
CITY OF ALBUQUERQUE CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: City Councilors

FROM: Kara Shair-Rosenfield, Policy Analyst/Planning
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SUBJECT: Downtown Neighborhood Area Sector Development Plan (R-11-225) – Zoning along Tijeras Ave.

DATE: March 21, 2012

[NOTE: This memorandum should be read in conjunction with staff's November 30, 2011, memorandum to the LUPZ Committee, Subject: "Downtown Neighborhood Area Sector Development Plan (R-11-225) – Recommendation Re: Transition Area Zoning."]

History of the Issue:

As the record reflects, there has been much discussion and many different opinions expressed throughout the public hearing process on the Downtown Neighborhood Sector Development Plan (DNASDP) regarding the zoning in the southwest area of the Plan, specifically along Tijeras Avenue, east of 12th Street. Existing zoning in the 1000 and 1100 blocks of Tijeras is SU-2/RC (Residential Commercial), which allows for up to 50% of the floor area of a property to permissively be used for certain non-residential uses, including office, seven (7) types of retail sales, and seven (7) types of services. It should be noted that the SU-2/RC zone does not require the other 50% of the premises to be occupied by a resident, either the owner or a renter, meaning that it can remain vacant even if a non-residential use occupies the other 50% of the property.

The map below shows the existing pattern of mixed land uses in the southwest area of the Plan.



The attached table (Attachment A) shows the uses recorded in the City Directories from 1944-1999. According to the most recent City Directory (1999), of the 15 properties located in the two blocks between 10th and 12th Streets and Tijeras and Kent, five are listed as residential uses, seven as non-residential uses, and three as undetermined.

Over the years, the RC zone has proven to be problematic from an enforcement standpoint because it is difficult to determine if properties that contain a non-residential use are actually limiting the non-residential use to no more than 50% of the building area, as required. The update to the DNASDP originally proposed to replace RC zoning throughout the Plan area (along Lomas and 5th and 6th Streets in the northeast area of the Plan as well as the area along Tijeras being discussed here) with a new special use zone called MUM (Mixed Use Medium). The MUM zone allows, but does not require, properties to be used entirely for non-residential uses, including office, retail, and service uses, as well as residential uses.

The Downtown Neighborhood Association registered concerns with Planning staff and the EPC about the proposal to have MUM zoning for the 1000 and 1100 blocks of Tijeras. To quote from the record:

“The DNA believes the MUM zoning on the southern side of Tijeras and northern side of Kent between 12th and 10th Streets is too permissive... MUM zoning in the plan is mostly used along higher traffic corridors on Lomas, 6th and 5th Streets, and it is not appropriate for this quiet area. There are a couple of offices tucked between residences, but mostly it has maintained its residential character. We request the MUM zoning along those two blocks be changed to MUL [Mixed Use Light], which will protect the residential character but still allow limited non-residential uses in the buildings built for this purpose. We also believe this area is ideal for infill residential development.” (See record, page 596)

In response, Planning staff recommended changing the proposed zoning of the two blocks on the south side of Tijeras between 10th and 12th Streets from SU-2/MUM to SU-2/MUL (Mixed Use Light), described and discussed in further detail below. The EPC accepted this recommendation (see Recommended Condition of Approval # 29).

When the Draft Plan came to the City Council for its consideration, Council planning staff undertook a complete review of the Draft Plan and the record, including communications received from the public, the minutes of the two EPC hearings on the Draft Plan, and the EPC's Notification of Decision, which includes findings and recommended conditions of approval. Based on its review of the record and the range of public comments and proposals made at the first

LUPZ hearing on the Draft Plan (August 10, 2011), staff realized that there were some unresolved, but related, issues in the southwest portion of the Plan area, not just along Tijeras.

To obtain a better understanding of the different points of view and issues of concern to both residents and property owners and in order to make an informed and rational recommendation to the LUPZ Committee/City Council, staff convened a special, facilitated meeting with property owners and other interested parties on October 13, 2011, to discuss zoning options for what was referred to as “transition areas” in the southwest portion of the Plan area. At the November 30, 2011, LUPZ meeting, staff presented a comprehensive zoning strategy for the “transition area” (see November 30, 2011, memorandum to the LUPZ Committee, Subject: “Downtown Neighborhood Area Sector Development Plan (R-11-225) – Recommendation Re: Transition Area Zoning.”).

Original Staff Recommendation:

With respect to the Tijeras area, staff’s recommendation was to rezone properties currently zoned SU-2/RC to SU-2/DNA-OR (Office Residential), with one exception. Staff recommended rezoning two properties (1100 and 1120 Tijeras Ave., NW) to SU-2/DNA-SF (Single Family), which was based on staff’s understanding that the properties were currently used as single-family residences. This understanding was based on the way the properties are coded in AGIS (which is as Single Family Residential) and the lack of any signage suggesting the presence of an office or other non-residential use.

However, after sending letters to the owners of 1100 and 1120 Tijeras NW to inform them of this recommendation, staff was contacted by the owner of 1100 Tijeras NW, who informed staff that her property had been in use as a law office since 1995. The owner of 1100 Tijeras NW has submitted letters and communications, including an affidavit from a former officemate, which are included in the record and establish the following: 1) that part of the property has been used as a law office since 1995; 2) that the property has had and continues to have an area that is available but not currently used as a residence due to bad experiences with two previous tenants; 3) that the property has never used 100% of the floor area for offices. As of the writing of this memo, the owners of 1120 Tijeras NW have not commented on or objected to the proposal to rezone their property SU-2/DNA-SF.

Revised Staff Recommendation:

Based on the new information submitted by the owner of 1100 Tijeras NW and additional research and analysis that confirms that the property has been legally in use as an office since 1996 (see “City Directories – Tijeras History” table, attached hereto), staff is withdrawing its recommendation to rezone 1100 and 1120 Tijeras NW to SU-2/DNA-SF and instead recommends that these properties be rezoned to SU-2/DNA-OR based on the following:

1. The properties currently have SU-2/RC zoning, which allows them, by right, to have certain non-residential uses for up to 50% of the floor area of the property.
2. Staff's recommendation to rezone the properties to SU-2/DNA-SF was based on incomplete and inaccurate information about the history of the land use.
3. The property at 1100 Tijeras NW has been in partial use, legally, as an office since 1995.
4. The properties are located on a designated minor arterial street in an area that has an established mix of land uses, including offices.
5. 1100 Tijeras NW is located diagonally from a large office building (see map and picture below).



★ = 1100 Tijeras NW

★ = 1015 Tijeras NW



(Office building at 1015 Tijeras NW as viewed from 1100 Tijeras NW)

6. Similarly-situated properties (e.g., 211 12th Street, NW, located on a “local” street less than 2 blocks from 1100 Tijeras) are proposed to be zoned SU-2/DNA-OR.
7. Zoning the properties SU-2/DNA-OR is consistent with the following policies of the Comprehensive Plan:
 - a. 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 contained within a block that has an existing mix of uses, including office, commercial service, single family, and multi-family. They are located on a street classified as a minor arterial, which has excellent access to the major road network without having to use residential streets. The properties are of a modest scale, are located in the Fourth Ward Historic Overlay Zone, and contain what are considered to be “contributing” structures, meaning that they cannot be demolished or significantly expanded without approval from the Landmarks and Urban Conservation Commission (LUCC). This will help limit the scale and potential impacts of future non-residential uses on the residential area to the north of the subject properties.

- b. 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 subject properties are part of an existing mixed-use environment, which makes it appropriate for them to have zoning that allows a mix of uses compatible with the residential neighborhood to the north.
- c. 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.”
Rezoning the properties SU-2/DNA-OR will continue to allow them to be used for a mix of uses, including residential and low-impact non-residential uses. While the SU-2/DNA-OR zone does not require a mix of uses on an individual property, it preserves the opportunity for land uses in this area to be mixed and not exclusively residential.

Staff understands that some neighborhood residents are very concerned about further office intrusion into the neighborhood and has attempted to address this concern where it can. For example, staff has recommended changing the proposed zoning of certain properties, currently in use as single-family residences, that are much closer to the single-family core of the neighborhood from OR to MR in order to address neighborhood concerns about office encroachment (see “FA_Recommended Zone Changes” - #9).

However, offices exist – some legally and some illegally – and are now part of the character of the neighborhood. While some residents describe Tijeras as a

residential street, staff has had a difficult time ignoring the presence of a large office building on the north side of Tijeras between 10th and 11th Streets (see map and picture above). The area in question is generally sandwiched between this large office building and Central Avenue, which is proposed to have the Plan's most intense zoning which allows C-2 commercial and high-density residential uses. Based on the established mixed-use pattern and proximity to the Downtown Core and the Central Avenue Major Transit Corridor, staff recommends applying the SU-2/DNA-OR zone.

The Draft Plan, itself, acknowledges the historic presence of offices in the neighborhood and contemplates how and where to continue to accommodate their existence:

Land Use Goal 1: "The Downtown Neighborhood Area will include neighborhood-scale commercial and office uses that are well designed, appropriately located, and consistent with the existing neighborhood character (building scale and massing)" (C/S R-11-225, p. 59).

Objective 1.3 under Land Use Goal 1: "Identify the appropriate areas and permissive uses for office and commercial use" (C/S R-11-225, p. 59).

Staff believes that establishing the SU-2/DNA-OR zone, rather than any of the other zones in the Draft Plan, in the 1000 and 1100 blocks of Tijeras/Kent is what is most consistent with this Goal and Objective based on the following:

1. The zoning proposed for Tijeras/Kent between 10th and 12th Streets, including 1100 and 1120 Tijeras, in the original Draft Plan (as submitted to the EPC, draft 10-28-2010) was SU-2/MUM (Mixed Use Medium), which would have allowed commercial uses permissively, in addition to residential and office uses. There were objections (noted above) from the neighborhood to the SU-2/MUM zone. Staff has described elsewhere why it agrees with the neighborhood that the SU-2/MUM zone is too intense for the area in question (see November 30, 2011, memorandum to the LUPZ Committee, Subject: "Downtown Neighborhood Area Sector Development Plan (R-11-225) – Recommendation Re: Transition Area Zoning").
2. The EPC recommended, based on the neighborhood association's request, to change the proposed zoning from SU-2/MUM to SU-2/MUL (Mixed Use Light) in order to limit the ability to introduce new non-residential uses to the area. Staff does not believe that SU-2/MUL is the appropriate zoning designation for the area in question for the following reasons:
 - a. The SU-2/MUL zone was specifically designed for Mountain Road in order to "recognize the unique mixed use character along Mountain Road" (October 28, 2010, EPC Draft Plan, pg. 115).

- b. The SU-2/MUL zone contains specific criteria that must be met in order to be able to have a non-residential use. These criteria are overly restrictive for the Tijeras area, given the area's historic and existing mix of uses and the opportunities that exist for developing vacant, undeveloped and underdeveloped properties in ways that could better serve the neighborhood.
 - c. Even with the restrictive criteria, the SU-2/MUL zone would not prevent all existing residential properties from being able to convert to a non-residential use in the future, as some community members have requested. Consider the following analysis: if the SU-2/MUL zone were to be applied to the 1100 block of Tijeras, 1100 Tijeras would be able to continue its use as an office, or any of the other non-residential uses allowed in the SU-2/MUL zone, and 1120 Tijeras, an existing single-family residence, would be able to convert its use to office or any of the non-residential uses allowed in the SU-2/MUL zone. Even with the restrictive criteria of the SU-2/MUL zone, due to the current and historic uses on the block, both properties would meet the requirements for permissively having non-residential uses.
- 3. The SU-2/DNA-OR zone neither mandates that properties be used as offices nor precludes the ability to continue having or develop new residential uses. This zone does, however, acknowledge both the existing and past use of properties in the area and provides an opportunity to continue those uses, which are compatible in scale and impact with the rest of the neighborhood.
- 4. The SU-2/DNA-OR zone is the lowest-intensity mixed-use zone in the Draft Plan. Unlike both the MUL and MUM zones, the OR zone does not permissively allow retail and service uses; only church, library, or office in addition to residential uses. The most intense mixed-use zones in the Draft Plan are proposed to be located along the area's major corridors: Central, Lomas, and Mountain. The areas near the Downtown Core and Central Avenue serve as a transition, or buffer, between the single-family areas and these more intense areas; the OR zone provides an appropriate mix of uses for such a buffer area.
- 5. For additional analysis of the merits of applying the SU-2/DNA-OR zone in this area, see November 30, 2011, memorandum to the LUPZ Committee, Subject: "Downtown Neighborhood Area Sector Development Plan (R-11-225) – Recommendation Re: Transition Area Zoning."

Conclusion:

The Council is being asked to determine what is, or are, the appropriate zoning designation(s) for properties in the 1000 and 1100 blocks of Tijeras and Kent Avenues, NW. As described above, the Council has many options it can consider, including:

- SU-2/MUM, as proposed in the original Draft Plan (10-28-10)
- SU-2/MUL, as requested by the Downtown Neighborhood Association and recommended by the EPC
- SU-2/DNA-OR, as presented by Council planning staff

The Council may also choose to develop or provide direction to staff to develop an alternative to the options discussed in this memo.

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Attachment A

City Directories – Tijeras History
1000 and 1100 blocks of Tijeras and Kent, bounded by
10th, 12th, Tijeras and Kent.

Dates → Addresses ↓	1944	1958	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987-88	1989	1993	1996	1999	
1002 Tijeras	Residential	Residential	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
1006 Tijeras	Residential	Residential	No return	Resid	Resid	Resid	Office	Office	Vacant	Vacant	Vacant	Office	Vacant	Vacant	Resid	Vacant	Vacant	Resid	Office	Vacant	Vacant	Vacant	Vacant	X	Office	
1008 Tijeras	Residential	Residential, 10 apt.	10 apt	10 apt	10 apt	10 apt	Vacant	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	Resid	
1010 Tijeras	Residential	Doctors Hospital	Dr Hosp	Dr Hosp	Dr Hosp	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Alcohol Treatment	Vacant	Vacant	X	Office	Office	Vacant	Office	Office	Office	Office	
1020 Tijeras	Residential	Residential	Vacant	Vacant	Osteopath Dr office	No return	Office for above	Office for above	Office for Above	All Indian Council-office	All Indian Council	All Indian Council	All Indian Council	All Indian Council	All Indian Council	Vacant	Vacant	Vacant	Resid	Resid	Resid	Resid	Resid	X	Not verified	
1100 Tijeras	Residential	Residential	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Lawyer office	Lawyer office	
1120 Tijeras	Residential	Residential	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	
1107 Kent	Residential	Residential	No return	Vacant	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	2 units 2 units	2 units No return	2 units Resid	2 units	2 units 1 vacant	2 units 1 vacant	2 units Both vacant	2 units 1 vacant	2 units Both vacant	2 units 1 vacant	2 units	4 units
1109 Kent	Residential	Residential	Resid	Resid	Resid	Vacant	Resid	Resid	Resid	Resid	Resid	Resid	Resid	Resid	2 units No return	2 units Resid	3 units	3 units	3 units	3 units	4 units	4 units	4 units	5 units	Resid	2 units
1117 Kent	Residential	Resid, dentist, Chemical products	Resid	Resid	Resid	Resid	Vacant	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
1121 Kent	X, see #1	Beauty salon	Beauty Salon	Beauty Salon	Beauty Salon	Beauty Salon	Vacant	Vacant	Legal aid Lawyer	Lawyer	Lawyer	Vacant	Office	Office	Office	Office	Office	Office	Office	Vacant	Podiatrist	Podiatrist	Not Verified	Office	Office	
1123 Kent	X, see #1	Office equipment	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Restaurant	Coffee Shop	Coffee Shop	Coffee Shop	Vacant	Chiropractor	Chiropractor	Chiropractor	Chiropractor	Chiropractor	Chiropractor	Chiropractor	
1125 Kent	X, see #1	Osteopath Doctor office	Doctor office	Doctor office	Doctor office	Doctor office	Doctor office	Doctor office	Doctor Office	Vacant	Vacant	Beauty Salon	Beauty Salon	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	Beauty Salon Boutique	
201 11 th Street	Residential, 9 apartments	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	9 apt	
110 12 th Street	Residential, see #1	Residential	Vacant	Downtown Health Foods	Dt Health Foods	Dt Health Foods	Dt Health Foods	Dt Health Foods	Dt Health Foods	Dt Health Foods	Dt Health Foods	Dt Health Foods	110 Vacant 110 ½ resid	110 Vacant 110 ½ resid	110 Resid 110 ½ vac	Vacant	Vacant	Lawyers Office	Office	Office	Office	Office	Resid	Office? Resid	Court Reporters	