

**LAND USE PLANNING AND ZONING COMMITTEE
OF THE
CITY COUNCIL**

January 11, 2012

COMMITTEE AMENDMENT NO. C TO C/S R-11-225

AMENDMENT SPONSORED BY COUNCILLOR O'Malley

1. On page 104, in the second sentence in the introductory paragraph, delete “, but excludes all commercial uses” and insert in lieu thereof, “and provides an opportunity for the development of a limited number of neighborhood-serving commercial uses through the conditional use process.”
2. On page 104, amend Section A of the SU-2/DNA-OR (Office Residential) zone as follows:

A. Permissive Uses

1. Uses Permissive in the R-2 zone with the following EXCEPTIONS:
 - a. Townhouses shall be as regulated in the SU-2/TH zone as specified in this Plan, except maximum building height is 40 feet.
 - b. Single-family detached houses shall be as regulated in the SU-2/SF Zone, as specified in this Plan.
 - c. There is no maximum floor area ratio.
2. ~~The following non-residential uses are permissive provided certain conditions listed under A.3. are met:~~
 - a. ~~Church or other place of worship, including incidental recreational or educational facilities.~~
 - b. ~~Library.~~
 - c. ~~Office~~
3. ~~Non-residential uses as listed under A.2. above are permissive provided any one of the following conditions are met:~~
 - a. ~~A minimum of 50% of the total acreage of premises along individual block faces and within the same block as the subject lot contains existing legal non-residential uses. If a premise has more than one street frontage, at least one street frontage must meet this condition; or~~
 - b. ~~The subject property contains a building that had a non-residential use for a minimum of 6 of the past 10 years; or~~
 - c. ~~The building on the subject property was originally built for~~

~~non-residential use.~~

2. Church or other place of worship, including incidental recreational or educational facilities.

3. Library.

4. Office, except bail bond office is a conditional use.

3. On page 104, amend Section C of the SU-2/DNA-OR (Office Residential) zone as follows:

C. Conditional Uses

Conditional Uses shall comply with §14-16-4-2 Special Exceptions in the Comprehensive City Zoning Code. The following uses are the only conditional uses allowed in the SU-2/OR zone:

1. Existing non-conforming uses are to be treated as approved conditional uses.

2. Senior housing facility.

3. The following non-residential uses, provided that either of the following criteria is met:

- the building on the subject property was originally built for commercial uses; or
- the subject property is located on a corner.
 - a. Retail sales of food and drink for consumption on- or off-premise subject to the following restrictions:
 - i. There shall be no drive-up service windows.
 - ii. Alcoholic drink may be sold only under a restaurant license for the sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978.
 - iii. Outdoor seating shall be allowed along the 7th Street, Tijeras Avenue, Kent Avenue, and Copper Avenue frontages only.
 - b. Retail Sales of the following goods, plus incidental retailing of related goods and incidental service or repair, provided there is no outdoor storage or activity except parking.
 - i. Arts and crafts objects, supplies, plus their incidental creation - artist studios.
 - ii. Books, magazines, newspapers, stationery, except adult book store material.
 - iii. Cosmetics, notions, hobby supplies.
 - iv. Flowers and plants.
 - v. Jewelry.
 - vi. Clothing and shoes.
 - c. Services, provided there is no outdoor storage or activity, except parking.
 - i. Barber, beauty.
 - ii. Day care center.
 - iii. Dry cleaning station (no processing).

- iv. Instruction in music, dance, fine arts, or crafts.
- v. Interior decorating.
- vi. Photography, except adult photo studio.
- vii. Tailoring, dressmaking, shoe repairing.

4. Bail Bond Office. Criteria for the approval of a Conditional Use Permit to allow a Bail Bond Office:

- a. Shall be located on a collector or higher street classification.
- b. Shall not be permitted on a block face with more than 30 percent residential.
- c. Shall not be located further than 1,000 feet from the Metropolitan Courthouse, Bernalillo County Courthouse, or Federal Courthouse buildings (see map, Appendix D.)
- d. The number of employees shall be limited to 5.

Explanation: This amendment changes the way in which permissive and conditional uses are regulated in the SU-2/DNA-OR (Office Residential) zone by removing restrictive criteria on non-residential uses and adding a limited number of uses as conditional uses.

An early, pre-EPC-submittal draft of the proposed zoning map that was prepared by Planning staff and consultants contained more proposed OR zoning in the southeast part of the Plan area (generally south of Tijeras, east of 12th, and between Tijeras and Roma, east of 9th) in order to acknowledge the historic pattern of office uses interspersed with residences in the area. However, because of neighborhood concerns about further encroachment of office uses into the neighborhood, a larger portion of the southeast area was proposed as MR (Mixed Residential) in the EPC Draft (10.28.10). Additionally, restrictive criteria were added to the OR zone that would essentially limit anything that was not already in use as an office at the time of the Plan's adoption to residential uses.

After extensive review of numerous issues related to zoning and requests for different zoning in the southeast part of the Plan area, staff is recommending this fairly substantial change to the OR zone based on the following:

1. The name of the zone, "Office Residential," suggests that the zone allows for both office and residential development/uses. However, the restrictive criteria virtually eliminate any opportunity for office development/use for properties with OR zoning that do not already contain an office use. Since the OR zone is only proposed in areas where office uses are already established (refer to Existing Land Use map on page 31 of C/S R-11-225) or have historically been located, and given that the intent of the zone, as stated in the Plan, is "to provide a transition between the higher intensity corridor of Central Avenue and the neighborhood to the north," it seems appropriate to actually allow similarly-situated properties the ability to develop similar uses. Removing the restrictive criteria would achieve this.
2. There are a number of commercial surface parking lots located along the eastern edge of the Plan area where the DNASDP boundary meets the Downtown 2010 boundary. It has long been a goal of both the Downtown

- 2010 Plan and now, through the inclusion of Implementation Policy 5, the DNASDP to encourage redevelopment of commercial parking lots. These parking lots have proposed OR zoning, but, because of the restrictive criteria of the OR zone, would not be able to develop as anything other than residential. Removing the restrictive criteria and expanding the range of uses that could potentially be developed would create additional incentives to properties owners to redevelop these lots.
3. The low density, single-family areas of the neighborhood will not be negatively impacted by these changes since the OR zone is only proposed to be mapped in areas at the edge of the neighborhood that serve as transition areas to higher-intensity development, i.e., Central Avenue to the south and the Downtown Core to the east. Staff feels that the large, long-existing office building in the 1000 block of Tijeras is an appropriate boundary beyond (north of) which office and non-residential uses are not appropriate. However, in the area south of that building and north of the SU-2/CC zone along Central Avenue, it is difficult to justify limiting development to purely residential uses. That is not to say that residential uses are not appropriate in this area. In fact, as multi-family is one of the strongest development markets, even during these difficult economic times, it is altogether possible that new development in this area will be residential in nature. However, to disallow limited non-residential uses that are compatible with a neighborhood setting in this area seems overly restrictive.
 4. The Nob Hill Highland Sector Development Plan (NHHSDP), adopted in 2007, serves as a model for creating a true mixed-use transition zone between Central Avenue and established single-family areas without imposing prohibitive restrictions. The NHHSDP contains two “OR” zones: OR-1 and OR-2 (same uses allowed, just slightly different development standards, e.g., height and setbacks). The OR-1 and OR-2 zones permissively allow R-2 and O-1 development and conditionally allow R-C uses. It should be noted that the majority of properties in the area zoned OR-1 in the NHHSDP are used as single-family residences but are zoned OR-1 in order to recognize their proximity to a Major Transit Corridor and high-intensity corridor zone.
 5. Amending the OR zone as proposed is consistent with the following applicable goals and policies of the Comprehensive Plan:
 - Section II.B.5, Policy i: “Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.”
The subject properties are located in the southern- and eastern-most parts of the Plan area, away from the single-family residential core. They help to serve as transition, or buffer, areas between the single-family residential areas and the Downtown Core and Central Avenue corridor.
 - Section II.B.5, Policy o: “Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued

and strengthened. Possible Technique 7) Introduce mixed-use concepts as a means of strengthening residential markets.”

Appropriately-scaled and –regulated mixed-use areas are intended to serve, not detract from, residential neighborhoods. The area in question contains a number of vacant, undeveloped, and underdeveloped parcels that currently do not serve the neighborhood. Allowing the OR zone to be a true mixed-use zone in this area can help encourage redevelopment of these sites and provide opportunities to introduce new neighborhood-serving uses.

- Section II.C.1, Policy b: “Automobile travel’s adverse effects on air quality shall be reduced through a balanced land use/transportation system that promotes the efficient placement of housing, employment and services. Possible Technique 2) Encourage mixed use and infill development, where appropriate, which integrates residential, commercial and industrial uses for a better employment-housing balance.”

The OR zone as currently written does not actually encourage mixed use and infill development. The areas proposed to be zoned OR are appropriately located for mixed-use development since they serve as a transition between high-intensity activity and low-density, single-family residential areas.