



AGENDA REPORT

Meeting Date: July 21, 2009
Item Number: E-2
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development *SHK*
Subject: AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS
PROHIBITING NEW OR EXPANDED MEDICAL OFFICE USE IN THE
CITY, AND DECLARING THE URGENCY THEREOF
Attachments: 1. Ordinance
2. July 7 Staff Report (Informal Session)

RECOMMENDATION

It is recommended that City Council adopt the interim ordinance to prohibit new or expanded medical office use in the City and direct staff to study appropriate regulations during Step II of the General Plan update effort.

INTRODUCTION

On July 7, 2009, the City Council directed staff to prepare an urgency ordinance that would prohibit future new or expanded medical office uses in the City. The subject ordinance would cap medical floor area to the levels that existed on July 7, 2009, but would allow planning applications submitted as of July 7 to proceed. The concern is that medical office uses may not add favorably to the community's character, that it could hinder opportunities to bring vitality and nightlife to the community's business areas, and that its high traffic and parking demand can impact nearby areas. While the urgency ordinance is in effect, the City would reach out to the local business and health service community and develop policies to address these issues through the General Plan update process (Step II).

DISCUSSION

Background

The City Council's July 7, 2009 discussion on medical office uses was the result of a request from a June 24, 2009 meeting of the General Plan ad hoc committee.^a Prior to that meeting, City Council has given direction that restrictions on medical office uses be considered in updating land use policies in the General Plan. However, while the update of the General Plan land use policies could be as much as 18 months from completion, proposals for the conversion of commercial space into medical office continue to be submitted and processed. It was therefore suggested that clearer and more immediate direction could be obtained from City Council at its July 7 meeting. (July 7 staff report is attached.)

At the July 7, 2009 meeting, there was general support for a freeze on medical office expansion until the City developed policies to address the issues associated with medical office uses. Continuing interest in medical office uses is observed and three planning applications are currently pending. Medical offices and physicians see a substantial benefit of having a Beverly Hills address and trade on the City's image for the highest levels of service and quality. The City, however, does not derive similar benefit, but instead is saddled with impacts of non-residents drawn to the City for medical services, and opportunity costs of having too much of its office inventory dedicated to what will be seen as visitor-serving uses. Concerns expressed at the July 7 meeting included:

- The eastern portion of the City appeared to have an overabundance of medical office use
- Medical office use does not contribute positively to neighborhood character
- The community's medical needs are already well-served
- A balance needs to be achieved between medical office uses and other businesses serving the community
- The concentration of medical office use creates large daytime ("9 to 5") areas that hinder opportunities for more vibrant dining uses and nightlife in the community
- Medical offices generate significant traffic that affects nearby commercial and residential areas, and impacts on public parking facilities
- Medical office uses are a relatively poor revenue generator

In contrast, however, the following views were also expressed:

- Not enough was known about the ramifications of medical office uses to the community to impose a moratorium
- The health service sector can help to sustain the local economy in hard times

^a The June 24 meeting was held in City Hall and included liaisons of the City Council (Mayor Nancy Krasne and Council Member John Mirisch) and the Planning Commission (Chair Nanette Cole and Vice Chair Lili Bosse).

- Medical offices were not a single type of land use but rather a diversity of uses that warranted some tailoring of regulation
- A discretionary process, possibly reviewed by City Council, could be implemented instead of a moratorium
- Medical office issues should be discussed in a public forum

Interim Urgency Ordinance

Pursuant City Council direction at its July 7, 2009 meeting, an urgency ordinance has been prepared for consideration by the Council which would cap medical office space to July 7 levels. Existing medical office uses would be allowed to continue to operate but no additional medical office uses other than those which had filed a planning application as of July 7 would be allowed. Urgency ordinances protect the community by addressing uses that may be in conflict with contemplated general plan, specific plan, or zoning policies that the City is considering or studying or intends to study within a reasonable period of time. An urgency ordinance requires a 4/5 vote to be adopted and is immediately and initially effective for only 45 days. An urgency ordinance could be extended to the balance of one year and extended once again an additional year if necessary.

Proposed Process

While an urgency ordinance is in effect, staff will study other cities and engage the business, health service, and residential communities in a dialogue to develop policies on medical office use in the City. The results of the study and dialogue would be incorporated into an updated General Plan, and may also result in adoption of an appropriate zoning ordinance.

A two-step General Plan update is currently in progress.^b In Step I, which is anticipated to be completed this year, the current General Plan would be updated with more contemporary policies where there currently is broad community consensus. Step II would address policies where there is not broad consensus, notably land use densities and scale, and associated circulation/mobility policies. As a consensus is yet to be built around medical office issues, it is envisioned to address medical offices in Step II of the General Plan update process.

Environmental Assessment

The urgency ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Staff has determined that it can be seen with certainty that there is no possibility that the adoption and implementation of the proposed zoning regulations may have a significant effect on the environment. The proposed standards do not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and

^b The revised draft policies from 2008 incorporating the Planning Commission's comments were released on July 9, 2009 and are available from the Planning Offices in City Hall and on the City Website at http://www.beverlyhills.org/services/planning_division/plan/step_one_amendments/default.asp. The Planning Commission will be reviewing the revisions at its meeting on August 6, 2009.

general welfare. The proposed regulations are therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

FISCAL IMPACT

The fiscal impact of restrictions is not known at this time. In the short term it could reduce the options available to owners on leasing commercial spaces and serve as an impediment to leasing space, with a corollary loss of business income to the City and increasing vacancy rates. These short term implications should be balanced with longer term considerations, in which opportunities are preserved for retail and general office uses that generate greater revenues to the City and produce greater economic viability than medical office uses.

ALTERNATIVES

In addition to the recommended action, the City Council could also:

1. Modify the draft urgency ordinance to address medical office use geographically in the City and/or institute review processes, and adopt.
2. Direct staff to prepare a zoning ordinance which would require Planning Commission recommendation prior to City Council consideration. Such an ordinance could apply retroactively to July 7, 2009 and requires a majority (not 4/5) vote to adopt.
3. Opt not to proceed with an ordinance and continue under existing ordinances and policies for medical office uses.


Susan Healy Keene, AICP
Approved By

Interim Ordinance

ORDINANCE NO. 09-O-_____

AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING NEW OR EXPANDED MEDICAL OFFICE USE IN THE CITY, AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Legislative Findings.

The Planning Commission of the City of Beverly Hills is currently considering a comprehensive update of the City's General Plan. After the General Plan update, the City will thereafter consider an update to its planning and zoning ordinances to ensure consistency with the updated General Plan. Among the policies to be analyzed for potential update in the General Plan are permissible land uses and densities throughout the City.

Presently, the City has been receiving a number of proposals to convert commercial floor area (general office and retail) into medical office space. Medical office uses typically generate greater traffic and parking demand than general office uses, and generate lower tax revenue than a comparable amount of floor area of most other commercial uses in the City. The community is concerned that the growing amount of medical office area is displacing floor area for other commercial uses; reducing opportunities for entertainment enterprises and supporting businesses; removing opportunities for shopping, dining, and other prospects for pedestrian-oriented uses and nightlife; and contributing to the decline of the City's tax base.

Therefore, it would be detrimental to the public welfare if, in the interim time necessary to complete the General Plan update process, projects were established, commenced, or constructed that could change the character of the community, increase traffic in residential neighborhoods, and eliminate certain opportunities to maintain a balanced and vital economic base, and evade regulations developed to address these issues. .

Section 2. Authority.

Pursuant to Government Code Section 65858, the City Council may adopt as an urgency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal which a legislative body, Planning Commission, or Planning Department is considering or studying or intends to study within a reasonable period of time.

Section 3. Urgency Findings.

The City Council finds and determines that the immediate preservation of the public health, safety, and welfare requires that this Interim Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 65858 and take effect immediately upon adoption. As described in Section 1 of this Interim Ordinance, changes in uses from general commercial uses to medical office uses can reduce opportunities to maintain the balance of the community's economic base, change the character of the community, deprive the community of opportunities to bring vitality and nightlife to its business areas, increase traffic and congestion in the vicinity of increased medical office use spaces, and contribute to the long-term decline in municipal revenue that maintains the premium level of service for which the community is known. The City is updating its General Plan with respect to the types of uses that may be appropriate in its commercial districts, and thereafter will update its Planning and Zoning ordinances

accordingly. The City Council finds that continued conversion of the community's commercial space during the City's review and consideration of these issues to medical office space will potentially erode the existing character of the City's commercial districts and frustrate the purpose of any regulations ultimately adopted. To ensure that activity within the City's commercial districts during this period of study is consistent with the goals and objectives of protecting the character of the business community, as reflected in the quality and diversity of its stores, hotels, restaurants, and offices, and maintaining the quality of life in the City's residential neighborhoods, the City Council finds it necessary to adopt interim regulations that both respect property rights and protect the public health, safety and general welfare. Absent the passage of this Interim Ordinance, continued development of medical office space within the City's commercial districts poses a current and immediate threat to the public health, safety, or general welfare. If this Ordinance does not become effective immediately, but instead becomes effective thirty (30) days after a second reading, there is a risk that further harm will be done to the City's commercial districts and residential neighborhoods by the expansion of medical office uses before the above-referenced General Plan updates can be completed and any protections recommended by the adopted policies can be implemented. It is necessary that this Ordinance take effect immediately to prevent such harm to City's commercial districts and the residential neighborhoods adjacent to these districts. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

Section 4. New Medical Office Prohibited.

A. Except as provided in Section 4, Paragraph C of this ordinance, no new medical office use shall be established, nor shall any existing medical office be expanded in floor

area on any lot, premises, building, or portion thereof in any commercial zone, including the C-3, C-3A, C-3B, C-3T-1, C-3T-2, C-3T-3, C-5, C-R, C-R-PD, or T-1 Zones.

B. Any office space currently occupied by a medical office use that was legally established as of July 7, 2009 may continue to be occupied as a medical office use and operate in conformance to the Beverly Hills Municipal Code.

C. Any office space currently vacant as of July 7, 2009 that was previously occupied by a legally-established medical office use without an intervening use may be occupied as a medical office use and shall operate in conformance to the Beverly Hills Municipal Code.

D. A medical office use may be authorized for an office space if the necessary planning application to authorize medical use was filed on or before July 7, 2009. Such office space, if approved for medical use, may thereafter be occupied as a medical office use and operate in conformance to the Beverly Hills Municipal Code and any conditions of approval, except as limited by this interim ordinance.

E. For purposes of this ordinance, "medical office" shall mean any facility providing health service and/or medical, surgical, or dental care. "Medical office" shall include, but not be limited to, a health center, health clinic, doctor's office, chiropractor's office, dentist's office, or any office offering therapeutic service or care. "Medical office" shall not include any facility providing medical or dental services for the purpose of diagnosing or treating medical or dental conditions that does not receive patrons on site.

Section 5. CEQA Findings.

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 6. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 7. This Ordinance, being an Interim Ordinance adopted as an urgency measure for the immediate protection of the public safety, health, and general welfare, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption and shall continue in effect for a period of not longer than forty-five (45) days; provided, however, that after notice pursuant to Section 65090 of the California Government Code and public hearing, the City Council may extend the effectiveness of this Interim Ordinance as provided in Government Code Section 65858.

Section 8. Publication.

The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

ADOPTED:

NANCY KRASNE
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development

Staff Report to City Council
July 7, 2009 Informal Session



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: July 9, 2009
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject: Consideration of Changes to Medical Land Use Policy that Limits or Prohibits New or Expanded Medical Uses in the City

INTRODUCTION

This report identifies concerns associated with existing medical land use policy and identifies options to limit or prohibit future medical uses on an interim or long term basis. It is anticipated that the City Council would provide direction regarding:

- The need for changes to existing medical land use policies
- A timeline to implement a new policy
- An approach to limit or prohibit medical office use based on location within the City or establishment on an area 'cap'

BACKGROUND

On June 24, 2009, a General Plan Ad Hoc Committee meeting of liaisons of the City Council (Mayor Nancy Krasne and Council Member John Mirisch) and the Planning Commission (Chair Nanette Cole and Vice Chair Lili Bosse) met to discuss medical office policies in the City. Previously, the City Council directed that medical land use policy be evaluated in the General Plan update. However, given recent changes in direction to that effort, it is unlikely that this policy would be re-evaluated anytime soon and meanwhile, the City continues to receive applications for new and conversion of medical office uses. The City's current formal policy, as established in the existing General Plan and the zoning

ordinance allows or conditionally allows medical land uses in most commercial districts in the City.

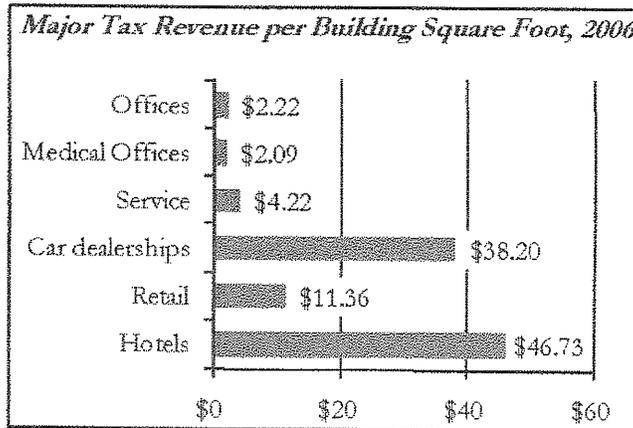
The City Council has over time, expressed a desire to limit medical uses in the City due to land use impacts and revenue implications. Previous council member statements suggested that medical office uses be prohibited in the Business Triangle, along certain portions of Wilshire Boulevard and west of Doheny or Robertson Boulevard, however, none of these statements were ever translated into formal city policy.

A recent increase in medical land use applications was in part, an impetus for the General Plan Ad Hoc committee to meet. While the need for medical space in the City has remained strong over the years, during the current economic downturn, it is expected that more applications will be submitted as medical uses generate higher rental lease rates than general office uses making them more lucrative for property owners. The Planning Commission has recently approved one medical expansion and there are two pending applications. Staff has had additional conversations with other interested property owners to establish or expand medical land uses.

The General Plan Ad Hoc committee recommends that the City Council direct staff to immediately develop an ordinance that would, during the short term, prohibit new or conversion to medical uses until such time that a longer term policy can be established.

DISCUSSION

While medical office use is a significant component of the City's economic base, its fiscal benefit to the City is modest in comparison to the City's more traditional and renowned visitor, shopping and dining. The graph on the right reflects revenues generated through property, sales, business, and transient occupancy (hotel) taxes. Medical office uses typically command higher rents than general office uses and therefore contributes more to property and lease (business) taxes collected by the City. However, general office uses generate more revenue to the City in the form of higher business taxes, which is based on the number of employees. General office uses typically have a higher number of employees relative to floor area than medical office uses (both are professional businesses that are taxed based on professional, semiprofessional, and nonprofessional employment). As a contributor to the City's economy, health care's 926 businesses contributed over \$342 million (2006 payroll). In comparison, the City's 587 entertainment



Source: Beverly Hills Economic Sustainability Background Report

enterprises contributed over \$836 million (2006, payroll).^a Entertainment enterprises possess synergies with retail and hotel uses, which also contribute significant revenues to the City. Medical office uses have limited synergy with the other commercial uses^b and contribute little to pedestrian activity and character. In general, medical office uses also generate more traffic and parking demand than general office uses,^c which can impact nearby residential areas and put an increased burden on existing traffic and parking resources. Surgical centers also place increased demands on City emergency services.

City Council has expressed a desire that medical office uses be evaluated and addressed in the land use policies to be updated in the General Plan (Step II in the efforts currently in progress). However, given that an increase in applications for medical office is currently being observed, the Ad Hoc committee has suggested that a more expeditious approach may be warranted in addressing this issue in advance of the broader update of General Plan land use policies.

A more expeditious approach would likely result in some form of temporary regulation that would limit or prohibit medical land uses in the City as directed by Council. Some options for limiting land use include the following:

- Placing a limit or cap on the amount of new medical office floor area in the City
- Specifying particular areas of the City where medical office should be restricted or prohibited
- Implementing a discretionary process to address the issues, which identifies a specific set of circumstances in which medical office uses could be permitted
- Placing a temporary freeze on further medical office uses in the community

Each of the above options is considered temporary approaches to allow staff sufficient time to further evaluate this issue. It is recommended that after the short term approach is established, staff would study the impacts and benefits of medical land uses in greater detail, including the types of medical uses in the city, try to identify what would be an appropriate amount of land area dedicated to medical uses in a city the size of Beverly Hills and consideration of the City's proximity to a regional hospital. Staff would outreach to the business community to gain their perspectives and insights as to recommended approaches to address the council's concerns before permanent standards are presented.

^a *Beverly Hills Economic Sustainability Background Report*, Muni Services/Burr Consulting, January 2008.

^b Plastic surgery has some synergy with hotels, spa services, and beauty supplies, but other medical office uses interact more with drug stores, medical labs, and medical supplies. Source: *Beverly Hills Economic Sustainability Background Report*, Muni Services/Burr Consulting, January 2008.

^c Based on average rates in *Trip Generation*, Institute of Transportation Engineers, 7th Edition; *Parking Generation*, Institute of Transportation Engineers, 3rd Edition.

Based on this approach, staff would proceed first with an interim ordinance to address the short term considerations. The interim ordinance will require formal public hearings before the Planning Commission and presented to the Council. Following this adoption, staff would proceed with the expanded analysis and return with a formal text amendment and/or General Plan amendment as appropriate.

FISCAL IMPACT

The fiscal impact of restrictions is not known at this time, but would depend to some degree on the nature of the restriction proposed. In the short term it could reduce the options available to owners on leasing commercial spaces and serve as an impediment to leasing space, with a corollary loss of business income to the City and increasing vacancy rates. These short term implications should be balanced with longer term considerations, in which opportunities are reserved for retail and general office uses that generate greater revenues to the City and produce greater economic viability than medical office uses.

RECOMMENDATION

It is recommended that City Council consider whether it is appropriate to proceed with a formal change in policy on medical office uses at this time. If the Council deems it appropriate to implement a policy on medical office uses at this time, it is recommended that staff be directed to prepare an interim zoning ordinance (i.e. prior to the update of the General Plan land use policies) that would address the use through some combination of the options cited earlier:

- Placing a cap on medical office space in the community
- Specifying particular areas of the City where medical office should be restricted or prohibited
- Implementing a discretionary process to address the issues, which identifies a specific set of circumstances in which medical office uses could be permitted
- Placing a temporary freeze on further medical office uses in the community (until the issue can be further studied)


Susan Healy Keene, AICP
Approved By