



AGENDA REPORT

Meeting Date: November 30, 2010

Item Number: D-2

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO LIMIT NEW OR EXPANDED MEDICAL USES IN COMMERCIAL ZONES AND ADOPTING A MEDICAL USE OVERLAY ZONE.

Attachments:

1. Ordinance
2. Planning Commission Resolution No. 1594
3. Information on Overnight Stay Ordinance
4. Planning Commission Staff Report, dated July 22, 2010
5. Planning Commission Staff Report, dated October 28, 2010

RECOMMENDATION

It is recommended that the City Council adopt an ordinance amending the Municipal Code to limit new or expanded medical uses in commercial zones and adopting a medical use overlay zone.

INTRODUCTION

In July, 2009, the City Council directed staff to develop an ordinance regulating medical uses in the City with consideration of an exception for existing buildings with Code-compliant parking for medical use. The City Council requested consideration of the following issues:

- Whether to prohibit ground floor medical office space;
- Evaluate the appropriate mix of medical office, general office and retail uses in the city;
- Understand the appropriate number of medical offices/doctors to meet the City's needs;
- Possible fiscal ramifications of medical use regulations;

- Limiting medical land uses on a geographic basis; and,
- Impact of medical uses on other land uses, including ability to foster more nightlife.

After two study sessions and four public hearings, the Planning Commission unanimously recommended a proposed ordinance that would allow continued operation of existing, legal medical uses but new medical use or conversion to medical use would no longer be permitted by-right in the various commercial zones. Property owners wishing to add or expand medical use would be required to seek application of a medical use overlay zone. Application of the medical use zone to a specific property would be reviewed by the Planning Commission and approved by the City Council with findings that the medical use would not have negative impacts and would provide a public benefit. An exception for existing buildings with legal medical use to convert up to 2,500 square feet of general commercial office use to medical use is included in the zone amendment. Both the medical use overlay zone and the exception require parking for the new medical use that meets current Code and include prohibitions and restrictions on ground floor medical use.

PLANNING COMMISSION REVIEW

The Planning Commission determined that limited new medical use could be allowed in the City pursuant to a review process that includes both application of a medical overlay zone to a site and approval of a discretionary permit for a specific medical use project on the site. This review process would be similar to the process used in the past to review several large mixed-use projects in the City. The Planning Commission was clear that a proposed overlay zone should not deviate from current standards for commercial development, including height and density limits, and would impose a higher standard of review for medical use projects, including a requirement for a public benefit as an objective of the overlay zone. The proposed benefit would be evaluated on a case by case basis by the Planning Commission and city Council to determine if the benefits are sufficient to offset the long-term impacts of dedicating more of the city's limited commercial space to medical use. The public benefit might, by way of example, take the form of one or more of the following: a public plaza or other public open space, onsite validated public parking, commitment to a particular type of medical practice providing a unique service or jobs with higher wages that could support surrounding restaurant and retail uses, an economic benefit.

In developing its recommendation, the Planning Commission considered many issues and various approaches that might be taken in regulating medical use. The Commission's work led to the following conclusions:

Impacts

The Planning Commission discussed how the regulation of medical uses involves consideration of short term and long-term impacts on the City. Individual medical use projects, for example, can have potentially adverse impacts on the immediate neighborhood (parking, traffic, aesthetic compatibility, hours of operation, etc.). Medical uses could also have long term impacts on the City as a result of the large number of medical businesses that occupy approximately twenty-one percent (21%) of the City's limited commercial office space. The Commission expressed concern about the fiscal impact of so much commercial area occupied by one use, how the mix of uses affects the City's image, retail-pedestrian environment and ability to attract priority businesses such as corporate headquarters, entertainment and high end retail businesses. Such businesses have been identified in economic reports as significant contributors to the City's image and fiscal bottom line.

Amount of Medical Use

Staff determined there is approximately 1,350,000 square feet of medical floor area in the City. Medical land use comprises approximately 21 percent, or more than one fifth of the total commercial office space in Beverly Hills. In discussing the amount of medical use in the City and its relative impact on the City, the Commission stressed the importance of ensuring that the City is well-served by medical offices and determined that the City currently has more than adequate medical offices to serve the community; however, allowing for the possibility of new medical services as health care evolves was one reason the Planning Commission did not recommend a prohibition on new medical use in the City.

Fiscal Impact

According to the 2008 Economic Sustainability Background Report prepared for the City, the health care sector is the City's second largest industry. This is due to the large number of medical businesses in the City. There is a significant difference between tax revenue generated for most businesses in the City and the business tax revenue generated for professional offices such as medical offices because most businesses are taxed on gross receipts while the medical and other professional offices are taxed on the number of employees. Medical office uses have typically commanded higher rents than general office uses and, therefore, contribute more to property and lease taxes collected by the City; however, general office uses typically have a higher number of employees relative to floor area than medical office uses so general professional office uses generate more revenue to the City in the form of slightly higher business taxes per building square foot. The 2008 Economic Sustainability Background Report shows that pay in the health care sector is well under the City average due largely to low-skilled workers who perform basic service jobs. Since pay has been found to correlate to the level of employee expenditure in the City, the study found that health care sector employees contribute fewer dollars to the local economy.

Appropriate Mix of Uses/Ground Floor

There are no specific guidelines that define a "healthy" mix of uses in a city or in commercial districts; it is determined by each City's vision, goals and unique local conditions. According to the Beverly Hills General Plan Update Technical Background Report (October, 2005), only 8.9 percent of Beverly Hills' land area (248.8 acres) is designated for commercial uses. Since the commercial area in Beverly Hills is so limited, the City historically has been vigilant in regulating commercial land uses. The City adopted a pedestrian-oriented area in 1981 when it determined that banks and other financial and real estate service businesses were occupying too much ground-floor retail area. Similarly, there is concern that medical use may be occupying too much valuable commercial office area, particularly at the ground floor where the City wishes to encourage pedestrian-oriented uses.

Type of Medical Use

Medical offices at which patients are regularly seen are regulated differently than medical laboratories that do not see patients and, therefore, have more flexible parking requirements. The Planning Commission determined that while there are some differences among medical uses such as outpatient clinics, surgical centers and therapist offices, it is difficult to make significant distinctions among them and, while traffic and parking impacts may differ, they all share other impacts as discussed above. Accordingly, the Planning Commission supported regulating all new medical uses.

Geographic Area

The City's commercial areas vary in terms of impact on residential neighborhoods and level of pedestrian activity. The Planning Commission determined that any new regulations should apply consistently to all commercial areas since medical use can impact all areas and it is the City's goal to encourage pedestrian-oriented activity in all parts of the City, including areas where such activity is currently limited. Moreover, the Planning Commission-recommended ordinance would allow for a case-by-case review, thus extending the protections afforded by the entitlement process to all areas of the City.

Code Prohibition

The Planning Commission deliberations led to the conclusion that prohibiting all new or expanded medical use outright would not afford the City flexibility to approve projects when found to be beneficial to the City and without negatively impacting adjacent areas. The Commission, did, however wish to strictly limit the amount of future medical use in the City and to allow the City to exercise maximum control over proposed medical office developments which is why the Commission ultimately recommended a medical overlay zone requiring City Council approval.

Overlay Zone

An overlay zone can be applied over an existing base zone (often referred to as the "underlying zone") to impose special regulations in addition to those in the underlying base zone. The proposed text of the medical use overlay zone includes a set of objectives that specifically address the impacts of medical use. After adoption of the overlay zone text, future applicants could request application of the overlay zone to their specific property through a zone change process. The benefit of setting up an overlay zone that is attached to sites on a case by case basis is that it provides a guideline to property owners as to medical projects that may be approved but allows the City to make the determination if a particular site is appropriate for medical use. The proposed medical use overlay zone would be reviewed by the Planning Commission with final action taken by the City Council.

Cap on Medical Use

A cap may be established independently of other regulation or may be established in conjunction with other regulatory tools. The Commission had an extensive discussion about a potential cap on medical use, and determined that an overlay zone and planned development review process would accomplish the City's goal of limiting medical use while establishing a process for applicants to seek authorization for new medical uses. Further, a cap would be difficult to administer and could have unknown consequences on the local leasing and real estate markets.

Conditional Use Permit (CUP)

A conditional use permit is a discretionary review for a project that can be approved by the Planning Commission. The Planning Commission discussed a CUP for new or expanded medical use with required findings to be made by the reviewing authority that would specifically address the impacts of medical uses. The Commission instead recommended a Planned Development Review process which is similar to a CUP but was developed to work in conjunction with an overlay zone and is the process that was used to review past projects proposed under mixed-use overlay zones.

Additional information is included in Attachment Numbers 3, 4 and 5 to this report. The details of the proposed ordinance are provided in the following section.

ORDINANCE PROVISIONS

The recommended zone text amendment, (Attachment 1), allows existing legal medical uses to continue with no additional regulation; however, all existing medical uses would become legal nonconforming uses. Pursuant to the City's existing Code regarding non-conforming uses, existing medical uses would be permitted to continue in their current locations so long as they were legally permitted at the time they occupied that space and there has been no intervening conforming use.

New medical uses or conversion of floor area to medical uses may be permitted pursuant to the following proposed new Code sections:

Exception (Proposed BHMC Section 10-3-16.21)

- A maximum of up to 2,500 square feet of total additional medical floor area may be permitted in an existing building in a commercial zone that has existing medical use and parking for the additional medical use that meets the Zoning Code (one 9' by 19' parking space for each 200 square feet of floor area).
- The exception may be used in designated commercial areas (those areas where medical use is currently permitted) but a Minor Accommodation permit is required for exemption applications in the pedestrian-oriented area.
- Under the exception, medical use is not permitted on the ground floor in the pedestrian-oriented area; outside of the pedestrian-oriented area, medical use is permitted on the ground floor so long as it is not within the first forty feet of the front of the building.
- Optometrists with a minimal amount of non-retail space were reclassified as a retail use in the Code and so would be allowed on the ground floor in all commercial areas.

Medical Use Overlay Zone (Proposed BHMC Section 10-3-1850)

- A property owner may apply to the City to have the City's new Medical Use Overlay Zone apply to particular property if that property is in a commercial zone that currently allows medical use.
- The Medical Use Overlay Zone allows medical use on the property with a Planned Development Permit (application made concurrently with the overlay zone application) that requires the proposed project to meet objectives that address the impacts of medical uses (See pages 10-11 of draft ordinance for complete objectives).

Objectives generally address:

intrusion of parking and other activity associated with medical uses into nearby residential areas;

negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future; and,
the required provision of a public benefit.

- The proposed project in the Medical Use Overlay Zone must meet existing Zoning Code development standards.
- Medical use is not permitted on the ground floor in the overlay zone unless the City Council finds, based on substantial evidence, that the proposed location is not pedestrian-oriented and is unlikely to become pedestrian-oriented in the future.

Other Ordinance Provisions

Retail Business Definition

Pursuant to Planning Commission direction, "optometrist" was added to the definition of "retail business" because such businesses are widely considered to be retail businesses with a very limited medical component. The proposed definition of "retail business" includes a limitation on the size of permitted consultation space and a restriction that such space shall be located thirty feet (30') from the storefront so as to maximize retail area at the front of the store adjacent to the street.

Legal Nonconforming Use and Disaster Reconstruction

The draft ordinance includes language allowing legal nonconforming medical uses located in a building that has been damaged by a disaster to the extent of more than fifty percent (50%) of its replacement value, to be re-established without application of the medical use overlay zone, provided the reconstructed building complies with applicable zoning standards, including parking requirements, in place at the time a building permit is issued for the replacement building.

Code Clarification: Projects that Converted Space to Medical Use by Re-Striping

In 1989, the City increased the parking requirement for medical office use from one parking space for each 350 square feet (the requirement for office use), to one parking space for each 200 square feet for medical office use. Existing medical office buildings were "grandfathered in" at the 1:350 parking rate and became legally nonconforming buildings with regard to parking. In July 1993, the City Council adopted an ordinance allowing existing property owners to meet the 1:200 parking requirement for medical offices by restriping parking areas and using tandem and compact parking spaces to meet the 1:200 parking requirement so long as free, validated parking was provided for the medical office space allowed by the restriping. In December 2005, the City Council eliminated the restriping provision as an unnecessary incentive for medical office use. It has been the City's policy that all such restriping approvals are required to follow the conditions of approval as mandated by the Code at that time including "on site free, validated valet parking for all medical office patrons" and signage posted "indicating the availability of free validated valet parking for medical office patrons." A text amendment is intended to ensure it is clear to owners that the previous conditions still apply (see pages 13-14 of draft ordinance).

ZONE TEXT AMENDMENT FINDINGS/GENERAL PLAN CONSISTENCY

The Planning Commission found that the proposed zone text amendment is intended to address negative impacts from committing too much of the City's limited commercial land area to medical uses. Impacts include intrusion of parking and other activity associated with medical uses into nearby residential areas as well as negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future. The City's recently revised General Plan includes the following Land Use policy, "LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City." This policy is included under the following General Plan goal, "LU 9 Diverse Districts and Corridors. A diversity of vital and active business and commercial districts providing a choice of uses and activities for the City's residents and visitors." The proposed text amendment maintains the diversity of the City's commercial districts by further regulating new medical use which currently occupies a substantial percentage of the City's limited commercial area. The negative impacts identified above are specifically addressed by a number of other General Plan goals, policies and implementation strategies including "LU 1 Long-Term Stability," "LU 3 Managed Change," "LU 5 Complete, Livable and Quality Neighborhoods," "LU 10, Economically Vital Districts," "LU 11 Well-Designed and attractive Districts," "LU 12 Business Districts Adjoining Residential Neighborhoods" and, "LU 15 Economic Sustainability." The proposed ordinance protects neighborhoods and the City's character and fiscal health by limiting the proliferation of medical use and providing a review process to ensure that proposed new medical use will not negatively impact the City. As such the proposed text amendment will serve to further the public interest, health, safety, morals, peace, comfort, convenience, and general welfare.

ENVIRONMENTAL DETERMINATION

The subject draft 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. 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

FISCAL IMPACT

The City will incur minimal fiscal impact from administration of the recommended zone text changes as fees will cover the additional discretionary review process. Individual projects that may be reviewed in the future pursuant to the ordinance would be assessed at that time with regard to fiscal impact.

PUBLIC NOTICE

A public hearing notice was mailed on November 18, 2010 to all commercial property owners in the City. Notice was published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation. Additionally, staff has met with interested parties and made presentations to the Beverly Hills Chamber of Commerce Government Affairs Committee.

RECOMMENDED ACTION

It is recommended that the City Council continue the ordinance amending the Municipal Code to limit new or expanded medical uses in commercial zones and adopting a medical use overlay zone, and set the ordinance for second reading and adoption at a future meeting.

Susan Healy Keene, AICP
Director of Community Development


Approved By _____

Attachment 1

Ordinance

ORDINANCE NO. 10-O- _____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
LIMIT NEW OR EXPANDED MEDICAL USES IN
COMMERCIAL ZONES AND ADOPTING A MEDICAL USE
OVERLAY ZONE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. The City Council considered this Ordinance at a duly noticed public hearing on November 30, 2010, and at the conclusion of the hearing introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 2. 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 3. City Council hereby amends Section 10-3-100 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding definition of terms in the zoning code to insert the following definition between the terms “medical office” and “mini-shopping center” as

they presently appear in Section 10-3-100, with all other definitions in the Section remaining as previously adopted:

“MEDICAL USE(S): Medical Uses shall mean uses including medical office, medical laboratory, or any combination thereof.”

Section 4. City Council hereby amends Section 10-3-100 of Chapter 3 of title 10 of the Beverly Hills Municipal Code regarding definition of terms in the zoning code to insert the following definition between the terms “residential zone” and “retaining wall” as they presently appear in Section 10-3-100, with all other definitions in the Section remaining as previously adopted:

“RETAIL BUSINESS: A business that carries on as its principal business the selling of tangible commodities, goods, merchandise or wares and includes beauty shops, nail salons, and spas and optometrists with a retail component. A retail business may include space for the purpose of consultation with a medical use professional so long as that space does not exceed the lesser of five percent of the total floor area of the business or 200 square feet and that space is located at least thirty feet (30 feet) from the storefront of the retail business facing a street.”

Section 5. City Council hereby amends Section 10-3-1601 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in the C-3 Zone of Beverly Hills to change the permitted use listed as “Office” to read as follows, with all other permitted uses listed in Section 10-3-1601 remaining without amendment:

“Office (Excluding Medical Uses).”

Section 6. City Council hereby amends Section 10-3-1602 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding building restrictions in the C-3 Zone of

Beverly Hills to change the permitted uses or occupancies listed as “Offices” to read as follows, with all other permitted uses and occupancies listed in Section 10-3-1602 remaining without amendment:

“Offices (Excluding Medical Uses).”

Section 7. City Council hereby amends Section 10-3-1603 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding businesses excluded in the C-3 Zone to insert the following additional prohibited use between “Machine laundries” and “Public and private stables” as follows, with all other prohibited uses listed in Section 10-3-1603 remaining without amendment:

“Medical uses as defined in Section 10-3-100 of this chapter except for medical uses that comply with Section 10-3-1620.1.”

Section 8. City Council hereby adds Section 10-3-1620.1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding an exception to the prohibition of medical uses to read as follows:

“10-3-1620.1 Medical Uses:

- A. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may continue to use the floor area legally permitted to be occupied by medical uses without obtaining a medical overlay zone designation for the site on which the building is located. If floor area committed to medical uses is changed to a different commercial use or uses, such change is subject to the nonconforming use requirements of Section 10-3-4100 of this chapter.

B. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may add one or more medical uses in existing space in the building up to a maximum amount not to exceed a cumulative total of 2,500 square feet in floor area without first obtaining a medical overlay zone designation pursuant to Article 18.5 of this Chapter for the site on which the building is located but only if all of the following are met;

1. The building is located on property in one of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A, C-3B, or E-O-PD.
2. If the property is located in the pedestrian-oriented area, as defined in Section 10-3-1653, the community development director may issue a minor accommodation pursuant to the provisions of Article 36 of this chapter to authorize a medical use to occupy a space in a pedestrian oriented area provided that all other requirements of this section are met and the director makes all of the findings pursuant to 10-3-1655 A.
3. The building must contain one or more legal medical uses prior to application for either a building permit or minor accommodation pursuant to this section.
4. No new medical uses are permitted on the ground floor within the pedestrian-oriented area. For development located outside of the pedestrian-oriented area, no new medical uses are permitted within the first forty feet (40') measured from the front building façade, on any ground floor. Façades facing a side street, as defined in Section 10-3-100, shall not be considered a front building façade for purposes of this section.

5. Onsite parking for the new medical use is provided pursuant to Zoning Code requirements as found in Section 10-3-2730.
 6. No existing building floor area may be removed, demolished or vacated to satisfy the parking requirements for a medical use.
 7. All restrictions applicable to the zone or underlying zone shall apply.
 8. Medical use zoning clearance must be obtained in addition to any other required applications.
- C. Any legal nonconforming building occupied by one or more legal nonconforming medical uses shall be subject to the nonconforming building provisions of Section 10-3-4100 of this Chapter, and any other applicable regulations. Notwithstanding the provisions of Section 10-3-4101 of this Chapter, a legal nonconforming medical use located in a building that has been damaged by a disaster to the extent of more than fifty percent (50%) of its replacement value, may be re-established without application of the medical use overlay zone, provided the reconstructed building complies with applicable zoning standards, including parking requirements, in place at the time a building permit is issued for the replacement building. In no event shall the amount of floor area occupied by nonconforming medical uses in the replacement building exceed the floor area occupied by medical uses at the time of the disaster.

Section 9. City Council hereby amends Section 10-3-1652 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding definition of terms in the pedestrian-oriented area to amend the following definition to read as follows:

“**RETAIL USE:** A facility which carries on as its principal business the selling of tangible commodities, goods, merchandise or wares, including the selling of food and beverages, directly to the ultimate consumers. For the purposes of this article, notwithstanding and without limiting the foregoing definition, "retail use" shall include restaurants, bars, nightclubs, theaters, beauty shops, nail salons, ~~and~~ spas with a retail component, and retail businesses as defined in Section 10-3-100, but shall exclude car dealers.”

Section 10. City Council hereby amends Section 10-3-1654 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in pedestrian oriented areas to read as follows:

“10-3-1654. USES PERMITTED AND PROHIBITED:

- A. No use other than a retail use or a hotel shall occupy a space with more than twenty five feet (25') of street frontage on the ground floor of any building or structure located in a pedestrian oriented area.

- B. Notwithstanding subsection A of this section, for any building or structure situated at the corner of two (2) streets located in a pedestrian oriented area and with frontage on both streets, a use other than a retail use or a hotel may occupy a space with up to twenty five feet (25') of ground floor street frontage on each street for a total ground floor street frontage of up to fifty feet (50').

C. Medical uses as that term is defined in Section 10-3-100 of this chapter shall be prohibited unless allowed pursuant to Section 10-3-1620.1.”

Section 11. City Council hereby amends Section 10-3-1701 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in the C-3A Zone to change the permitted use listed as “Office” to read as follows, with all other permitted uses listed in Section 10-3-1701 remaining without amendment:

“Office (Excluding Medical Uses).”

Section 12. City Council hereby adds Section 10-3-1703 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding prohibited uses in the C-3A Zone to read as follows:

“10-3-1703: Prohibited Uses: Medical uses as defined in Section 10-3-100 of this chapter unless allowed pursuant to Section 10-3-1620.1.”

Section 13. City Council hereby adds Section 10-3-1803 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding prohibited uses in the C-3B Zone to read as follows:

“10-3-1803: Prohibited Uses: Medical uses as defined in Section 10-3-100 of this chapter unless allowed pursuant to Section 10-3-1620.1.”

Section 14. City Council hereby adds a new Section 18.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding regulation of medical uses in Beverly Hills to read as follows:

“Article 18.5. Medical Use Overlay Zone (C-PD-M)

10-3-1851: C-PD-M ZONE CREATED

There is hereby created and established in the City an overlay zone, designated as the Medical Use Overlay Zone (C-PD-M).

10-3-1852: PURPOSE AND INTENT:

The City Council finds and determines that it is necessary to restrict further intensification of medical uses in the City in order to limit commercial intrusion into residential areas, prevent adverse traffic and parking impacts, maintain and promote the character and image of the City, foster economic vitality and encourage pedestrian activity in retail areas. The Medical Use Overlay Zone establishes a process to allow limited expansion of medical uses at appropriate locations in the City and in a manner that is consistent with the underlying zoning district and the elements of the General Plan. These regulations impose additional requirements to ensure that a medical use shall not be incompatible with uses permitted in adjacent areas and will not result in negative long-term impacts to the City.

10-3-1853: APPLICATION OF THE C-PD-M OVERLAY ZONE:

The C-PD-M overlay zone may be applied only to property located in one or more of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A and C-3B.

10-3-1854: APPLICABILITY OF UNDERLYING ZONE REGULATION:

Except as otherwise specifically provided in this article regarding medical uses, development in a C-PD-M zone shall comply with the zoning regulations applicable to the underlying zone.

10-3-1855: DEFINITIONS:

For the purposes of this article, the following word shall have the following meaning:

DEVELOPMENT: For the purposes of this article, shall include the conversion of any existing general office or other commercial space to medical uses, the enlargement of any existing building where the enlargement would be occupied in part or in whole by medical uses, as well as the new construction or erection of a building proposed to be occupied in part or in whole by medical uses.

PLANNED DEVELOPMENT: A development that is approved pursuant to the procedures of article 18.4 of this chapter.

10-3-1856: USES PERMITTED:

Permitted uses of properties to which the Medical Use Overlay Zone is applied shall include medical uses, as defined in Section 10-3-100, in addition to any other uses permitted or conditionally permitted by the underlying zone. When medical uses are developed as permitted by this Article, the regulations of this article shall govern whenever such regulations are different than other regulations set forth in this chapter. No lot, premises, building or portion thereof in the C-PD-M Zone shall be used for any purpose except those approved by the Planning Commission as part of a planned development pursuant to article 18.4 of this chapter.

10-3-1857: OBJECTIVES:

The objectives of the C-PD-M Zone shall be as follows:

- A. Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of this article;
- B. The proposed development and medical use:
 - 1. Will not result in detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the City, or any combination thereof; unless the reviewing authority finds the development benefits outweigh the detrimental impacts.
 - 2. Will promote harmonious development in the area; and,
 - 3. Will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development.
- C. The proposed development and medical use will not result in detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation, unless the reviewing authority finds the development benefits outweigh the detrimental impacts. The development shall provide onsite parking that is designed for ease of use and efficiency, with vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties.

- D. The proposed development and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the City, shall not undermine efforts to maintain and foster an appropriate mix of uses in the City including a pedestrian-friendly environment in the vicinity of the development, and will not foreclose a future pedestrian oriented environment.
- E. The proposed development and medical use contribute to and enhance the City's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the City.
- F. A public benefit shall be offered to the City and the public benefit shall, at a minimum, offset any long-term impacts to the City that result from allowing medical use in the City's limited commercial areas.

10-3-1858: RESTRICTIONS:

The following restrictions shall apply to any development to which the Medical Use Overlay Zone is applied:

- A. All restrictions applicable to the zone or underlying zone
- B. Medical uses shall not be permitted on the ground floor of any building in the pedestrian-oriented zone unless the City Council finds, based on substantial evidence, that the proposed location is not pedestrian-oriented and is unlikely to become pedestrian-oriented in the future; and,

- C. Free parking shall be provided for patrons and employees of medical uses in the development and parking shall be provided that complies with all applicable parking requirements in this chapter.

10-3-1859: PROCEDURES FOR APPROVAL:

- A. The procedure for applying the C-PD-M Zone to any property in the city shall be the same as described in article 39 of this chapter for zoning amendment.
- B. The Planning Commission shall make a recommendation to the City Council to approve, deny or conditionally approve an application for a planned development. In making a recommendation to grant a planned development approval, the Planning Commission shall recommend such conditions on the approval that are reasonable and necessary to protect the health, safety and general welfare and to offset any potential adverse impacts resulting from the medical uses.
- C. An application for a zoning amendment to apply the C-PD-M Zone to a property in the City shall be processed concurrently with an application for a planned development for a project with medical uses proposed on the same property.

Section 15. City Council hereby amends Section 10-3-4102 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding nonconforming parking in Beverly Hills to read as follows:

“10-3-4102: NONCONFORMING PARKING:

Any building that is nonconforming due to insufficient parking may be enlarged, or may be occupied by a use, other than a medical use, which requires additional parking, if sufficient

parking is provided for such enlargement or use and the enlargement or use complies with all other provisions of this code. Additionally, notwithstanding the provisions of section 10-3-4100 of this article, a building that is nonconforming due to insufficient parking need not conform to the parking requirements of this chapter unless seventy five percent (75%) of the structure has been altered, renovated, repaired, or remodeled within a period of less than five (5) years. The percentage of alteration, renovation, repair or remodel, shall be determined by the ratio of the total surface area removed or demolished to the surface area in existence prior to the removal or demolition. The surface area elements to be included in the determination are: floors, roofs, exterior walls, including door and window openings, basement walls, and foundation walls. Each element shall be considered to have only one surface. An existing building that is nonconforming due to insufficient parking may not be occupied by additional medical uses unless the building has parking for the additional medical uses that meets the parking requirements in Section 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code and complies with the requirements of either Section 10-3-1620.1 or 10-3-1850 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code.”

Section 16. City Council hereby amends Section 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the parking standard for “Medical offices” to read as follows, with all other parking standards listed in Section 10-3-2730 remaining without amendment:

“11. Medical offices as defined under section 10-3-100 of this chapter

1 space per 200 square feet of floor area; provided buildings constructed before December 6, 1989 that received building permits before December 16, 2005 to re-stripe parking areas to increase the number of parking spaces and permit additional medical floor area in the building, shall maintain on site free validated valet parking for all medical patrons and maintain posted signage in the parking garage indicating the availability of free validated valet parking for medical office patrons as required by the Zoning Code at the time such projects were permitted. Any building area converted to medical use on or after December 16, 2005 which relies on a valid re-stripe permit shall also comply with the above requirements.”

Section 17. This ordinance shall not apply to 1) pending applications for medical office projects that include discretionary review filed with the Community Development Department on or before July 19, 2009, and on which no final decision has been rendered or 2) ministerial projects with a valid building permit issued prior to the effective date of this ordinance.

Section 18. 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 remain in full force and effect.

Section 19. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 20. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 21. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

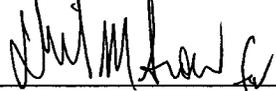
Adopted:
Effective:

JIMMY DELSHAD
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:

JEFFREY KOLIN
City Manager


SUSAN HEALY KEENE, AICP
Director of Community Development

Attachment 2

Planning Commission Resolution

RESOLUTION NO. 1594

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL AMEND THE BEVERLY HILLS MUNICIPAL CODE TO LIMIT NEW OR EXPANDED MEDICAL USES IN COMMERCIAL ZONES AND ADOPTING A MEDICAL USE OVERLAY ZONE

WHEREAS, the Planning Commission has considered the proposed amendment to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and,

WHEREAS, the Planning Commission considered the zone text amendment set forth in the proposed Amendment at study sessions on November 19, 2009 and January 28, 2010 and at duly noticed public hearings on June 10, 2010, July 22, 2010 and October 14, 2010, at which times it received oral and documentary evidence relative to the proposed Amendment; and,

WHEREAS, the Planning Commission finds that the proposed Amendment is required for the public health, safety, and general welfare, and that such Amendment is consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendment has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section

15061(b)(3) of Title 14 of the California Code of Regulations and the City's environmental guidelines, (hereafter the "Guidelines"), and 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with intensification of commercial uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 2. The Planning Commission does hereby find that the proposed Zone Text Amendment is intended to address negative impacts from committing too much of the City's limited commercial land area to medical uses. Impacts include intrusion of parking and other activity associated with medical uses into nearby residential areas as well as negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future. The City's recently revised General Plan includes the following Land Use policy, "LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City."¹ This policy is included under the following General Plan goal, "LU 9 Diverse Districts and Corridors. A diversity of vital and active business and commercial districts providing a choice of uses and activities for the City's residents and visitors." The proposed ordinance maintains the diversity of the City's

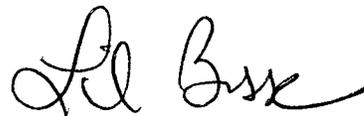
¹ Beverly Hills General Plan, April 30, 2010, Page 31

commercial districts by further regulating new medical use which currently occupies a substantial percentage of the City's limited commercial area. The negative impacts identified above are specifically addressed by a number of other General Plan goals, policies and implementation strategies including "LU 1 Long-Term Stability," "LU 3 Managed Change," "LU 5 Complete, Livable and Quality Neighborhoods," "LU 10, Economically Vital Districts," "LU 11 Well-Designed and attractive Districts," "LU 12 Business Districts Adjoining Residential Neighborhoods" and, "LU 15 Economic Sustainability." The proposed ordinance protects neighborhoods and the City's character and fiscal health by limiting the proliferation of medical use and providing a review process to ensure that proposed new medical use will not negatively impact the City.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: **October 28, 2010**



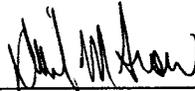
Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



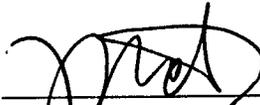
Secretary *for JL*

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Jonathan Lait, AICP
Assistant Director of Community Development /
City Planner

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1594 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 28, 2010, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Cole, Corman, Furie, and Vice Chair Yukelson and Chair Bosse.

NOES: None.

ABSTAIN: None.



JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California

Attachment 3

Information on Overnight Stay Ordinance and Surgery Centers

Attachment 3 to Medical Use Ordinance staff report

Information on Overnight Stay Ordinance and Surgery Centers

Introduction

Pursuant to a City Council request at its November 4, 2010 meeting, below is information about surgical centers and the City's overnight stay permit ordinance.

Summary of Overnight Stay Ordinance

The City's overnight stay permit, also known as the "surgical center ordinance" was adopted by the City Council on January 8, 2002. The ordinance allows overnight stays of less than 24 hours for surgical clinics that have existing, on-site parking of at least one space per 350 square feet, and are not located adjacent to areas zoned for single-family residential use. The ordinance was for the purpose of patient recovery from surgery earlier in the day due to health and safety concerns; sleep centers or other types of diagnostic centers requiring overnight observation were expressly prohibited from applying for an overnight stay permit and this prohibition extends to alternative birth centers, chronic dialysis clinics, rehabilitation clinics and urgent care centers and walk-in clinics. It was the City's expressed intention to maintain its prohibition on hospitals. The ordinance was crafted to ensure that medical offices do not become de facto hospitals and do not result in unwanted impacts in the City. This is accomplished through a permit requirement and provisions limiting the location in which permits may be approved, the number of overnight patients allowed, and restrictions on parking, weekend stays, employees and signs.

Reason for Adopting an Overnight Stay Ordinance

With new technologies, more and more surgeries are now performed on an outpatient basis in surgical centers and medical clinics rather than in hospitals. Outpatient surgery centers are regulated by the State as clinics, not hospitals, so long as patients remain in such clinics for less than 24 hours. Beverly Hills, like other cities, regulates surgical centers as medical offices/clinics. By the year 2000, the City had experienced problems with illegal surgery recovery centers and had received requests from doctors in the City to allow the limited overnight stay which was already allowed at the time in adjacent cities.

As a result of public testimony and extensive discussion, the Planning Commission developed an overnight stay ordinance over three study sessions and five public hearings in 2000 and 2001 and recommended an ordinance to the City Council, which adopted the ordinance in January 2002.

Overnight Stay Permit Applications

Including the most recent approved permit, a total of six overnight stay permits have been approved by the City since 2002. Other than the most recent permit approved, only one other permit is active. It has been the City's experience that very few surgical centers apply for the permit and most that do apply decide not to maintain the permit due to the expense and difficulties involved such as insurance and staffing.

Attachment 4

Planning Commission Staff Report

July 22, 2010

(includes previous staff reports as attachments)



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning Commission
Meeting of July 22, 2010

TO: The Planning Commission

FROM: Michele McGrath, Senior Planner *M.M.*

THROUGH: Susan Healy Keene, AICP, Director of Community Development

SUBJECT: Discussion of alternative approaches to regulate medical land uses including a cap on medical floor area, a floating zone and a conditional use permit and consideration of a proposed ordinance amending various sections of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to limit new or expanded medical uses in the City.

RECOMMENDATION

It is recommended that the Planning Commission review the different methods of regulating medical use discussed below and direct staff as to the preferred regulatory approach. If the Planning Commission directs staff to proceed with a Conditional Use Permit (CUP) process, the Planning Commission may consider the attached draft resolution and recommend it with any changes as discussed at the public hearing.

BACKGROUND

In July, 2009, the City Council directed the Planning Commission to develop an ordinance regulating medical uses in the City with consideration of an exemption for existing buildings with Code-compliant parking for medical use. Although the City Council discussed a short-term moratorium on new medical use, the Council's direction to the Planning Commission was to study the issue and develop a permanent ordinance regulating medical use pursuant to the Planning Commission's best judgment based on its own review and findings, including public testimony. The Planning Commission conducted two study sessions on November 19, 2009 and January 28, 2010 and a public hearing on June 10, 2010 (report attached). These reports provide a history of medical office regulation in Beverly Hills, a summary of the City Council's past discussions of the issue, a general discussion of the impacts of medical office use in the City, and specific information about the number and location of

buildings in the City occupied by medical uses as well as the amount of commercial floor area devoted to medical use (approximately 1,350,000 square feet).

At the June 10, 2010 public hearing, Planning Commissioners agreed that medical use warrants additional restriction due to the potential adverse impacts resulting from the proliferation of such uses in the City but did not reach a consensus on the form such restrictions should take. Commissioners' views ranged from adopting a cap limiting medical use to the amount that currently exists to adopting a CUP process for medical use without a cap. The Planning Commission directed staff to return with information about alternative methods of regulating medical use, such as a floating zone, as compared to the methods previously considered: a CUP, a cap or a combination of these methods.

DISCUSSION

Regulation of medical uses involves consideration of short term and long-term impacts on the City: individual medical use projects can have potentially adverse impacts on the immediate neighborhood (parking, traffic, aesthetic compatibility, hours of operation, etc.) and medical uses could have long term impacts on the City as a result of the large number of medical businesses that occupy approximately 21 percent of the City's commercial office space. The City has concerns about the fiscal impact of so much commercial area occupied by one use, how this affects the City's image, retail-pedestrian environment and the ability of the City to attract priority businesses that have been identified in economic reports as significant contributors to the City's image and fiscal bottom line such as corporate headquarters, entertainment and high end retail.

To address this combination of short and long-term impacts of medical use the Planning Commission has discussed a regulatory process that could allow limited new medical use while minimizing short term impacts, and address the long-term impacts by requiring medical projects to provide a public benefit. The proposed benefit would be evaluated by the reviewing authority to determine if it is sufficient to offset the long-term impacts of medical use.

The following regulatory tools have been identified to achieve these goals: conditional use permit, floating overlay zone and a cap on medical floor area. Each of these options is discussed in detail below.

Conditional Use Permit (CUP)

To regulate medical use projects, staff had proposed a conditional use permit (CUP) as it is a process intended to regulate specific uses. Conditionally permitted uses are reviewed by a general process set out in the City's Zoning Code (Article 38) but individual uses requiring a

CUP, such as hotels or vehicle sales, often have findings specific to that use that must be made by the Planning Commission to approve the use.

Benefits of the CUP process include the fact that it is a tool specifically intended to address uses requiring special review in light of their locational context and it is a process familiar to the community, staff and the Planning Commission. A CUP is an appropriate tool where the City wishes to have additional control over approval of a specific use in terms of potential adverse project impacts, but does not wish to modify development standards such as height, density, setbacks or parking requirements. In addition, even though a CUP is a quasi-judicial process (as opposed to legislative), a finding of public benefit may be imposed through a CUP. Anticipated public benefits for a medical use may include additional parking for the project or for local residents in parking-deficient neighborhoods, the design of ground floor space and amenities in such a way as to encourage pedestrian activity, or exceptional architecture. While the City would not have the flexibility, as it might with a legislative decision, to request a public benefit such as payment into a City parking fund, an applicant is not precluded from offering such a benefit that the City may accept.

Floating Zone

The City's Zoning Code regulates land use consistent with the City's General Plan. Beverly Hills has a traditional zoning code with base zoning identified in the Code. Each zone identifies uses permitted, prohibited and conditionally permitted and each zone has zoning standards specific to that area such as maximum height, density and setbacks. Zone designations can be somewhat rigid and may not accommodate changes in land development that could be desirable.

A floating zone, similar to an overlay zone, can allow different or mixed uses and different development standards to be imposed on a smaller, more manageable area within a larger zone without overhauling the entire zoning code. Applying such zoning tools allows cities to be more responsive to changing land use policies.

The main difference between an overlay zone and a floating zone is that the floating zone is not tied to a specific area or parcel. As with an overlay zone, allowed uses are identified and standards are developed but the zone is not applied to an area or site until an applicant requests specific application. This is accomplished with a zoning amendment to apply the floating zone to a particular site. Once a floating zone is both adopted and applied to a specific site, medical projects could be approved by right of the floating zone or through a review process identified in the zone.

The City has an existing floating overlay zone, the T-O Zone (Transportation Overlay) established in 2001 (attached). Floating zones have often been used to articulate a city's goals for large developments such as master planned or mixed-use developments that may have a different mix of uses, densities, height or setbacks than otherwise allowed. In the case of the City's floating transportation zone, the zone establishes a process to allow limited

expansion of the uses permitted on property located within the T Zone in a manner that is consistent with the underlying zoning district.

A benefit of a floating zone is that the action to attach the zone to a specific site is a legislative action that allows a city more flexibility to ensure a specific project's potential adverse impacts can be mitigated and that a public benefit is provided. The public benefits proposed as required by a floating zone may be similar to those proposed pursuant to a CUP; however, the City may have more opportunity to negotiate benefits proposed under a floating zone, given the legislative nature of the action. This may also depend on whether the City plans to change the commercial zone standards in the floating zone. If the City allows some flexibility in zoning based on public benefit offered, the City's ability to negotiate would be enhanced. If the City does not plan to revise the zoning standards for medical use, a CUP with public benefit may serve the same purpose.

Another potential benefit of a floating zone is that, as a legislative action, it is exempt from Permit Streamlining Act requirements which would afford flexibility with regard to approval time for projects. This would allow for an application pre-screening process to be included in the zone requirements. Staff and the Commission could review scaled-down preliminary applications to determine which, if any, should proceed through the formal application process. One possible scenario is a process whereby all preliminary applications for medical use would be accepted once a year for initial review. This process may save some applicants time and money in not proceeding with projects with little likelihood of approval; however, this process could extend process time for other projects deemed desirable. On the plus side, since the application process would resemble a project competition, it would encourage applicants to present their best effort early on including a potentially substantial public benefit, although this may only occur if there are multiple applicants.

If a floating zone is adopted, existing, legally permitted medical use in the City would become legally, non-conforming use. Pursuant to the City's existing Code regarding non-conforming uses, medical uses would be permitted to continue in their current locations so long as they were legally permitted at the time they occupied the space and there has been no intervening conforming use.

Should the Planning Commission wish to pursue the floating zone concept, staff would develop standards including a potential pre-screening process if directed by the Commission.

Establishing a Cap

The Planning Commission has considered a cap on medical floor area. A cap may be established independently of other regulation or may be established in conjunction with either a CUP or floating zone. The Commission, at the June public hearing, had an extensive discussion about a potential cap, with some Commissioners considering an annual

cap on medical floor area in the range of 20,000 square feet. There was also discussion of a three-year limitation on a cap, unless the City Council chooses to extend it. The proposed three-year limitation was based on a discussion that pressures to fill commercial space with medical use may be short-term due to the current economic situation.

If the Planning Commission determines that no additional medical use should be permitted in the City, particularly on a limited basis, a cap on medical uses would be an appropriate tool. An alternative for a more extended prohibition would be to make medical use a prohibited use throughout the City. This would reclassify all existing medical uses as legally non-conforming uses.

Staff has determined that a CUP or floating zone would accomplish the City's goal of regulating medical use and does not recommend a cap because it would be difficult to administer and could have unknown consequences on the local leasing and real estate markets. For example, if establishment of a cap sends a message that no new medical floor area will be allowed in a market that desires medical office space, the value of the existing medical space would be expected to rise. This could provide a small amount of additional revenue to the City through property leases but it could also discourage or displace the types of medical use the community may want to maintain such as existing family physicians.

Draft Ordinance

Staff has prepared a draft ordinance for a CUP process if the Commission wishes to consider it. The draft ordinance proposes making medical use a conditionally permitted use in all zones where it is currently permitted; medical use would continue to be prohibited where it is currently prohibited. Medical use would be prohibited in the pedestrian-oriented areas and prohibited on the ground floor of any building citywide.

The draft ordinance includes a cap pursuant to the Commission's previous discussions but this could be modified or eliminated pursuant to the Commission's direction. The draft ordinance also includes an exception from the CUP for medical use conversion proposed in existing buildings with parking pursuant to current Code that can also be modified or eliminated.

Exception

For discussion purposes, staff has included in the draft ordinance an exception for existing buildings that received a certificate of occupancy from the City prior to July 19, 2009 to add up to 2,500 square feet of medical use so long as the following criteria are met:

1. The building may convert a maximum of 2,500 square feet of floor area to medical use;

2. The building is not in the designated pedestrian-oriented areas as defined in Section 10-3-1653;
3. No new medical uses are permitted on the ground floor;
4. On site parking is provided pursuant to Zoning Code requirements as found in Section 10-3-2730.

If the Planning Commission chooses to include an exception in a medical CUP ordinance, it may wish to discuss whether 2,500 square feet is an appropriate figure and whether the 2,500 square feet should be a total limit, with additional amounts subject to the CUP. It is also unclear whether square footage permitted pursuant to an exception would be included in a cap limit on medical use, if a cap is recommended by the Planning Commission.

CUP Findings

Conditionally permitted medical uses would be subject to seven findings, beginning on page four of the draft ordinance. The CUP findings address both short, or local, and long-term impacts of medical use projects and allow the Planning Commission to approve or deny a project based on either type of impact. Findings for other City discretionary permits such as Development Plan Review focus on local impacts such as traffic and parking rather than long-term impacts such as the fiscal stability of the City. Medical CUP finding number seven is intended to address long-term impacts by requiring that:

“[t]he proposed project including a medical use provides a sufficient public benefit that outweighs the loss of available commercial space for uses other than medical uses.”

Potential benefits that may be offered are discussed earlier in this report.

Code Clarification: Projects that Converted Space to Medical Use by Re-Striping

The draft ordinance includes a clarification that buildings that took advantage of the City's Code provision, deleted in 2005, that allowed re-striping of parking areas for tandem and compact spaces to permit conversion of floor area to medical use are required to maintain free, validated valet parking for medical office patrons, and related signage, as was required by the Code at the time the projects were permitted.

ENVIRONMENTAL ANALYSIS

Staff finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance would 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.

PUBLIC NOTICE AND COMMENTS

A public notice was published in *The Beverly Hills Weekly* on Thursday, July 8, 2010 and in *The Beverly Hills Courier* on Friday, July 9, 2010. A public notice was previously published in *The Beverly Hills Courier* on Friday, May 28, 2010, and in *The Beverly Hills Weekly* on Thursday, June 3, 2010. As of this report, no comments have been received. This item was initially on the July 7, 2009 City Council Study Session agenda and the July 21, 2009 formal City Council agenda as an interim urgency ordinance that was not adopted.

MICHELE MCGRATH

Attachments:

1. Draft resolution recommending an ordinance regulating medical use
2. Planning Commission Staff Report, June 10, 2010, with attachments including:
 - Pedestrian Area Map
 - Zoning Code Sections regarding Code Clarification
3. Zoning Code Section 23.5, T-O Zone

Attachment 1

Draft resolution recommending an ordinance
regulating medical use

Attachment 2

Planning Commission Staff Report, June 10, 2010,
with attachments including:

Pedestrian Area Map

Zoning Code Sections regarding Code
Clarification



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning Commission
Meeting of June 10, 2010

TO: The Planning Commission

FROM: Michele McGrath, Senior Planner *MM*

THROUGH: Jonathan Lait, AICP, City Planner

SUBJECT: Consideration of a proposed ordinance of the City of Beverly Hills amending various sections of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to limit new or expanded medical uses in the City and to consider adoption of a conditional use permit process to review proposed new or expanded medical offices.

EXECUTIVE SUMMARY

The Planning Commission directed staff to calculate the total square footage of existing medical uses in the City for the purpose of considering a development limitation (cap) on future medical projects. Staff has calculated the total existing medical square footage of the City at approximately 1,350,000 square feet. It is recommended that the Planning Commission establish a Conditional Use Permit (CUP) requirement for new medical projects subject to findings that address the specific impacts of medical uses. Moreover, an exemption is proposed that would allow the conversion of general office space to medical space in existing buildings provided the new use meets current parking requirements. New building area up to 2,500 square feet may also be added to an existing building under the proposed exemption. While it is anticipated that the CUP process can effectively regulate new medical uses in the City, establishment of a medical development cap is considered in this report with an annual limitation being the preferred approach, if the Planning Commission determines a cap is necessary.

Since the last study session, staff has identified an additional issue regarding buildings that took advantage of the City's Code provision (deleted in 2005) that allowed re-stripping of parking areas for tandem and compact spaces to permit conversion of floor area to medical use. Staff proposes to clarify in the Code that these projects are required to maintain free,

validated valet parking for medical office patrons, and related signage, as was required by the Code at the time the projects were permitted.

BACKGROUND

In July, 2009, the City Council directed the Planning Commission to develop an ordinance regulating medical uses in the City with exemptions for existing buildings with Code-compliant parking for medical use. The Planning Commission conducted two study sessions on November 19, 2009 and January 28, 2010 (reports attached). These reports provide a history of medical office regulation in Beverly Hills, a summary of the City Council's past discussions of the issue, a general discussion of the impacts of medical office uses in the city (land use, traffic and parking, economic sustainability), among other related information. The Planning Commission supported limits on medical use in the City and focused on setting a cap on medical use, instituting a CUP requirement for medical use projects, and creating an exemption option.

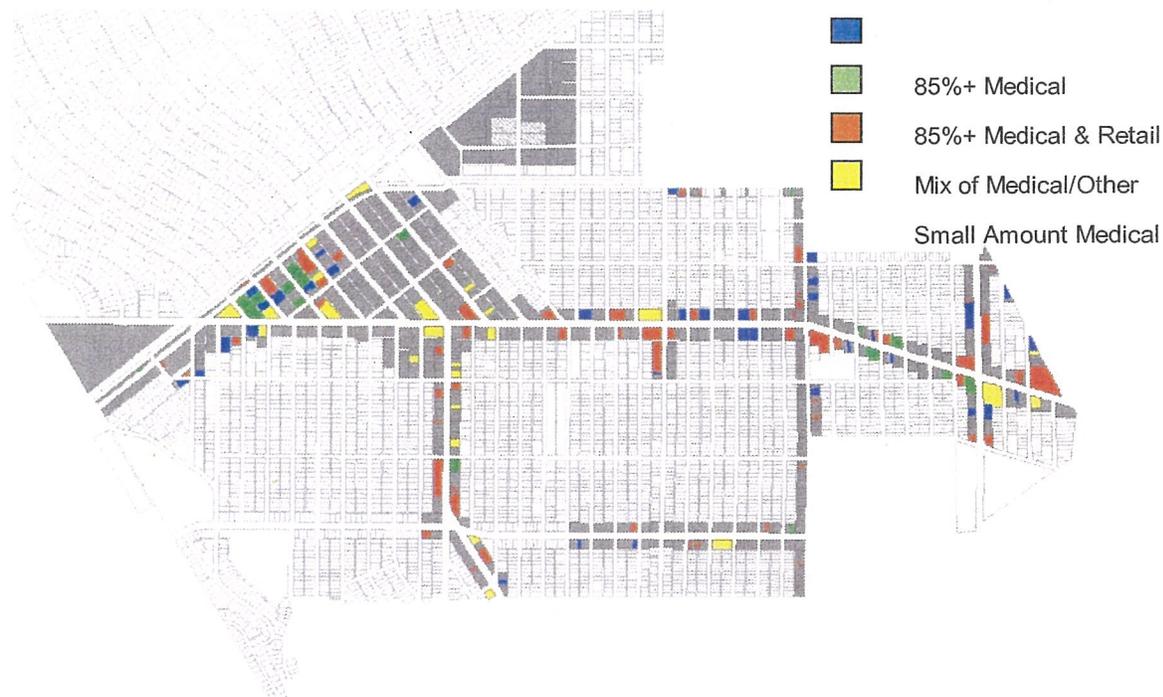
DISCUSSION

The Planning Commission requested additional information on the amount of medical floor area in the City. Staff has determined that there is approximately 1,350,000 square feet of medical floor area in the City. The following data sources were used to evaluate medical office area:

LA County Assessor's Data	Dun & Bradstreet database
City building records	Grubb & Ellis information
City business tax certificate records	Internet Research
2008 Economic Sustainability Background Report	Field visits by staff.

Medical land use comprises approximately 21%, or more than one fifth of the total office space in Beverly Hills.

Medical Use Category Map



Establishing a Cap

The Zoning Code currently includes caps on three different areas of development: limitations on the demolition of apartment buildings, limitations on residential conversions and a maximum development limit on the number of hotel guestrooms in the City. Accordingly, there is a precedent in the Zoning Code to consider a cap on new medical floor area. The Planning Commission discussed three different ways of setting a cap on medical use that, for discussion purposes, staff has labeled "current floor area level," "consistent percent level" and "annual increase."

Current Floor Area Level

The amount of medical use would be capped at the current level (1,350,000 square feet), with existing legal medical space allowed to continue in its present location. New medical use would only be permitted when the existing medical use inventory is reduced below the cap and the addition would not exceed the current level.

Consistent Percent Level

The maximum amount of medical office space allowed would be represented as a percentage of total commercial floor area in the City; currently medical use is estimated at 21% of the commercial area. Commissioners discussed setting a maximum level for medical office use slightly above the current 21% to allow for a small amount of new medical office space. As the total amount of commercial floor area in the City increases through new commercial construction, additional medical floor area would be allowed so long as it does not exceed the maximum percentage of total commercial space established in the cap.

Annual Increase

This method would use the current level of medical office space as a baseline and allow an annual increase in medical office area. The annual increase may be calculated as a percentage increase over the baseline (e.g. 1.5% of the existing 1,350,000 square feet or approximately 20,000 square feet in the first year) or an absolute floor area figure (20,000 square feet of additional medical use allowed each year). To put this in context, medical floor area in the following amounts was approved administratively or by the Planning Commission from 2000 through 2009 (A total of 384,215 square feet in 10 years):*

2000	5,000 SF	2004	200,005 SF
2001	23,501 SF	2005	50,267 SF
2002	53,450 SF	2009	20,000 SF
2003	31,992 SF		

Conditional Use Permit (CUP)

Medical uses are currently prohibited in the C-5 (Industrial) Zone and already require a CUP in the C-3T-3 Zone. In addition, medical uses are subject to the following Zoning Code sections: Article 16.5: Restricted Uses in Pedestrian-Oriented Areas[†] and Article 19.5: Transition Between Commercial and Residential Uses.[‡]

Except as noted above, a medical use does not require discretionary approval from the City. Medical use proposed in a new building over 2,500 square feet may require a public

* It is noted that not all floor area represented in the table above was approved by the City Council or built.

† Medical uses are not allowed on the ground floor of buildings in the pedestrian-oriented area (retail area of the Business Triangle) unless less than 25 feet wide and authorized by the Director of Community Development or approved by the Planning Commission through a CUP.

‡ Medical uses located near residential uses are currently subject to this ordinance that imposes additional operational standards for medical and certain other uses.

hearing for a Development Plan Review, relating primarily to construction of the building and not the medical land use.

The Planning Commission has discussed requiring a CUP with specific findings for new medical uses. Projects would be subject to a cap, if a cap is established. The Planning Commission discussed banning new medical use from all ground floor locations in the City, not just in the pedestrian areas, and banning all medical use from the pedestrian-oriented areas. The Planning Commission also discussed allowing medical use in all of these areas subject to a CUP.

All CUP applications are subject to one consistent finding which is, "the Planning Commission finds that the proposed location of any such use will not be detrimental to adjacent property or to the public welfare." Where a CUP is required in the Code for a particular use, specific findings have been developed in addition to the general finding above. New findings for medical uses would likely address the following concerns expressed by the City Council and Planning Commission:

1. Preventing adverse traffic and parking impacts;
2. Limiting commercial intrusion in residential areas;
3. Addressing over-concentration of medical use;
4. Promoting City's image and character;
5. Fostering economic vitality and stability;
6. Promoting retail/pedestrian activity.

Pursuant to the Planning Commission's deliberations at this meeting, staff will develop specific findings to effectively address these concerns, including authority for the Planning Commission to deny applications that do not address the concerns above. The Planning Commission will also have the authority to request materials it needs to make the findings such as traffic and parking reports, a survey of pedestrian activity in a particular area or a report of available office space prepared by a real estate consultant.

Exemption

The City Council and Planning Commission have requested that any new restrictions on medical use include a provision that would allow new medical uses to be permitted within an existing building that meets the City's current parking requirements for medical uses, without discretionary review. Additionally, there was interest in allowing existing buildings to add modest amounts of new building area for medical use if the parking requirements are met. Staff proposes that the exemption apply to buildings that received a Certificate of Occupancy as of the date the City Council directed the preparation of the subject ordinance (July 21, 2009). The Planning Commission discussed some restrictions on the exemption as it would

apply to medical uses: a maximum floor area threshold; making the exemption one-time only; restricting the exemption to buildings where all parking, not just the new medical parking, complies with current Code; and, allowing exempted floor area to be excluded from a cap, if a cap is established.

ANALYSIS

Medical Area Cap

If the Planning Commission chooses to advance a cap provision in the ordinance, staff recommends the "annual increase" approach. Once that limit is met each year, no additional medical floor area would be permitted that year even if existing legally permitted medical office space was removed from the citywide inventory. This approach addresses the Planning Commission's expressed desire to allow a small amount of additional medical use but does so with a clearly identified limit that would be less challenging to administer than other approaches. The Planning Commission would need to discuss whether the cap amount would expire at the end of each year or would roll over to the next year. If the cap expires each year it would effectively limit the size of any individual medical use project. As discussed in prior study sessions, use of the cap may result in a greater demand for medical office space that cannot be met. While a cap may achieve the intended result to limit new medical uses, it would likely also result in higher rents paid for medical office space by medical offices already in the City.

To effectively establish and manage a medical square footage limitation (cap) requires several components, many of which can be achieved fairly easily.

If the "current area level" or "current percent level" cap method is selected, an inventory of all medical uses and associated floor areas would need to be established and actively updated and maintained. Staff has collected all available information to establish an inventory; however, short of measuring each existing medical office and researching the building permit history of each office space, the inventory is an estimate. Maintaining an inventory, even on a total aggregate square footage citywide (as opposed to a parcel specific inventory), would be difficult. Notably, there is no current system in place for the City to actively monitor the loss of medical space in any building. Accordingly, reductions in medical space would not readily be subtracted from the inventory. At present it is not anticipated that many existing medical office spaces will change to less intense uses, but over time and under different economic conditions or City tax structures, the ratio of medical to general office could change. This may result in an even less accurate inventory.

Staff can more readily monitor the establishment of new medical uses and add the new floor area to the inventory. There would be some administrative refinements to the City's plan

check and business tax application process that may increase the processing time of applications involving medical use so the City can review compliance with the medical use threshold.

The availability of medical floor area under the cap would need to be communicated to potential applicants and this can easily be accomplished using the Internet and locally available outlets.

CUP

Staff recommends that a CUP be required for all new medical uses not eligible for the exemption. The City Council and Planning Commission have expressed concern about allowing medical use on the ground floor. Staff recommends restricting all new medical use in the City to floors above the ground floor and not allowing medical use on the ground floor with a CUP. It is acknowledged that a number of medical offices are in the back of one-story buildings or within courtyards and do not have much of a street presence; however, ground floor area is prime retail space and medical offices are better located on upper floors where retail, restaurant and other uses are not generally as successful.

Exemption

While there are some buildings that have parking in excess of Code requirements, it is anticipated that few buildings will be able to take advantage of the exemption. Staff recommends the Planning Commission place no maximum threshold on conversion of space in existing buildings to medical use if the conversion complies with all Code requirements and the new medical area complies with current parking standards. For additions to existing buildings to accommodate new or expanded medical use, staff recommends a maximum threshold of 2,500 square feet for the exemption. Staff finds this figure is consistent with the City's existing Development Plan Review (DPR) discretionary review process and the City Council's direction to limit medical office use while allowing some flexibility to existing buildings in the City.

The City's basic discretionary project review process is Development Plan Review (DPR). Exempted from DPR is construction involving less than two thousand five hundred (2,500) square feet of new or additional floor area that does not increase the height of the structure or building. This parallels the California Environmental Quality Act (CEQA) which exempts from environmental review new construction or conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. 2,500 square feet is a size that appears to cover the majority of individual and smaller offices in the City according to the City's data sources on floor area. Proposed medical use additions larger than 2,500 square feet would be reviewed under the proposed CUP process. Staff further proposes that no more than 2,500 square feet of additional medical floor area may be exempted in any five-year period.

Impact Fees

The Planning Commission expressed interest in the City's ability to impose impact fees on medical uses based on transportation/parking and/or public safety impacts. If the Commission wishes to suggest to the City Council that it consider an impact fee that suggestion should be included in the Planning Commission's recommendation. It is noted that imposition of an impact fee requires a nexus study. Pursuant to the Planning Commission's previous discussions about the City's business tax structure in relation to medical office use, the Planning Commission may also wish to recommend to the City Council that it consider changes to the business tax structure on medical uses. The business tax can serve as a mechanism to balance the demand and production of new medical office space in Beverly Hills while ensuring the tax is more consistent with the impacts of medical uses on the City.

Code Clarification: Projects that Converted Space to Medical Use by Re-Striping

Staff is proposing the ordinance include a clarification that buildings that benefited from the City's Code provision (deleted in 2005) that allowed re-striping of parking areas for tandem and compact spaces to permit conversion of floor area to medical use, be required to maintain the free, validated parking for medical office patrons, and related signage, required by the Code at that time to receive the benefit of the additional medical office space. The Code section allowing re-striping of parking areas to reach the required 1:200 rate for medical offices was deleted from the Code in 2005 in an effort to reduce incentives for medical office use. It has been the City's policy that all such approvals are required to follow the conditions of approval as mandated by the Code at that time including "on site free, validated valet parking for all medical office patrons" and signage posted "indicating the availability of free validated valet parking for medical office patrons" (Code sections attached).

Most conversions of general office use to medical use from 1993 to 2005 did not require discretionary review due to the re-striping ordinance. When this ordinance was repealed in 2005 many property owners had taken advantage of the opportunity to convert additional floor area to medical use.

ENVIRONMENTAL ANALYSIS

Staff finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance would 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.

PUBLIC NOTICE AND COMMENTS

A public notice was published in *The Beverly Hills Courier* on Friday, May 28, 2010, and in *The Beverly Hills Weekly* on Thursday, June 3, 2010. As of this report, no comments have been received. This item was initially on the July 7, 2009 City Council Study Session agenda and the July 21, 2009 formal City Council agenda as an interim urgency ordinance that was not adopted. Interested persons and organizations including the Beverly Hills Chamber of Commerce were notified for the study sessions before the Planning Commission on November 19, 2009 and January 28, 2010.

RECOMMENDATION

It is recommended the Planning Commission direct staff to prepare an ordinance amending the Beverly Hills Municipal Code to regulate medical uses by:

- establishing a CUP process for projects proposing new medical office use;
- allowing an exemption from discretionary review for new medical use in existing buildings and building additions in existing buildings up to 2,500 square feet with parking for the new medical use that meets Code;
- clarifying that buildings that benefited from the City's previous Code provision that allowed re-striping of parking areas to permit conversion of floor area to medical use be required to maintain the free, validated parking for medical office patrons required by the Code at the time the benefit was received.

It is recommended that the draft ordinance be prepared for review at an upcoming Planning Commission meeting.

MICHELE MCGRATH

Attachments:

1. Planning Commission Staff Report, January 28, 2010
2. Planning Commission Staff Report, November 19, 2009
3. Pedestrian Area Map
4. Zoning Code Sections regarding Code Clarification

Attachment 1:

Planning Commission Staff Report

January 28, 2010



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning Commission
Meeting of January 28, 2010

TO: The Planning Commission

FROM: Michele McGrath, Senior Planner

SUBJECT: Consideration of Changes to Medical Land Use Policy that Limit or Prohibit New or Expanded Medical Uses in the City.

EXECUTIVE SUMMARY

After City Council meetings in July, 2009, the Planning Commission was directed to develop an ordinance further regulating medical uses in the City. On November 19, 2009, the Planning Commission conducted a study session to review additional regulation of medical uses (staff report attached) and requested that staff return with the following information provided in this report: identification of categories of medical uses and corresponding traffic/parking and tax information for each category as is available; number of medical offices/doctors in the City and map showing locations; amount of new medical land use approved in the City in recent years; existing commercial buildings with enough parking to convert or add medical use; adequacy of the City's current parking requirements for medical offices/buildings; and, information about instituting a transportation impact fee. In addition, the Commission requested draft CUP findings for medical uses including consideration as to how flexibility can be incorporated in the process, e.g. allowing small conversions or small amounts of additional medical floor area in existing buildings. Finally, the Commission requested additional information on instituting an annual or overall cap on medical uses.

Categories of Medical Uses

Medical uses can be defined in different ways by zoning codes, building codes and tax and licensing codes. The City of Beverly Hills defines "medical office" as follows:

"MEDICAL OFFICE: 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 a 'medical laboratory' as defined in this section."

A medical laboratory is separately defined as follows:

"MEDICAL LABORATORY: 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."

Some specific types of medical offices are defined in other Code sections such as in the Overnight Stay Ordinance which includes definitions of "specialty clinic" (surgi-center) and "sleep disorder center." The definition of medical offices includes all of the support functions for medical offices such as waiting rooms, conference rooms and administrative offices just as all of these functions are included as part of general offices. Because medical office uses require more parking spaces, applicants often try to separate out portions of the medical office use for parking purposes which is not consistent with staff's interpretation of Code.

The categories of medical uses generally identified in municipal zoning codes include:

- medical offices/outpatient clinics;
- laboratories;
- hospitals/inpatient care; and, in some cases,
- long-term in-patient care (nursing homes).

Staff has found no further delineation of medical uses in any other municipal zoning codes surveyed. The main criterion for classification appears to be whether the medical use operates on an outpatient (medical office/clinic), inpatient (hospital, nursing home), or no patient (medical lab) basis. One of the relatively recent developments in medical uses is the increase in ambulatory surgery centers ("surgi-centers"). Surgi-centers are not generally defined separately in zoning codes and are regulated in the same category as medical offices/clinics because they operate on an outpatient basis.

The outpatient/inpatient distinction may stem from Building Code classifications. The 2007 California Building Code classifies all buildings and structures as to use and occupancy according to fire safety and relative hazard involved. The "Business Group B" occupancy includes the majority of commercial businesses such as banks, salons, outpatient clinics, laboratories, and professional services such as architects, attorneys, dentists, physicians, engineers, etc. Surgi-centers are included in this classification unless accommodating more than five patients receiving outpatient medical care that may render the patient incapable of unassisted self-preservation. In this case the surgi-center occupancy would be classified as "Institutional Group I" along with hospitals, nursing homes, detoxification facilities, residential care facilities, congregate living facilities, and other facilities offering inpatient services.

To consider further distinctions in categories of medical uses, it is helpful to have an understanding of the characteristics of a "typical" medical office use. Medical offices and clinics traditionally schedule a full day of appointments with patients in quick succession and have a large number of employees providing services. According to a number of medical

websites, the average patient time with a primary care physician in the United States is less than 20 minutes and the average patient wait-time for that appointment is a little over 20 minutes, resulting in a constant stream of patients, many who stack up in waiting rooms. For these reasons, the ITE* traffic and parking numbers are high for medical uses (see 11/19/10 staff report) and also why many cities, including Beverly Hills, consider medical offices a higher intensity use that requires more parking than for general office use.

It is difficult to characterize each medical use or to categorize groups of medical uses for the purpose of regulation; however, one group, therapists and counselors (psychoanalysts, psychiatrists, nutritionists) stand out as possibly generating fewer traffic and parking impacts due to longer appointment times and fewer patients/clients waiting for appointments. Therapists or counselors typically schedule appointments for a minimum of one hour, have fewer employees and usually no more than one client/patient waiting for an appointment. According to the American Psychological Association, approximately half of psychologists are self employed. Therapist and other counseling offices often resemble non-medical professional offices and staff has noted a number of therapists' offices in buildings that are otherwise occupied by lawyers, accountants and other professionals with no other medical uses. Should the Planning Commission wish to consider regulating therapists/counselors differently than other medical uses, one note of caution is that some therapists/counselors have group sessions or classes that could result in negative traffic and parking impacts.

The Planning Commission raised the question as to whether surgi-centers should be regulated differently than other medical offices. It is noted that surgi-centers may operate differently from medical offices and the average daily number of trips and parking required for surgi-centers may be less than for medical clinics; however, the ITE guide for parking generation shows that traffic and parking rates at peak times are similar to medical clinics. The ITE information was based on a small sample and additional studies may be needed if the Planning Commission wishes to make a distinction between surgi-centers and other medical uses based on traffic and parking impacts.

While there may be a difference in the parking and traffic impacts between medical offices/clinics and certain other types of uses such as therapists/counselors included in the City's definition of medical uses, the City has identified other potential negative impacts of medical uses that may be an issue across the spectrum of medical uses. These other impacts include how medical uses affect the City's retail/pedestrian vitality, the impact on the City's efforts to attract a variety of commercial uses including businesses such as talent agencies that have been specifically identified by the City as important to the City's image and

* ITE refers to the Institute of Transportation Engineers, considered to be an authoritative source of data regarding vehicle trip generation and parking.

AMBULATORY SURGICAL CENTERS IN BEVERLY HILLS

For Planning Commission Meeting 1/28/10



Prepared by Community Development Department

economic future, and the impact of medical uses on the City's tax revenues. The Planning Commission may wish to consider these impacts when discussing whether the "medical office" definition in the Code needs further refinement. Please also see the 11/19/09 report for more information about the potential impacts of medical uses.

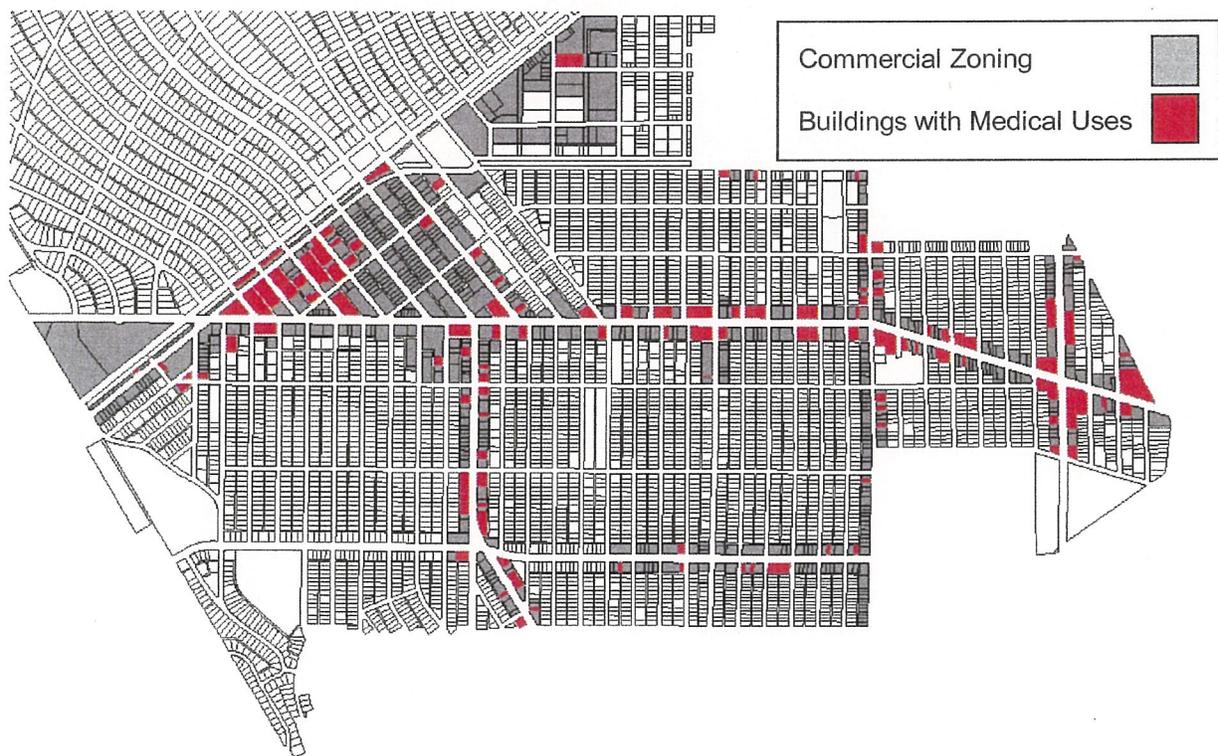
For tax purposes, the City categorizes uses in different classifications with different tax structures. Medical offices in Beverly Hills fall under the Class C, "Professions and Semiprofessions" category which taxes such businesses based on the annualized average number of professional and semiprofessional persons employed (See Attachment 2). Therapists usually fall under Class C but can fall under Class A, "Business and Personal Services" depending on the service provided. Under Class A registrants pay an annual basic tax plus a per employee tax for each employee. According to the City's Business Tax specialists, medical labs often fall under Class A because they are staffed by technicians rather than doctors or nurses. Surgi-centers can be Class B ("Retail, Wholesale, Manufacturing and Contractors"), Class C or Class F ("Commercial Property Renting and Leasing") depending on how the surgi-center bills activities. For example, if the surgi-center rents out space by the hour to a doctor, such activity could fall under Class F. The City's Business Tax specialists stated it is possible surgi-centers bring in more revenue to the City than other medical uses but staff has

not noticed a major difference due to the small number of surgi-centers as compared to the total number of medical offices in the City. The real difference in tax revenue to the City occurs between business tax classifications that pay taxes per employee (Classes A and C) and classifications that pay taxes based on a percentage of gross receipts (Class B).

Existing medical uses in Beverly Hills

Medical use comprises 21%, or more than one fifth of the office space in Beverly Hills. According to the 2008 Economic Sustainability Background Report prepared for the City, the health care sector is the City's second largest industry with 904 Outpatient Health Care employers in the City. There are a total of approximately 794 commercial buildings in the City with staff identifying medical offices in 136 or 17% of the buildings. This is consistent with the 21% figure in that many of the buildings with medical uses include multiple medical offices and there may be a few buildings with a small amount of medical use not yet identified by staff. These buildings are spread throughout the City's commercial areas with concentrations on the west end of the Business Triangle, sections of Wilshire Boulevard, South Beverly Drive below Gregory Way and Robertson Boulevard. Medical offices are noticeably less prevalent in the pedestrian-designated areas located in the central portion of the Business Triangle and South Beverly Drive between Wilshire Boulevard and Gregory Way.

Buildings with Medical Uses



The maps above and below show existing medical uses in the City as could be determined by staff using City records, the County Tax Assessor's website; the City's business tax database, the internet and site visits. These maps do not necessarily represent permitted medical uses as it was time-prohibitive to review the permit status of each medical use in each of the 136 buildings shown, representing over 900 medical employers. The map below represents medical uses in existing buildings broken down into the following categories:

- Buildings that appear to be at least 85% medical use with medical at the ground floor
- Buildings that appear to be at least 85% medical use with ground floor retail uses including pharmacies. This category includes one-story buildings that have retail uses on the street and medical uses in the rear.
- Buildings that have a substantial number of medical offices/clinics.
- Buildings that have at least one or two medical offices (mostly therapists/counselors)

Medical Use Category Map



Note: List of medical buildings shown on this map is Attachment 3 to this report.

New medical land use approved in the City

Most conversions of general office use to medical use have been ministerial changes not requiring discretionary review due to the ordinance approved in 1993 allowing re-striping of parking areas to meet the medical parking requirements of 1:200. This ordinance was repealed in 2005 with many property owners having taken advantage of the opportunity to convert additional floor area to medical use. An accurate record of all new medical use approved over the last five or ten years would require a review of all building permits during that time due to previous limitations of the City's record system; staff is instead relying on its knowledge that a large number of building owners converted general office use to medical office use in the past 15 years. Supporting this information is the 2008 Economic Sustainability Background Report prepared for the City by MuniServices and Burr Consulting that states "the strongest growth in the [City's] professional cluster from 2001 to 2006 was in outpatient health care: this industry's employment grew by 25 percent. Doctors' and dentists' offices drove this expansion (Pg. 18)."

Staff also reviewed all Planning Commission discretionary reviews of projects involving new medical use or conversions to medical use in the past six years. Those projects are listed below to give the Commission some additional background as to the types and locations of medical use projects reviewed by the City in recent years.

- 2004 - Ordinance amending regulations governing uses permitted in the Industrial Area (C-5 Zone), establishing procedures and criteria for permitting and regulating specialized medical facilities in the C-5 Zone.
- 2004 - 407 N. Maple Drive. CUP to allow a 159,000 SF comprehensive diagnostic and treatment medical use in conjunction with the above zone change. (The ordinance was not approved by the City Council and the site was occupied by an entertainment use, AOL)
- 2004 - 257 N. Canon Drive. DPR to allow a 45,000 SF, three-story medical office/retail commercial building. (Project approved by Planning Commission; however, applicant ultimately submitted a different project for a general commercial use with ground floor retail and no medical use that was also approved by the Commission.)
- 2005 - 9675 Brighton Way. CUP for medical office use in an existing medical office building with off-site parking for nine spaces within 500 feet of the use.
- 2006 - 8536 Wilshire Blvd. (Project originally approved 2001) Time extension and amendment for a DPR; modification to CUP for medical and retail uses and a variance for architectural features at three-story commercial building. (CUP modified in 2008 to convert to commercial condo).

In addition, the following projects were approved by the Commission with specific conditions prohibiting medical use in the projects because of a concern about traffic and parking impacts that had not been addressed in the environmental reviews for the projects:

- 2006 - 9601 Wilshire Blvd. CUP (Sports Club/LA). No sports medical center allowed as part of the operation of the Project.
- 2006 - 8767 Wilshire Blvd. commercial building (height variance to allow four stories). Medical uses prohibited.
- 2007 - 9378 Wilshire Blvd. (DPR for commercial building). No medical office permitted.

An exception was the project at 9090 Wilshire Blvd. that was granted a CUP for 44 off-site parking spaces to convert 20,101 SF of general office space to medical office space. This building was already two-thirds medical office use when the Planning Commission granted the approval and the environmental review specifically addressed impacts of medical office use.

Existing Commercial Buildings with Enough Parking to Convert or Add Medical Use

Based on staff's experience and research, there are few existing buildings that have enough Code-compliant parking to convert a substantial amount of floor area to medical use or to add medical use floor area. There are some buildings that may be able to convert a small amount of floor area to medical use. So long as these buildings meet Code, no discretionary review is required. One example is the commercial project at 257 North Canon Drive that was granted a Development Plan Review approval to allow a 45,000 SF, three-story medical office/retail commercial building. This project was originally approved by the Planning Commission with some medical office use but the applicant changed the project and it was ultimately approved with no medical uses. This project includes some parking in excess of the parking required for other commercial uses and could potentially still propose some medical office use so long as the project approval does not otherwise preclude it.

Adequacy of current parking requirements

While Beverly Hills is a unique City, the behavior of medical use patrons is not so different in urban areas and Beverly Hills' parking requirements for medical uses require as much or more parking than other Westside cities (see 11/19/09 staff report) and are consistent with available information such as the parking rates cited in the latest ITE Manual for medical clinics. The Planning Commission has also consistently required that medical parking shall be provided free to patrons and employees in buildings that have received discretionary approvals. In addition, buildings that have received ministerial approvals to restripe parking areas to add medical uses are required to provide free validated valet parking on site. As stated previously, the City recognized in the economic growth period in the 1980's that medical uses needed to provide additional parking and the parking requirements were changed from 1:350 to 1:200 for medical uses. In recognition of the severe economic downturn in the early 1990s, owners were allowed to restripe parking to achieve the 1:200 ratio to allow additional medical uses. That incentive was repealed in 2006.

According to the City's Director of Parking Operations, it is difficult to assess the adequacy of the City's parking requirements because of the differential parking rates in public and private garages and decades of parking policies that encourage patrons to seek out free public parking rather than park in private fee garages. The private garage on North Bedford Drive is free for the first hour and constantly at overflow whereas the public parking garage on North Camden Drive usually has many empty parking spaces. The Director of Parking Operations indicated an extensive study would be needed to determine the impacts and adequacy of the City's parking policies.

Transportation Impact Fee

A fee or exaction is usually a direct charge collected on a one-time basis as a condition of project approval (see 11/19/10 report). A City may charge an exaction/impact fee if a reasonable nexus between an impact and the fee charged can be shown. There is a nexus if the fee/exaction advances a legitimate City interest and mitigates adverse impacts that would otherwise result from a project. In addition, there must be a rough proportionality between the proposed fee/exaction and the project impacts the fee/exaction is intended to allay. In 2007/08, staff presented a draft study to the City Council regarding instituting development impact fees. The City Council received the study and did not direct staff to continue developing such a fee. An additional professional study would be needed to support a fee/exaction that would pay for improvements to address future traffic/parking impacts.

CUP findings for medical uses

The Planning Commission requested that staff present draft CUP findings for medical uses and consider how flexibility can be incorporated in the process, e.g. allowing small conversions or small amounts of additional medical floor area in existing buildings. The City Council specifically directed the Planning Commission to consider a provision that would allow medical office conversions in existing buildings if the proposal meets current Zoning and Building Codes including Code-compliant parking.

At the November meeting it appeared the Planning Commission is interested in considering medical use regulations that would apply Citywide. It is noted that medical uses are currently prohibited in the C-5 (Industrial) Zone and already require a CUP in the C-3T-3 Zone. In addition, medical uses are subject to the following Zoning Code sections:

Article 16.5: Restricted Uses in Pedestrian-Oriented Areas

Medical uses are not allowed on the ground floor of buildings in the pedestrian-oriented area (retail area of the Business Triangle) unless less than 25 feet wide and authorized by the Director of Community Development or approved by the Planning Commission through a CUP.

Article 19.5: Transition Between Commercial and Residential Uses

Medical uses located near residential uses are currently subject to this ordinance that imposes additional operational standards for medical and certain other uses.

Staff has provided two maps, one showing the current pedestrian-oriented area and one showing the Commercial-Residential Transition Areas should the Planning Commission wish to discuss limiting additional regulations to certain areas of the City or to consider different regulations for different areas.

Based on input received thus far, staff proposes that the Planning Commission consider a hierarchy of review for medical uses. Below are potential levels of review using existing review processes in the Zoning Code.

Levels of Review

- Exempt (from additional review beyond current Codes)
- Minor Accommodation
Staff level review with a public notice: can be referred to the Planning Commission for review
- Conditional Use Permit
Planning Commission public hearing.

The following are potential criteria to consider to determine the appropriate level of review:

- Existing or new building
- Amount of medical office use currently in the building
- Amount of area proposed to be converted to medical use or added as medical use.
- Size of building
- Geographic location: located in the pedestrian-oriented or transition area.

Following is a suggested medical office review hierarchy as a starting point for discussion:

Exempt

Small conversions to or additions of medical use (staff proposes up to 400 square feet) in existing buildings that meet current Zoning and Building Codes including the parking requirements for medical use. This is no different than current Code.

Minor Accommodation

Small conversions to or additions of medical use (up to 400 square feet) in existing buildings that are currently occupied by at least 85% medical uses and that meet current Zoning and Building Codes but cannot meet the current parking requirements for the new medical use. A parking study could be required. Staff proposes that any CUP findings that may be developed for medical use should also apply to a Minor Accommodation for medical use.

Conditional Use Permit (CUP)

All other conversions to or additions of medical use including all new buildings proposing to include any medical use. The City's loading ordinance provides the Planning Commission with discretion regarding loading requirements when a project is approved pursuant to a CUP. The City's parking standards for medical uses would still apply. The Planning Commission may wish to discuss adding medical uses to the list of uses for which the Planning Commission may consider reduced parking and loading requirements if satisfactory evidence is presented to the Commission. It is noted this would result in applicants proposing medical uses without Code-required parking.

A list of potential findings for a medical use Minor Accommodation or CUP is below. Projects such as new floor area exceeding 2,500 square feet are subject to Development Plan Review which has its own set of findings (see below). A new building proposed as medical office would be subject to the findings for Development Plan Review as well as any new findings required for a new CUP for medical use. The general CUP finding that applies to all projects requiring a CUP is: "the Planning Commission finds that the proposed location of any such use will not be detrimental to adjacent property or to the public welfare."

Development Plan Review Findings:

- A. The proposed plan is consistent with the general plan and any specific plans adopted for the area.
- B. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.
- C. The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely inter-

ferre with the use and enjoyment of residential properties in the vicinity of the subject property.

- D. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.
- E. The proposed plan will not be detrimental to the public health, safety or general welfare.

In addition, when evaluating an application involving open air dining, the reviewing authority shall approve the application only if:

1. The proposed plan will not create any significantly adverse parking impacts as a result of employee or patron parking demand.
2. The proposed plan will not create any significantly adverse impacts on neighboring properties as a result of:
 - a. The accumulation of garbage, trash or other waste;
 - b. Noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
 - c. Light and glare;
 - d. Odors or noxious fumes.

In approving a development plan application, the reviewing authority may impose such conditions as it deems appropriate to protect the public health, safety and general welfare.

Potential CUP Findings for Medical Use

- A. The proposed medical use is compatible with and will not result in any adverse impacts to surrounding uses with regard to traffic safety, parking, scale and massing of the streetscape, or garden quality of the city.
- B. The granting of the CUP will not lead to an overconcentration of medical uses in a location where such overconcentration will result in adverse impacts to surrounding uses with regard to traffic safety, parking, scale and massing of the streetscape and the pedestrian environment in the vicinity of the project.
- C. The proposed medical use will not by location or design negatively impact the pedestrian environment in the vicinity of the project.
- D. The proposed location for the new building in which medical offices are located or the configuration of the existing building in which the proposed medical office space

is located is not suited to headquarters businesses and granting the request will leave ample space available for future retail and other commercial growth;

- E. The building housing the medical use provides adequate onsite parking that complies with all applicable parking requirements of this code and such parking is provided at a rate of at least one space per two hundred (200) square feet of area for the medical use.
- F. The building housing the medical use provides adequate patient drop off/pick up locations that comply with the Code and granting the request for a medical use permit will not result in adverse impacts to traffic circulation on adjacent streets.
- G. Any new medical use requested at the ground floor of any building facing a non-residential street must have a retail presence along that non-residential street.

Cap on the total number or square footage of medical uses permitted in the City

Staff has identified the number and location of existing buildings in the City that contain medical offices and the Planning Commission could put a cap on the number of buildings that may have medical uses or could limit the number of applications for medical uses that the City may accept in any given year. As indicated previously, staff has concerns about instituting a threshold number as it is difficult to determine an exact baseline figure for medical offices, as well as how much new medical office space should be allowed in the City. Creating a separate registration program would require a substantial amount of resources and delay other policy projects. Previous caps the City has adopted, one on the annual number of new hotel rooms and the other an annual limitation on residential conversions to common interest developments, have not proved necessary.

Pipeline Projects

Projects involving medical office use are currently being processed. Previously the City Council discussed exempting from new regulations projects at a certain point in the process. Should the Planning Commission consider restricting, limiting or prohibiting new medical uses, the Commission may wish to consider whether projects in the pipeline should be exempt.

ENVIRONMENTAL ANALYSIS

A draft ordinance would be reviewed for compliance with the California Environmental Quality Act (CEQA) for consideration by the Planning Commission.

PUBLIC NOTICE AND COMMENTS

This item was on the July 7 City Council Study Session agenda and the July 21, 2009 formal City Council agenda as an interim urgency ordinance that was not adopted. Interested persons and organizations including the Beverly Hills Chamber of Commerce were notified for the study session item before the Planning Commission on November 19, 2009 and for this study session.

RECOMMENDATION

It is recommended the Planning Commission direct staff to prepare an ordinance amending the Beverly Hills Municipal Code to further regulate new medical office uses in the City.

MICHELE MCGRATH

Attachments:

1. Planning Commission Staff Report, November 19, 2009
2. Beverly Hills Business Classifications and Taxes
3. List of Beverly Hills Buildings that Contain Medical Uses
4. Pertinent Zoning Code Sections
5. Pedestrian-Oriented Area Map
6. Commercial Residential Transition Areas Map

Attachment 2:

Planning Commission Staff Report

November 19, 2010



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning Commission
Meeting of November 19, 2009

TO: The Planning Commission
FROM: Michele McGrath, Senior Planner
SUBJECT: Consideration of Changes to Medical Land Use Policy that Limits or Prohibits New or Expanded Medical Uses in the City.

EXECUTIVE SUMMARY

On July 21, 2009, the City Council directed staff to prepare an ordinance that limits medical land uses in the City. In the course of its review, the Planning Commission was directed to study different approaches to achieve this goal. This report provides background information on the subject, describes alternative approaches to regulate medical uses and seeks Planning Commission direction.

BACKGROUND

Concern about the impacts of medical uses in the City dates back to the late 1980s when Beverly Hills, like a number of other cities, recognized medical uses generate greater traffic and parking demand than other office uses. In 1989, the City increased the parking requirement for medical office use from one parking space for each 350 square feet (the requirement for office spaces), to one parking space for each 200 square feet for medical office space. Existing medical office buildings were "grandfathered in" at the 1:350 parking rate and became legally nonconforming buildings with regard to parking. Shortly after the adoption of the ordinance, it was modified to exempt a few projects that had been in the pipeline.

The economic downturn in the early 1990s resulted in a high level of office vacancies and medical uses began to emerge as a significant user of vacant City office space; however, the recently enacted parking requirement for medical uses was reported to have placed a burden on commercial building owners and the City Council was asked to amend the ordinance. In July 1993, the City Council adopted an ordinance allowing existing property

owners to meet the 1:200 parking requirement for medical offices by restriping parking areas and providing free, validated parking. No discretionary approvals were required.

Medical uses continued to increase and concerns were raised by the City Council and the Planning Commission that medical uses require more parking, create more traffic, and generate less revenue than retail and other types of commercial businesses. In July, 2005, the Planning Commission began to review medical office uses in the City in two study phases. Phase I included recommendation of the following two ordinance amendments that became effective December 2003:

- a) Transitional Use Ordinance: limit hours of operation for medical uses in commercial areas that abut residential zones;
- b) Eliminate the provision that allows the restriping of parking areas and the use of tandem and compact parking spaces for medical uses that could not otherwise meet the 1:200 parking requirement.

In Fall of 2005, the Planning Commission initiated discussion of Phase II to review how medical office uses impact long-term goals and policies for land use in the City.

In January 2006, the Planning Commission proposed the following range of recommendations to address the proliferation of medical offices in the City:

- To address potential loss of revenue to the City, consider a review of business license taxes and fees for medical uses to determine whether or not these rates should be consistent with other professional office categories and/or rates for surrounding (or other comparable) cities.
- To address longer term impacts including parking, traffic, and a healthy mix of uses, one (or a combination of more than one) of the following options are proposed:
 - a) Limit new medical office uses in the City to specific geographic areas.
 - b) Place a cap on the total number or square footage of medical uses permitted in the City.
 - c) Require a conditional use permit for all new medical uses.

Subsequent to the January 2006, Planning Commission meeting, the City Council and Planning Commission priorities shifted and the medical office use discussion was deterred. In response to concern about a perceived increase in applications for medical offices, a General Plan Ad Hoc Committee meeting consisting of Mayor Nancy Krasne, Council Member John Mirisch, Planning Commission Chair Nanette Cole and Vice Chair Lili Bosse

met on June 24, 2009 to discuss medical office policies in the City. As a result of the Committee's recommendation, the City Council reviewed the issue in July 2009. An urgency ordinance prohibiting medical uses was presented to the City Council but did not receive the 4/5 vote needed to pass the ordinance. Instead, the City Council directed the preparation of an ordinance that would prohibit medical uses with consideration of exemptions for existing buildings that provide adequate on-site parking. The City Council discussed other related matters explored further in this report, including:

- Whether to prohibit ground floor medical office space on Wilshire Boulevard
- Evaluate the appropriate mix of medical office, general office and retail uses in the city
- Understand the appropriate number of medical offices/doctors to meet the City's needs
- Possible fiscal ramifications of medical use regulations
- Limiting medical land uses on geographic basis
- Impacts of medical uses on other land uses, including ability to foster more nightlife opportunities.

A copy of the July 2009 staff reports to the City Council, draft ordinance presented to the City Council and minutes of the July, 2009 City Council meetings are attached.

DISCUSSION

Concerns have been raised by the City Council and the Planning Commission about the conversion of office and commercial space in the City to medical offices. Medical office uses may have impacts that generally fall into the following categories: land use impacts, traffic and parking impacts, and economic sustainability impacts. In addition, staff reviewed impacts of medical uses on the City's emergency response services, Code enforcement information related to medical office uses, and standards for resident access to physicians to determine if the City is well-served by medical offices.

Land Use Impacts

The term "medical office" has come to encompass a variety of uses from traditional doctor's offices to surgery centers as health care has evolved. Despite these changes in health care, definitions of medical use appear to be consistent among most cities with three categories generally used: medical office, hospitals/long-term stay facilities and medical laboratories. In an attempt to make distinctions among different medical office uses, it has been pointed out in past discussions of medical uses in the City that surgery centers may have lower

parking requirements and higher revenues than traditional medical offices. It can be difficult to distinguish among different types of medical uses and the similarities among medical office uses such as operation on a tight appointment schedule, demonstrated traffic and parking impacts, and the need for special tenant improvements may speak to why cities have not further defined medical uses. Staff would recommend reviewing medical office uses as a class and not attempting to further define this use in regulations.

Most cities allow medical office uses in the same locations and under the same development standards as other office uses except for the parking requirements which are usually more stringent for medical uses. The City of Beverly Hills Zoning Code already prohibits hospitals and staff has found no examples of other cities prohibiting hospitals or of cities prohibiting medical office uses. While staff has not found examples of prohibitions on medical uses, there are many examples of cities prohibiting or limiting uses. Cities prohibit and restrict different uses in different areas depending on a city's goals. The City of Beverly Hills prohibits hospitals and stables, requires a Conditional Use Permit for amusements parks, breweries, drive-in facilities, hotels and museums, and restricts financial establishments and medical uses in identified pedestrian areas.

Mix of Land Uses

There are no specific guidelines that define a "healthy" mix of uses in a city or in commercial districts; it is determined by each City's vision and goals. According to the Beverly Hills General Plan Update Technical Background Report (October, 2005), only 8.9 percent of Beverly Hills' land area (248.8 acres) is comprised of commercial uses. Since the commercial area in Beverly Hills is so limited, the City historically has been more vigilant in regulating commercial land uses. The following chart gives a general estimate of major commercial uses in the City.

USE	SQUARE FOOTAGE
Auto Dealer/Supplies	257,000
Eating & Drinking Establishments	495,000
Financial/Real Estate Institutions	600,000
Retail (Apparel, merchandise and other)	1,140,000
Medical Office	1,270,000
Hotel/Motel	1,862,000

General Office	6,147,000
Notes: For all categories except General Office, the City's Building Inventory Data was used. For General Office, data was obtained from the "Los Angeles Business Journal" dated April 25, 2005 per a survey performed by Grubb & Ellis.	

Medical use comprises 21%, or more than one fifth of the office space in Beverly Hills. According to the 2008 Economic Sustainability Background Report prepared for the City, the health care sector is the City's second largest industry.

The conversion of office space to medical uses presents two concerns with regard to fostering a successful mix of uses: maintaining the City's vision for a pedestrian-friendly, commercial area with a mix of shops, restaurants and offices; and, providing opportunities for economic development including attracting priority businesses such as entertainment and high-end retail businesses

Pedestrian-Friendly Mix

While there is some anecdotal evidence regarding the relative contributions of various types of uses to creating a successful urban experience, staff has found little independent empirical information examining the relationship between medical uses and other uses in an urban environment. The City has commissioned studies of the local economy in the past and these studies do not capture the activities of medical visitors nor the more intangible benefits from the interaction of various uses, often referred to as "synergies." Synergy might refer to hotel patrons frequenting local restaurants or office workers shopping in local stores. Such information is usually only available through studies tailored to specific markets. The City commissioned a limited study in 2007 of Beverly Hills parking structure users. The draft report shows that a majority of medical office patrons who use the City parking structures do not live in Beverly Hills, usually arrive alone, and patronize retail or food establishments on a limited basis as part of their medical office visit. Patronage of retail stores by medical office users appears to be at about the same level as other professional (legal/financial) office clients and as employees in the area. Employees patronize food establishments at a higher rate than medical or professional office clients. Public parking garage users who identified the following as the main purpose of their visit to Beverly Hills: eat or have a drink out, shop or browse, personal business errand, visit with friends, or sightseeing, had a much higher rate of combining other activities such as shopping with the original purpose of their trip.

The City has, in the past, approved restriction of medical office uses, along with financial, real estate and other professional uses (lawyers, accountants) on the ground floor in the

City's designated pedestrian-oriented areas. As stated in the City's Zoning Code, these uses were restricted because:

"it is necessary to restrict the uses within these areas in order to preserve the urban village atmosphere and promote pedestrian friendly development. The City Council further finds that it is necessary and desirable to protect the public health, safety and general welfare to prevent the commercial spaces in these areas from being dominated by nonretail uses in order to preserve the city's retail tax base and ensure the city's continued ability to provide essential services to its residents." (BHMC 10-3-1651, 2002).

Economic Development

The proliferation of medical offices reduces the office space available to "priority businesses," discussed in the 2008 Economic Sustainability Report and identified in General Plan Update policy LU 15.2 as "entertainment-related Class A offices, high-end retail and fashion, restaurant, hotel technology and supporting uses." Medical offices often have different occupancy classifications and State and Building Code requirements than general offices or retail uses. As a result, medical office tenant improvements can require greater investment than other types of commercial uses, resulting in medical offices remaining medical offices for decades. This stability is often cited as a benefit but could be an issue if the City wishes to encourage other uses perceived to have a greater benefit to the City, such as the aforementioned "priority businesses." The General Plan Update emphasizes the importance of accommodating a wide variety of uses "that support the needs of local residents, attract customers from the region and provide a quality experience for national and international tourists" (LU 9.1). A preponderance of medical office could diminish the attractive diversity that has drawn key businesses and visitors to the City, maintaining the City's strong economic base.

Traffic and Parking

With the exception of restaurants, the parking requirement for commercial uses pursuant to the Beverly Hills Municipal Code (BHMC) is higher for medical uses (5 spaces per 1,000 s.f. or 1:200) than for other commercial uses such as office and retail (2.85 spaces per 1,000 s.f. or 1:350). While the Code requirements attempt to address the parking demand for various uses, it cannot be exact because the actual parking demand and trip generation figures are variable based upon times of day and demand for the specific use.

Most cities require parking at a rate of 1:350 or 1:200 or a combination of the two. Below is a sample of the medical parking requirements for the cities adjacent to Beverly Hills.

Staff Report
 Regulation of Medical Uses
 For the Planning Commission Meeting of November 19, 2009

Beverly Hills	Medical Offices - 1 space per 200 square feet
West Hollywood	Medical services: Clinics, offices, labs, and other outpatient facilities of 1,200 sq. ft. or less, tenant space existing prior to May 2, 2001 - 3.5 spaces per 1,000 sq. ft. All Others: 5 spaces per 1,000
Culver City	Medical/dental offices, clinics and labs: 1 space per 350 square feet
Los Angeles	Clinics, as defined in Health and Safety Code Section 1202, medical office buildings and other medical service facilities shall provide one automobile parking space per 200 square feet of total floor area

The following chart provides a comparison of the trip generation and parking factors for a sample of general commercial uses as compiled in the Institute of Transportation Engineers (ITE) Manual, considered the most authoritative general resource on the subject.

Use	Trip Generation (per 1,000 sq.ft.)			Parking Demand (per 1,000 sq.ft.)	BHMC Require- ment (per 1,000 s.f.)
	AM Peak	PM Peak	Daily	Average Peak Demand	
Medical-Dental Office	2.48	3.72	36.13	3.53	5
General Office	1.55	1.49	11.01	2.40	2.85
Shopping	1.03	3.75	42.94	3.02	

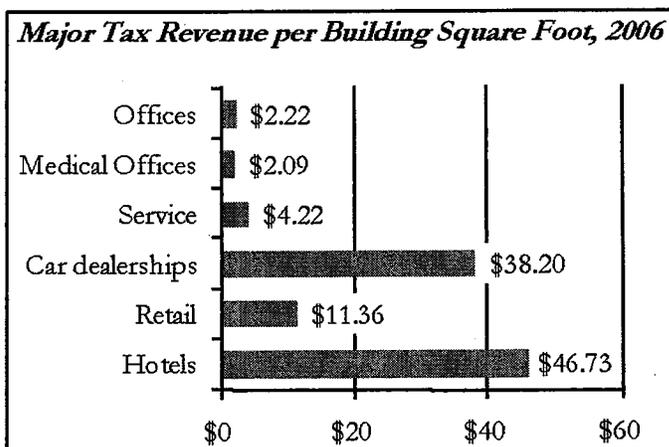
Center Retail				(4.74 at Peak: Saturdays. in-December)	2.85
Specialty Retail	not open	2.71	44.32	not available	2.85
Source: ITE Trip Generation Manual (7th Edition) and ITE Parking Generation Manual (3rd Edition)					

The chart above demonstrates that the parking demand for medical uses is greater than the demand for general office and retail uses. Trip generation during morning peak hours is also much higher for medical offices than for general office or retail uses. The afternoon peak for medical is more than double that of general office, and virtually the same as retail.

A 2007 study of Beverly Hills public parking structure users found that medical patrons park for a shorter period of time (1.8 hours) than a majority of users (2-4 hours) which is consistent with greater traffic generation from medical use. As medical offices displace general office and retail uses, parking demands and vehicle trips increase and the impacts from the proliferation of medical uses become more widespread.

Economic Sustainability

Revenue received by cities is now based more on how land is used and developed rather than on property taxes. According to the 2008 Economic Sustainability Report prepared for the City of Beverly Hills, Commercial land generated more than five times the revenue of an average acre of land in the City. General offices and medical offices yielded the lowest revenue per square foot of all commercial uses. Revenue from medical offices ranked



Source: Beverly Hills Economic Sustainability Background Report

second behind commercial leasing as a top generator of business taxes for the City but this is due to the total size of the health care sector (905 establishments). The retail sector has fewer establishments (393 establishments) but yielded higher revenues. For another comparison, health care's 926 businesses contributed over \$342 million (2006 payroll) but the City's 587 entertainment enterprises contributed over \$836 million (2006, payroll). *The

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

graph above reflects revenues generated through property, sales, business, and transient occupancy (hotel) taxes.

Business Taxes: Medical Office vs. General Office

There is a significant difference between tax revenue generated for most businesses in the City and the business tax revenue generated for professional offices such as medical offices because most businesses are taxed on gross receipts while the medical and other professional offices are taxed on the number of employees. Medical office uses typically command higher rents than general office uses and therefore contribute more to property and lease taxes (business taxes) collected by the City. General office uses typically have a higher number of employees relative to floor area than medical office uses so general professional office uses generate more revenue to the City in the form of slightly higher business taxes per building square foot. In addition to fewer employees, the 2008 Economic Sustainability Background Report shows that pay in the health care sector is well under the City average due largely to low-skilled workers who perform basic service jobs. Since pay correlates to the level of employee expenditure in the City, health care sector employees contribute fewer dollars to the local economy.

According to economic studies, entertainment enterprises possess synergies with retail and hotel uses, which also contribute significant revenues to the City. Medical office appear to have limited synergy with the other commercial uses[†] and may contribute less to pedestrian activity and character.

Parking Revenue

Over 25 years ago, the City implemented a "two hour free" parking program in City parking structures as an incentive to attract shoppers and diners to commercial districts. The goal was to increase sales tax revenue from restaurants and retail businesses. The City has experimented in the past with reducing the free public parking to one-hour. Today, a large number of the parking garage spaces on the west end of the Business Triangle in the North Bedford and North Camden public parking structures, as well as parking spaces on the east end of the Triangle in the two North Crescent Drive garages, are taken up by medical office users and commercial district employees rather than shoppers and restaurant clientele (11/7/2005 staff report to the City Council regarding public parking facility fees and 2007 parking structure users report). In response to this situation, the time limit for free parking in some of the public structures was reduced from two hours to one hour. Reducing the time limit for free parking in garages used mainly by medical office patrons and employees is

[†] 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.

one way to capture some of the revenue that would otherwise be generated by retail sales or office uses.

Other Medical Office Use Issues

Emergency Response - Fire Department Services

As part of past review of ordinances related to medical offices including the ordinance allowing overnight stay at surgery centers, as well as review of medical office projects, staff has worked with the Fire Department to determine whether such uses result in additional services provided by the City's emergency response system. Past studies have found no significant impact on the City's emergency services from medical office uses.

Access to Medical Care

There does not appear to be a generally accepted standard for the number of physicians that is optimum for a community. The U.S. Department of Health and Human Services does designate Health Professional Shortage Areas (HPSAs) which are determined using the ratio of primary care doctors and dentists to population. A ratio of population to primary care physician of 3000 - 3,500 population to one doctor is considered low enough for possible designation as an HPSA. The medical literature emphasizes primary care as the backbone of the nation's health care system since primary care includes first contact care, continuity of care, comprehensive care and coordinated care. These activities are often associated with internal medicine (internists) or family practice doctors and can also be associated with general practice and pediatrics. The number of primary care physicians in a community is a better indicator of whether a community is well-served by medical services than the overall number of doctors. Reports in the medical literature show that an increase in primary care physician supply results in improved health care outcomes in the United States[‡]. The Organization for Economic Cooperation and Development (OECD) provides figures for the number of doctors per 1000 resident population in OECD countries including the United States (2.4 physicians per 1,000 or 1 physician for 416 people) but this includes all physicians and does not distinguish between physicians delivering primary care medicine and other specialists. Similarly, the U.S. Census publishes an abstract of the number of doctors per resident population by state (1 doctor for 382 people in California) but that list includes all doctors except doctors of osteopathy, federally employed doctors and doctors with unknown addresses.

[‡] Macinko J, Starfield B, Shi L. Quantifying the health benefits of primary care physician supply in the United states. *Int J Health Serv.* 2007; 37(1):111-26

To gain a better understanding as to whether Beverly Hills is well-served by medical offices, staff reviewed the number of internists and family practice doctors in the cities of Beverly Hills, West Hollywood and Culver City. The cities are all located in proximity to each other, have similar population totals and are in proximity to hospitals. Brotman Hospital (420 beds) is in Culver City and Beverly Hills and West Hollywood are both located near the Cedars-Sinai Medical Center (958 beds) which is in the City of Los Angeles. The table below shows the number of residents in each City per primary care doctor.

City	Total Population	# Internists	# Family Practice Doctors	Total Primary Care Doctors	Residents Per Primary Care Doctor
Beverly Hills	35,983	144	41	185	195
West Hollywood	35,716	160	21	181	197
Culver City	40,500	23	15	38	1,065

Information about the number of doctors was obtained from HealthGrades, considered a leading doctor-ratings website that lists every practicing physician in the United States according to 132 specialties including internal medicine and family practice. To give a better idea of the number of physicians with offices in Beverly Hills, five additional specialties included in the 132 specialties tracked by HealthGrades are listed below.

Specialty	Number of Doctors in Beverly Hills
Cardiologist	38
Dermatologist	47
Orthopedic Surgeon	56
Plastic Surgeon	89
Psychiatrist	68

Using the number of doctors in Beverly Hills from the two primary physician categories and the five specialties above, yields a doctor to population ratio of one doctor for 75 residents.

This ratio does not capture all of the physicians in Beverly Hills and far surpasses any ratio of doctors to population that staff has found.

It is clear from these numbers and from information provided by real estate professionals and local doctors that the proximity of the cities of Beverly Hills and West Hollywood to the Cedars Sinai Medical Center is a major reason these cities have more doctors per capita than other cities. Beverly Hills appears to have more than enough physicians to care for the needs of the City and these physicians are also providing for needs of people in the wider Los Angeles County area.

Ordinance to prohibit or limit new medical office use

In crafting an ordinance regulating new medical offices, the Planning Commission may consider a prohibition of new medical office uses and may also consider allowing medical offices with restrictions :

- A. Limit new medical office uses in the City to specific geographic areas;
- B. Require discretionary review of new medical uses.
- C. Place a cap on the total number or square footage of medical uses permitted in the City;

A. Limit new medical office uses in the City to specific geographic areas.

Medical uses are spread throughout the City's commercial areas with a concentration at the western end of the business triangle. The Planning Commission could determine that the City already has the maximum square footage of medical office use that is desirable and prohibit new medical office use in the City; alternatively, the Planning Commission could determine that new medical offices are appropriate in certain areas and not in others. The main areas that have been discussed by the City Council and Planning Commission as potentially inappropriate for additional medical use are the Business Triangle and Wilshire Boulevard. These areas have been identified in economic studies as important locations for the "vital and successful businesses that contribute to the City's identity and culture, provide high-paying jobs and contribute revenue that sustains the level and quality of services in the City" (General Plan Update goal LU 15). General Plan Update policy LU 15.2 identifies such "Priority Businesses" as entertainment-related Class A offices, high-end retail and fashion, restaurant, hotel technology and supporting uses.

Additional commercial areas that could be considered for medical office restrictions include South Beverly Drive, the portion of Little Santa Monica Boulevard west of Wilshire, part of

Olympic Boulevard, part of San Vicente Boulevard and La Cienega Boulevard. These commercial streets are located adjacent to residential zones. If medical office uses are prohibited in the Business Triangle and/or on Wilshire Boulevard, it would create pressure to locate medical offices in these other commercial areas, possibly creating a conflict with General Plan Update goals LU 10, "Economically Vital Districts" and LU 12, "Business Districts Adjoining Residential Neighborhoods." Goal LU 10 is focused on retaining existing businesses and attracting new ones as well as sustaining employment, well-paying jobs and extraordinary economic activity. A policy that promotes this goal is to promote the development of businesses that serve, are located in proximity to, and are accessible to adjoining residential neighborhoods such as grocery stores, dry cleaners and personal care businesses. Goal LU 12 is a "[c]ompatible relationship between commercial districts and corridors and adjoining residential neighborhoods assuring that the integrity, character, and quality of both commercial and residential areas are protected and public safety and quality of life are maintained." Additional medical offices along the City's residential-adjacent streets could have increased traffic and parking impacts and would not appear to be consistent with the General Plan Update goals and policies.

For an additional frame of reference to discuss limiting medical use by geographic area, the City, in 2003, adopted an overnight stay ordinance for surgical centers to allow patients to remain overnight (but not more than 24 hours). Commercial areas within 170 feet of single-family residential zones were excluded from applying for overnight stay permits. This was due to concerns about potential impacts of additional evening medical office activities on the nearby single family areas. The following are the blocks zoned for commercial uses that are within 170 feet of single-family areas:

- West side of Beverly Drive between Charleville and Olympic;
- North side of Wilshire east of Crescent and west of Almont;
- North and south sides of Wilshire east of Arnaz and west of La Cienega; and,
- South side of Wilshire west of Robertson and east of Doheny.

It is noted that staff has found no negative impacts resulting from the overnight stay ordinance.

B. Require discretionary review of new medical uses.

Should the Planning Commission wish to allow medical offices with restrictions, the most appropriate discretionary process would be a Conditional Use Permit (CUP) for future medical uses. Although this process would allow the Commission to review each new incoming medical use and craft appropriate conditions, there would be time and costs

considerations for applicants and staff. The Commission's decisions could be appealed to the City Council.

Currently, applications for medical office use must meet all of the development standards for a commercial use as well as the additional parking requirements for a medical use. New construction that requires the issuance of a building permit is currently subject to Development Plan Review unless it is construction of less than 2,500 square feet, in which case it is exempt from Development Plan Review. New medical offices may also be subject to the following regulations:

Commercial/Residential Transition Ordinance (BHMC 19.5). Medical uses located near residential uses are currently subject to this ordinance that imposes additional development and operational standards for medical uses;

Pedestrian Area Ordinance (BHMC 16.5) Medical uses are not allowed on the ground floor of buildings in the pedestrian-oriented area (retail area of the Business Triangle) unless less than 25 feet wide and authorized by the Director of Community Development or approved by the Planning Commission through a CUP.

In addition, the City's existing ordinance restricting uses in pedestrian-oriented areas includes findings that could be helpful to the Commission in discussing findings for a CUP for medical uses (pertinent Code sections are attached).

C. Place a cap on the total number or square footage of medical uses permitted in the City.

With the City's limited commercial area it could be argued that the City does not need any additional medical office use and new medical office users would have to find an existing medical office space in the City. Staff has concerns about instituting a threshold number as it is difficult to determine an exact baseline figure for medical offices, as well as how much new medical office space should be allowed in the City. Creating a separate registration program would require a substantial amount of resources and delay other policy projects. Previous caps the City has adopted, one on the annual number of new hotel rooms and the other an annual limitation on residential conversions to common interest developments, have not proved necessary or successful.

Other Considerations

Exemption for Existing Buildings

The City Council specifically directed the Planning Commission to consider a provision that would allow medical office conversions if the spaces meets current Zoning and Building Codes including Code-compliant parking.

Pipeline Projects

There are concerns regarding the perceived proliferation of medical-related land uses in the City. Three projects involving medical office use are currently being processed. Previously the City Council discussed exempting from new regulations projects at a certain point in the process. Should the Planning Commission consider restricting, limiting or prohibiting new medical uses, the Commission may wish to consider whether projects in the pipeline should be exempted.

ENVIRONMENTAL ANALYSIS

A draft ordinance would be reviewed for compliance with the California Environmental Quality Act (CEQA) for consideration by the Planning Commission.

GENERAL PLAN ANALYSIS

Neither the current Land Use Element of the General Plan, nor the draft General Plan Update, nor the recommendations of the General Plan Topic Committees appear to specifically address medical office use. The current General Plan and proposed General Plan Update both have as a goal the long-term stability of the City and this goal supports restriction of medical office uses to maintain the competitive ability of the city's commercial areas.

LU 1 Long-Term Stability. "In general, each of the land use issues is directed toward the enhancement and maintenance of the long-term durability and stability of the community. A plan which would accomplish this must recognize the unique qualities of the community, and with it, the factors which enhance the uniqueness as well as the factors which jeopardize them. Beverly Hills is fortunate in that it is able to serve a variety of residential and commercial demands in a manner and combination which is difficult to duplicate elsewhere in the Los Angeles area. Consequently, as long as Beverly Hills is able to provide an alternative not available elsewhere, it will endure....Aside from the issues of change which face the community as new development occurs and new demands are placed upon the City, *it is equally important to recognize that the process of maintaining the quality of life is a dynamic one. The City's programs must be able to recognize and respond to the problems which typically affect Cities, such as deterioration of its older housing stock, obs-*

lescence or loss of competitive ability of commercial areas, rising costs and overburdened

In addition, as previously discussed, General Plan Update goals LU 12 and LU 15 encourage economic sustainability and compatibility between commercial and residential areas and prohibition or restriction of medical office uses would support these goals.

ZONING ANALYSIS

Should the Planning Commission wish to amend the Zoning Code with regard to medical uses, it is proposed that Section 16-3-1601 of the Zoning Code, "Commercial Zone - Uses Permitted," be amended to define "office" to exclude medical offices which would then be listed in the commercial zone under "businesses excluded," or to allow medical office use as a "conditionally permitted use" in the commercial zone.

PUBLIC NOTICE AND COMMENTS

This item was on the July 7 City Council Study Session agenda and the July 21, 2009 formal City Council agenda as an interim urgency ordinance that was not adopted. This is a study session item before the Planning Commission on November 19, 2009 and interested persons including the Beverly Hills Chamber of Commerce were notified about the meeting.

RECOMMENDATION

It is recommended the Planning Commission direct staff to prepare an ordinance amending the Beverly Hills Municipal Code to prohibit or limit new medical office uses in the City.

MICHELE MCGRATH

Attachments:

1. July 7, 2009 staff report to the City Council and minutes of the meeting
2. July 21, 2009 staff report to the City Council, draft ordinance and minutes of the meeting
3. Public Parking Facility Staff Report
4. Pertinent Zoning Code Sections.

Attachment 1

July 7, 2009 staff report to the City Council and minutes
of the meeting



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: July 9⁷, 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.

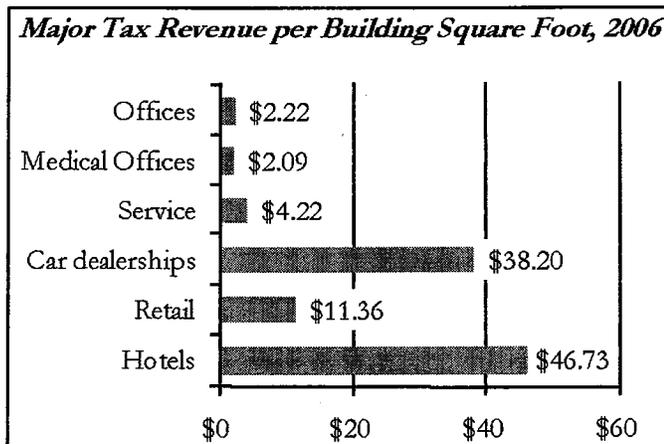
The City Council has over time, expressed a desire to limit medical uses in the City due to land use impacts and revenue implications. Previous council member statements suggested that medical office uses be prohibited in the Business Triangle, along certain portions of Wilshire Boulevard and west of 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

CITY OF BEVERLY HILLS
ACTION MINUTES - INFORMAL MEETING
July 7, 2009
Council Chambers
2:30 P.M.

PRESENT: Mayor Krasne
Councilmembers Delshad , Brucker, Brien, and Mirisch
City Manager Wood
Assistant City Manager Lichtig
City Attorney Wiener
Chief Assistant City Attorney Diaz
Director of Project Administration Schneider
Associate Project Manager Larson
Project Manager Rubenstein
Assistant Director of Community Services/R&P Zoet
Director of Community Services Miller
Deputy City Engineer Maloyan
Director of Economic Development and Marketing Maxwell
Director of Community Development Keene

ABSENT:

A - DIRECTION

1. 455 Crescent Garage Status Report

Staff report on the continuing progress on the development of construction plans for the 450 car 3-level parking garage below Crescent Drive and City Hall lawn, in conjunction with the Wallis Annenberg Center for the Performing Arts, and recommendation for implementation of the construction of the facility.

Council Ad Hoc Committee liaisons Mirisch and Brucker requested that the staff report be put on hold until the Ad Hoc Committee's recommendations are incorporated into an overall report for Council presentation. Director of Project Administration Alan Schneider clarified that even though the Ad Hoc Committee's recommendations were not written into the staff report, they will be verbally discussed along with the bigger picture of the project. He assured Council that the recommendations will be incorporated into the final design. Councilmembers Mirisch and Brucker briefly discussed their recommendations.

Associate Project Manager Donielle Larson presented the site and garage floor plans. Project Manager Rubenstein discussed the results of the Ad Hoc Committee review, a historical review of Council project approvals, the coordination of the project construction, benefits of a guaranteed maximum price contract, contractor selection, proposed implementation, proposed fees, construction schedule, traffic diversion plan, project budget estimate, and staff recommendations.

Mayor Krasne directed staff to obtain a rough estimate of the additional parking garage costs so that Council can evaluate whether to proceed or not with the contingency, and adopt the plan as originally proposed. Councilmembers Brien and Mirisch expressed concern on the project's adaptability to accommodate changes without increasing costs. Councilmember Brucker also expressed concern that there may be some major utility lines running along the construction sites. Vice Mayor Delshad urged Council to move forward so as not to delay construction. Mayor Krasne requested a report from Director of Parking Operations Chad Lynn on the 331 North Foothill and City Hall garage parking capacities. Council approved moving forward with the project.

2. Youth Sports Fees
Seek Council direction on Youth Sports Organization Fee.

Assistant Director of Community Services/Recreation and Parks Steven Zoet presented a historical summary of recent meetings with various stakeholders, and the proposed youth sports fees and considerations.

Rick Wolfen from Beverly Hills American Youth Soccer Organization (AYSO) gave handouts analyzing the Recreation and Parks Commission athletic field costs memo dated March 20, 2009. He proposed a \$10 per player fee for Beverly Hills residents and a \$15 per player fee for non-Beverly Hills residents. Councilmember Brien explained in detail the Liaison Committee's recommendation that tried to incorporate all parties' suggestions.

Jeff Pop from AYSO submitted a handout on the AYSO Region 76 response to the Beverly Hills Recreation and Parks field usage proposal. He requested that there be no hourly fees and recommended tiered fees. In response to Vice Mayor Delshad's question, he said resident and non-residents pay the same fees. Councilmember Mirisch asked Mr. Pop about AYSO's other concerns. Councilmember Brucker asked about field space distribution and privacy issues. Councilmember Brien suggested that AYSO's concern regarding the use sports policy checklist be discussed further with the Recreation and Parks Commission (RPC).

Beverly Hills Little League volunteer David Bronte urged the Council to charge a flat fee for both residents and non-residents.

California Association of Parks and Recreation Commissioners Boardmember and Recreation and Parks Commissioner Kathi Rothner provided information on what other cities are doing.

Michael Karlin from AYSO Region 76 requested Council to direct staff to work out a system to differentiate residents from non-residents that is simple and will not have to reprogram what sports organizations are now doing.

AJ Willmer commented that quality of programs have not been considered in the discussions. He encouraged Council not to use the current financial crisis as an excuse to levy higher permanent fees.

RPC Chair Marc O'Krent addressed issues of residency and registration, meeting with all sports groups, and fees policy based on the true operating cost of the program. City Manager Wood clarified that based on the joint powers agreement, the City has priority on the use of facilities over the Beverly Hills Unified School District. Vice Mayor Delshad asked staff what the City's obligation is to its residents to provide sports recreation. In response to Councilmember Mirisch's question, Director of Community Services Steve Miller explained that five years ago RPC recommended a cap of 1400 users for the fields.

Councilmember Brucker recommended that Council approve the Liaison Committee's revised recommendations. Mayor Krasne recommended a reconsideration of the fees. Councilmember Mirisch concurred with Councilmember Brucker. Vice Mayor Delshad did not agree with the recommendations. Councilmember Brien suggested reconsidering the hourly fees and resident cap to reduce the burden on non-resident users. Councilmember Brucker suggested that the Liaison Committee work with the sports organizations to offer scholarships or waive fees due to hardships. Councilmember Brien suggested that the issues of residency, checklist, and credit back be taken back to the RPC for further discussion. Council agreed to move the item forward for approval at the Formal meeting.

3. Presentation of the Street Lighting Project - Phase III Commercial, Fixture Recommendations

This presentation will cover the scope of the work, basic designs for the street lights and poles, and staff recommended fixtures for the project. The areas that will receive new poles and fixtures are Crescent Drive (Santa Monica Boulevard to Wilshire Boulevard), Robertson Boulevard (City limit to City limit), South Beverly Drive (Wilshire Boulevard to Olympic Boulevard), Wilshire Boulevard (City limit to City limit), and the Business Triangle (excluding streets upgraded as part of the Urban Design Project). Olympic and La Cienega Boulevards (City limit to City limit) will receive new fixtures on existing poles.

Deputy City Engineer Ara Maloyan presented a project overview and history, community and public relations outreach, research and sample testing, staff recommendations, LED questions and answers, Technology Committee recommendations, and funding requirements.

Public Works Commissioner Steven Weinglass suggested that the options be carefully chosen as technology is growing very fast and the project may become obsolete before it is completed. Mayor Krasne suggested that the poles being recommended be reviewed by the Architectural Commission.

Technology Committee member AJ Willmer spoke about the drawbacks of using LED lighting and recommended replacing concrete poles with steel poles.

Councilmembers discussed and asked questions regarding LED lighting, poles, and holiday lights. Council approved Technology Committee's recommendation to use smart poles with conduits that are fiber-ready. Staff will add the treewells as a deductive item to the bids for the Council to decide later on to implement if there is available funding.

4. Proposed Frank Fenton Field Signage

Seeking approval of the Recreation and Parks Commission recommendation of proposed signage and provide direction regarding a supplemental historical plaque.

Assistant Director of Community Services/Recreation and Parks Steven Zoet reported on the Recreation and Parks Commission proposal to change the La Cienega park signage to "La Cienega Park, Frank Fenton Field" in commemoration of former Councilmember Frank Fenton's contributions.

Councilmember Brien suggested changing the sign to read "Frank Fenton Field at La Cienega Park." Council approved the signage change and the supplemental plaque providing historical information.

5. Beverly Hills Global Partners request for City Council to Discuss support for a Beverly Hills Documentary Film Festival and associated Chinese Production Summit
Proposal for support from City Council for a Documentary Film Festival and associated Chinese Production Summit

Director of Economic Development and Marketing Alison Maxwell provided background information on the proposal by Beverly Hills Global Partners (BHGP) to launch a Beverly Hills International Documentary Film Festival together with Mr. Richard Rosenzweig. BHGP Chair Bruce Cole requested a letter of support from the Council to conduct the film festival and a Chinese Production Summit to be attended by Chinese government officials and American filmmakers. Vice Mayor Delshad requested that Herzliya, Israel be included in the event as its Mayor has indicated interest in participating. Councilmember Mirisch suggested conducting an annual production summit focusing on different countries each year that is not related to the Sister City program. Council approved the request. The letter of support will be signed by all Councilmembers.

6. Consideration of Changes to Medical Land Use Policy that Limits or Prohibits New or Expanded Medical Uses in the City

Discussion of the implications of additional medical office space in the City and possible direction to staff to develop immediate restrictions on new medical office space.

Director of Community Development Susan Healy Keene provided a historical background on medical office use, considerations, impacts, options for course of action, and staff suggestions.

AJ Willmer recommended that Council consider medical office lease issues, and traffic and parking issues specifically parking in residential areas around medical buildings.

Planning Commission Chair Nanette Cole and Vice Chair Lili Bosse spoke about the Commission's need for direction on Council's long and short-term land use priorities, how Planning Commission applications will be addressed, and identifying locations in the City where medical use will be permitted or capped.

Councilmember Mirisch suggested that Council make a policy statement at the Council Formal meeting freezing medical use and capping it according to the City's needs. Councilmember Brucker suggested a moratorium until the General Plan is addressed with exceptions to already existing applications. Councilmember Brien asked staff what other cities around Beverly Hills are doing concerning medical use, and the ratio of medical office space in the city compared to other cities. He agreed on the moratorium and suggested no expansion of medical office spaces until the General Plan has been completed. Vice Mayor Delshad expressed concern on the moratorium without further information from staff and the Planning Commission. He voted against the moratorium and suggested that applications should go to Council for approval after staff review until the General Plan is in place. Mayor Krasne suggested tiering different types of medical uses. She suggested getting the public's feedback through a public hearing, and suggested a six-month moratorium, emergency ordinance, and letting existing applications to move forward.

Council agreed on a moratorium and continue the item to the Formal meeting. The moratorium will not affect existing applications. An urgency ordinance that requires four votes and an interim ordinance requiring three will be prepared by the City Attorney's Office and presented at the July 21 meeting for Council consideration.

7. Traffic and Parking Commission Interview Panel Report Transmits appointment recommendation for filling two upcoming Traffic and Parking Commission vacancies.

This item was discussed at the July 7, 2009 Formal meeting.

8. Trademark Registration of "Smart City" Report on the Potential Trademark Registration of "Smart City".

This item was not discussed. The item was moved for discussion to the July 21, 2009 Council Study Session.

9. Request by Mayor Krasne to Amend the Council Policy and Operations Manual to Establish a Rule that Requires a Vote to Continue the Formal City Meeting Past Midnight At the City Council meeting of June 2, 2009 the Mayor requested this matter be placed on a study session agenda for council consideration and policy direction to staff as appropriate. There are currently no specific rules of this nature. If the City Council were to direct the creation of such a rule, staff would craft a consistent amendment to the City Council Policy and Operations Manual and place that item on an upcoming Formal Meeting of the City Council for consideration by the City Council.

This item was not discussed. The item was moved for discussion to the July 21, 2009 Council Study

Session.

B - INFORMATION

10. Report from the Chief Financial Officer Related to Code Authorized Changes to Certain Flat Rate Taxes and Amending the Comprehensive Schedule of Taxes, Fees and Charges for the Fiscal Year 2009-2010
This report transmits information to the City Council related to the CPI increase of certain flat rate taxes as authorized in Municipal Code 3-1-1001.

This item was not discussed.

11. Report of the Recommendations of the Human Relations Commission Liaison Committee for FY 2009-2010: Revised Allocation of Community Assistance Grant funds to Include an Additional \$204,000 Allocation of Community Assistance Grant Funds to include additional money. .

This item was not discussed.

The Study Session adjourned at 6:34 p.m. to the Closed Session to discuss the items that are identified on the agenda that has been prepared for the meeting. The Closed Session concluded at 7:00 p.m. Study Session items not discussed will be continued to the Formal meeting.

City Clerk's Office/lsr

THESE INFORMATIONAL NOTES ARE PREPARED BY THE CITY CLERK'S OFFICE AND ARE NOT APPROVED BY THE CITY COUNCIL.

This meeting was televised on City of Beverly Hills Municipal Government Television Access, BHN/10, Time Warner Cable.

Attachment 2

July 21, 2009 staff report to the City Council, draft ordinance and minutes of the meeting



AGENDA REPORT

Meeting Date: July 21, 2009

Item Number:

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

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

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



**CITY OF BEVERLY HILLS
CITY COUNCIL
REGULAR MEETING
July 21, 2009**

The Regular Meeting of the City Council of Beverly Hills was held in the Council Chambers at 7:00pm.

PLEDGE OF ALLEGIANCE

A. ROLL CALL

Present: Councilmember Mirisch, Councilmember Brien, Councilmember Brucker, Vice Mayor Delshad, and Mayor Krasne
Absent: None

B. PRESENTATIONS

1. PROCLAMATION - "August is Beverly Hills Farmers' Market Month"

Mayor Krasne presented a proclamation to Market Manager Greta Dunlap and thanked her for her extraordinary efforts in contributing to the success of the Market.

2. CITY TREASURER - Appointment of Daniel M. Yukelson as Deputy City Treasurer

Item B-2 Link

Chief Financial Officer Scott Miller requested that, in City Treasurer Eliot Finkel's absence, this item be continued to the meeting of August 4, 2009.

C. ORAL COMMUNICATIONS

their graciousness towards the church and urged the Council to vote no on the proposed changes.

48. Thomas White opposed the Traffic and Parking Commissions' recommendation and spoke in opposition to a change in the parking restrictions.

49. Mayor Krasne read a letter from residents Mahin and Ahmad Hekmat on Parkway in favor of the modification to the street parking.

50. Lt. Joe Chirillo spoke to the issues in the area raised by the residents that live on Park Way.

Lt. Chirillo responded to Councilmember's questions and comments.

Mayor Krasne closed the public comment portion of this item.

Following discussion, the Council agreed that further study is needed and asked that staff meet with the churches and residents to facilitate discussion to come up with an overall plan for the Council to consider.

1B. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS TO MODIFY THE TIME LIMIT AT THE METERS ON THE SOUTH SIDE OF THE 1200, 1300 AND 1400 BLOCKS OF PARK WAY. Comment: Staff recommends modifying the time limit at the meters to restrict the parking at the metered parking spaces after 10:00 p.m. on the south side of Park Way. The Traffic & Parking Commission voted to recommend restricting the parking at the meters after 6:00 p.m.

Item E-1 Link

ITEM E-1A & E-1B: BY ORDER OF THE CHAIR, THE MATTER WAS CONTINUED TO THE MEETING OF AUGUST 18, 2009 TO ALLOW TIME FOR STAFF TO MEET WITH THE CHURCHES AND RESIDENTS AND RETURN WITH AN OVERALL PLAN

2. AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING NEW OR EXPANDED MEDICAL OFFICE USE IN THE CITY, AND DECLARING THE URGENCY THEREOF. Comment: Proposed moratorium on the additional medical office space in the City. Initially effective for 45 days; intended to cap medical office development until General Plan land use policies are updated.

Item E-2 Link

Community Development Director Susan Healey Keene presented the staff report and PowerPoint presentation at the direction of the Council from the July 7, 2009 meeting to bring forward a temporary interim ordinance regarding a moratorium

on expansion and new medical use applications in the City of Beverly Hills.

Speaking:

1. Stacy Brenner stated concerns the proposed ordinance would have on a project she is working on with her client on Olympic and Maple.
2. Martin Mervel discussed a modification to a current medical building he is associated with.
3. Aman Dayan spoke to the merits of the project mentioned by speaker #2.
4. David Anderson spoke about the project previously mentioned by speaker #2.
5. Anita Zussman Eddy, speaking on behalf of the Chamber of Commerce, voiced concern about the content of the ordinance being considered.
6. Deborah Kallick, representing Cedars Sinai Medical Group, is concerned about the moratorium, but hopes the Council will not extend it for more than 45 days without further study.
7. Dar Mahboubi spoke about potential new tenants on Rodeo Drive that would bring very high profile clients from all over the world.
8. Tom Korey commented on older buildings in the City that have always had mixed commercial uses.

City Council discussed the matter, agreeing that additional study is needed, and asked questions of staff.

MOVED by Councilmember Mirisch, seconded by Councilmember Brucker to approve an interim ordinance of the City of Beverly Hills prohibiting new or expanded medical office use in the City, and declaring the urgency thereof, with the amendment that existing office space that meets the current code has adequate parking to meet the medical compliance would be exempt.

Ayes: Councilmember Mirisch, Councilmember Brien, and Councilmember Brucker.

Noes: Vice Mayor Delshad, and Mayor Krasne.

FAILED

MOVED by Councilmember Mirisch, seconded by Councilmember Brucker to direct the Planning Commission to consider the ordinance that was presented this evening, as a regular ordinance with the regular procedures, with the amendments suggested by the Council, and possibly consider on a limited time period.

Ayes: Councilmember Mirisch, Councilmember Brien, Councilmember Brucker, and Vice Mayor Delshad.

Noes: None.

Abstain: Mayor Krasne.

CARRIED

ITEM E-2: DIRECT THE PLANNING COMMISSION TO CONSIDER THE ORDINANCE THAT WAS PRESENTED THIS EVENING, AS A REGULAR ORDINANCE WITH THE REGULAR PROCEDURES, WITH THE AMENDMENTS SUGGESTED BY THE COUNCIL, POSSIBLY ON A LIMITED TIME PERIOD

3. **RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS SUPPORTING IRANIAN CIVIL LIBERTIES.** Comment: This Resolution provides a statement in support of fair elections, human rights and freedom for the citizens of Iran.

Item E-3 Link

Deputy City Manager Cheryl Friedling provided a brief report on this item.

MOVED by Vice Mayor Delshad, seconded by Mayor Krasne to adopt Resolution E-3 as follows:

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVELRY HILLS SUPPORTING IRANIAN CIVIL LIBERTIES.

Ayes: Councilmember Mirisch, Councilmember Brien, Councilmember Brucker, Vice Mayor Delshad, and Mayor Krasne.

Noes: None.

CARRIED

ITEM E-3: ADOPTED RES#09-R-12691

4. **AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RALPH ANDERSEN & ASSOCIATES FOR EXECUTIVE SEARCH SERVICES.** Comment: This agreement would retain Ralph Andersen & Associates to conduct a national executive search for a new Beverly Hills City Manager.

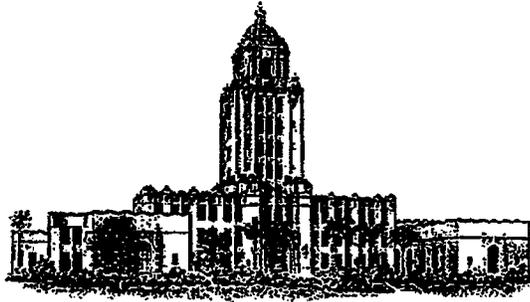
Item E-4 Link

City Attorney Wiener provided a brief staff report.

MOVED by Councilmember Brucker, seconded by Mayor Krasne to approve an agreement between the City of Beverly Hills and Ralph Andersen &

Attachment 3

Public Parking Facility Staff Report



CITY OF BEVERLY HILLS

STAFF REPORT

Meeting

Date: November 7, 2005
To: Honorable Mayor & City Council
From: David Lightner, Deputy City Manager
Subject: Public Parking Facility Fee Policy

INTRODUCTION

As you know, a consultant study has been conducted to evaluate the City's parking fee policy for public garages in the Triangle and on South Beverly Drive. Pat Gibson, our parking consultant, has developed a proposal of options and along with staff and the City Council subcommittee has discussed the concepts with representatives of the business community and the residential neighborhood groups. Those discussions have led to refinements and modifications to the proposal and to expansion of the outreach effort. At the June 7 City Council study session, Mr. Gibson provided an update on the program. The program options discussed at that meeting have been further refined as a result of additional public outreach, leading to the three options noted below:

1. Customers pay from the first hour of parking
 \$1/hour for the first two hours
 \$1.50/half-hour thereafter
 Free Parking 7-9 a.m.
2. Two-hour free parking with validation
 Retail/restaurant merchants buy validations at half price
 Other business may buy validations at full price
 Free parking 7-9 a.m.
3. One-hour free parking
 \$1/half-hour for second hour
 \$1.50/half-hour thereafter

Staff and the City Council subcommittee (Webb, Delshad) recommend option three, the one-hour free parking program.

Meeting Date: November 7, 2005

DISCUSSION

The City initiated a subsidized two-hour free parking policy over 20 years ago with the goal of providing an incentive to shoppers and diners in the commercial districts around public garages. This investment was designed to result in higher sales tax revenues from restaurant and retail merchants. Over the years it has become apparent that certain aspects of this policy do not achieve the desired results. For example, because of the high concentration of medical offices near the Bedford garage, most of that subsidy was not going to retail and restaurant customers. The Bedford garage was changed to one hour of free parking in partial response. It has also been recognized that some area employees abuse the system by parking and re-parking in order to avoid paying during their work day. The policy at the Crescent garages was changed to one hour of free parking in partial response to this issue.

It has also become clear that additional investment in maintenance and improvements for the parking garages is needed along with more investment toward new garages. Additionally, it is recognized that we need to be conscious of the policies of competing shopping and dining districts. Although evidence from other communities indicates that a small parking charge to the customer is not likely to change consumer behavior, the ability to market parking that is free to the customer is important to many local merchants.

In light of these issues, there are numerous potential responses. Among the possibilities for changes to the current parking fee policy are:

- Two hours free with merchant paid validations
- Customer paid parking with debit cards
- A business tax to cover the cost of the first two hours
- Substantial increase in the fees after two hours
- Cost reductions by reducing maintenance and services
- Lease the garages to commercial vendors and let the market determine price
- Reduce funding to other General Fund operations to subsidize the parking operation
- Voter approved property tax increase to subsidize the parking operation
- Modify program to one hour of free parking

The pros and cons of these and other options were considered with an eye to achieving multiple goals, including:

- Better maintenance and repair in existing garages
- Funding toward construction of additional garages
- Better customer service
- Addition of customer friendly garage enhancements
- Additional security features
- Reduction of employee parking problem
- Improvement of the visual appearance of the garages
- Solution to the potential administrative burden of validation programs

Meeting Date: November 7, 2005

- Solution to the fairness issue for low-dollar-transaction, high-customer-volume businesses
- Opportunities for local business advertising in the garages
- Increasing shopping time by reducing incentive to rush back to the garage at a set time

The recommended option was developed after considering all of these issues and seeking a balance. While significant effort was invested in evaluating validated parking programs, the response was generally that, at a charge of \$1 per hour, the administrative burden to the merchant outweighed the customer incentive of two-hours-free with validation. There was additional concern from merchants about the negative customer service implications of refusing validations without purchase. Most felt they would have to buy validations for anyone who asked rather than only for good customers. While this led to active merchant discussion of just letting customers pay the discount rate of \$1 per hour for the first two hours, ultimately concerns about smaller retailers and short duration shopping trips, led to the recommended program.

Under the proposed program, no validations would be needed. The first hour of parking would be free. This change would standardize the program as the Bedford and both Crescent garages are already one-hour-free garages. The second hour of parking would cost \$1 per half hour and the rate would be \$1.50 per half hour thereafter, just as it is currently after two hours.

FISCAL IMPACT

The fiscal impact will depend upon the program selected. The parking operation is currently generating approximately \$2 million annually in gross revenue from hourly parking. This is essentially a breakeven revenue stream against operations. It does not provide funding for additional maintenance and upgrades or to add to the parking supply.

<u>Program Option</u>	<u>Additional Revenue</u>
▪ Customer pays - \$1/hour for first 2 hrs.	\$4.4 M
▪ Validated pkg - merchants pay half price	\$3.7M
▪ One Hour free - \$1/half-hour for second hour	\$2.8M

RECOMMENDATION

There is broad consensus in the community that additional investment in the parking facilities and operations is warranted and that a change in the fee structure is a reasonable approach. As discussed there are many different structures possible, each with varying pros and cons. Approval of any of the three options outlined by our parking consultant will generate additional revenues relatively quickly, allowing upgrades to the facilities and operations to be planned right away.

Meeting Date: November 7, 2005

The key findings of the outreach effort were that the fee system needs to be convenient for the customer, not an administrative or financial burden to the merchant and designed so that the cost is reasonable to customers of all types of

businesses. Staff and the City Council subcommittee recommend the one hour free parking option, with \$1 per half-hour for the second hour. Substantial additional revenue is projected with this option, the administrative burden of validations is avoided, small businesses with relatively quick, low dollar transactions would continue to benefit from free customer parking and it would become more difficult for employees to park and re-park free throughout the day.

Additionally, development of a debit card system is recommended as a more convenient way to pay for parking in structures and eventually at parking meters. Implementation of revised fees will require a separate public hearing which will be scheduled pending City Council direction. The City Council has previously directed that any change in the fee structure should not become effective until after the 2005 holiday season. City Council direction regarding modification of the parking fee policy is respectfully requested.

David Lightner
Approved By



Attachment 4

Pertinent Zoning Code Sections

Article 16.5. Restricted Uses In Pedestrian Oriented Areas

10-3-1651: PURPOSE AND INTENT:

The city's urban design policies call for an urban village design in certain retail areas to promote pedestrian usage. The city council finds that it is necessary to restrict the uses within these areas in order to preserve the urban village atmosphere and promote pedestrian friendly development. The city council further finds that it is necessary and desirable to protect the public health, safety and general welfare to prevent the commercial spaces in these areas from being dominated by nonretail uses in order to preserve the city's retail tax base and ensure the city's continued ability to provide essential services to its residents. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1652: DEFINITIONS:

For the purposes of this article, the following words and phrases shall have the following meanings:

GROUND FLOOR: Any floor level located within a vertical distance of eight feet (8') above the curb level or five feet (5') below the curb level of the adjacent street.

NONRETAIL USE: Any use not defined as a "retail use" pursuant to this article, including, without limiting the foregoing definition, banks, financial lending institutions, real estate offices, title companies, escrow companies, professional offices (e.g., accountants, architects, lawyers or travel agents), manufacturing uses, medical laboratories and offices, hospitals, dry cleaners, veterinary clinics, tailors, spas without a retail component, exercise or health clubs and private training centers, and motion picture plants or studios, but excluding hotels.

RESTRICTED USE: Any nonretail use or car dealer.

RETAIL USE: A facility which carries on as its principal business the selling of tangible commodities, goods, merchandise or wares, including the selling of food and beverages, directly to the ultimate consumers. For the purposes of this article, notwithstanding and without limiting the foregoing definition, "retail use" shall include restaurants, bars, nightclubs, theaters, beauty shops, nail salons, and spas with a retail component, but shall exclude car dealers. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1653: PEDESTRIAN ORIENTED AREAS DESIGNATED:

The following areas, as shown on the pedestrian oriented areas map on file in the department of planning and community development, are hereby designated as "pedestrian oriented areas":

- A. South Beverly Drive To Gregory Way: All those parcels east of the first alley running parallel to and west of South Beverly Drive, and all those parcels west of the first alley running parallel to and east of South Beverly Drive from Wilshire Boulevard to Gregory Way, including those parcels having frontage on Wilshire Boulevard and located on the southeast and southwest corners of the intersection of Beverly Drive and Wilshire Boulevard and those parcels having frontage on Gregory Way and located on the northeast and northwest corners of the intersection of South Beverly Drive and Gregory Way.
- B. North Beverly Drive To Santa Monica Boulevard: All those parcels east of the first alley running parallel to and west of North Beverly Drive, and all those parcels west of the first alley running parallel to and east of North Beverly Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Beverly Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Beverly Drive and Santa Monica Boulevard, South Roadway.
- C. North Cañon Drive To Santa Monica Boulevard: All those parcels east of the first alley running parallel to and west of North Cañon Drive, and all those parcels west of the first alley running parallel to and east of North Cañon Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Cañon Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Cañon Drive and Santa Monica Boulevard, South Roadway.
- D. North Rodeo Drive To Santa Monica Boulevard: All those parcels east of the first alley running parallel to and west of North Rodeo Drive, and all those parcels west of the first alley running parallel to and east of North Rodeo Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Rodeo Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Rodeo Drive and Santa Monica Boulevard, South Roadway.
- E. Brighton Way: All those parcels having frontage on Brighton Way from Cañon Drive to Wilshire Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Brighton Way and Wilshire Boulevard.
- F. Dayton Way: All those parcels having frontage on Dayton Way from Cañon Drive to Wilshire Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and southeast corners of the intersection of Dayton Way and Wilshire Boulevard. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1654: USES PERMITTED:

- A. No use other than a retail use or a hotel shall occupy a space with more than twenty five feet (25') of street frontage on the ground floor of any building or structure located in a pedestrian oriented area.
- B. Notwithstanding subsection A of this section, for any building or structure situated at the corner of two (2) streets located in a pedestrian oriented area and with frontage on both streets, a use other than a retail use or a hotel may occupy a space with up to twenty five feet (25') of ground floor street frontage on each street for a total ground floor street frontage of up to fifty feet (50'). (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1655: EXCEPTIONS:

- A. Notwithstanding any other provision of this article, the director of planning and community development may issue a minor accommodation pursuant to the provisions of article 36 of this chapter to authorize a restricted use to occupy a space in a pedestrian oriented area with a width of up to thirty feet (30') provided that the director makes the following findings:
1. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;
 2. Granting the request for a minor accommodation will leave ample space available for future retail uses and will not result in an over concentration of nonpedestrian oriented uses in the block in which the proposed restricted use will be located;
 3. The architectural style of the facade for the proposed restricted use is compatible with adjacent development and is consistent with the city's urban design policies;
 4. A restricted use is appropriate for the proposed space because:
 - a. Structural constraints imposed by the design of the building are unduly restrictive on the use of the subject lease space thereby limiting the opportunity for retail or hotel uses in the proposed space; or
 - b. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.
- B. Notwithstanding any other provision of this article, the planning commission may issue a conditional use permit pursuant to the provisions of article 38 of this chapter to allow a restricted use to occupy any space subject to the provisions of this article. In addition to considering the criteria for conditional use permits set forth in article 38 of this chapter, the

planning commission shall make the following findings:

1. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;
2. Granting the request for a conditional use permit will not result in an over concentration of nonpedestrian oriented uses in the block in which the proposed restricted use will be located;
3. Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas;
4. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.
(Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

Attachment 5

Planning Commission Staff Report

October 28, 2010

(includes 10/14/10 staff report as attachment)



Planning Commission Report

Meeting Date: October 28, 2010

Subject: Ordinance of the City of Beverly Hills Amending the Beverly Hills Municipal Code to Limit New or Expanded Medical Uses in Commercial Zones and Adopting a Medical Use Overlay Zone.

Recommendation: Conduct Continued Public Hearing and Adopt a Resolution Forwarding a Recommendation that the City Council Adopt the Subject Ordinance.

REPORT SUMMARY

The Planning Commission reviewed a draft resolution and ordinance at a public hearing on October 14, 2010, and proposed revisions which are presented in this report. A redlined version of the draft ordinance showing the changes is attached along with a clean copy of the revised ordinance, the proposed resolution recommending the ordinance to the City Council and a copy of the staff report from the October 14, 2010 meeting.

BACKGROUND

- 7/21/09: City Council directed the Planning Commission to develop an ordinance regulating medical uses in the City with consideration of an exemption for existing buildings with Code-compliant parking for medical use
- 11/19/09
1/28/10: Planning Commission Study Sessions
- Feb. – May/10: Staff conducts study of medical use floor area in Beverly Hills
- 6/10/10
7/22/10: Planning Commission Public Hearings
- Sept. 2010: Planning Commission Subcommittee Meeting
- 10/14/10: Planning Commission Public Hearing to review draft resolution and ordinance

Attachment(s):

1. Resolution
Draft Ordinance (Redlined)
2. Planning Commission Staff Report, 10/14/10

Report Author and Contact Information:

Michele McGrath
Senior Planner
(310) 285-1135

mmcgrath@beverlyhills.org

DISCUSSION

The Planning Commission requested the following revisions included in the attached ordinance:

Retail Business Definition

Pursuant to Planning Commission direction, “optometrist” was added to the definition of “retail business” because such businesses are widely considered to be retail businesses with a very limited medical component. The proposed definition of “retail business” includes a limitation on the size of permitted consultation space and a restriction that such space shall be located thirty feet (30’) from the storefront so as to maximize retail area at the front of the store adjacent to the street.

Medical Uses on the Ground Floor:

The Planning Commission requested revised ordinance language that would allow more flexibility for owners to lease ground floor space outside of the pedestrian oriented area to medical uses so long as the medical uses would not impact the potential for pedestrian experiences.

2,500 Square-Foot Exemption

In Section 10-3-1620.1 of the proposed ordinance, the 2,500 square-foot exemption for existing buildings (page 5 of Redlined Ordinance), paragraph B 4 was revised so new medical use would not be permitted on the ground floor of the pedestrian-oriented area but could be permitted in areas outside of the pedestrian-oriented area so long as no new medical uses will be within the first forty feet (40’) of a building as measured from each building façade, on any ground floor, facing the street.

Medical Overlay Zone

In Section 10-3-1858 of the proposed ordinance regarding restrictions in the medical overlay zone, medical uses shall not be permitted on the ground floor of any building in the pedestrian-oriented zone unless the City Council finds, based on substantial evidence, that the proposed location is not pedestrian-oriented and is unlikely to become pedestrian-oriented in the future. The Planning Commission’s consideration of a planned development permit for any project in a medical uses overlay zone, whether inside or outside of a pedestrian-oriented area, would require a finding that the following objective of the zone will be met by the project:

“The proposed development and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the City and shall not undermine efforts to maintain and foster an appropriate mix of uses in the City including a pedestrian-friendly environment in the vicinity of the development.”

Nonconforming Parking:

Language proposed to be added to Section 10-3-4102 of the Zoning Code regarding nonconforming parking was intended to clarify that the addition or expansion of medical uses in an existing building with non-conforming parking could not take advantage of Section 10-3-4102 but instead would now be subject to the new medical use ordinance. The language in Section 10-3-4102 has been revised to clarify that any new medical use in the City must meet all current parking codes as well as the requirements in either Section 10-3-1620.1 (2,500 square-foot exemption for medical use) or 10-3-1850 (medical overlay zone) of the Zoning Code.

Overlay Objectives

In reviewing the final draft ordinance and direction from the Planning Commission, staff determined the language in Medical Use Overlay Zone objectives B. and C. (page 11 of the attached draft ordinance) stating the proposed medical use “will not result in any adverse impacts” would not allow the Planning Commission the flexibility it discussed to approve a potentially worthy project. A project may be proposed that has some detrimental impacts, particularly considering the City’s new CEQA thresholds, but may also provide a significant benefit to the City such as additional parking levels for public parking. To allow the Planning Commission and City Council the opportunity to consider such projects, staff has revised the language in these two objectives to read, “...will not result in detrimental impacts...” rather than “...will not result in any adverse impacts...”. As a result, if the project benefits are greater than project detriments, the reviewing authority can approve the project.

ENVIRONMENTAL ASSESSMENT

The subject draft ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines¹, and the environmental regulations of the City. 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations

PUBLIC OUTREACH AND NOTIFICATION

This public hearing was previously noticed for the October 14, 2010 meeting and the public hearing was continued to the certain date of October 28, 2010.

Public Comment

As of the time of this report, staff has received a telephone call expressing concern about restrictions on medical uses as well as telephone calls requesting additional information about the proposed regulations but offering no comment. Additionally, among a number of comments received from the

¹ The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

Beverly Hills Chamber of Commerce Governmental Affairs Committee was the concern that medical use, which is currently a legal use in most commercial areas in the City, would become a legally nonconforming use. The result could be that individual buildings affected by a fire or other disaster may not be able to be re-occupied by medical use without applying for the medical overlay zone. Staff is reviewing the issue and will be prepared to address it at the meeting.

NEXT STEPS

It is recommended that the Planning Commission adopt a resolution forwarding a recommendation that the City Council adopt the subject ordinance.

Alternatively, the Planning Commission may consider the following actions:

1. Modify the draft ordinance or Resolution as appropriate
2. Direct staff to conduct additional analysis and continue the public hearing.

Report Reviewed By:



Jonathan Lait, AICP
City Planner

Attachment 1

Planning Commission Resolution

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL AMEND THE BEVERLY HILLS MUNICIPAL CODE TO LIMIT NEW OR EXPANDED MEDICAL USES IN COMMERCIAL ZONES AND ADOPTING A MEDICAL USE OVERLAY ZONE

WHEREAS, the Planning Commission has considered the proposed amendment to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and

WHEREAS, the Planning Commission considered the zone text amendment set forth in the proposed Amendment at study sessions on November 19, 2009 and January 28, 2010 and at duly noticed public hearings on June 10, 2010, July 22, 2010 and October 14, 2010, at which times it received oral and documentary evidence relative to the proposed Amendment; and

WHEREAS, the Planning Commission finds that the proposed Amendment is required for the public health, safety, and general welfare, and that such Amendment is consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendment has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section

15061(b)(3) of Title 14 of the California Code of Regulations and the City's environmental guidelines, (hereafter the "Guidelines"), and 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with intensification of commercial uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 2. The Planning Commission does hereby find that the proposed Zone Text Amendment is intended to address negative impacts from committing too much of the City's limited commercial land area to medical uses. Impacts include intrusion of parking and other activity associated with medical uses into nearby residential areas as well as negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future. The City's recently revised General Plan includes the following Land Use policy, "LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City."¹ This policy is included under the following General Plan goal, "LU 9 Diverse Districts and Corridors. A diversity of vital and active business and commercial districts providing a choice of uses and activities for the City's residents and visitors." The proposed ordinance maintains the diversity of the City's

¹ Beverly Hills General Plan, April 30, 2010, Page 31

commercial districts by further regulating new medical use which currently occupies a substantial percentage of the City's limited commercial area. The negative impacts identified above are specifically addressed by a number of other General Plan goals, policies and implementation strategies including "LU 1 Long-Term Stability," "LU 3 Managed Change," "LU 5 Complete, Livable and Quality Neighborhoods," "LU 10, Economically Vital Districts," "LU 11 Well-Designed and attractive Districts," "LU 12 Business Districts Adjoining Residential Neighborhoods" and, "LU 15 Economic Sustainability." The proposed ordinance protects neighborhoods and the City's character and fiscal health by limiting the proliferation of medical use and providing a review process to ensure that proposed new medical use will not negatively impact the City.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
Assistant Director of Community Development /
City Planner

Attachment 1A

Proposed Ordinance (Redlined)

EXHIBIT A

[DRAFT]

ORDINANCE NO. 10-O- _____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
LIMIT NEW OR EXPANDED MEDICAL USES IN
COMMERCIAL ZONES AND ADOPTING A MEDICAL USES
OVERLAY ZONE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. The City Council considered this Ordinance at a duly noticed public hearing on [date]_____, and at the conclusion of the hearing introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 2. 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 3. City Council hereby amends Section 10-3-100 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding definition of terms in the zoning code to insert the following definition between the terms “medical office” and “mini-shopping center” as they presently appear in Section 10-3-100, with all other definitions in the Section remaining as previously adopted:

“**MEDICAL USE(S):** Medical Uses shall mean uses including medical office, medical laboratory, or any combination thereof.”

Section 4. City Council hereby amends Section 10-3-100 of Chapter 3 of title 10 of the Beverly Hills Municipal Code regarding definition of terms in the zoning code to insert the following definition between the terms “residential zone” and “retaining wall” as they presently appear in Section 10-3-100, with all other definitions in the Section remaining as previously adopted:

“**RETAIL BUSINESS:** A business that carries on as its principal business the selling of tangible commodities, goods, merchandise or wares and includes beauty shops, nail salons, and spas and optometrists with a retail component. A retail business may include space for the purpose of consultation with a ~~licensed~~-medical use professional so long as that space does not exceed the lesser of five percent of the total floor area of the business or 200 square feet and that space is located at least thirty feet (30 feet) from the storefront of the retail business facing a street.”

Section 5. City Council hereby amends Section 10-3-1601 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in the C-3 Zone of

Beverly Hills to change the permitted use listed as “Office” to read as follows, with all other permitted uses listed in Section 10-3-1601 remaining without amendment:

“Office (~~Excluding Medical Uses~~).”

Section 6. City Council hereby amends Section 10-3-1602 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding building restrictions in the C-3 Zone of Beverly Hills to change the permitted uses or occupancies listed as “Offices” to read as follows, with all other permitted uses and occupancies listed in Section 10-3-1602 remaining without amendment:

“Offices (~~Excluding Medical Uses~~).”

Section 7. City Council hereby amends Section 10-3-1603 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding businesses excluded in the C-3 Zone to insert the following additional prohibited use between “~~M~~machine laundries” and “~~P~~ublic and private stables” as follows, with all other prohibited uses listed in Section 10-3-1603 remaining without amendment:

“~~Medical uses as that term is defined in Section 10-3-100 of this chapter except for medical uses that comply with Section 10-3-1620.1.~~”

Section 8. City Council hereby adds Section 10-3-1620.1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding an exception to the prohibition of medical uses to read as follows:

“10-3-1620.1 Medical Uses:

- A. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may continue to use the floor area legally permitted to be occupied by medical uses without obtaining a medical overlay zone designation for the site on which the building is located. If floor area committed to medical uses is changed to a different commercial use or uses, such change is subject to the nonconforming use requirements of Section 10-3-4100 of this chapter.¹
- B. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may add one or more medical uses in existing space in the building up to a maximum amount not to exceed a cumulative total of 2,500 square feet in ~~total~~ floor area without first obtaining a medical overlay zone designation pursuant to Article 18.5 of this Chapter for the site on which the building is located but only if all of the following are met;
1. The building is located on property in one of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A, C-3B, or E-O-PD.
 2. If the property is located in the pedestrian-oriented area, as defined in Section 10-3-1653, the community development director may issue a minor accommodation pursuant to the provisions of Article 36 of this chapter to authorize a medical use to

¹ Section 10-3-4100 is “Nonconforming Buildings and Uses.” Once a nonconforming use is changed to a conforming use, the nonconforming use may not be resumed; additional medical uses would require compliance with the exception or application for the medical overlay zone. [Please note that the footnotes are for informational purposes, and would not be included in the actual code amendment.]

occupy a space in a pedestrian oriented area provided that all other requirements of this section are met and the director makes all of the findings pursuant to 10-3-1655

A.²

3. The building must contain one or more legal medical uses prior to application for either a building permit or minor accommodation pursuant to this section.
4. No new medical uses are permitted on the ground floor within the pedestrian-oriented zonearea. For development located outside of the pedestrian-oriented zonearea, no new medical uses are permitted within the first forty feet (40') measured from each building façade, on any ground floor, facing a street.
5. Onsite parking for the new medical use is provided pursuant to Zoning Code requirements as found in Section 10-3-2730.
6. No existing building floor area may be removed, demolished or vacated to space occupied by general commercial use or vacant and most recently occupied by general commercial use may be demolished to provide parking spaces to satisfy the parking requirements for a medical use.
- 6.7. All restrictions applicable to the zone or underlying zone shall apply.
- 7.8. Medical use zoning clearance must be obtained in addition to any other required applications.

² This references the findings that must be made to approve a minor accommodation for a non-retail use on the ground floor in the pedestrian-oriented area.

Section 9. City Council hereby amends Section 10-3-1652 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding definition of terms in the pedestrian-oriented area to amend the following definition to read as follows:

“**RETAIL USE:** A facility which carries on as its principal business the selling of tangible commodities, goods, merchandise or wares, including the selling of food and beverages, directly to the ultimate consumers. For the purposes of this article, notwithstanding and without limiting the foregoing definition, "retail use" shall include restaurants, bars, nightclubs, theaters, beauty shops, nail salons, ~~and~~ spas with a retail component, **and retail businesses as defined in Section 10-3-100**, but shall exclude car dealers.”

Section 10. City Council hereby amends Section 10-3-1654 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in pedestrian oriented areas to read as follows:

“10-3-1654. USES PERMITTED AND PROHIBITED:

- A. No use other than a retail use or a hotel shall occupy a space with more than twenty five feet (25') of street frontage on the ground floor of any building or structure located in a pedestrian oriented area.

- B. Notwithstanding subsection A of this section, for any building or structure situated at the corner of two (2) streets located in a pedestrian oriented area and with frontage on both streets, a use other than a retail use or a hotel may occupy a space with up to twenty five feet (25') of ground floor street frontage on each street for a total ground floor street frontage of up to fifty feet (50'). (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

C. **Medical uses as that term is defined in Section 10-3-100 of this chapter shall be prohibited unless allowed pursuant to Section 10-3-1620.1.”**

Section 11. City Council hereby amends Section 10-3-1701 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in the C-3A Zone to change the permitted use listed as “Office” to read as follows, with all other permitted uses listed in Section 10-3-1701 remaining without amendment:

“Office **(Excluding Medical Uses).**”

Section 12. City Council hereby adds Section 10-3-1703 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding prohibited uses in the C-3A Zone to read as follows:

“10-3-1703: Prohibited Uses: Medical uses as ~~that term is defined~~ in Section 10-3-100 of this chapter unless allowed pursuant to Section 10-3-1620.1.”

Section 13. City Council hereby adds Section 10-3-1803 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding prohibited uses in the C-3B Zone to read as follows:

“10-3-1803: Prohibited Uses: Medical uses as ~~that term is defined~~ in Section 10-3-100 of this chapter unless allowed pursuant to Section 10-3-1620.1.”

Section 14. City Council hereby adds a new Section 18.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding regulation of medical uses in Beverly Hills to read as follows:

“Article 18.5. Medical Use Overlay Zone (C-PD-M)

10-3-1851: C-PD-M ZONE CREATED

There is hereby created and established in the Ceity an overlay zone, designated as the Medical Uses Overlay Zone (C-PD-M).

10-3-1852: PURPOSE AND INTENT:

The City Council finds and determines that it is necessary to restrict further intensification of medical uses in the City in order to limit commercial intrusion into residential areas, prevent adverse traffic and parking impacts, maintain and promote the character and image of the City, foster economic vitality and encourage pedestrian activity in retail areas. The Medical Uses Overlay Zone establishes a process to allow limited expansion of medical uses at appropriate locations in the City and in a manner that is consistent with the underlying zoning district and the elements of the General Plan. These regulations impose additional requirements to ensure that a medical use shall not be incompatible with uses permitted in adjacent areas and will not result in negative long-term impacts to the City.

10-3-1853: APPLICATION OF THE C-PD-M OVERLAY ZONE:

The C-PD-M overlay zone may be applied only to property that meets all of the following criteria:

- A. The property is located in one or more of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A and C-3B
- B. The property is not located in the pedestrian-oriented area as defined in Section 10-3-1653.

10-3-1854: APPLICABILITY OF UNDERLYING ZONE REGULATION:

Except as otherwise specifically provided in this article regarding medical uses, development in a C-PD-M zone shall comply with the zoning regulations applicable to the underlying zone.

10-3-1855: DEFINITIONS:

For the purposes of this article, the following word shall have the following meaning:

DEVELOPMENT: For the purposes of this article, shall include the conversion of any existing general office or other commercial space to medical uses, the enlargement of any existing building where the enlargement would be occupied in part or in whole by medical uses, as well as the new construction or erection of a building proposed to be occupied in part or in whole by medical uses.

PLANNED DEVELOPMENT: A development that is approved pursuant to the procedures of article 18.4 of this chapter.

10-3-1856: USES PERMITTED:

Permitted uses of properties to which the Medical Use Overlay Zone is applied shall include medical uses, as defined in Section 10-3-100, in addition to any other uses permitted or conditionally permitted by the underlying zone. When medical uses are developed as permitted by this Article, the regulations of this article shall govern whenever such regulations are different than other regulations set forth in this chapter. No lot, premises, building or portion thereof in the C-PD-M Zone shall be used for any purpose except those approved by the Planning Commission as part of a planned development pursuant to article 18.4 of this chapter.

10-3-1857: OBJECTIVES:

The objectives of the C-PD-M Zone shall be as follows:

- A. Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of this article;
- B. The proposed development and medical use:
 - 1. Will not result in ~~any adverse impacts~~ detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the City, or any combination thereof; unless the reviewing authority finds the project development benefits outweigh the detrimental impacts.
 - 2. Will promote harmonious development in the area; and,
 - 3. Will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development.
- C. The proposed development and medical use will not result in ~~any adverse impacts~~ detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation, unless the reviewing authority finds the project development benefits outweigh the detrimental impacts. ~~and~~ The development shall provide onsite parking that is designed for ease of use and efficiency, with vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties.

- D. The proposed development and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the City and shall not undermine efforts to maintain and foster an appropriate mix of uses in the City including a pedestrian-friendly environment in the vicinity of the project development.
- E. The proposed development and medical use contribute to and enhance the City's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the City.
- F. A public benefit shall be offered to the City and the public benefit shall, at a minimum, offset any long-term impacts to the City that result from allowing medical use in the City's limited commercial areas.

10-3-1858: RESTRICTIONS:

The following restrictions shall apply to any development to which the Medical Office-Uses Overlay Zone is applied:

A. All restrictions applicable to the zone or underlying zone

~~B. All provisions of article 19.5³ of this chapter;~~

~~C.B.~~ Medical uses shall not be permitted on the ground floor of any building in the pedestrian-oriented zone unless the City Council finds, based on substantial evidence.

³~~Refers to Commercial-Residential Transition Zone regulations~~

that the proposed location is not pedestrian-oriented and is unlikely to become pedestrian-oriented in the future; and,-

D.C. Free parking shall be provided for patrons and employees of medical uses in the development and parking shall be provided that complies with all applicable parking requirements in this chapter.

10-3-1859: PROCEDURES FOR APPROVAL:

- A. The procedure for applying the C-PD-M Zone to any property in the city shall be the same as described in article 39 of this chapter for zoning amendment.⁴
- B. The Planning Commission shall make a recommendation to the City Council to approve, deny or conditionally approve an application for a planned development. In making a recommendation to grant a planned development approval, the Planning Commission shall recommend such conditions on the approval that are reasonable and necessary to protect the health, safety and general welfare and to offset any potential adverse impacts resulting from the medical uses.
- C. An application for a zoning amendment to apply the C-PD-M Zone to a property in the City shall be processed concurrently with an application for a planned development for a project with medical uses proposed on the same property.

Section 15. City Council hereby amends Section 10-3-4102 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding nonconforming parking in Beverly Hills to read as follows:

⁴ Article 39 is the zoning amendment section of the code. Planning Commission and City Council public hearings are required.

“10-3-4102: NONCONFORMING PARKING:

Any building that is nonconforming due to insufficient parking may be enlarged, or may be occupied by a use, ~~(but not other than a medical use)~~, which requires additional parking, if sufficient parking is provided for such enlargement or use and the enlargement or use complies with all other provisions of this code. Additionally, notwithstanding the provisions of section 10-3-4100 of this article, a building that is nonconforming due to insufficient parking need not conform to the parking requirements of this chapter unless seventy five percent (75%) of the structure has been altered, renovated, repaired, or remodeled within a period of less than five (5) years. The percentage of alteration, renovation, repair or remodel, shall be determined by the ratio of the total surface area removed or demolished to the surface area in existence prior to the removal or demolition. The surface area elements to be included in the determination are: floors, roofs, exterior walls, including door and window openings, basement walls, and foundation walls. Each element shall be considered to have only one surface. ~~An existing building that is nonconforming due to insufficient parking for a legally noneonforming medical uses may not be occupied by additional medical uses unless the building has parking for the additional medical uses that meets the parking requirements in if it complies with the provisions of Section 10-3-1620.1 or Section 10-3-1850-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code and complies with the requirements of either Section 10-3-1620.1 or 10-3-1850 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code.”~~

Section 16. City Council hereby amends Section 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the parking standard for “Medical

offices” to read as follows, with all other parking standards listed in Section 10-3-2730 remaining without amendment:

“11. Medical offices as defined under section 10-3-100 of this chapter

1 space per 200 square feet of floor area; provided buildings constructed before December 6, 1989 that received building permits before December 16, 2005 to re-stripe parking areas to increase the number of parking spaces and permit additional medical floor area in the building, shall maintain on site free validated valet parking for all medical patrons and maintain posted signage in the parking garage indicating the availability of free validated valet parking for medical office patrons as required by the Zoning Code at the time such projects were permitted. Any building area converted to medical use on or after December 16, 2005 which relies on a valid re-stripe permit shall also comply with the above requirements.”

Section 17. This ordinance shall not apply to applications for medical office projects that include discretionary review filed with the Community Development Department on or before July 19, 2009 or to ministerial projects with a valid building permit.

Section 18. 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 remain in full force and effect.

Section 19. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 20. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 21. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE, AICP
Director of Community Development

Attachment 2

Planning Commission Staff Report

October 14, 2010



Planning Commission Report

Meeting Date: October 14, 2010

Subject: Ordinance of the City of Beverly Hills Amending the Beverly Hills Municipal Code to Limit New or Expanded Medical Uses in Commercial Zones and Adopting a Medical Use Overlay Zone.

Recommendation: Conduct Continued Public Hearing and Adopt a Resolution Forwarding a Recommendation that the City Council Adopt the Subject Ordinance.

REPORT SUMMARY

After recent Planning Commission public hearings regarding regulation of medical uses at the June 10, 2010 and July 22, 2010 Planning Commission meetings, the Commission appointed a subcommittee of Chair Bosse and Vice Chair Yukelson to discuss a draft ordinance and report back to the Commission. The Subcommittee met on September 21, 2010 and attached is a draft ordinance for the Commission's review.

BACKGROUND

- 7/21/09: City Council directed the Planning Commission to develop an ordinance regulating medical uses in the City with consideration of an exemption for existing buildings with Code-compliant parking for medical use
- 11/19/09
- 1/28/10: Planning Commission Study Sessions
Reviewed history of medical office regulation in Beverly Hills, summary of the City Council's discussions, impacts of medical office use in the City, information about the number and location of buildings in the City housing medical uses
- Feb. – May/10: Staff conducts study of medical use floor area in Beverly Hills
- 6/10/10: Planning Commission Public Hearing
Information on amount of medical floor area in City and potential regulatory tools including prohibition, a cap, overlay zone, conditional use permit.
- 7/22/10: Planning Commission Public Hearing
Refinement of potential regulatory process focusing on a cap, floating medical overlay zone, conditional use permit
- September 2010: Planning Commission Subcommittee Meeting

Attachment(s):

1. Resolution
Draft Ordinance
2. General Plan Consistency
3. Table of Commercial Zones and Map
4. Pertinent Zoning Code Sections

Report Author and Contact Information:

Michele McGrath
(310) 285-1135
mmcgrath@beverlyhills.org

DISCUSSION

Staff developed a draft ordinance for the Subcommittee to review based on the following goals articulated by the Planning Commission at its July 22, 2010 meeting:

- Severely limit the amount of new medical use in the City, including conversion of space in existing buildings. Existing legal medical use may remain as legal nonconforming use.
- Regulate new medical use with a two-step discretionary review process:
 - Floating medical overlay zone ► Determines if site is appropriate for medical uses
 - Conditional Use Permit (CUP) ► Make specific findings to approve a project with medical uses
- Exception for existing buildings with code-required parking
 - Specific restrictions to be discussed by the Subcommittee.

Two Step Process: Medical Overlay Zone and Planned Development

The ordinance proposes a two-step discretionary review process for new medical uses: a medical use overlay zone that could be applied to properties in certain commercial zones with Planning Commission and City Council approval (a "floating" zone) and a Planned Development permit to review the related medical use project. Staff proposed the Planned Development Permit instead of a Conditional Use Permit (CUP) to consolidate the criteria that would be reviewed by the reviewing bodies (one set of criteria rather than zone criteria plus CUP findings) and because the language in the Planned Development permit is consistent with adopting an overlay zone. The Planned Development is the permit process used to approve projects in the City's mixed-use overlay zones adopted in 2006 and 2007. The CUP findings for medical use, previously reviewed by the Commission, have been consolidated with criteria for the medical use zone and portions of the Code's Development Plan Review findings and are now collectively entitled "Objectives" in the proposed medical overlay zone (see Section 1857 of the draft ordinance). Both an application for a medical use overlay zone and the related Planned Development application for a project must meet the objectives of the zone to be approved. The proposed objectives are discussed later in this report.

Concurrent Review

The Subcommittee discussed whether it would benefit the City or an applicant to allow review of the overlay zone application to precede Planned Development review so the applicant could have more certainty as to the appropriateness of a site for a medical use project prior to additional investment in a project. The Subcommittee agreed that it is difficult for the Planning Commission to adequately understand a project and its impact in a particular location without a fully developed project application, architectural plans, related studies including traffic/parking studies, and public comment. It was further agreed that if there are areas of the City where it can be seen that a medical use project would be inappropriate, the overlay zone should not be permitted in these areas. To that end, the Subcommittee supported allowing the medical overlay zone only in commercial areas where medical use is currently permitted. Allowing review of a proposed overlay zone without sufficient project information would likely result in time spent by all parties without a satisfactory outcome. The Subcommittee agreed that

applications for an overlay zone and medical use project should be submitted together and reviewed concurrently.

The following questions were outstanding as of the July Planning Commission meeting and were addressed by the Subcommittee:

Which commercial areas are appropriate to consider application of the medical overlay zone?

As discussed above, the Subcommittee agreed that applicants should be allowed to apply the medical use overlay zone to any commercial zone where medical use is currently allowed or allowed with a discretionary review. Attached is a table that lists all of the commercial zones in the City, divided into three categories based on how medical use is regulated in each zone: Medical Allowed; Medical Allowed with Restrictions; and, Medical Prohibited/Specific Plans. Each zone on the table is numbered and that number indicates the location of that zone on the attached zoning map. The two main commercial regulatory areas in the City (pedestrian area, commercial-residential transition area) are also included on the table and numbered; attached is a map of each of these areas. The zoning map was used as a base map so adjacent uses could be seen. A color key to the zoning map is included.

The commercial zones in which medical uses would not be permitted include the RMCP Zone (west side of Crescent Drive north of Wilshire), the mixed-use overlay zones, the C-3 (AR) Adaptive Reuse Zone (R-4 building on Wilshire), and the C-5 (old industrial) Zone. The areas with adopted specific plans permit only those uses allowed in the specific plans.

The draft ordinance also prohibits application of the medical overlay zone in the pedestrian-oriented areas.

What are the objectives (findings) for approval of a medical overlay zone and medical use project?

The Subcommittee concurred on one set of objectives proposed as follows:

- A. "Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of this article;
- B. The proposed project and medical uses:
 1. Will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the City, or any combination thereof,
 2. Will promote harmonious development in the area and will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed project.
- C. The proposed project and medical use will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation and the building housing the

medical use shall provide onsite parking that is designed for ease of use and efficiency with vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties.

- D. The proposed project and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the City and shall not undermine efforts to maintain and foster an appropriate mix of uses in the City including a pedestrian-friendly environment in the vicinity of the project.
- E. The proposed project and medical use contribute to and enhance the City's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the City.
- F. The public benefit to the City shall, at a minimum, offset any long-term impacts to the City that result from allowing medical use in the City's limited commercial areas."

The proposed public benefit would be evaluated by the reviewing authority to determine if it is sufficient to offset the long-term impacts of medical use. The public benefit is not defined in the ordinance to allow for a variety of responses. The public benefit could include, but would not be limited to, a park, public plaza, other public open space, exceptional architecture, commitment to a particular type of medical practice providing jobs with higher wages, a particular medical service lacking in the City, or construction of affordable housing.

What restrictions/criteria should be applied to the medical overlay zone?

The draft ordinance proposes restrictions that would apply to all development in a medical overlay zone:

1. All restrictions applicable to the zone or underlying zone
2. Medical uses shall not be permitted on the ground floor of any building.
3. Free parking shall be provided for patrons and employees of medical uses in the project and parking shall be provided that complies with all applicable parking requirements in this chapter.

1. & 2. The Planning Commission indicated it did not want development standards in a medical use overlay zone to deviate from the current development standards in the Code.

3. The Planning Commission was also clear that medical uses should not be permitted on the ground floor citywide so as to maintain ground floor space for more pedestrian-oriented uses. The Planning Commission and Subcommittee did express concern that some retail uses with a small medical component, such as optometrists, are appropriate uses in a ground floor space and yet may be prevented from locating at the ground floor due to the medical component. To allow such businesses at the ground floor and in pedestrian-oriented areas, the ordinance proposes adding a definition of "retail business" to the Zoning Code that would allow a maximum of 200 square feet of a retail business' floor area to be used for a medical purpose and still be considered a retail

business. This would allow space for a small examination or consultation room in businesses such as optometrists, skin care retailers, and spas. The new definition of "retail businesses" would be included in the Zoning Code definitions and would be incorporated into the definition of "retail use" that currently is applied only in the pedestrian-oriented area.

4. Since the Medical Overlay Zone would require parking that meets Code, should an applicant wish to apply for a project that does not have parking that meets Code, the applicant would have to apply for a variance from the code; or, if the property does not appear to meet the grounds for a variance, the applicant could apply for a text amendment, just as any applicant may do now. The effect of the proposed ordinance on existing buildings and businesses is discussed further at the end of this report.

What restrictions should apply to the proposed exception for existing buildings with parking?

Pursuant to City Council direction, the Planning Commission discussed an exception to the prohibition on medical use for existing buildings. The ordinance proposes that an existing building may convert general office space to medical use up to a maximum amount not to exceed 2,500 square feet in total floor area if all of the following are met:

1. The building is in a zone that currently allows medical uses, including in the pedestrian-oriented area.
2. If the building is in the pedestrian-oriented area, a Minor Accommodation permit would be required so staff may evaluate the application and make findings related to the impact of the medical use on the pedestrian area.
3. The building must contain one or more legal medical uses prior to a request for the exception.
4. No new medical uses permitted on the ground floor.
5. Onsite parking for the new medical use must meet current Code requirements.
6. No space occupied by general commercial use, or vacant and most recently occupied by general commercial use, may be demolished to provide parking spaces to satisfy the parking requirements for a medical use.
7. Medical use zoning clearance must be obtained in addition to any other required applications.

The ordinance proposes a 2,500 square-foot maximum conversion to medical use per building; once the 2,500 square foot maximum is converted, any new conversions would require a medical overlay zone. Such conversions would be tracked through a zoning clearance for which a fee would be required. Should the Planning Commission recommend a draft ordinance to the City Council, a separate fee resolution would also be presented to the City Council.

Impact on Existing Buildings and Businesses

If this ordinance is adopted by the City Council, as of the effective date of the ordinance, new medical use or conversion to medical use would no longer be a by-right permitted use in the City. This limitation

would affect all commercial properties including those with parking in excess of current Code, whether the property was developed with extra parking or received a building permit to re-stripe parking areas to create additional parking spaces. Owners wishing to add or convert to medical use would have to comply with the exception requirements or apply for a medical use overlay zone. Both the exception and the medical use overlay zone require parking that meets current Code. Buildings that wish to convert general office space to medical space or to add medical space and do not have, nor propose to provide parking that meets Code, must apply for an overlay zone and a variance or must propose a different overlay zone that would allow parking that does not meet current Code requirements.

The Planning Commission has heard public comment that additional regulation of medical uses in the City will increase rents for existing medical businesses. Staff has only anecdotal information on the potential impact of the proposed ordinance on the commercial leasing business in the City; however, should the Planning Commission recommend an ordinance to the City Council, staff is actively pursuing additional information that it intends to have available for the City Council to discuss the fiscal impact of the proposed ordinance.

GENERAL PLAN POLICIES

The proposed Zone Text Amendment is intended to address negative impacts from committing too much of the City's limited land area to medical uses and the impacts on residential properties when medical uses are adjacent or nearby. The City's recently revised General Plan includes the following Land Use policy,

"LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City."¹

This is included under the following General Plan goal:

"LU 9 Diverse Districts and Corridors. A diversity of vital and active business and commercial districts providing a choice of uses and activities for the City's residents and visitors."

The proposed ordinance maintains the diversity of the City's commercial districts by further regulating new medical use which now occupies a substantial percentage of the city's limited commercial area.

Specific impacts addressed by the ordinance include: intrusion of parking and other activity associated with medical uses into nearby residential areas as well as negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future. A number of General Plan goals, policies and implementation strategies directly address these impacts and this is summarized in the attached document, "General Plan Consistency."

¹ Beverly Hills General Plan, April 30, 2010, Page 31

ENVIRONMENTAL ASSESSMENT

The subject draft ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines², and the environmental regulations of the City. 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations

PUBLIC OUTREACH AND NOTIFICATION

Action	Type of Notice	Required Notice Period	Required Notice Date	Actual Notice Date	Actual Notice Period
PC Public Hearing 6/10/10	Newspaper Notice	10 days	5/31/10	5/28/10	13 days
PC Public Hearing 7/22/10	Newspaper Notice	10 days	7/12/10	7/9/10	13 days
PC Public Hearing 10/14/10	Mailed Notice – to all commercial property owners	10 days	10/4/10	10/4/10	10 days
Report on Website	Min. 4 days prior to meeting	N/A	N/A	N/A	N/A

Public Comment

As of the time of this report, no letters or emails have been received by the Planning Division.

² The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

NEXT STEPS

It is recommended that the Planning Commission adopt a resolution forwarding a recommendation that the City Council adopt the subject ordinance.

Alternatively, the Planning Commission may consider the following actions:

1. Modify the draft ordinance or Resolution as appropriate
2. Direct staff to conduct additional analysis and continue the public hearing.

Report Reviewed By:

Susan Healy Keene, AICP
Director of Community Development

Attachment 1

Planning Commission Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY OF BEVERLY HILLS
PLANNING COMMISSION RECOMMENDING THAT THE
CITY COUNCIL AMEND THE BEVERLY HILLS MUNICIPAL
CODE TO LIMIT NEW OR EXPANDED MEDICAL USES IN
COMMERCIAL ZONES AND ADOPT A MEDICAL USE
OVERLAY ZONE

WHEREAS, the Planning Commission has considered the a draft Ordinance that would amend to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and

WHEREAS, the Planning Commission considered the zone text changes set forth in the proposed Amendment at study sessions on November 19, 2009 and January 28, 2010 and at duly noticed public hearings on June 10, 2010, July 22, 2010 and October 14, 2010, at which times it received oral and documentary evidence relative to the proposed Amendment; and

WHEREAS, the Planning Commission finds that the proposed Amendment is required for the public health, safety, and general welfare, and that such Amendment is consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendment has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section

15061(b)(3) of Title 14 of the California Code of Regulations and the City's environmental guidelines, (hereafter the "Guidelines"), and it can be seen with certainty that there is no possibility that the adoption and implementation of this Amendment may have a significant effect on the environment. This Amendment does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. Further, the proposed Amendment is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with intensification of commercial uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Section 2. The Planning Commission does hereby find that the proposed Amendment is intended to address negative impacts from committing too much of the City's limited commercial land area to medical uses. Impacts include intrusion of parking and other activity associated with medical uses into nearby residential areas as well as negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future. The City's recently revised General Plan includes the following Land Use policy, "LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City."¹ This policy is included under the following General Plan goal, "LU 9 Diverse Districts and Corridors. A diversity of vital and active business and commercial districts providing a choice of uses and activities for the City's residents and visitors." The proposed Amendment maintains the diversity of the City's

¹ Beverly Hills General Plan, April 30, 2010, Page 31

commercial districts by further regulating new medical use which currently occupies a substantial percentage of the City's limited commercial area. The negative impacts identified above are specifically addressed by a number of other General Plan goals, policies and implementation strategies including "LU 1 Long-Term Stability," "LU 3 Managed Change," "LU 5 Complete, Livable and Quality Neighborhoods," "LU 10, Economically Vital Districts," "LU 11 Well-Designed and attractive Districts," "LU 12 Business Districts Adjoining Residential Neighborhoods" and, "LU 15 Economic Sustainability." The proposed Amendment protects neighborhoods and the City's character and fiscal health by limiting the proliferation of medical uses and providing a review process to ensure that proposed new medical uses will not negatively impact the City.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
Assistant Director of Community Development /
City Planner

Attachment 1, Exhibit A

Proposed Ordinance

Attorney Client Privileged

EXHIBIT A

[DRAFT]
ORDINANCE NO. 10-O- _____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
LIMIT NEW OR EXPANDED MEDICAL USES IN
COMMERCIAL ZONES AND ADOPTING A MEDICAL USE
OVERLAY ZONE

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

Section 1. The City Council considered this Ordinance at a duly noticed public hearing on [date]_____, and at the conclusion of the hearing introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 2. 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. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Attorney Client Privileged

Section 3. City Council hereby amends Section 10-3-100 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding definition of terms in the zoning code to insert the following definition between the terms “medical office” and “mini-shopping center” as they presently appear in Section 10-3-100, with all other definitions in the Section remaining as previously adopted:

“MEDICAL USES: Medical Uses shall mean uses including medical office, medical laboratory, or any combination thereof.”

Section 4. City Council hereby amends Section 10-3-100 of Chapter 3 of title 10 of the Beverly Hills Municipal Code regarding definition of terms in the zoning code to insert the following definition between the terms “residential zone” and “retaining wall” as they presently appear in Section 10-3-100, with all other definitions in the Section remaining as previously adopted:

“RETAIL BUSINESS: A business that carries on as its principal business the selling of tangible commodities, goods, merchandise or wares and includes beauty shops, nail salons, and spas with a retail component. A retail business may include space for the purpose of consultation with a licensed medical professional so long as that space does not exceed the lesser of five percent of the total floor area of the business or 200 square feet and that space is located at least thirty feet from the storefront of the retail business.”

Section 5. City Council hereby amends Section 10-3-1601 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in the C-3 Zone of

Attorney Client Privileged

Beverly Hills to change the permitted use listed as "Office" to read as follows, with all other permitted uses listed in Section 10-3-1601 remaining without amendment:

"Office (Excluding Medical Uses)."

Section 6. City Council hereby amends Section 10-3-1602 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding building restrictions in the C-3 Zone of Beverly Hills to change the permitted uses or occupancies listed as "Offices" to read as follows, with all other permitted uses and occupancies listed in Section 10-3-1602 remaining without amendment:

"Offices (Excluding Medical Uses)."

Section 7. City Council hereby amends Section 10-3-1603 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding businesses excluded in the C-3 Zone to insert the following additional prohibited use between "machine laundries" and "public and private stables" as follows, with all other prohibited uses listed in Section 10-3-1603 remaining without amendment:

"Medical uses as that term is defined in Section 10-3-100 of this chapter except for medical uses that comply with Section 10-3-1620.1."

Section 8. City Council hereby adds Section 10-3-1620.1 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding an exception to the prohibition of medical uses to read as follows:

Attorney Client Privileged

“10-3-1620.1 Medical Uses:

- A. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may continue to use the floor area legally permitted to be occupied by medical uses without obtaining a medical overlay zone designation for the site on which the building is located. If floor area committed to medical uses is changed to a different commercial use or uses, such change is subject to the nonconforming use requirements of Section 10-3-4100 of this chapter.¹
- B. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may add medical uses in existing space in the building up to a maximum amount not to exceed 2,500 square feet in total floor area without first obtaining a medical overlay zone designation pursuant to Article 18.5 of this Chapter for the site on which the building is located but only if all of the following are met;
 1. The building is located on property in one of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A, C-3B, or E-O-PD.
 2. If the property is located in the pedestrian-oriented area, as defined in Section 10-3-1653, the community development director may issue a minor accommodation pursuant to the provisions of Article 36 of this chapter to authorize a medical use to

¹ Section 10-3-4100 is “Nonconforming Buildings and Uses.” Once a nonconforming use is changed to a conforming use, the nonconforming use may not be resumed; additional medical uses would require compliance with the exception or application for the medical overlay zone. [Please note that the footnotes are for informational purposes, and would not be included in the actual code amendment.]

Attorney Client Privileged

occupy a space in a pedestrian oriented area provided that all other requirements of this section are met and the director makes all of the findings pursuant to 10-3-1655.²

3. The building must contain one or more legal medical uses prior to application for a building permit pursuant to this section.
4. No new medical uses are permitted on the ground floor;
5. Onsite parking for the new medical use is provided pursuant to Zoning Code requirements as found in Section 10-3-2730.
6. No space occupied by general commercial use or vacant and most recently occupied by general commercial use may be demolished to provide parking spaces to satisfy the parking requirements for a medical use.
7. Medical use zoning clearance must be obtained in addition to any other required applications.

Section 9. City Council hereby amends Section 10-3-1652 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding definition of terms in the pedestrian-oriented area to amend the following definition to read as follows:

“RETAIL USE: A facility which carries on as its principal business the selling of tangible commodities, goods, merchandise or wares, including the selling of food and beverages, directly to the ultimate consumers. For the purposes of this article, notwithstanding and without limiting the foregoing definition, "retail use" shall include restaurants, bars, nightclubs, theaters,

² This references the findings that must be made to approve a minor accommodation for a non-retail use on the ground floor in the pedestrian-oriented area.

Attorney Client Privileged

beauty shops, nail salons, and spas with a retail component, and retail businesses as defined in Section 10-3-100, but shall exclude car dealers.”

Section 10. City Council hereby amends Section 10-3-1654 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in pedestrian oriented areas to read as follows:

“10-3-1654. USES PERMITTED AND PROHIBITED:

- A. No use other than a retail use or a hotel shall occupy a space with more than twenty five feet (25') of street frontage on the ground floor of any building or structure located in a pedestrian oriented area.
- B. Notwithstanding subsection A of this section, for any building or structure situated at the corner of two (2) streets located in a pedestrian oriented area and with frontage on both streets, a use other than a retail use or a hotel may occupy a space with up to twenty five feet (25') of ground floor street frontage on each street for a total ground floor street frontage of up to fifty feet (50'). (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)
- C. Medical uses as that term is defined in Section 10-3-100 of this chapter shall be prohibited unless allowed pursuant to Section 10-3-1620.1.”

Section 11. City Council hereby amends Section 10-3-1701 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding uses permitted in the C-3A Zone to change the permitted use listed as “Office” to read as follows, with all other permitted uses listed in Section 10-3-1701 remaining without amendment:

Attorney Client Privileged

“Office (Excluding Medical Uses).”

Section 12. City Council hereby adds Section 10-3-1703 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding prohibited uses in the C-3A Zone to read as follows:

“10-3-1703: Prohibited Uses: Medical uses as that term is defined in Section 10-3-100 of this chapter unless allowed pursuant to Section 10-3-1620.1.”

Section 13. City Council hereby adds Section 10-3-1803 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding prohibited uses in the C-3B Zone to read as follows:

“10-3-1803: Prohibited Uses: Medical uses as that term is defined in Section 10-3-100 of this chapter unless allowed pursuant to Section 10-3-1620.1.”

Section 14. City Council hereby adds a new Section 18.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding regulation of medical uses in Beverly Hills to read as follows:

“Article 18.5. Medical Use Overlay Zone (C-PD-M)

10-3-1851: C-PD-M ZONE CREATED

There is hereby created and established in the city an overlay zone, designated as the Medical Uses Overlay Zone (C-PD-M).

Attorney Client Privileged

10-3-1854: APPLICABILITY OF UNDERLYING ZONE REGULATION:

Except as otherwise specifically provided in this article regarding medical uses, development in a C-PD-M zone shall comply with the zoning regulations applicable to the underlying zone.

10-3-1855: DEFINITIONS:

For the purposes of this article, the following word shall have the following meaning:

DEVELOPMENT: For the purposes of this article, shall include the conversion of any existing general office or other commercial space to medical uses, the enlargement of any existing building where the enlargement would be occupied in part or in whole by medical uses, as well as the new construction or erection of a building proposed to be occupied in part or in whole by medical uses.

PLANNED DEVELOPMENT: A development that is approved pursuant to the procedures of article 18.4 of this chapter.

10-3-1856: USES PERMITTED:

Permitted uses of properties to which the Medical Overlay Zone is applied shall include medical uses, as defined in Section 10-3-100, in addition to any other uses permitted or conditionally permitted by the underlying zone. When medical uses are developed as permitted by this Article, the regulations of this article shall govern whenever such regulations are different than other regulations set forth in this chapter. No lot, premises, building or portion thereof in the C-PD-M Zone shall be used for any purpose except those approved by the planning commission as part of a planned development pursuant to article 18.4 of this chapter.

Attorney Client Privileged

10-3-1857: OBJECTIVES:

The objectives of the C-PD-M Zone shall be as follows:

- A. Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of this article;
- B. The proposed development and medical use:
 - 1. Will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the City, or any combination thereof;
 - 2. Will promote harmonious development in the area; and,
 - 3. Will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development.
- C. The proposed development and medical use will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation, and the development shall provide onsite parking that is designed for ease of use and efficiency, with vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties.
- D. The proposed development and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the City and

Attorney Client Privileged

shall not undermine efforts to maintain and foster an appropriate mix of uses in the City including a pedestrian-friendly environment in the vicinity of the project.

- E. The proposed development and medical use contribute to and enhance the City's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the City.
- F. A public benefit shall be offered to the City and the public benefit shall, at a minimum, offset any long-term impacts to the City that result from allowing medical use in the City's limited commercial areas.

10-3-1858: RESTRICTIONS:

The following restrictions shall apply to any development to which the Medical Office Overlay Zone is applied:

- A. All restrictions applicable to the zone or underlying zone
- B. All provisions of article 19.5³ of this chapter;
- C. Medical uses shall not be permitted on the ground floor of any building.

³ Refers to Commercial-Residential Transition Zone regulations

Attorney Client Privileged

- D. Free parking shall be provided for patrons and employees of medical uses in the development and parking shall be provided that complies with all applicable parking requirements in this chapter .

10-3-1859: PROCEDURES FOR APPROVAL:

- A. The procedure for applying the C-PD-M Zone to any property in the city shall be the same as described in article 39 of this chapter for zoning amendment.⁴
- B. The planning commission shall make a recommendation to the City Council to approve, deny or conditionally approve an application for a planned development. In making a recommendation to grant a planned development approval, the planning commission shall recommend such conditions on the approval that are reasonable and necessary to protect the health, safety and general welfare and to offset any potential adverse impacts resulting from the medical uses.
- C. An application for a zoning amendment to apply the C-PD-M Zone to a property in the City shall be processed concurrently with an application for a planned development for a project with medical uses proposed on the same property.

Section 15. City Council hereby amends Section 10-3-4102 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding nonconforming parking in Beverly Hills to read as follows:

⁴ Article 39 is the zoning amendment section of the code. Planning Commission and City Council public hearings are required.

Attorney Client Privileged

“10-3-4102: NONCONFORMING PARKING:

Any building that is nonconforming due to insufficient parking may be enlarged, or may be occupied by a use (but not a medical use), which requires additional parking, if sufficient parking is provided for such enlargement or use and the enlargement or use complies with all other provisions of this code. Additionally, notwithstanding the provisions of section 10-3-4100 of this article, a building that is nonconforming due to insufficient parking need not conform to the parking requirements of this chapter unless seventy five percent (75%) of the structure has been altered, renovated, repaired, or remodeled within a period of less than five (5) years. The percentage of alteration, renovation, repair or remodel, shall be determined by the ratio of the total surface area removed or demolished to the surface area in existence prior to the removal or demolition. The surface area elements to be included in the determination are: floors, roofs, exterior walls, including door and window openings, basement walls, and foundation walls. Each element shall be considered to have only one surface. An existing building that is nonconforming due to insufficient parking for a legally nonconforming medical use may be occupied by additional medical use if it complies with the provisions of Section 10-3-1620.1 or Section 10-3-1850 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code.”

Section 16. City Council hereby amends Section 10-3-2730 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the parking standard for “Medical offices” to read as follows, with all other parking standards listed in Section 10-3-2730 remaining without amendment:

Attorney Client Privileged

“11. Medical offices as defined under section 10-3-100 of this chapter

1 space per 200 square feet of floor area; provided buildings constructed before December 6, 1989 that received building permits before December 16, 2005 to re-stripe parking areas to increase the number of parking spaces and permit additional medical floor area in the building, shall maintain on site free validated valet parking for all medical patrons and maintain posted signage in the parking garage indicating the availability of free validated valet parking for medical office patrons as required by the Zoning Code at the time such projects were permitted. Any building area converted to medical use on or after December 16, 2005 which relies on a valid re-stripe permit shall also comply with the above requirements.”

Section 17. This ordinance shall not apply to applications for medical office projects that include discretionary review filed with the Community Development Department on or before July 19, 2009 or to ministerial projects with a valid building permit.

Section 18. 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 remain in full force and effect.

Section 19. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Attorney Client Privileged

Section 20. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 21. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE AICP
Director of Community Development

Attachment 2

General Plan Consistency

General Plan Consistency: Medical Use Ordinance

The proposed Zone Text Amendment is intended to address negative impacts from committing too much of the City's limited land area to medical uses. The City's recently revised General Plan includes the following Land Use policy,

"LU 9.6 Medical Uses. Study, adopt and implement regulations that appropriately regulate medical land uses in the City."¹

This is included under the following General Plan goal:

"LU 9 Diverse Districts and Corridors. A diversity of vital and active business and commercial districts providing a choice of uses and activities for the City's residents and visitors."

The proposed ordinance maintains the diversity of the City's commercial districts by further regulating new medical use which now occupies a substantial percentage of the city's limited commercial area.

Specific impacts addressed by the ordinance include: intrusion of parking and other activity associated with medical uses into nearby residential areas as well as negative impacts on retail/pedestrian vitality, the City's fiscal health, and efforts to attract a variety of commercial uses to the City including priority businesses such as headquarters and entertainment businesses important to the City's image and economic future. A number of General Plan goals, policies and implementation strategies directly address these impacts:

"LU 1 Long-Term Stability. In general, each of the land use issues is directed toward the enhancement and maintenance of the long-term durability and stability of the community. A plan which would accomplish this must recognize the unique qualities of the community, and with it, the factors which enhance the uniqueness as well as the factors which jeopardize them. Beverly Hills is fortunate in that it is able to serve a variety of residential and commercial demands in a manner and combination which is difficult to duplicate elsewhere in the Los Angeles area. Consequently, as long as Beverly Hills is able to provide an alternative not available elsewhere, it will endure....Aside from the issues of change which face the community as new development occurs and new demands are placed upon the City, *it is equally important to recognize that the process of maintaining the quality of life is a dynamic one. The City's programs must be able to recognize and respond to the problems which typically affect Cities, such as deterioration of its older housing stock, obsolescence or loss of competitive ability of commercial areas, rising costs and overburdened services and facilities, and increased problems of accessibility and parking.*"

"LU 3. Managed Change. Managed change that respects and is complementary to the qualities that distinguish the city as a community, is orderly and well-planned, provides for the needs of existing and future residents and businesses, ensures the effective and equitable provision of public services, and makes efficient use of land and infrastructure."

¹ Beverly Hills General Plan, April 30, 2010, Page 31

General Plan Consistency

The ordinance responds to concerns about how the proliferation of medical use affects the competitive ability of the City's commercial areas and attempts to manage change in the mix of uses in the City's commercial areas to maintain the City's image, support a vibrant economy and address impacts on residential areas. These goals are further supported by the following General plan goals and policies:

"LU 5 Complete, Livable and Quality Neighborhoods.

LU 5.8 Encroachment of Incompatible Land Uses. Protect residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible. Zoning and design review should assure that compatibility issues are fully addressed when nonresidential development is proposed near or within residential areas."

"LU 10 Economically Vital Districts. Retention of existing businesses and attraction of new businesses, sustaining employment, well-paying jobs, and extraordinary economic activity."

"LU 11 Well-Designed and Attractive Districts

LU 11.1. Preservation of Pedestrian-Oriented Retail Shopping Areas. Preserve, protect and enhance the character of the pedestrian-oriented retail shopping areas, which are typified by a variety of retail shops with displays to attract and hold the interest of pedestrian shoppers, to ensure the continuity of the pedestrian experience."

The ordinance specifically prohibits medical use on the ground floor as not conducive to a pedestrian-oriented environment.

"LU 12 Business Districts Adjoining Residential Neighborhoods. Compatible relationships between commercial districts and corridors and adjoining residential neighborhoods, assuring that the integrity, character, and quality of both commercial and residential areas are protected and public safety and quality of life are maintained."

"LU 15 Economic Sustainability. Vital and successful businesses that contribute to the City's identity and culture, provide high-paying jobs, and contribute revenue that sustains the level and quality of services in the City."

This goal supports maintaining and attracting priority businesses such as entertainment-related Class A offices, high-end retail and fashion, restaurant, hotel, technology and supporting uses which is also a goal of the ordinance. This goal also promotes the revitalization of distressed, underutilized and vacant buildings to sustain economic vitality. It has been argued that limiting medical use limits the owners' ability to revitalize underutilized and vacant buildings by limiting the available tenants. During the current financial downturn, there is pressure to fill buildings with the most available tenant, often a medical use, rather than the tenant that would fulfill the City's long term goals of a sustained, vibrant economy as expressed in the General Plan goals discussed above.

Attachment 3

Table and Map of Commercial Zones

Regulation of Medical Use in the Current Beverly Hills Municipal Code (BHMC)

<p>Medical Allowed</p> <p>Medical will be prohibited in ordinance but allowed with overlay zone</p>	<p>Medical Allowed with Restriction (CUP etc.)</p> <p>Medical will be prohibited in ordinance but allowed with overlay zone</p>	<p>Medical Prohibited & Specific Plans</p> <p>Where prohibited now, will still be prohibited; no medical overlay zone allowed; medical exception* not allowed</p>
<p>1 C-3 (BHMC 16) (Basic commercial zone citywide)</p> <p>Many zones have C-3 as the underlying zone or reference C-3 uses; if medical is prohibited in C-3 it will be prohibited in the zones that have C-3 as the underlying zone or reference C-3 uses.</p>	<p>9 Pedestrian Areas (BHMC 16.5)</p> <p>Minor Accommodation or CUP for street level medical of a certain storefront width</p> <p>“Retail Use” and “Non Retail Use” are defined in this section</p>	<p>8 RMCP (BHMC 12.3) (Mixed-Use Zone)</p> <p>West side of Crescent Drive from Clifton to two lots north of Brighton; 203-409</p> <p>No underlying C-3 Zone and no reference to C-3 uses but medical is not allowed as the allowed uses are expressly set out in this code section</p>
<p>2 C-3T-1 (BHMC 16.2) (Transition Zone)</p> <p>West side of Beverly Drive south of Olympic.</p> <p>References C-3 uses</p>	<p>10 Transition Areas (BHMC 19.5)</p> <p>Medical allowed subject to regulations</p> <p>Additional development and operational standards</p>	<p>Mixed Use Overlay Zones:</p> <p>13 M-PD-2 (BHMC 19.3) (Crescent & Wilshire)</p> <p>14 M-PD-3 (BHMC 19.8) (8600 Wilshire)</p> <p>15 M-PD-4 (BHMC 19.9) (9200 Wilshire)</p> <p>Underlying C-3 Zone</p>
<p>3 C-3T-2 (BHMC 16.3) (Transition Zone)</p> <p>Commercially-zoned sections of Olympic Blvd.</p> <p>References C-3 uses.</p> <p>Olympic ordinance applies to portion of zone east of Rexford; states PC can decide loading and parking with a DPR; conflicts with intent of this ordinance.</p> <p>Note: CUP required for more than 2-stories, 35’ and/or 1.33:1 FAR</p>	<p>11 C-3T-3 (BHMC 16.4) (Transition Zone)</p> <p>South side of Wilshire between Le Doux and Stanley; 8536-8560 & Northeast corner of South Rodeo Dr. and Charleville; 150 S. Rodeo</p> <p>Allows general office use; all other uses permitted or conditionally permitted in C-3 are allowed with a CUP including medical. Some different development standards than C-3 but all other C-3 restrictions apply.</p>	<p>16 C-3 (AR) Overlay (BHMC 19.6) (Adaptive Re-use) 8601 Wilshire (Blu)</p>

Regulation of Medical Use in the current BHMC

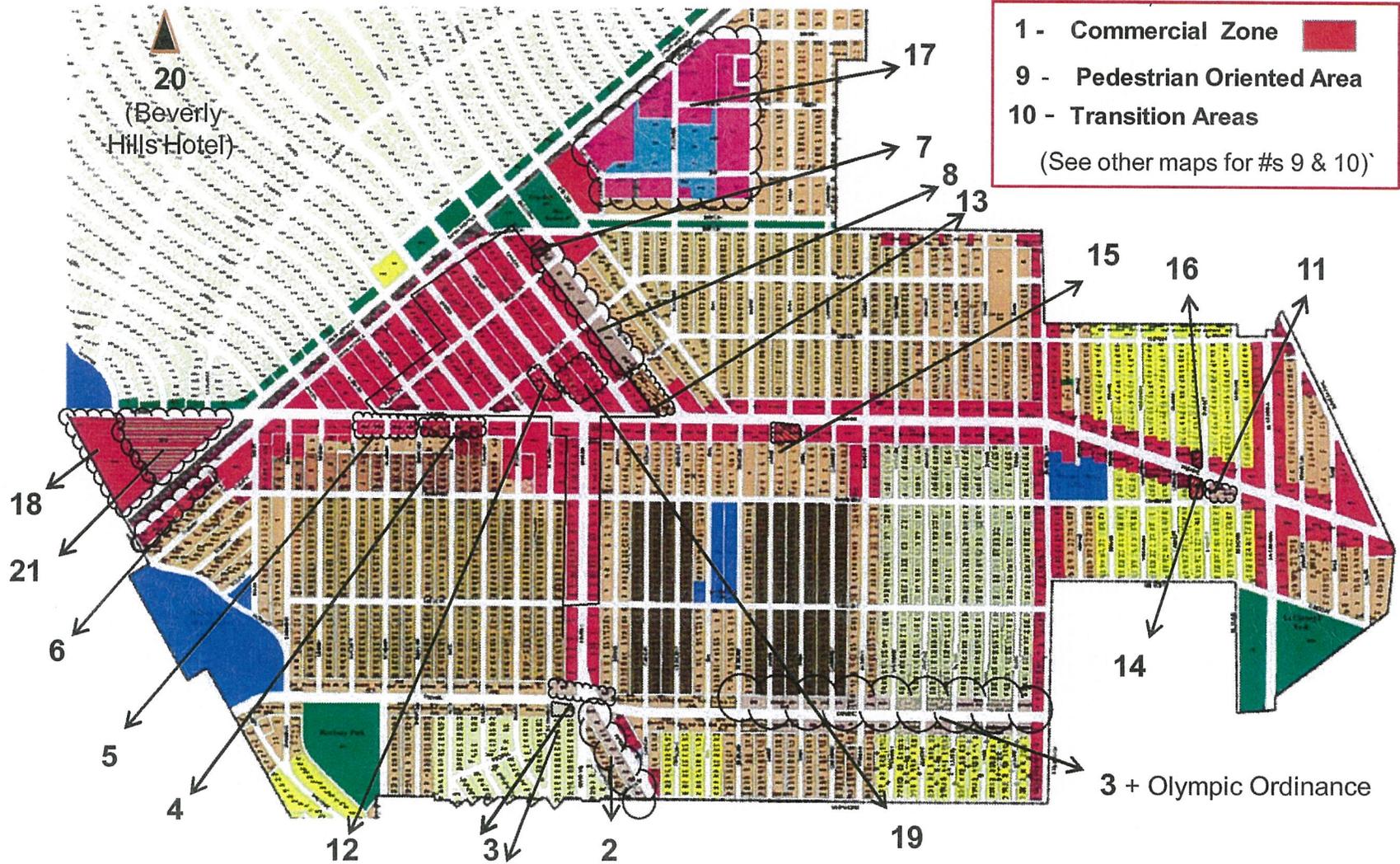
Michele McGrath 9-22-10

<p>4 C-R-PD Overlay (BHMC 18.2) (Dept Store Zone)</p> <p>South side of Wilshire between Bedford and Camden; 9582-9620</p> <p>Has underlying C-3 Zone</p> <p>PC determines parking and loading through planned development; 20% of required parking can be compact or tandem.</p>	<p>12 E-O-PD Overlay (BHMC 18.6) (Entertainment)</p> <p>New -Formerly William Morris</p> <p>Has underlying C-3 Zone but in pedestrian area so no medical</p> <p>Medical allowed but need planned development approval of PC per BHMC 18.4; allows some compact and tandem; PC determines loading. Zone objectives would not appear to permit medical.</p>	<p>17 C-5 Zone (BHMC 20) (old Industrial Area)</p>
<p>5 C-R Overlay (BHMC 34) (Dept Store Zone)</p> <p>Has underlying C-3 Zone</p> <p>South side of Wilshire between McCarty and Bedford; 9650-9700</p>	<p>Hotel Regulations (BHMC 28.6)</p> <p>Intensification of use at a hotel site requires CUP; there has been a question of medical use in hotels.</p>	<p>Specific Plans (<i>underlying Zone</i>):</p> <p>18 9900 Wilshire (None) (BHMC 15.7)</p> <p>19 Beverly Hills Gardens (None) (BHMC 15.6)</p> <p>20 Beverly Hills Hotel (R.1X) (BHMC 15.5)</p> <p>21 Beverly Hilton (None) (BHMC 15.8)</p>
<p>6 C-3A (BHMC 17)</p> <p>South side of Little Santa Monica from Moreno to Charleville</p> <p>No underlying C-3 Zone and no reference to C-3 uses</p> <p>7 C-3B (BHMC 18)</p> <p>415 N. Crescent Drive</p> <p>No underlying C-3 Zone and no reference to C-3 uses</p>		<p>C-H(O) (BHMC 28.8)</p> <p>125-131 Spalding Dr (Mosaic Hotel)</p> <p>underlying R-4X2 zone; medical not allowed</p>

*“Medical exception” refers to the proposed exception for existing buildings with Code-compliant parking to convert some space to medical up to a maximum amount.



Commercial Zones



ZONES:

SINGLE-FAMILY RESIDENTIAL

-  R-1 One-Family Residential Zone
-  R-1.X One-Family Residential Zone
-  R-1.5X One-Family Residential Zone
-  R-1.5X2 One-Family Residential Zone
-  R-1.6X One-Family Residential Zone
-  R-1.7X One-Family Residential Zone
-  R-1.8X One-Family Residential Zone

MULTI-FAMILY RESIDENTIAL

-  R-3 Multiple Residential Zone
-  R-4 Multiple Residential Zone
-  R-4X1 Residential Income and Multiple Dwelling Zone
-  R-4X2 Multiple Residential Zone
-  R-4-P Residential Parking Zone
-  RMCP Multiple-Family Residential-Commercial Parking Zone

COMMERCIAL

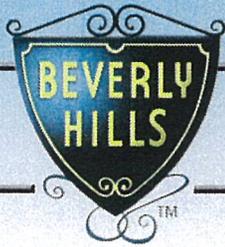
-  C-3 Commercial Zone
-  C-3A Commercial Zone
-  C-3B Commercial Zone
-  C-3T-1 Commercial-Transition Zone
-  C-3T-2 Commercial-Transition Zone
-  C-3T-3 Commercial-Transition Zone
-  C-5 Commercial Zone

INSTITUTIONAL/GOVERNMENT

-  Church Zone
-  P-5 Public Service Zone
-  S School
-  T-1 Transportation Zone
-  Parks, Reservoirs, Government (Unzoned)

SPECIFIC PLAN AREAS & OVERLAY ZONES

-  9900 Wilshire Specific Plan
-  Beverly Hills Garden Specific Plan
-  Beverly Hills Hotel Specific Plan
-  Beverly Hilton Specific Plan
-  C-3(AR) Adaptive Reuse Planned Development Overlay Zone
-  C-H(O) Commercial Hotel Overlay Zone
-  C-R Commercial-Retail Overlay Zone
-  C-R-PD Commercial Retail Planned Development Overlay Zone
-  E-O-PD Entertainment Office Planned Development Overlay Zone
-  M-PD-2 Mixed Use Planned Development Overlay Zone
-  M-PD-3 Mixed Use Planned Development Overlay Zone
-  M-PD-4 Mixed Use Planned Development Overlay Zone
-  T-O Transportation Overlay Zone
-  Area Boundary
-  City Boundary

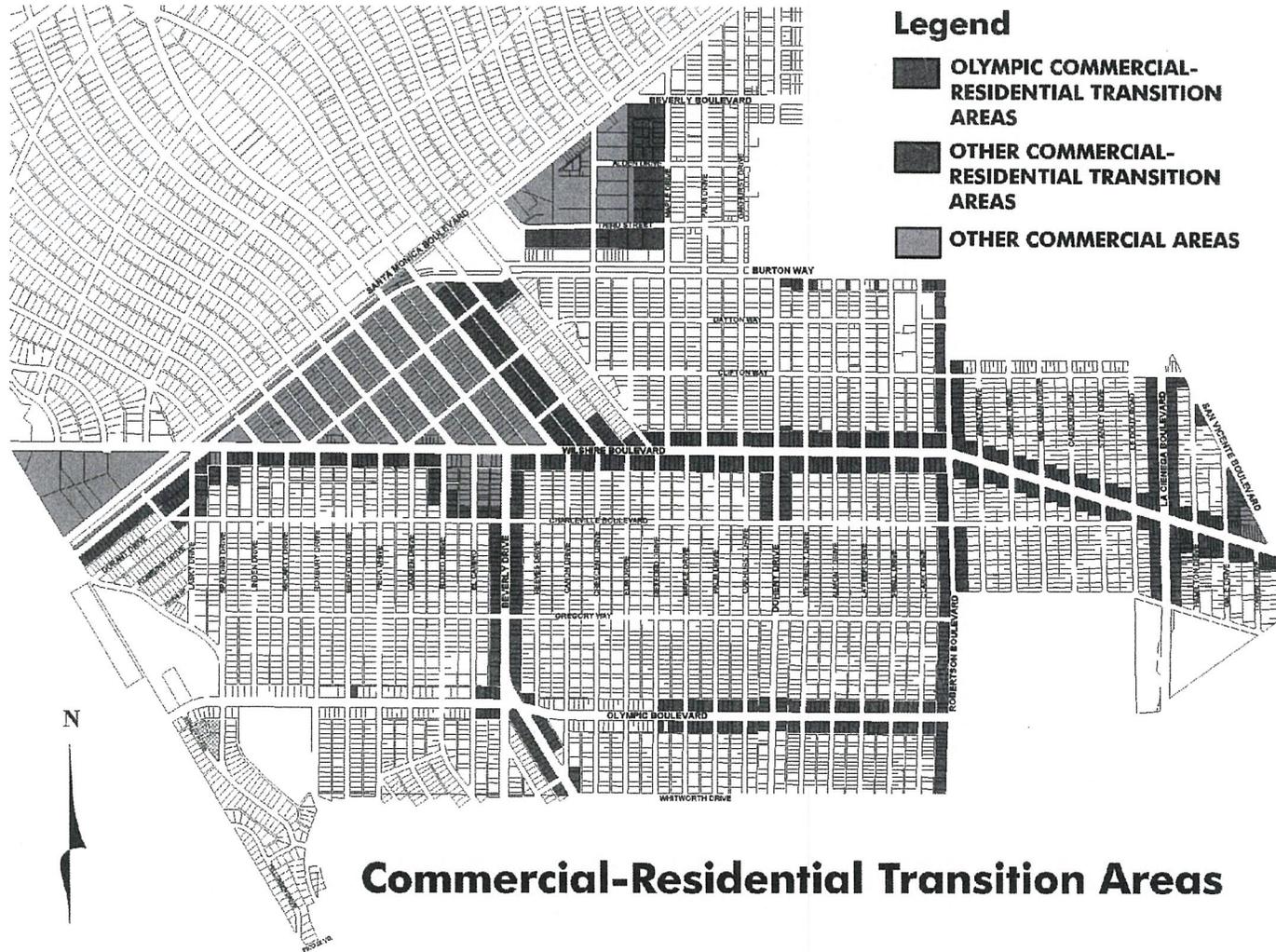


Pedestrian-Oriented Areas





Commercial-Residential Transition Areas



Attachment 4

Zoning Code Sections:

Planned Development
Conditional Use Permit
Pedestrian-Oriented Areas

Article 18.4. Planned Development

10-3-1841: APPLICABILITY:

A property owner may apply for a planned development approval if such approval is required or authorized by this chapter. (Ord. 91-O-2127, eff. 11-8-1991)

10-3-1842: APPLICATION:

All planned development applications shall contain the following information:

- A. The proposed distribution, location, and extent of the uses of land, including open space, in the subject zone and adjacent to the subject site including, but not limited to, site plans, photographs, elevations, garage layouts and landscaping plans.
- B. The proposed physical improvements.
- C. The proposed distribution, location, extent, and capacity of major components of public and private transportation, infrastructure, and other essential facilities proposed or affected by the proposal within the subject zone.
- D. A program of implementation and operational measures which assure that the objectives of the subject zone are advanced, including a parking program.
- E. A construction management program which addresses the following issues:
 - 1. Fugitive dust,
 - 2. Noise attenuation,
 - 3. Air quality,
 - 4. Hours of operation,
 - 5. Street circulation and parking,
 - 6. Employee parking,
 - 7. Truck routing and staging,
 - 8. Public notifications,

9. Pedestrian safety,
10. Holiday season considerations,
11. Truck traffic scheduling, and
12. Coordination with other construction activities in the vicinity of the project. (Ord. 91-O-2127, eff. 11-8-1991; amd. Ord. 92-O-2150, eff. 9-11-1992)

10-3-1843: PUBLIC HEARING:

The planning commission shall hold a public hearing regarding any application for a planned development. At least ten (10) days prior to such hearing, notice of the time, place, and purpose of the public hearing shall be sent by United States mail, postage paid, to each owner of a single-family residentially zoned property that is within a distance of five hundred feet (500') of the exterior boundaries of the subject site area. In addition, the same notice shall be mailed in the same manner to each owner and residential tenant of all other property within a distance of three hundred feet (300') of the exterior boundaries of the subject site area. Such notice shall be sent to the property owners whose names and addresses appear on the latest equalized county assessment roll. (Ord. 91-O-2127, eff. 11-8-1991)

10-3-1844: APPROVALS:

The planning commission may approve a planned development if the commission finds that the proposal will meet the requirements of this code and will advance objectives of the zone in which it is located. The planning commission may impose such conditions and restrictions on the approval as are necessary to ensure that the planned development will advance objectives of the zone.

- A. Expiration: The planning commission's approval of a planned development shall expire unless the applicant obtains building permits for the planned development within three (3) years after the date of the planned development approval. Furthermore, the planned development approval will also expire if the building permits for such development expire.
- B. Extensions: The planned development approval may be extended a maximum of two (2) times. Each extension shall be for a period of no more than one year. The planning commission may grant an extension if, after a public hearing, pursuant to the procedures set forth in section 10-3-1843 of this article, the planning commission determines that: 1) conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and the decision made at the time of the original planned development approval, and 2) the extension of the planned development approval will not unreasonably delay efforts to advance the objectives of the zone.

- C. **Vested Rights:** The approval of a planned development shall not create any right to an extension of such approval or any vested right to develop the subject property in a manner that does not comply with the laws and regulations in effect at the time that the applicant obtains a building permit.
- D. **Notice Of Decision:** Notice of the decision of the planning commission shall be provided to the applicant in the manner specified for notice of a hearing pursuant to section 10-3-1843 of this article.
- E. **Traffic Monitoring After Development Approval:** The planning commission shall require as a condition of a planned development approval that the traffic generated by the development be periodically monitored, at the expense of the applicant, to ensure that the actual levels of traffic do not significantly exceed the levels of traffic anticipated by the environmental review of the development when it was approved. In the event that such monitoring shows there has been a significant increase in the anticipated traffic generation, the planning commission may impose additional traffic mitigation measures on the development that are reasonably necessary to mitigate the traffic to the anticipated levels. (Ord. 91-O-2127, eff. 11-8-1991)

10-3-1845: APPEALS:

The decision of the planning commission pursuant to this article may be appealed by to city council in the manner provided by title 1, chapter 4, article 1 of this code. (Ord. 91-O-2127, eff. 11-8-1991)

10-3-1846: PERFORMANCE BOND OR FINANCIAL INFORMATION REQUIRED:

Prior to the issuance of any building permit for construction authorized by a planned development approval pursuant to this article, the applicant shall provide the city with one of the following:

- A. A performance bond or other security, in an amount satisfactory to the director of building and safety, and in a form satisfactory to the city attorney to ensure that the subject project will be completed as authorized by the building permit for such project, or
- B. Evidence, satisfactory to the director of finance administration, which demonstrates that the planned development approval applicant has the financial capability to complete the subject project as authorized by the building permit for such project. Such evidence may include, but shall not be limited to, proof of adequate construction financing. (Ord. 91-O-2127, eff.

11-8-1991)

10-3-1847: TIME FOR EXERCISE OF RIGHTS:

Unless otherwise provided in the resolution granting a planned development approval, the exercise of rights granted in such approval shall be commenced in accordance with the time limits imposed by section 10-3-207 of this chapter. (Ord. 02-O-2411, eff. 11-22-2002)

Article 38. Conditional Use Permits

10-3-3800: AUTHORIZED:

Pursuant to an application and hearing procedure as provided in article 37 of this chapter for granting a variance, the planning commission may authorize conditional uses as specified in this code if the planning commission finds that the proposed location of any such use will not be detrimental to adjacent property or to the public welfare.

Conditionally permitted uses shall be designated and list in this code under the zone in which they are permitted. Additionally, a list of all uses which may require a conditional use permit shall be maintained in the office of the department of planning and community development and shall be available to the public free of charge. (1962 Code § 10-415; amd. Ord. 69-O-1349, eff. 7-1-1969; Ord. 69-O-1357, eff. 10-16-1969, retroactive to 10-1-1969; Ord. 70-O-1380, eff. 4-2-1970; Ord. 82-O-1866, eff. 11-4-1982; Ord. 83-O-1882, eff. 3-31-1983; Ord. 84-O-1935, eff. 10-11-1984; Ord. 84-O-1937, eff. 11-1-1984; Ord. 87-O-2009, eff. 11-19-1987; Ord. 89-O-2063, eff. 7-6-1989; Ord. 91-O-2133, eff. 12-5-1991; Ord. 95-O-2239, eff. 7-7-1995)

10-3-3801: EXEMPTIONS AND REDUCTIONS:

The height and area requirements set forth in other provisions of this chapter shall not apply to conditional uses for which a conditional use permit application is submitted and later granted.

In addition, the parking and loading space requirements set forth in other provisions of this chapter may be reduced by the planning commission for the uses specified in this section upon the presentation of evidence satisfactory to the commission that the parking and loading spaces required by other provisions of this chapter exceed the demand for parking and loading spaces that will be generated by the proposed use. Pursuant to this section, the planning commission may reduce parking and loading space requirements for any of the following uses in conjunction with the granting of a conditional use permit:

- A. Childcare uses other than family daycare homes,
- B. Religious institution located in the C-5 zone provided all of the following criteria are met:
 - 1. The use of the subject site is limited to religious institutional uses.
 - 2. Except as otherwise permitted by the conditional use permit, no social events shall be allowed at the subject site. For the purposes of this section, "social events" shall include:
 - a) celebrations associated with weddings and other life cycle events;
 - b) fundraising events not involving a religious service, such as bingo games or auctions;
 - c) gatherings of more than five (5) persons to foster interaction among congregation members or among congregation members and other members of the community, including but not limited to events such as dances, discussions, study groups or lectures.

3. The applicant submits evidence satisfactory to the planning commission that establishes that the proposed use will have no traffic or parking related impacts on adjacent streets or land uses as a result of the requested reduction in the parking and/or loading requirements. Such evidence may include, but not be limited to, a traffic and parking utilization study prepared by a certified traffic engineer.

C. Educational institutions which fulfill the state compulsory education requirements of its pupils and which are registered with the state of California pursuant to California Education Code section 33190, or its successor, and educational institutions located in nonresidential zones providing continuing education and vocational training programs that are accredited by a nationally recognized accrediting agency listed by the United States department of education.

D. Hotel restaurants that may be established pursuant to a conditional use permit.

The planning commission may require a conditional use permit applicant to provide the commission with any information that the commission believes would be useful for the purpose of determining the parking and loading demand of a proposed use, the impacts of that use, or the appropriate conditions to be imposed on that use. (1962 Code § 10-415; amd. Ord. 95-O-2239, eff. 7-7-1995; Ord. 95-O-2247, eff. 11-10-1995; Ord. 96-O-2256, eff. 4-5-1996; Ord. 99-O-2331, eff. 8-20-1999; Ord. 03-O-2421, eff. 2-7-2003)

10-3-3802: RESTRICTIONS:

In granting a conditional use permit, the planning commission may impose such conditions on the permit as the commission deems necessary or proper to protect adjacent property and the public welfare from potential adverse impacts related to the approved use. Such conditions may include, without limitation, conditions that limit the height or area of buildings and structures that would otherwise be permitted by the provisions of this title and conditions that require an applicant to provide parking and loading spaces in excess of the parking and loading spaces otherwise required by this code. (Ord. 95-O-2247, eff. 11-10-1995)

10-3-3803: REVOCATION OR MODIFICATION:

If the director of planning and community development determines that evidence could be presented to the planning commission which may support grounds for revocation or modification of a conditional use permit, and the director believes that the planning commission may find that such evidence is adequate to support revocation or modification of the conditional use permit, then the director may initiate a revocation proceeding before the planning commission.

Upon initiation of a revocation proceeding, the planning commission shall hold a public hearing

regarding the possible revocation or modification of the conditional use permit. Notice of such hearing shall be provided in the same manner as the notice required for issuance of the conditional use permit. The planning commission, after such hearing, may revoke or modify the conditional use permit if the commission determines that:

- A. The permittee has violated a condition of the conditional use permit approval, or violated any provision of this code that governs, in part, the operation of the conditionally permitted activity or the land on which it is located; or
- B. The conditional use permit was obtained in a fraudulent manner; or
- C. Operation of the conditional use constitutes or creates a nuisance. (1962 Code § 10-415; amd. Ord. 94-O-2212, eff. 9-9-1994; Ord. 95-O-2239, eff. 7-7-1995; Ord. 95-O-2247, eff. 11-10-1995)

10-3-3804: APPEALS:

Any decision made by the planning commission pursuant to this article may be appealed to the city council in the manner provided in title 1, chapter 4, article 1 of this code. (1962 Code § 10-415; amd. Ord. 85-O-1948, eff. 3-21-1985; Ord. 94-O-2212, eff. 9-9-1994; Ord. 95-O-2239, eff. 7-7-1995; Ord. 95-O-2247, eff. 11-10-1995)

10-3-3805: TIME FOR EXERCISE OF RIGHTS:

Unless otherwise provided in the resolution granting a planned development approval, the exercise of rights granted in such approval shall be commenced in accordance with the time limits imposed by section 10-3-207 of this chapter. (Ord. 02-O-2411, eff. 11-22-2002)

Article 16.5. Restricted Uses In Pedestrian Oriented Areas

10-3-1651: PURPOSE AND INTENT:

The city's urban design policies call for an urban village design in certain retail areas to promote pedestrian usage. The city council finds that it is necessary to restrict the uses within these areas in order to preserve the urban village atmosphere and promote pedestrian friendly development. The city council further finds that it is necessary and desirable to protect the public health, safety and general welfare to prevent the commercial spaces in these areas from being dominated by nonretail uses in order to preserve the city's retail tax base and ensure the city's continued ability to provide essential services to its residents. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1652: DEFINITIONS:

For the purposes of this article, the following words and phrases shall have the following meanings:

GROUND FLOOR: Any floor level located within a vertical distance of eight feet (8') above the curb level or five feet (5') below the curb level of the adjacent street.

NONRETAIL USE: Any use not defined as a "retail use" pursuant to this article, including, without limiting the foregoing definition, banks, financial lending institutions, real estate offices, title companies, escrow companies, professional offices (e.g., accountants, architects, lawyers or travel agents), manufacturing uses, medical laboratories and offices, hospitals, dry cleaners, veterinary clinics, tailors, spas without a retail component, exercise or health clubs and private training centers, and motion picture plants or studios, but excluding hotels.

RESTRICTED USE: Any nonretail use or car dealer.

RETAIL USE: A facility which carries on as its principal business the selling of tangible commodities, goods, merchandise or wares, including the selling of food and beverages, directly to the ultimate consumers. For the purposes of this article, notwithstanding and without limiting the foregoing definition, "retail use" shall include restaurants, bars, nightclubs, theaters, beauty shops, nail salons, and spas with a retail component, but shall exclude car dealers. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1653: PEDESTRIAN ORIENTED AREAS DESIGNATED:

The following areas, as shown on the pedestrian oriented areas map on file in the department of planning and community development, are hereby designated as "pedestrian oriented areas":

- A. **South Beverly Drive To Gregory Way:** All those parcels east of the first alley running parallel to and west of South Beverly Drive, and all those parcels west of the first alley running parallel to and east of South Beverly Drive from Wilshire Boulevard to Gregory Way, including those parcels having frontage on Wilshire Boulevard and located on the southeast and southwest corners of the intersection of Beverly Drive and Wilshire Boulevard and those parcels having frontage on Gregory Way and located on the northeast and northwest corners of the intersection of South Beverly Drive and Gregory Way.
- B. **North Beverly Drive To Santa Monica Boulevard:** All those parcels east of the first alley running parallel to and west of North Beverly Drive, and all those parcels west of the first alley running parallel to and east of North Beverly Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Beverly Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Beverly Drive and Santa Monica Boulevard, South Roadway.
- C. **North Cañon Drive To Santa Monica Boulevard:** All those parcels east of the first alley running parallel to and west of North Cañon Drive, and all those parcels west of the first alley running parallel to and east of North Cañon Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Cañon Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Cañon Drive and Santa Monica Boulevard, South Roadway.
- D. **North Rodeo Drive To Santa Monica Boulevard:** All those parcels east of the first alley running parallel to and west of North Rodeo Drive, and all those parcels west of the first alley running parallel to and east of North Rodeo Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Rodeo Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Rodeo Drive and Santa Monica Boulevard, South Roadway.
- E. **Brighton Way:** All those parcels having frontage on Brighton Way from Cañon Drive to Wilshire Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Brighton Way and Wilshire Boulevard.
- F. **Dayton Way:** All those parcels having frontage on Dayton Way from Cañon Drive to Wilshire Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and southeast corners of the intersection of Dayton Way and Wilshire Boulevard. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1654: USES PERMITTED:

- A. No use other than a retail use or a hotel shall occupy a space with more than twenty five feet (25') of street frontage on the ground floor of any building or structure located in a pedestrian oriented area.
- B. Notwithstanding subsection A of this section, for any building or structure situated at the corner of two (2) streets located in a pedestrian oriented area and with frontage on both streets, a use other than a retail use or a hotel may occupy a space with up to twenty five feet (25') of ground floor street frontage on each street for a total ground floor street frontage of up to fifty feet (50'). (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1655: EXCEPTIONS:

- A. Notwithstanding any other provision of this article, the director of planning and community development may issue a minor accommodation pursuant to the provisions of article 36 of this chapter to authorize a restricted use to occupy a space in a pedestrian oriented area with a width of up to thirty feet (30') provided that the director makes the following findings:
1. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;
 2. Granting the request for a minor accommodation will leave ample space available for future retail uses and will not result in an over concentration of nonpedestrian oriented uses in the block in which the proposed restricted use will be located;
 3. The architectural style of the facade for the proposed restricted use is compatible with adjacent development and is consistent with the city's urban design policies;
 4. A restricted use is appropriate for the proposed space because:
 - a. Structural constraints imposed by the design of the building are unduly restrictive on the use of the subject lease space thereby limiting the opportunity for retail or hotel uses in the proposed space; or
 - b. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.
- B. Notwithstanding any other provision of this article, the planning commission may issue a conditional use permit pursuant to the provisions of article 38 of this chapter to allow a restricted use to occupy any space subject to the provisions of this article. In addition to considering the criteria for conditional use permits set forth in article 38 of this chapter, the

planning commission shall make the following findings:

1. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;
2. Granting the request for a conditional use permit will not result in an over concentration of nonpedestrian oriented uses in the block in which the proposed restricted use will be located;
3. Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas;
4. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)