



MAYOR & COUNCIL MEMORANDUM

April 27, 2010

Subject: Potential Downtown Core District Analysis
(Wards 1 and 6)

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Issue – On March 9, 2010, the Mayor and Council directed staff to analyze the concept of a Downtown Core District that was outlined in a letter dated March 3, 2010 from two members of the Land Use Code (LUC) Committee, Ruth Beeker and Jim Campbell. The letter contains a proposed Downtown Core mapped area and a series of suggested development review items.

City Manager's Office Recommendation – It is recommended that the Mayor and Council direct staff to:

1. Prepare an applicable draft overlay zone and/or text amendment for the Downtown Core proposal using the Downtown Area Infill Incentive District as a guideline. Review other supplemental development review items that are applicable and which can be accomplished within an expedited time frame.
2. Work with a subcommittee of the LUC Committee, to be selected by the City Manager, the Planning Commission, and other downtown stakeholders to create appropriate Downtown boundaries, flexible design and development standards, and expedited review process features for the proposed overlay. The subcommittee selected should be of a manageable size to assure this project will move forward expeditiously.
3. Consider necessary or advisable expansion and/or revision to current fee incentive districts within any proposed overlay zone.

Background – Staff met with the Land Use Code Committee on March 24, 2010 to review ideas about creating a downtown overlay. The Committee discussed suggestions from the Beeker/Campbell letter which recommended reconfiguring a Downtown overlay using the Infill Incentive District concepts to reduce the number of development requirements and make applicable ones more flexible. Further, they suggested a more efficient process for any Downtown Core application. Additionally, the Committee wanted to continue to pursue a comprehensive approach including several phases of downtown regulatory improvement that considered an expanded Downtown area, the remainder of the Infill Incentive District and midtown arterials like Speedway, Broadway, and Twenty-Second Street. Finally, the Committee wishes to see a basic Downtown Core Overlay implemented expeditiously.

Present Consideration –

Current Downtown Overlays –

Within the Downtown Core proposal area, there are four adopted zoning overlays (Rio Nuevo District, Downtown Redevelopment District, Downtown Area Infill Incentive District, Artist Studio/Residence in I-1 Zone), one financial incentive overlay (Downtown Core Financial Incentive District), and a proposed transit-oriented, rezoning overlay affecting Downtown Links directed by Mayor and Council on September 9, 2009 (Downtown Links Overlay). Portions of these overlays extend beyond the boundaries of the Downtown Core proposal area. (See Attachment A).

Additionally, there are multiple land use plans in this area that are intended to direct rezoning policy. Any rezoning in the Downtown, including overlays, must be in compliance with these land use plans. A preliminary review of the affected land use plans suggests no plan amendments would be required to accommodate a rezoning to a Downtown Core overlay. Staff will monitor this issue during the process of creating the potential rezoning area.

Below is a brief summary of each overlay affecting the Downtown Core proposal:

Rio Nuevo District – It was adopted in October 2002. It is an irregular shaped zone extending approximately from the railroad tracks on the north, to Fourth Avenue on the east, Cushing Street on the south and on the west crossing I-10 and spreading southwesterly to Starr Pass Boulevard. The key provisions address historic preservation by requiring review of demolitions and façade changes to historic buildings. Further, all development must adhere to established design criteria. The design process includes a review by the Design Review Board and a recommendation forwarded to the PDSO Director. The overlay provides the LUC's first provision for modification of development requirements (MDR), thus allowing flexible development rules in the Downtown.

Downtown Redevelopment District - It was adopted in August 1991. Its approximate boundaries are the railroad tracks on the north, Third Avenue on the east –it also includes about a two-acre area with mixed residential and industrial development directly east of the Armory Park Neighborhood, Cushing Street on the south and generally the eastern I-10 frontage road on the west. It excludes both Armory Park and El Presidio Neighborhoods. The key provisions address Downtown parking. The zone is therefore mainly referred to in the LUC's parking requirements. It addresses parking formulas for Downtown uses, rules for building expansions, and no parking for existing buildings developed without expansions. It is more flexible than most City parking standards but requires some minimal design provisions. There are also some references to landscaping and Gateway standards flexibility within the overlay.

Downtown Area Infill Incentive District – It was adopted by resolution in October 2006. It was re-adopted as an overlay zone with a modification of development requirements in September 2009. Its boundaries extend northward along Stone Avenue and Oracle Road to

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approximately Grant Road, east to Euclid and Broadway intersection, south along the eastern I-10 frontage road and Sixth Avenue to Twenty-Second Street and west along the Rio Nuevo District boundaries described above. The key provision is a modification of development requirements (MDR) process that allows flexible zoning dimensions including height, setbacks, landscaping, and parking. Currently, staff is reviewing several dimensions to increase flexibility for this zone with the Planning Commission.

Artist Studio/Residence in I-1 Zone – It was adopted in February 1991. The northern boundary is located in a stepped manner along Fifth, Sixth and Seventh Streets, its eastern boundary is just west of Fourth Avenue, on the south side of Toole Avenue and St Mary's Road alignments and the western boundary is Main Avenue. The purpose of the overlay is to allow artists a live/work location in an industrial zone. The key provisions require the preservation of the integrity of the industrial area, allow incidental residential uses as long as the resident is an artist; require assurance that all health and safety measures are taken to protect any residents; and allow for outdoor storage related to the artist studio use. This overlay has seldom been used. Staff feels this is primarily due to building code issues related to dual residential and industrial use. This area generally overlaps the proposed Downtown Core area along Toole Avenue.

Downtown Core Financial Incentive District – It was adopted in October 2002 and re-adopted in December 2005. The approximate boundaries include an area on the north the railroad tracks on the east Fourth Avenue, on the south, Cushing Street and on the west Church Street. The area provides a \$10,000 permit fee waiver and a 2% construction sales tax credit per project to the contractor for improvements in the right of way. One proposal is to expand this area to match the boundaries of the Downtown Core proposal.

Downtown Links Rezoning Overlay Proposal – Mayor and Council directed a rezoning of the study area on September 9, 2009. The approximate boundaries are Sixth Street on the north, Euclid Avenue on the east, Toole Avenue and the railroad tracks on the south and Main Avenue and I-10 on the west. This area is related to the Downtown Links transportation improvements linking Aviation Highway through the Downtown area with I-10. The Downtown Links land use element was intended to compliment the multi-modal nature of the improvements and the modern streetcar line by encouraging transit-oriented development. The Urban Overlay District (UOD) is an important new zoning tool that will facilitate the public process of the rezoning and urban design project. It should be noted that this is an item Mayor and Council directed staff to create at its March 9, 2010 meeting. The proposed UOD enabling ordinance is expected to return to Mayor and Council in August 2010. There is some boundary overlap with the Downtown Core area proposed by Beeker and Campbell. How this overlap will be reconciled is as yet not resolved.

Beeker/Campbell Key Suggestions Summarized with Comments

Rezoning – The LUC Committee expressed interest in expediting the process for any rezoning of the proposed area. The Committee discussed two options for rezoning the area.

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- 1) Rezone by using the yet to be adopted Urban Overlay District (UOD). The advantage of this option is that the overlay's standards and boundaries can be whatever and wherever desired. Further, existing zoning overlays could be dissolved and portions incorporated into the new UOD. The problem is that the UOD will probably not be adopted until August 2010. Thus, the rezoning cannot begin until about September and may take until November or January 2011.
- 2) Rezone by creating a subarea of the Infill Incentive District (IID). The advantage is that standards can be tailored to be flexible and the rezoning may proceed once the standards are created. The downside is that the outer boundaries of the IID cannot be changed without review of and compliance with specific statutory requirements, as with the original IID. In this option, existing overlays would remain in place. The Committee discussed possible revision or dissolving of existing overlays in a later, more comprehensive, Downtown policy project. Depending on how quickly draft standards are ready for a public process, the rezoning could be available for presentation to Mayor and Council as early as August or September 2010.

The LUC Committee preferred the second option, creating an IID subarea and addressing dissolving and/or revising of current zoning overlays in a later phase.

Standards Recommended for Inclusion – The following points were suggested in the Beeker/Campbell letter. Staff reviewed the list with the LUC Committee. Some are not objectionable while others may need some modifications during the public review process.

- Add Seven Design Review Criteria For All Proposals – *Comment* – The seven criteria mentioned in the letter are taken directly from the eleven Rio Nuevo District's design criteria. It is not clear how these criteria would be used to review a development proposal. In the Rio Nuevo District, the Design Review Board reviews a proposal, using design criteria, and makes a recommendation to the Planning and Development Services (PDS) Director. This recommendation needs refinement to evolve as a practical, efficient process.
- Use and Height of the Zoning Districts – *Comment* – Staff has no objection to most zoning standards being waived, reduced or increased. The key is to assure that the design of a project is satisfying urban design goals that reflect best practices in a Southwestern urban setting.
- Solid Waste Strategy – *Comment* – Staff agrees that solid waste needs to be addressed to prevent any nuisance or public safety hazard. Solid waste standards are not part of the Land Use Code. Suggested changes are not provided in the Beeker/Campbell letter.

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- Sign Code – *Comment* – Staff has no objection to application of the Sign Code as it is currently enforced in the Downtown.
- Buffer/Transition to Adjacent Existing Residential – *Comment* – Staff has no objection. The current Infill Incentive District requires a transition plan when a development is adjacent to existing residential uses. Thus, the suggestion is in compliance with the current IID requirement.
- Fire Review – *Comment* – Staff has no objection. Fire safety standards are not part of a zoning revision to the IID.
- Minimal Impact Fees – *Comment* – A Downtown Core Financial Incentive District covers a portion of the proposed area. It should also be noted that the proposed area is part of the Central Benefit Area and impact fees already are reduced by 23%. Expansion of the Financial Incentive District calls for additional consideration of the impact on City revenues.
- Minimal Green Standards (Energy Star, Low Flow Water) – *Comment* – Staff has no objection. This suggestion could be a special condition of the rezoning to a new overlay zone.

Standards Not Recommended for Inclusion – The Beeker/Campbell letter suggested the following standards not be included in the proposed overlay. Staff reviewed the list with the LUC Committee. Some are not objectionable while others may need modification or more study during the public review process.

- Density /Lot coverage – *Comment* – Staff has no objection. Details should be reviewed for any problems.
- Floor Area Ratio – *Comment* - Staff has no objection. Details should be reviewed for any problems.
- Front And Side Setbacks – *Comment* - Staff has no objection except when adjacent to residential uses. Details should be reviewed for any problems.
- Parking – *Comment* – Staff has no objection to removing parking formulas for the Downtown. If any type of parking requirement (vehicle or bicycle) is provided, PDSD may need to review for minimum dimensional standards. Some parking facility design standards could remain. There is a Rio Nuevo District design principle for accessibility that specifically calls out bicycle use. This assumes the existence of bicycle parking. Stakeholders for bicycle interests should be consulted about removal of Downtown bicycle parking standards and alternative provisions other than that parking be provided by the private sector. One concern often raised by the Planning Commission is that a greater intensity of development could create

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greater parking needs absent investment in multi-modal transportation to complement the greater intensity of development.

- Landscaping – *Comment* – Staff has no objection to removing any landscaping requirements for every project, especially existing buildings. However, how urban open space and landscaping fit into the Downtown needs further review. The impact of new downtown development and the creation of urban heat islands is a real consideration. Discussion of the role of existing landscaping and the scale of project should occur. Best urban design practices should be an expectation. If landscaping is provided, minimum planting standards, drought tolerant materials, protection from damage by vehicles, and grey water/water harvesting used for the plants, if applicable need to be considered.
- Pedestrian Circulation – *Comment* – Staff has no objection when the standard is a zoning requirement. PDSO can only waive the pedestrian circulation requirements in excess of Federal accessibility requirements. Federal accessibility requirements will apply.
- Bollards – *Comment* – This is not a zoning standard and cannot be waived as part of a zoning process. Staff believes this issue needs further review. Standards are found in a variety of locations; Development Standards (DS) require bollards for detention/retention basins protection, to protect walls of dumpster enclosures, at the end of roadways, and parking access lanes as well as for temporary barriers. It will be necessary to determine the specific type of bollards which present problems.
- Greywater – *Comment* – This requirement is not a zoning standard and cannot be waived as part of the zoning process. It is covered under Ordinance # 10579 and enforced by PDSO. Additional discussion is required on the pros and cons of waiving this policy. The ordinance controlling greywater devices is under the City's Building Codes. An applicant can appeal and have compliance waived by the City's Building Official if it is justified.
- Major Streets and Routes Plan (M&SR) Standards – *Comment* – If the concern is special setbacks, Gateway standards and the impact of the M&SR on expansions of buildings, a waiver of the standards may be appropriate in the Downtown Core. M&SR applies also to future width of roads. Staff believes it is appropriate for the City to review any development impact on the use and width of a public street.
- Floodplain – *Comment* – Floodplains are not regulated by zoning and cannot be waived as part of a zoning process. Although floodplains are not considered a problem in the Downtown Core, if the overlay expands there could be floodplain issues in potential expansion areas. Staff believes floodplain regulations cannot be waived since they are connected to Federal standards.

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- Detention/Retention – *Comment* - This issue is not a zoning issue. Some public review is necessary because stormwater control is a public safety issue. Staff suggests that a process could be established whereby PDSO's Engineering Division reviews an application and the requirement could be waived if there is evidence of no negative impact.
- Standards Not Mentioned – *Comment* – Historical reviews done in the Downtown involving demolition or façade alteration are required by the Rio Nuevo District and would continue to be required. Landscaping materials for all City development must come from an approved list regarding drought tolerance. This list should remain in effect. Grading permits are a basic engineering requirement that can also involve archaeological clearance of a site. These issues should not be waived.

Expedited Process – The Beeker/Campbell proposal states all development should be “approved” within thirty days. Application of such a rule presupposes that all necessary reviews are simple, routine and doable, and that application submittals are complete and correctly done. Thus, staff would only need to do a cursory review to approve a complete and correct application.

The PDSO experience has been that an initial application review can be done quickly and if the project is done well it can be approved. Simple projects and projects done by experienced consultants tend to move more quickly through the process. Further, projects triggering less regulations tend to move more quickly through the review process. The more complicated the project the greater the necessity of additional reviewers from multiple agencies being involved. This lengthens review and approval time. Additionally, projects not in compliance, involving a problematic standard or with incorrect or incomplete materials will inevitably be delayed.

Staff believes there is a role for an expedited process in the Downtown Core. More study of how past and current efforts of expedited City development review need to be examined as potential models for any process developed for Downtown Core projects.

Regarding design review in the proposed Downtown Core, there are two current review processes affecting this area. 1) The Rio Nuevo District design review process requiring a project to be reviewed against a set of design criteria that goes before the Design Review Board, an advisory body making recommendations to the PDSO director. The Rio Nuevo District also contains a modification of development requirement process that allows flexibility in most dimensional zoning standard. This procedure was the precursor to the IID design review process which also affects the Downtown Core. 2) The IID modification of development requirement allows for flexibility in zoning dimensions with the condition that the applicant will submit a streetscape plan and if applicable a transition plan that addresses compatibility with existing residential buildings. The IID process requires the plans to support findings that no nuisance is being caused and best urban design practices have been used.

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The ultimate process that emerges for the Downtown Core could utilize both, or elements of both, processes described above. The goal will be to reach an expedited process that provides desired zoning flexibility yet attains the City's desired urban design goals in the Downtown area.

Summary –

With direction from Mayor and Council, staff will begin working with a subcommittee appointed by the City Manager to develop and initiate the appropriate zoning legislative process for a Downtown Core overlay that contains flexible design and development standards, and an expedited review process. If appropriate, an existing Downtown fee incentive area may be expanded to the new overlay boundaries. The subcommittee should be of a manageable size to assure this project will move forward expeditiously.

Respectfully submitted,



Richard Miranda
Deputy City Manager

RM/:Ernie Duarte/JM
Planning and Development Services Department

Attachments

- A – Downtown Core Overlay maps
- B- Beeker/Campbell March 3, 2010 letter