which does not appear to have happened in this case. If the Planning Director's determination of "completeness" of an application is a date which triggers a freeze on all IDO amendments or other City enactments as to that application, that date is important and should be identified, in the record.

The legislative rezoning at issue were changes to the "Official Zoning Map", which is a separate instrument from the 2018 IDO. 2018 IDO Section 1-6, Official Zoning Map, states:

1-6(A) The standards and regulations in this IDO applicable to specific zone districts or Overlay zones apply to the areas of the City shown with those zone districts or Overlay zones on the Official Zoning Map.

2018 IDO Section 1-6(B) indicates that the City Council intended the Official Zoning Map to be separate from the IDO, and separately amendable:

The Official Zoning Map is the latest version of the zoning map as approved or amended by City Council and maintained in electronic form by the City Planning Department.

The most restrictive provisions of the IDO should apply to the applicant's proposal, if there is any conflict between IDO provisions and City regulations or state law. 2018 IDO Section 1-8(B) states:

1-8(B) If any regulation in this IDO conflicts with other applicable laws or regulations of the City, or conflicts with applicable state or federal law, the more restrictive provision

November 18, 2021

shall prevail, unless the provisions of state or federal law, as interpreted by the courts, prevent that result.

The “Neighborhood Edges” provisions apply to this site plan for several reasons: the Tierra Morena voluntary zoning conversions were not “amendments” to the IDO; the IDO process contemplated the zoning conversions on Tierra Morena NE as an integral component of the IDO process; and granting the applicant a “vested right” for development upon filing an application conflicts with settled state law as to “vested rights” and quasi-judicial decision requirements.

Review of the various enactments for the “voluntary zoning conversions” (undertaken by various Tierra Morena Appellants), indicates that the “voluntary conversions” were not “amendments” to the IDO, and that the “zone conversion process” was contemplated and initiated even before the effective date of the IDO. Exhibits 12 through 25 set out some of the applicable enactments and related papers.

Enactment O-2017-025 (Exhibit 12) shows that the IDO and the IDO Zoning Conversion Map were enacted together. Page 21 of O-2017-025 provides that “the Planning Department intends to submit and sponsor a series of zone changes”. The City’s website discussed the post-IDO Voluntary Zone Conversion Process (Exhibit 16). Enactment R-2017-01 (Exhibit 17) shows that the voluntary conversion process was started before the IDO became effective.

Section 3(D) of Enactment R-2018-19 (Exhibit 18) page 6, states:

D. Final Decision Making Authority. The Phase II zoning conversion called for by this resolution is part of the comprehensive, City-wide rezoning associated with the IDO, and becomes effective only upon a final legislative action by the City Council. Property owners that are not eligible for the process outlined by this resolution, or that are otherwise unsatisfied with the zoning on their respective properties notwithstanding the results of this phase II process, may seek an individual zone map amendment through the relevant IDO zone map amendment process outlined in Section 14-16-7.

O-2019-021 (Exhibit 19) and the related Action Summary (Exhibit 20) show that “Batch 1” of the “Phase 2 Zoning Conversion Effort” was not a text or other amendment to the IDO, but was an “updating” of the Official Zoning

November 18, 2021

Map. As stated on page 3 of Exhibit 19, “the Official Zoning Map is used to apply land use regulations in the IDO to development throughout the City and in decision-making for zoning map amendments and long-range planning”; the conversion “will help preserve neighborhood stability and land predictability”. Exhibit 21 and Exhibit 22 show that “Batch 2” similarly also was not a text amendment to the IDO but was an “updating” of the Official Zoning Map. Exhibit 23 shows that the Planning Department was following up on the zoning conversion requested by Appellant (Tierra Morena) as of May 14, 2018. Appellants’ Exhibit 24 shows Duran’s (Tierra Morena) zoning conversion request of October 26, 2018, confirmed by the Planning Department on November 5, 2018. Exhibit 25 shows the zoning conversion request of Opponent (Tierra Morena) on April 9, 2019.

In sum, the various enactments and related papers demonstrate that the zoning conversions for Tierra Morena NE to “R-1B” zoning were not IDO “amendments”, were contemplated before the IDO became effective and were part of the IDO process, and were in process well before the applicant submitted its application on June 17, 2019.

The applicant claims that its rights to develop under the property’s MX-L zoning vested as of the date the Planning Department considered that the application was “deemed complete”. This interpretation is contrary to “vested rights” analysis under applicable New Mexico case law. As set out in Brazos Land, Inc. Board of County Commissioners of Rio Arriba County, 1993-NMCA-013, 115 N.M. 168, a developer achieves vested rights in a project not upon submission of a complete application, but only when the project has been finally approved and the developer has relied substantially on that approval. The concept of “complete application” as applied by the applicant in this case limits the City from exercising its legislative authority to amend zoning, the IDO, or other City enactments as to pending development applications.

The applicant’s representative was aware of the timing and status of the “voluntary conversions”, for example stating at the May 21, 2019 Facilitated Meeting:

Q: What is the latest word from the City on the free zone conversion program?

(1) The Agent stated that he understands that the City is processing the voluntary zoning conversions in batches. Batch 1 hasn’t yet made it to City Council. When this project application is submitted, it’s the conditions in effect at that time of

November 18, 2021

application that apply. The second batch is taking longer than people expected and may be in a few batches.

8. Significant Adverse Impacts

The Opponents and other concerned persons have identified a number of significant adverse impacts of the project as currently proposed. The Project Meeting Report from the May 21, 2019 meeting under the City's Land Use Facilitation Program summarized the concerns expressed at that meeting as follows:

Meeting participants raised concerns about many topics, including parking, light pollution, population density, traffic congestion, proximity to the school, safety, and impacts on existing property values. A number of neighbors expressed the concern that the number of units would result in unacceptable resident density in the context of the overall area and asked that the developer consider lowering the buildings to two stories, which would help address their parking and traffic concerns and ameliorate the impacts of light pollution, loss of privacy, and loss of mountain views. A summary of all concerns is included in the meeting specifics.

The density of the project and the impact on traffic and safety are priority concerns for the Opponents. Three schools, La Cueva High School, Desert Ridge Middle School, and Altura Preparatory Charter School, are each within a quarter mile of the proposed 93-unit site. Approximately 2,900 students travel to and from school each day in the area. Per 2018 IDO Section 6-4(J) "the location of the project, the amount of traffic generated from the development, and the existing conditions in the project area" are important for the extent of a traffic study. A traffic study for the project should be undertaken under these circumstances.

The garish colors proposed for the project also are an issue for the Opponents. The project should be designed to fit in with the generally subdued earth colors of homes and other buildings in the area.

The DRB should consider the concerns expressed in the various public meetings for the site plan application and mitigate the adverse impacts.

The IDO indicates that building height, parking, spacing, screening and buffering may have a significant adverse effect on neighboring residential

November 18, 2021

properties, by establishing the protections for “Neighborhood Edges” in Section 5-9. Section 5-6(E)(2) also indicates that buffering is appropriate for development next to low density residential zone districts. Features of the site plan at issue generate significant adverse effects for adjacent residential neighbors, for which the DRB should require mitigation.

The subject moderate density, garishly colored apartment project does not fit with their neighborhood and violates the “Area of Consistency” concepts of the Comprehensive Plan and consequently the IDO.

9. The Opponents Do Not Waive Other Issues Presented

The Opponents restate and do not waive any of the other arguments presented in this proceeding up to the District Court Order.

10. Proposed Findings and Conclusions of Law

The Opponents request the following findings and conclusions by the DRB:

1. The developer’s application at issue was filed June 17, 2019.
2. The application was not “complete” when filed on June 17, 2021.
3. R-2019-035 applied to the application in this matter when filed on June 17, 2019.
4. Opponent Duran’s property at Tierra Morena NE abutting the property was legislatively rezoned to “R-1B” effective no later than September 8, 2019.
5. The City Council has not repealed R-2019-035.
6. The substance of R-2019-035 was enacted into the 2020 IDO.
7. The 2020 IDO applies for this remand hearing.

November 18, 2021

8. The DRB lacks authority under the 2018 IDO and the 2020 IDO to hold a quasi-judicial hearing on site plan approval or the completeness of the initial application.

9. The DRB as presently constituted and operated is not compatible with quasi-judicial decision-making.

10. The application at issue has not been determined to be complete by the Planning Director.

11. The DRB is not able to determine when the applicant's application became "complete".

12. Opponent Duran's property was legislatively rezoned effective September 8, 2019 and became a "Protected Lot" under the Neighborhood Edges provisions. Several other Opponents also have had their properties rezoned such that those lots also are "Protected Lots" for the application at issue.

13. The IDO's "Neighborhood Edges" provisions apply to this Site Plan.

14. The Site Plan does not comply with the Neighborhood Edges provisions.

15. The Site Plan does not mitigate significant adverse impacts on the surrounding area to the maximum extent practicable.

16. The color of the project should match the earth tone colors of the area's neighborhood homes and other buildings.

17. Approval of this site plan is denied pending revisions of the site plan to satisfy the IDO's Neighborhood Edges provisions and mitigate adverse effects on the surrounding area to the maximum extent possible.

18. The DRB is not authorized to approve the site plan because the DRB is not a quasi-judicial decision body under the IDOs and because the Planning Director has not determined that the application is "complete" in a quasi-judicial process.

19. The application should be resubmitted under the provisions of the 2020 IDO.

November 18, 2021

The Opponents reserve the right to supplement or amend these proposed findings and conclusions pending review of the evidence and testimony provided at the DRB meeting.

11. Conclusion

The Opponents request that the subject “moderate density” apartment project (in an ostentatiously “low density” zone) be redesigned to conform to their neighborhood’s low density residential character and the intent and standards of the 2020 IDO and adjacent zoning. The Site Plan should be revised to comply with the Neighborhood Edges provisions of the 2020 IDO. The adverse effects of the proposed project should be mitigated to the maximum extent possible. The color scheme of the project should conform to the earth tones of the buildings in the area.

The 2018 IDO and the 2020 IDO created unworkable arrangements for (i) DRB site plan approvals and (ii) determinations by the Planning Director of “completeness” of applications: those decisions require a quasi-judicial process under state law and even the IDOs, but the IDOs and R-2019-035 route those decisions into an ad hoc, ex parte, rolling quorum decision path under the control of Planning Department. The City Council should establish appropriate quasi-judicial processes for those decisions.

Several of the Opponents intend to present comments and objections to the proposed site plan at the scheduled December 3, 2021 DRB remand meeting.

Very truly yours,

YNTEMA LAW FIRM PA

By Hessel E. Yntema
Hessel E. Yntema III

cc (by e-mail): Consensus Planning, Inc.
Peter Lindborg, Esq.
Nicole Sanchez, Esq.

Enclosures: Exhibits 1-32

Bolen, Rebecca A.

From: D Otero <dgotero@gmail.com>
Sent: Sunday, December 12, 2021 3:42 PM
To: City of Albuquerque Planning Department
Subject: Proposed IDO Zoning Changes

I am a resident of Parkland Hills Neighborhood Association and do not support the proposed IDO zoning changes for land zones MX-H and MX-M from the current Conditional Use, which requires neighborhood input preventing significant adverse impact, to Permissive Use.

Being a resident near the proposed Gateway Gibson Center the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support. Furthermore, I strongly support the value of requiring neighborhood input into the process for permitting overnight shelters and would respectfully request the city honor this democratic process.

Thank you.

Dorothy G Otero
dgotero@gmail.com

Bolen, Rebecca A.

From: CHARLES PRIOR <cbprior1967@gmail.com>
Sent: Sunday, December 12, 2021 2:34 PM
To: City of Albuquerque Planning Department
Subject: Gateway shelter

I would like to know what they will do with unruly, intoxicated, or mentally ill homeless who they will not allow into their shelter. Are they going to release these people back into the neighborhood after gathering them from all over the city? Our neighborhood does not have the capacity to absorb that many problems. The city should have some plan on how they deal with disruptive or problem people . Thank you Charlie prior

Sent from my iPhone

Bolen, Rebecca A.

From: Derrick Sanders <the.derrick@gmail.com>
Sent: Monday, December 13, 2021 8:04 AM
To: City of Albuquerque Planning Department
Subject: Zoning Changes

I am a resident of PHNA and do not support proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, to Permissive Use. Being a resident near the proposed Gateway Gibson Center the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support. I, also, strongly support the value of requiring neighborhood input into the process for permitting overnight shelters. Respectfully submitted.

Derrick Sanders
the.derrick@gmail.com

Bolen, Rebecca A.

From: Diana Shea <president@trna.org>
Sent: Sunday, December 12, 2021 7:42 PM
To: City of Albuquerque Planning Department
Subject: Comment on IDO amendments

EPC Chair MacEachen

I am writing to you as a decades long member of Taylor Ranch Neighborhood Association.

Please think carefully before allowing parking reductions for business development, especially based on anticipated bus ridership. When there are not enough parking spaces for customers, the business will suffer. Flix Brewhouse on Coors is a current example of patrons being unable to park, with unfortunate consequences. Taking the bus is not tenable.

Whisque Mesquite Grill and Bar was a very nice restaurant with a lovely view at the NW corner of Coors and Montano. It opened in 2007 and was very popular for its food and atmosphere. Unfortunately there was not enough parking for diners so it closed after only two years. Again, the bus was not a viable option.

Thank you,
Diana Shea

Bolen, Rebecca A.

From: Janet Simon <janetpod1@gmail.com>
Sent: Sunday, December 12, 2021 1:31 PM
To: City of Albuquerque Planning Department
Subject: RE: Proposed IDO Zoning Changes

To: EPC Chair Timothy MacEachen

I am a resident of PHNA and do not support proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, to Permissive Use. Being a resident near the proposed Gateway Gibson Center the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support. I, also, strongly support the value of requiring neighborhood input into the process for permitting overnight shelters.

Respectfully submitted.

Janet Simon
725 Van Buren PL SE
ABQ, NM
Email: janetpod1@gmail.com

Bolen, Rebecca A.

From: Phyllis Taylor <ptaylorssw@gmail.com>
Sent: Monday, December 13, 2021 7:48 PM
To: City of Albuquerque Planning Department
Subject: Statement to EPC regarding IDO Table 5-7-1 Walls and Fences Maximum Height

Dear Commissioners,

As a resident of the Southeast Heights Neighborhood Association, I want to encourage the EPC to maintain the maximum allowable height of front yard walls at three feet. What we have seen in our neighborhood is that variances to the three-foot wall height in front yard setbacks are resulting in erosion of the open community character that is typical of early automobile and early post war neighborhoods in the heights. There are several conditional use applications each year for walls taller than three feet, and many of them have been approved. These walls diminish the historic streetscape and reduce eyes on the street, making our neighborhood less safe.

The neighborhood is characterized by large setbacks and open front yards. The Parkland Hills section of the Southeast Heights neighborhood was recently included in the National Register of Historic Places, and the character of the area's streetscapes is an important feature that justified the historic register nomination.

The Comprehensive Plan recognizes the desire to protect neighborhood character, including the contribution of landscaping and cultural landscapes. While xeric landscapes are replacing the mature trees and grass that were typical in our neighborhood, the openness remains. The Comprehensive Plan policies encourage protection and preservation of distinctive communities. Keeping front yard walls low maintains the historic character, preserves views and keeps eyes on the street.

The Southeast Heights has adopted a position that front yard walls are detrimental to neighborhood character. Our neighbors in the Nob Hill Neighborhood to the north of us have also adopted a position discouraging walls higher than three feet in the front yard and street side yard. As a neighborhood resident, I support the position discouraging wall heights over three feet, and I ask that the EPC not approve the proposed change to increase front yard wall height to four feet.

Phyllis Taylor
1018 Idlewilde Ln SE
Albuquerque, NM 87108
505-263-8816

Bolen, Rebecca A.

From: Vera Watson <vera.e.watson@gmail.com>
Sent: Sunday, December 12, 2021 4:57 PM
To: City of Albuquerque Planning Department
Subject: Urgent - Proposed City IDO Zoning Changes

Urgent - Proposed City IDO Zoning Changes

TO : EPC Chair Timothy MacEachen
City of Albuquerque NM

I am a resident of Parkland Hills Neighborhood Association (PHNA) and I **do not support** the proposed IDO zoning changes for land zones MX-H and MX-M from current Conditional Use, which requires neighborhood input preventing significant adverse impact, **to** Permissive Use. Being a resident near the proposed Gateway Gibson Center, the concerns of unlimited bed capacity are raised by this change to "Permissive Use" that I do not support.

I, also, **strongly support the value of requiring neighborhood input** into the process for permitting overnight shelters.

Thank you for the opportunity to submit my comments.

Respectfully submitted,
Vera E. Watson
vera.e.watson@gmail.com

Bolen, Rebecca A.

From: P. Davis Willson <info@willsonstudio.com>
Sent: Monday, December 13, 2021 9:42 AM
To: City of Albuquerque Planning Department
Subject: EPC hearing Thursday, December 16, 2021
Attachments: last EPC letter 12.13.pdf; ATT00001.htm; wallCost\$inCSTriangle!.jpg; ATT00002.htm

Please see attached letter and screenshot from Albuquerque Journal, 11/29/21

Patty Willson

Victory Hills NA: President
District 6 Coalition: Treasurer

Fatal crashes make up most of \$2.5M set

From PAGE A1

Evaluating claims

The city's Risk Management Division investigates each claim filed against the city and tries to negotiate in accordance with the law, Chavez said.

"We are fiduciary agents, we do our best to properly evaluate claims. We don't try to strong arm anybody, we don't try to be in a power position," she said. "We do definitely listen to both sides of the story."

The cases that settled recently ran the gamut, from car wrecks to an injury from a trip on a sidewalk.

One case was filed after Elena Atencio, 15, died in a January 2019 crash at southbound Coors and Montaña Plaza NW. According to the lawsuit filed in 2nd Judicial District Court, a city bus driver failed to stop in the designated bus stop, and instead rolled into a right-hand traffic lane, which caused the vehicle that Atencio was riding in to stop in traffic. Her car was then rear-ended, causing her death.

"The collision ... and death to Elena Atencio, was caused by the negligent and tortious conduct of

several ways, such as not having clear warning signs. The driver who struck Almuina pleaded no contest to careless driving and served 45 days in jail.

The city ultimately settled for \$650,000. In the aftermath of the crash, the city installed a light at the crossing that flashes yellow to alert drivers to slow down and then switches to red when a button is pushed by a pedestrian, and completed a study of school crosswalks.

Albuquerque also settled a case brought by the estate of Robert Wiggins, who died when an ambulance struck his motorcycle in August 2018 at Comanche and Louisiana NE. The lawsuit accused the city of failing to enforce city policies and ordinance, which left a large cinder-block wall blocking a clear view of the intersection. A police officer concluded the wall was a contributing factor in the crash. The Wiggins family settled with the city for \$275,000.

APD-involved cases

Five of the settlements were connected with the police department, including three cases of police officers involved in car wrecks.

In one case, an officer was



Rebecca Estrada, right, comforts her daughter Hailie Estrada, who was killed in March 2018 after being struck in a crosswalk outside Almuina's death was one of the major settlements in the last six months of the 2021 fiscal year.

December 13, 2021

Re: IDO Annual Update 2021 – EPC Submittal - Citywide

To: EPC Chair Timothy MacEachen (sent via email abcto@cabq.gov)

From: Patricia Willson, Resident of Victory Hills Neighborhood Association

Agenda Number: 03

Project #: PR-2018-001843

Case#: RS-2021-00048

Hearing Date: December 16, 2021

Commissioner MacEachen,

I have reviewed the Staff Report referenced above and am in support of the following Conditions for Recommendation of Approval beginning on p. 41:

2. Overnight Shelter Use-Specific standards:

Option C- revise the proposed amendment as follows:

In Table 4-2-1, make this use Conditional in MX-M and add a new use-specific standard as follows: "In the MX-M zone district, a Conditional Use approval shall be required pursuant to Subsection 14-16-6-6(A)"

3. Religious Institutions Use Specific standards:

Option B- revise the proposed amendment to keep campgrounds conditional for religious institutions, which would provide an opportunity for public review and conditional of approval to be required to mitigate any negative impacts.

4. Walls and Fences, Maximum height:

Option C - delete the proposed amendment. Maximum wall height would continue to be 3 feet in residential, mixed use, and non-residential zones.

5. Administrative Decisions, Site Plan-Administrative, residential conversions:

Option C - delete the proposed amendment. The threshold for administrative (Staff) review of residential conversions would continue to be 100 dwelling units.

And pertaining to #4. Walls and Fences; last month, an article in the Albuquerque Journal—citing claims against the City—noted a \$275,000 payout in a "lawsuit that accused the city of failing to enforce city policies and ordinance, which left a large cinder-block wall blocking a clear view of the intersection. A police officer concluded that the wall was a contributing factor in the crash."

Perhaps that payout would have been better spent on additional planning staff...

Respectfully,

Patricia Willson

Bolen, Rebecca A.

From: P. Davis Willson <info@willsonstudio.com>
Sent: Monday, December 13, 2021 2:40 PM
To: City of Albuquerque Planning Department
Subject: Clarifying material re: IDO update
Attachments: last EPC letter 12.13B.pdf; ATT00001.htm

EPC Chair MacEachen; Please see attached letter regarding Walls and Fences.

Thank you,

Patty Willson

Victory Hills NA: President
District 6 Coalition: Treasurer

December 13, 2021; 1:05 PM

Re: IDO Annual Update 2021 – EPC Submittal - Citywide

To: EPC Chair Timothy MacEachen (sent via email abcto@cabq.gov)

From: Patricia Willson, Resident of Victory Hills Neighborhood Association

Agenda Number: 03

Project #: PR-2018-001843

Case#: RS-2021-00048

Hearing Date: December 16, 2021

Commissioner MacEachen,

I have an additional clarifying comment regarding one of the conflicts—between the Comprehensive Plan and the text amendments—identified and explained on Pages 6-9 in the Staff Report.

On Page 7: *Chapter 4: Community Identity*; Goal 4.1-Character is to “Enhance, protect, and preserve distinct communities. Policy 4.1.4-Neighborhoods would “Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality. “

Staff explains: ***“In some cases a conditional use would be required, but in another case (walls and fences), it would no longer be required. Some proposed amendments could contribute to changing the character of neighborhoods over time (walls and fences, overnight shelters), though the Applicable Use-Specific Standards and separation distance requirements that protect neighborhoods would remain in place. The request partially furthers Goal 4.1-Character and Policy 4.1.4-Neighborhoods.”***

Let me repeat a portion of that—**“some proposed amendments could contribute to changing the character of neighborhoods over time...”**

Change is inevitable—but allowing NO SAY in the change is unconscionable! Many comments opposed to the Table 5-7-1 Walls and Fences, Maximum Height change from 3’ to 4’ were historical in nature (Clyde Tingley, 1st zoning code in 1953), or safety related (eyes-on-the-street, mini-clear sight triangle).

My concern is with notification. It is hard enough for the two points of contact that receive notifications to keep neighbors apprised of what’s going on. I have spoken with my Councilor many times about an opt-in notification process, whereby any interested neighbor can receive an email and/or log on to a map and check a pinned location for a development request.

It was said in one of the many online meetings that many of the variance requests processed by Staff were for higher fences in the front yard setback. Please hire more staff rather than changing the height rule. Any time there is a change from Conditional to Permissive, it cuts people out of the process. People feel safer in their neighborhoods when they have some sense of control. Nothing makes you feel out of control faster than a construction crew showing up unexpectedly...

I urge you and the Commission to choose **Option C – delete the proposed amendment.** for Walls & Fences, Maximum Height.

Respectfully,

Patricia Willson

Bolen, Rebecca A.

From: Daniel Wright <dlw@swcp.com>
Sent: Monday, December 13, 2021 8:11 PM
To: City of Albuquerque Planning Department
Subject: Gateway zoning

I am a resident of the Parkland Hills Neighborhood - and I am absolutely opposed to any rezoning from the current Conditional Use which requires neighborhood input to a Permissive Use status. I live here; my voice should count in any issue that has a direct impact on this neighborhood.

I believe that allowing unlimited bed capacity at the proposed Gateway Gibson Center can only result in confrontations between homeless people and our residents.

Daniel Wright

dlw@swcp.com