



## AGENDA REPORT

**Meeting Date:** November 3, 2015

**Item Number:** E-1

**To:** Honorable Mayor & City Council

**From:** Ryan Gohlich, Assistant Director of Community Development

**Subject:**

- A. AN ORDINANCE OF THE CITY OF BEVERLY HILLS APPLYING THE CITY'S MEDICAL USE OVERLAY ZONE TO THE PROPERTY LOCATED AT 300-336 NORTH CANON DRIVE
- B. A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A PLANNED DEVELOPMENT PERMIT FOR MEDICAL USE ON THE PROPERTY LOCATED AT 300-336 NORTH CANON DRIVE.

**Attachments:**

- 1. Overlay Zone Restrictions & Objectives; Required Findings
- 2. Ordinance
- 3. Resolution for Planned Development
- 4. Planning Commission Resolution Nos. 1750 and 1751
- 5. Planning Commission Staff Report (Without Attachments)
- 6. Public Benefit Description & Architectural Plans

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### **RECOMMENDATION**

Staff recommends that the City Council move to waive full reading of the ordinance titled AN ORDINANCE OF THE CITY OF BEVERLY HILLS APPLYING THE CITY'S MEDICAL USE OVERLAY ZONE TO THE PROPERTY LOCATED AT 300-336 NORTH CANON DRIVE, introduce the ordinance by title only, and adopt a resolution conditionally approving a Planned Development Permit to allow the operation of a 474 square foot medical clinic inside the existing Rite Aid store.

### **INTRODUCTION**

The applicant seeks to operate a small medical clinic within the existing Rite Aid retail pharmacy located at 300-336 N. Canon Dr. If approved, the proposed project would convert 474 square feet of retail space within the existing 19,044 square foot building to a medical use.

Pursuant to the Municipal Code, both a Medical Use Overlay Zone and a Planned Development Permit are required to establish a new medical office on a site that does not currently have any medical uses. The Zone Amendment and Planned Development applications are processed concurrently through Planning Commission and City Council review.

On June 25, 2015, at a public hearing, the Planning Commission adopted resolutions recommending the City Council apply the Medical Use Overlay Zone to the subject property and approve a Planned Development Permit associated with the medical use.<sup>1</sup>

## **BACKGROUND**

### **Project Description**

The subject property is located in the in the City's Business Triangle, on the northeast corner of N. Canon Drive and Dayton Way. The project site consists of one parcel of land totaling 42,750 square feet, with approximately 300' of frontage on N. Canon Dr. and 140' of frontage on Dayton Way.

The existing buildings and uses on the property include:

- 19,044 SF commercial retail/pharmacy (Rite Aid)
- 4,657 SF private training center (Physique 57)
- 255 SF open air dining on private property (Rite Aid)
- Two levels of parking, with 95 full-size regular parking spaces, 5 ADA/accessibile spaces, and an additional 8 compact and tandem spaces. The existing uses require 81 code-compliant parking spaces.

The project consists of the following elements:

- Establish 474 square feet of medical office space (brand name RediClinic) within the footprint of the existing Rite Aid store.<sup>2</sup>
  - Results in 474 square feet of medical office and 18,570 square feet of retail pharmacy in the Rite Aid store. No additional square footage or exterior construction is proposed.
  - The medical use consists of two clinic rooms, a restroom, and associated customer receiving area, located in the rear of the store near the existing pharmacy.
  - RediClinic services are aimed at the walk-in customer, providing diagnosis and treatment for common conditions as well as some preventative and wellness services. See pages 4-5 of the Planning Commission staff report (Attachment 5) from June 25, 2015 for more information.

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<sup>1</sup> Planning Commission Resolution No. 1751 (Attachment 4) suggests that the Planning Commission has already approved the Planned Development Permit; however, the Planning Commission's review should be treated as a recommendation, rather than an approval. Several (sometimes conflicting) Municipal Code sections establish the final reviewing authority for the requested entitlements, and staff believes that the final review and approval for both the Overlay Zone and Planned Development Permit rests with the City Council.

<sup>2</sup> See plans in Attachment 6.

- The new medical office space would increase the parking requirement for the uses on-site by one parking space.
  - The property has more parking than is required for the existing uses, so the additional required space will be accommodated on-site in the existing parking structure.
  - Free parking would be provided to all patrons and employees of the medical clinic.<sup>3</sup>
- As required by the Municipal Code, public benefits must be provided in conjunction with application for the Medical Use Overlay Zone. The proposed public benefits are as follows:<sup>4</sup>
  - Installation of 6 trees in planters on the upper level of parking.
  - Painting of parking structure stairwells in a light color.
  - Painting of lower level parking structure ceiling in a light color.
  - Light bulb replacement in lower level of parking structure.
  - Enhanced maintenance and security in parking structure.

### **Required Entitlements**

The Project requires the following actions from the City Council in order to be developed as proposed:

1. Medical Use Overlay Zone. The Municipal Code generally prohibits the establishment of new medical offices in the City except for properties within a Medical Use Overlay Zone as approved by the City Council. Application of a Medical Use Overlay Zone (C-PD-M zone) requires a Zone Amendment to be adopted through an Ordinance by the City Council. As a component of applying for the Medical Use Overlay Zone, the project must be consistent with the objectives of the Medical Use Overlay Zone including the provision of public benefits to the City to offset potential negative impacts associated with medical office use.
2. Planned Development Review. Pursuant to the Municipal Code, a Planned Development Review must be processed concurrently with any application for a Medical Use Overlay Zone. A Planned Development approval is possible if the reviewing body finds that the proposed project will meet the requirements of the Municipal Code and will advance the objectives of the zone in which it is located. A Planned Development Permit is adopted by resolution.

### **Planning Commission Review**

The Planning Commission reviewed the applications for the Medical Use Overlay Zone and Planned Development Permit at a noticed public hearing on June 25, 2015, and has forwarded its recommendation for approval to the City Council.

At the hearing, one public comment was received as well as comments from the applicant team. Representatives for the building at 270 N. Canon Dr. spoke about an agreement for parking at

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<sup>3</sup> Pursuant to Beverly Hills Municipal Code §10-3-1858(C).

<sup>4</sup> See Public Benefit Proposal in Attachment 6.

the property at 300-336 N. Canon Dr. It was determined that this is a civil matter and that in any event the existing agreement did not affect the ability of 300-336 N. Canon Dr. to provide its required parking on-site. A condition was added to the Planned Development resolution requiring the property owner of 300-336 N. Canon Dr. to maintain a minimum of 82 code-compliant parking spaces on site as required for the uses on the site.

One Planning Commissioner raised concerns about the potentially contagious nature of patients visiting the medical clinic were it to be approved. Therefore that Commissioner was unable to make the necessary finding regarding benefits to the public health and welfare. Another Planning Commissioner raised concerns that the proposed public benefits were not sufficient to offset the potential impacts of a new medical use. The Commission adopted both resolutions, for the Planned Development Permit and the Medical Use Overlay Zone, on a 3-2 vote.

### **General Plan<sup>5</sup> Policies**

The General Plan includes goals and policies relevant to the City Council's review of the Project, including:

Policy LU 2.1 City Places: Neighborhoods, Districts, and Corridors. Maintain and enhance the character, distribution, built form, scale, and aesthetic qualities of the City's distinctive residential neighborhoods, business districts, corridors, and open spaces.

Policy 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.

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

Policy LU 10.1 Local-Serving Businesses. Promote appropriate 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.

Policy LU 15.1 Economic Vitality and Business Revenue. Sustain a vigorous economy by supporting businesses that contribute revenue, quality services and high-paying jobs.

### **ENVIRONMENTAL ASSESSMENT**

This project 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. The project qualifies for a Class 1 Categorical Exemption applicable to projects characterized as minor alterations to existing structures, when the project involves negligible or no expansion of an existing use. The project has been determined not to have a significant environmental impact and is exempt from the provisions of CEQA.

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<sup>5</sup> Available online at [http://www.beverlyhills.org/services/planning\\_division/general\\_plan/genplan.asp](http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp)

## **ANALYSIS**

The following section focuses on key information and issues relevant to the project, and serves to assist the City Council in its assessment of the project and required findings.

**Medical Use.** In 2011 the City Council adopted an ordinance prohibiting, with limited exceptions for existing buildings containing medical offices, the by-right establishment of new medical office space in the City. In accordance with the medical ordinance, a non-medical building may only be permitted to contain medical uses if approved pursuant to a Medical Use Overlay Zone. The City Council adopted the Medical Use Overlay Zone provisions in order 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 is intended 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.

As proposed, the project would result in a relatively small 2.5% of the 19,044 square-foot retail pharmacy building being designated for medical uses. The subject property is located in close proximity to a hospital in Los Angeles and medical office uses in Beverly Hills and therefore, from an access and proximity standpoint, the subject location appears to be appropriate for medical offices; however, the subject property is also located in a pedestrian-oriented area. The Medical Use Overlay Zone regulations include a restriction that 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 project site was developed in the 1960s and reflects a more suburban development model with a large store facing a surface parking lot, rather than facing the street. The large parking area encourages patrons to arrive by vehicle. Subsequent to the development of the retail pharmacy in the 1960s, the Business Triangle developed into a dense and lively urban village adjacent to the subject site but the subject site, by design, does not engage the area. The property owner recently upgraded the store and added an outdoor dining area on the alley side of the store. This addition improves the experience of patrons at the site but does not contribute to the pedestrian oriented area due to the distance from the adjacent streets. As a result, staff concludes that conversion of a small amount of ground floor retail space (toward the rear of the property) to medical use would not negatively impact current or future pedestrian activity.

**Traffic.** The proposed conversion of 474 square feet of floor area from retail space to medical use was reviewed by Stantec Consulting Services to determine if there would be any resulting change in trip generation for the site. The consultant determined that the medical use would have a lower trip generation rate than the existing retail or pharmacy use and that, while nominal, there would be a resulting decrease in vehicular trips. The consultant additionally concluded that providing complimentary uses in the same location could further reduce traffic volumes. The study was reviewed by the City's traffic engineer who agreed that the trips generated by conversion of a small part of the store to a health facility would be marginal and non-significant. The City's traffic engineer noted that he would not characterize the impact as a reduction in trips but rather that mathematical negative numbers would be considered to be either a zero or non-significant.

**Parking.** The site has parking spaces available in excess of the 82 parking spaces required to serve the current and proposed uses on the site. The Rite Aid store currently offers one hour of validated parking with a qualifying purchase. The Medical Use Overlay Zone restrictions require that 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 the Zoning Code. A project condition in the Planned Development resolution recommended by the Planning Commission requires that signage shall be posted clearly indicating that medical patrons shall park free of charge with no time limit.

**Public Benefits.** A requirement of granting any Medical Use Overlay Zone is that the applicant shall offer to the City a public benefit that offsets any long-term impacts to the City that result from allowing the medical use. As proposed (see Attachment 6), the public benefit offered by the applicant is the installation of six trees in planters in the upper parking lot, painting and lighting updates to the lower level of the parking structure and stairwells, and enhanced maintenance and security in the parking structure.

The parking lot, located directly adjacent to Canon Drive and Dayton Way, is a large expanse of asphalt that currently contains no landscaping. One of the rationales for adoption of the Medical Use Overlay Zone was that medical uses do not contribute to a pedestrian-oriented environment in the same way that retail and restaurant uses do. The proposed trees are intended to improve the aesthetics of the site and will result in areas of shade, providing a more pleasant experience for patrons and reducing the heat island effect produced by large areas of pavement. By creating a better experience for patrons, the trees could encourage additional patronage of the retail pharmacy, which could offset possible reduced retail sales from the conversion of retail floor area to medical use. While the addition of trees in a parking lot would not directly contribute to fostering and maintaining a pedestrian-oriented environment, the addition of trees would improve the general aesthetics of the area which could peripherally contribute to the continued success of the Business Triangle.

During the Planning Commission's public hearing on the project, several Commissioners stated they found the lower level of the parking structure dark, sometimes dirty, and uninviting. This may discourage people from using the available parking on the lower level. Upon hearing and understanding these concerns, the applicant proposed replacing lights and painting the ceiling and stairwells of the lower level a light color to brighten the area, and increasing maintenance and security checks. These improvements address some of the concerns that may keep Rite Aid and medical clinic patrons from using the parking on the lower level, and therefore attempt to minimize any parking impacts that could result from the new medical use.

The proposed trees and parking structure improvements appear to be a proportionate benefit offsetting potential impacts of additional medical use; however, the City Council may wish to discuss whether this benefit will be sufficient.

**RECOMMENDED ACTION**

Staff recommends that the City Council move to waive full reading of the ordinance titled AN ORDINANCE OF THE CITY OF BEVERLY HILLS AUTHORIZING A ZONING AMENDMENT THAT WOULD APPLY THE CITY'S MEDICAL USE OVERLAY ZONE TO THE PROPERTY LOCATED AT 300-336 NORTH CANON DRIVE, introduce the ordinance by title only, and adopt a resolution conditionally approving a Planned Development Permit to allow the operation of a 474 square foot medical clinic inside the existing Rite Aid store.

**FISCAL IMPACT**

No fiscal impact to the City is anticipated from a Council decision in this matter.

**PUBLIC NOTICE AND COMMENTS**

A public hearing notice was mailed on October 23, 2015 to all property owners and residential occupants within a 500' radius plus block face of the project site. The same notice was published in the Beverly Hills Courier on Friday, October 23, 2015 and in the Beverly Hills Weekly on Thursday, October 29, 2015. Public hearing notices were also posted on-site on October 23, 2015. As of the writing of this report, staff has not received any comments in regard to the project.

**RECOMMENDED CONDITIONS OF APPROVAL**

Recommended conditions of approval are set forth in the attached draft resolution for the Planned Development Permit.

Susan Healy Keene, AICP  
Director of Community Development

  
Approved By