



STAFF REPORT
CITY OF BEVERLY HILLS

**For the Planning Commission
Meeting of July 22, 2010**

TO: The Planning Commission

FROM: Michele McGrath, Senior Planner

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

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN 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.

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 conducted duly noticed public hearings on June 10, 2010 and July 22, 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. Medical use projects affected by this ordinance would be subject to discretionary review on a case-by-case basis pursuant to the issuance of a Conditional Use Permit.

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 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. As a result, 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 The proposed ordinance protects neighborhoods and the City’s character and fiscal health by limiting the

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

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:

David Reyes
Acting City Planner

EXHIBIT A

ORDINANCE NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING SECTION 10-3-100 REGARDING DEFINITION OF MEDICAL USE, AMENDING SECTIONS 10-3-1601 AND 10-3-1604 REGARDING RESTRICTION OF MEDICAL USE IN COMMERCIAL C-3 ZONES, ADDING SECTION 10-3-1604.7 REGARDING CONDITIONAL USE PERMITS FOR MEDICAL USE, AMENDING SECTION 10-3-1654 REGARDING RESTRICTION OF MEDICAL USE IN PEDESTRIAN ORIENTED AREAS, AMENDING SECTIONS 10-3-1701, 10-3-1702 AND 10-3-1802 REGARDING RESTRICTION OF MEDICAL USE IN COMMERCIAL C-3A AND C-3B ZONES, AMENDING SECTION 10-3-3801 REGARDING CONDITIONAL USE PERMITS, AND AMENDING SECTION 10-3-2700 REGARDING MAINTENANCE OF REQUIRED CONDITIONS ON PARKING SPACES FOR MEDICAL USES FOR WHICH PERMITS WERE HERETOFORE GRANTED

WHEREAS, on June 10, 2010 and July 22, 2010, the Planning Commission conducted duly noticed public hearings to consider proposed amendments to the City's ordinances with respect to medical use as set forth in the Beverly Hills Municipal Code and recommended that the City Council approve the proposed amendment.

WHEREAS, on _____, the City Council conducted a duly noticed public hearing to consider proposed amendments to amendments to the City's ordinances with respect to medical use and introduced the Ordinance.

WHEREAS, The Planning Commission 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. 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.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF BEVERLY HILLS DOES ORDAIN AS FOLLOWS:

Section 1. The ordinance, as proposed, would amend 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 read as follows:

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

Section 2. The ordinance, as proposed would amend 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 3. The Ordinance, as proposed, would amend Section 10-3-1604 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding conditionally permitted uses in the C-3 Zone to insert the following additional conditional use between “Hotels, subject to the provisions of article 28.6 of this chapter.” and “Mini-shopping centers, subject to the provisions of section 10-3-1611 of this article.” as follows, with all other conditional uses listed in Section 10-3-1604 remaining without amendment:

“Medical uses as that term is defined in Section 10-3-100 of this chapter.”

Section 4. The Ordinance, as proposed, would add a new Section 10-3-1604.7 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding conditional use permits for medical uses in Beverly Hills to read as follows:

“10-3-1604.7: MEDICAL USES; RESTRICTIONS AND FINDINGS

- A. Medical uses shall not be permitted on the ground floor of any building.
- B. Medical uses shall be considered a conditional use, if listed as such in a specific zoning district, and otherwise shall be prohibited. If permitted as a conditional use, a conditional use permit, pursuant to the provisions of Article 38 of this chapter, shall be obtained prior to the issuance of any City permit including building permit.

C. A conditional use permit may be issued only if the planning commission makes each of the following findings:

1. Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare.

2. The proposed project and medical use contribute to and enhance the character of the neighborhood and the location, density, height, manner of operation, or any combination thereof, of the proposed project will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

3. The proposed project and medical use will not result in any adverse impacts to existing or anticipated commercial development in the vicinity with regard to traffic and parking, scale and massing of the streetscape, manner of operation, garden quality of the City, or any combination thereof.

4. The building housing the medical use provides adequate onsite parking that complies with all applicable parking requirements of this code and parking is provided at a rate of at least one space per two hundred square feet of area for all medical uses in the building in a parking area that is designed for ease of use and efficiency. The building housing the medical use provides adequate vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties.

5. The proposed medical use is the highest and best use for the site, taking into account factors including location, size, adjacent development and existing uses on the site.

6. The proposed project and medical use contribute to and enhance the City's economic base.

7. The 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.

D. Exception:

1. Buildings that received a certificate of occupancy from the City prior to July 19, 2009, may continue to use the floor area legally permitted to be occupied by medical uses without having to obtain a conditional use permit. If floor area committed to medical uses is changed to other commercial uses, a conditional use permit shall be obtained before the space could be changed back to medical use.

2. Buildings that received a certificate of occupancy from the City prior to July 19, 2009, may add medical use in existing space in an amount not to exceed 2,500 square feet in floor area without obtaining a conditional use permit if all of the following are met;

a. The building is not in the designated pedestrian-oriented areas as defined in Section 10-3-1653;

b. No new medical uses are permitted on the ground floor;

c. On site parking is provided pursuant to Zoning Code requirements as found in Section 10-3-2730.

E. The maximum amount of medical use that may be approved citywide annually is XX square feet of floor area as floor area is defined in Section 10-3-100. If the Planning Commission approves applications in any year in an amount less than the annual cap, the remaining floor area under the cap shall be applied to the maximum limit for the following year.”

Section 5. The Ordinance, as proposed, would amend 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.”

Section 6. The Ordinance, as proposed, would amend 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 7. The Ordinance, as proposed, would amend Section 10-3-1702 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding conditionally permitted uses in the C-3A Zone to insert the following additional conditional use between “Hotels, subject to the provisions of article 28.6 of this chapter.” and “Mini-shopping centers, subject to the provisions of section 10-3-1611 of this article.” as follows, with all other conditional uses listed in Section 10-3-1604 remaining without amendment:

“Medical uses as that term is defined in Section 10-3-100 of this chapter.”

Section 8. The Ordinance, as proposed, would amend Section 10-3-1802 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding conditionally permitted uses in the C-3B Zone to insert the following additional conditional use between “Hotels, subject to the provisions of article 28.6 of this chapter.” and “Mini-shopping centers, subject to the provisions of section 10-3-1611 of this article.” as follows, with all other conditional uses listed in Section 10-3-1604 remaining without amendment:

“Medical uses as that term is defined in Section 10-3-100 of this chapter.”

Section 9. The Ordinance, as proposed, would amend the first paragraph of Section 10-3-3801 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding conditional use permits to read as follows:

“10-3-3801: EXEMPTION 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, except for a conditional use application for a medical use which shall comply with the height and area requirements of this chapter.”

Section 10. The Ordinance, as proposed, would amend 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 as well as 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.”

Section 11. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 12. 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 13. Effective Date. 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
Director of Community Development

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-striping 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.

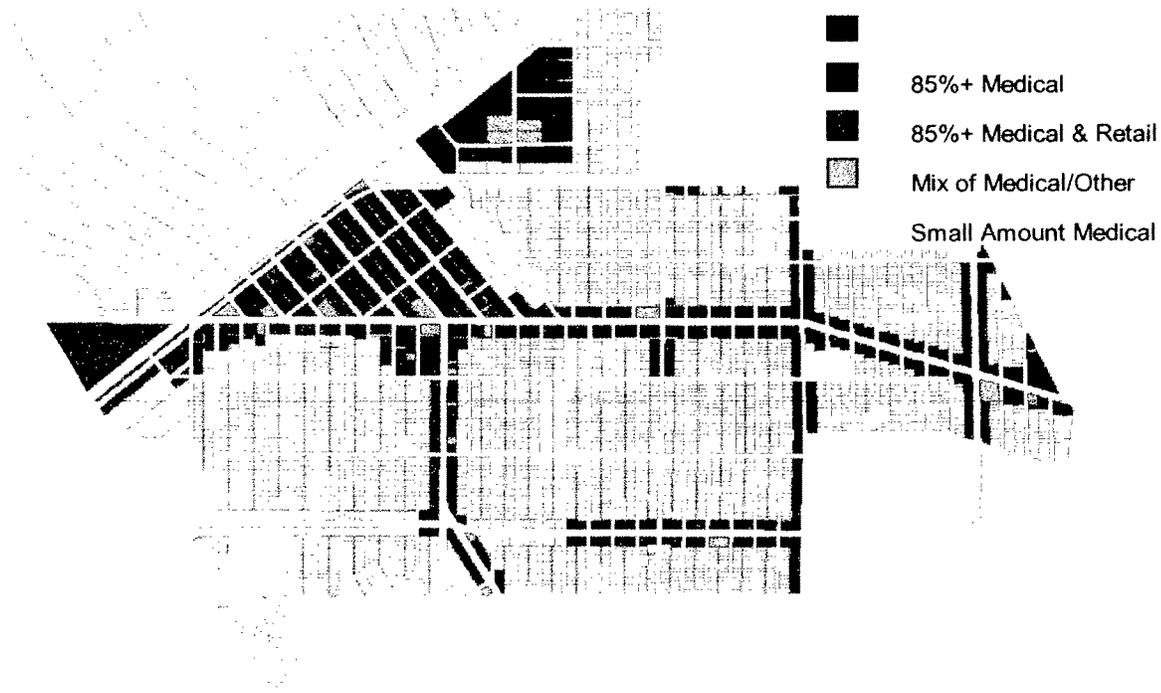
DISCUSSION

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.

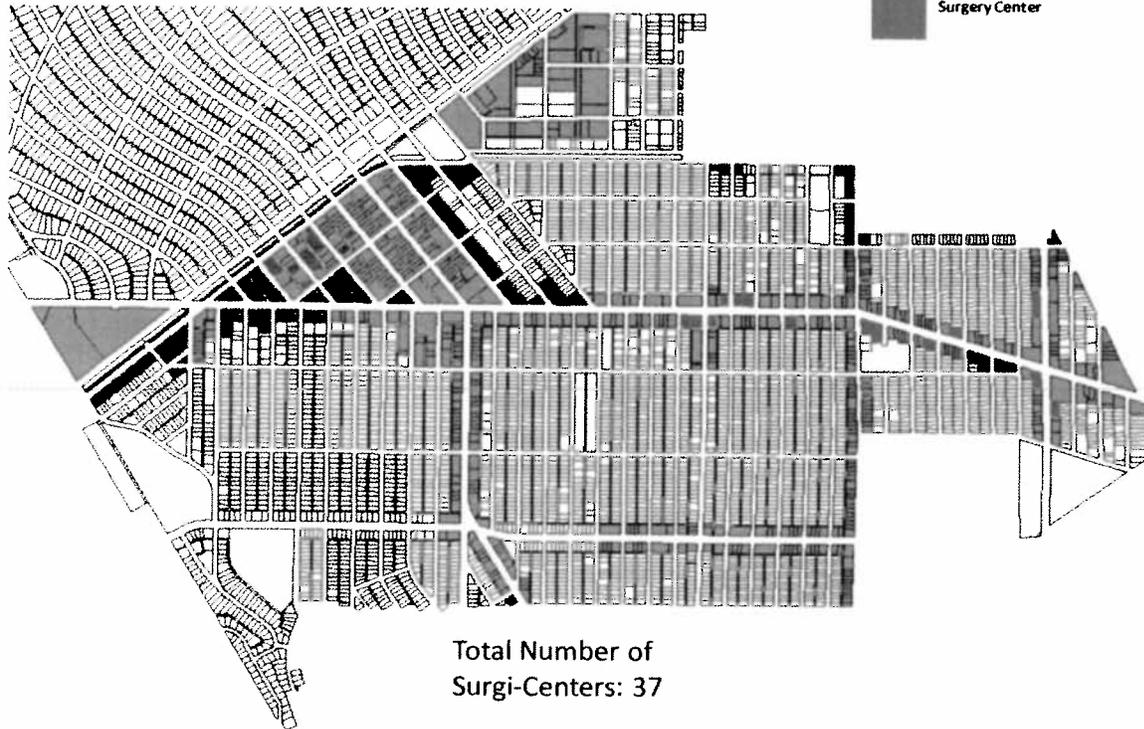
The Planning Commission raised the question as to whether surgi-centers should be regulated differently than other medical offices. It is noted that surgi-centers may operate differently from medical offices and the average daily number of trips and parking required for surgi-centers may be less than 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.

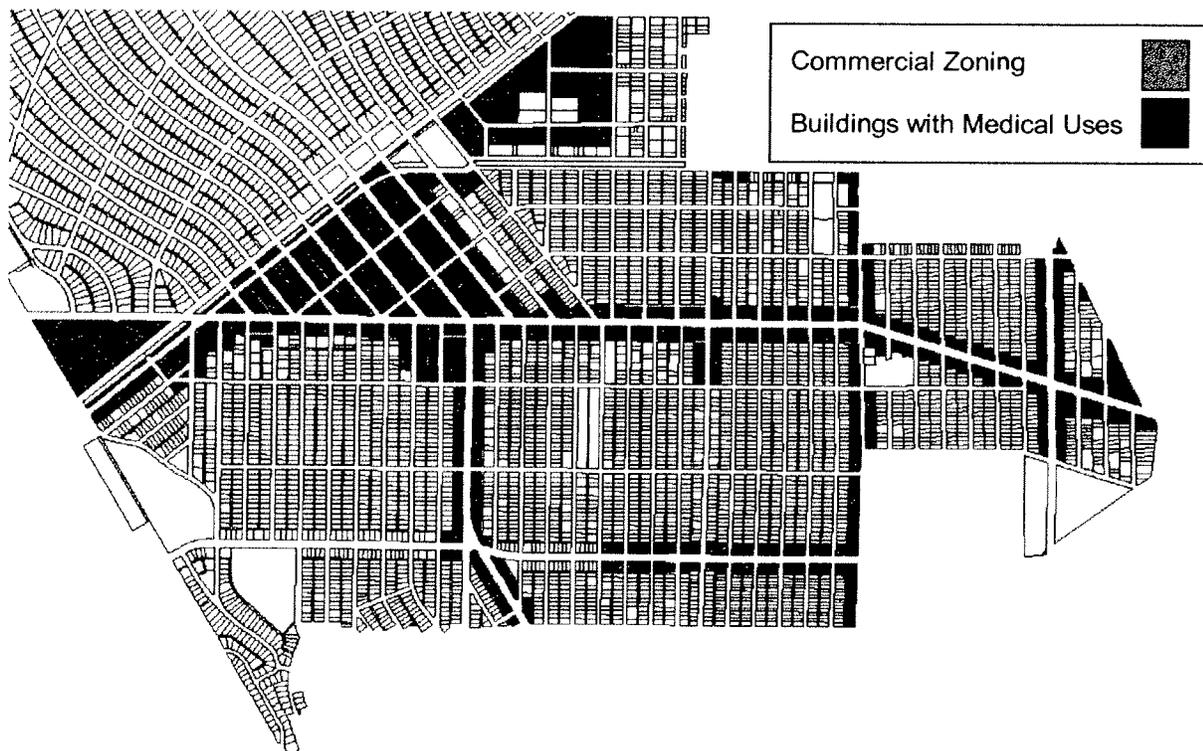
For tax purposes, the City categorizes uses in different classifications with different tax structures. Medical offices in Beverly Hills fall under the Class C, "Professions and Semiprofessions" category which taxes such businesses based on the annualized average number of professional and semiprofessional 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.

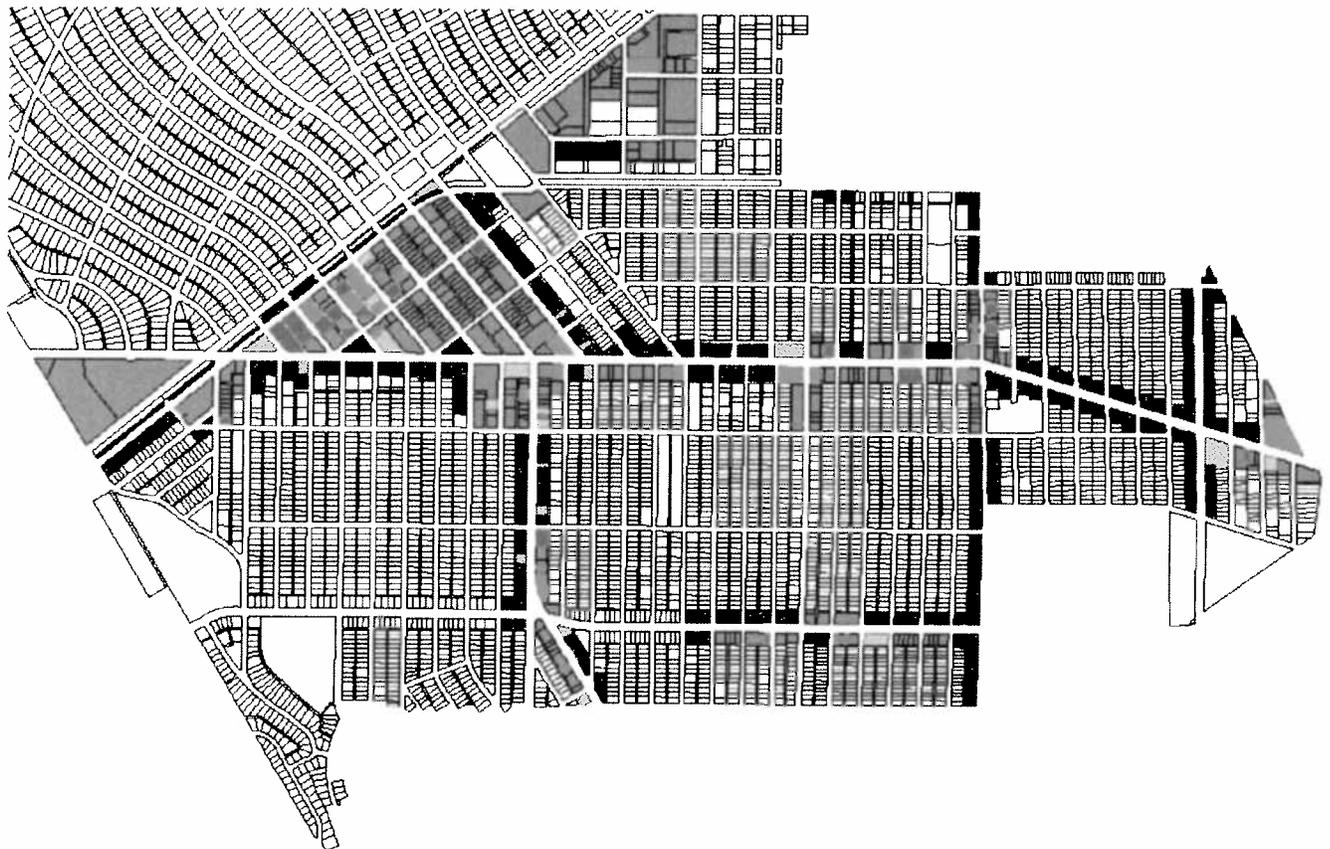
Buildings with Medical Uses



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 – 1space 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 Center Retail	1.03	3.75	42.94	3.02 (4.74 at Peak: Saturdays. in- December)	2.85
Specialty Retail	not open	2.71	44.32	not available	2.85

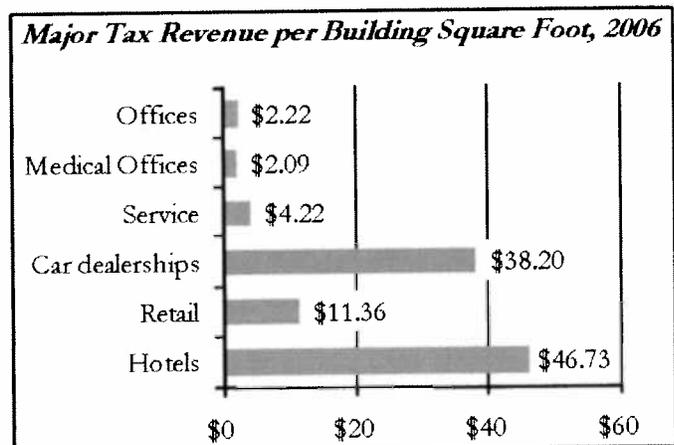
Source: ITE Trip Generation Manual (7th Edition) and ITE Parking Generation Manual (3rd Edition)

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 second



Source: Beverly Hills Economic Sustainability Background Report

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 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 profession-

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

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

[†] 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.

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.

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

[†] 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

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, obsolescence 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 3

Pedestrian-Oriented Area Map

Pedestrian-Oriented Area Map



LEGEND

PEDESTRIAN-ORIENTED AREA

Attachment 4

Beverly Hills Municipal Code Sections:

Current and Former Parking Requirements for Medical
Office Use

CURRENT PARKING REQUIREMENTS

8. Open air dining pursuant to an open air dining plan as provided in article 35 of this chapter

Parking shall be provided as required for indoor dining pursuant to this section except that the city council may establish parking requirements for open air dining areas that are different than those set forth in this section if the council determines that the open air dining area will generate a need for parking different than the amount of parking required by this section or the council determines that parking demand will be met by means other than those means specified in this section.

9. Eating and bar facilities not governed by subsections B5 through B7 of this section

1 space per 45 square feet of dining and bar floor area for the first 9,000 square feet of such area and 1 space per 65 square feet of dining and bar floor area in excess of 9,000 square feet. However, 25 percent of the spaces required to be provided for a building or structure by subsections B1 and B10 of this section may also be applied toward the requirements of this subsection.

10. Commercial uses not otherwise specified in this section

1 space per 350 square feet of floor area

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

1 space per 200 square feet of floor area

12. Manufacturing uses

1 space per 500 square feet of floor area

13. Warehouse uses

1 space per 1,500 square feet of floor area

14. Exercise club

1 space per 100 square feet of floor area

15. Private training centers

1 space per 200 square feet of floor area. Provided, however, that if a private training center of more than 2,000 square feet of floor area is located in a building which has at least 1 parking space per 350 square feet of floor area, then the planning commission, as part of the issuance of a conditional use permit, may reduce the amount of required parking for a private training center to an amount no less than 1 parking space per 350 square feet of floor area. The planning commission shall not, however, approve any reduction in the required parking

Type Of Use

Required Spaces

open air dining areas that are different than those set forth in this section if the council determines that the open air dining area will generate a need for parking different than the amount of parking required by this section or the council determines that parking demand will be met by means other than those means specified in this section.

9. Eating and bar facilities not governed by subsections B5 through B7 of this section

1 space per 45 square feet of dining and bar floor area for the first 9,000 square feet of such area and 1 space per 65 square feet of dining and bar floor area in excess of 9,000 square feet. However, 25 percent of the spaces required to be provided for a building or structure by subsections B1 and B10 of this section may also be applied toward the requirements of this subsection.

10. Commercial uses not otherwise specified in this section

1 space per 350 square feet of floor area

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

1 space per 200 square feet of floor area

Buildings constructed before December 6, 1989, which have an existing parking ratio of at least 1 space per 350 square feet of floor area may satisfy the 1 space per 200 square feet of floor area requirement for any new medical use by any combination of tandem and compact spaces and restriping provided that on site free

BHMC 10-3-2730

Part of subsection 11 deleted in 2005

Type Of Use

Required Spaces

BHMC 10-3-2730

Part of subsection 11 deleted in 2005

validated valet parking is provided to all medical office patrons. Further, signage satisfactory to the director of transportation shall be posted in the parking garage indicating the availability of free validated valet parking for medical office patrons.

Any building constructed before December 6, 1989, which has an existing parking ratio of at least 1 space per 350 square feet of floor area but cannot satisfy the 1 space per 200 square feet of floor area requirement as provided by this subsection B11 may convert general office space to medical office space only upon the granting of a conditional use permit. Such permit may not be granted unless on site free validated valet parking with approved signage is provided and the findings are made that the number of parking spaces in the building have been maximized to the extent feasible and the medical office use will not have an adverse impact on the surrounding area. Notwithstanding the foregoing, under no circumstances shall a building located within 100 feet of a public school or active park be permitted to provide parking at a ratio of less than 1 regular stall size space per 200 square feet of floor area.

12. Manufacturing uses

1 space per 500 square feet of floor area

Attachment 3

Zoning Code Section 23.5, T-O Zone
(Floating Zone)

Article 23.5. Transportation Overlay Zone (T-O)

10-3-2351: T-O ZONE CREATED:

There is hereby created and established in the city a transportation overlay zone, designated T-O. (Ord. 01-O-2377, eff. 8-10-2001)

10-3-2352: PURPOSE AND INTENT:

The transportation overlay zone will be superimposed over the existing T zone. The transportation overlay 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 and the elements of the general plan. (Ord. 01-O-2377, eff. 8-10-2001)

10-3-2353: DEFINITIONS:

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

ADJACENT TO THE C-3 ZONE: A site that shares a property line with a lot or parcel located in the C-3 zone.

GROSS AREA: The total area enclosed by the exterior walls of a building or structure or portion thereof, including all nonhabitable space. (Ord. 01-O-2377, eff. 8-10-2001)

10-3-2354: WHERE APPLICABLE:

A transportation overlay zone may be applied in the T zone for any site which is adjacent to the C-3 zone and has a minimum area of one-half ($1/2$) acre. (Ord. 01-O-2377, eff. 8-10-2001)

10-3-2355: USES PERMITTED:

All uses permitted and conditionally permitted in the T zone shall be permitted and conditionally permitted, respectively, in the T-O zone pursuant to the provisions set forth in article 23 of this chapter. In addition, the following uses shall be permitted in the T-O zone:

- A. Surface parking, subject to the restrictions set forth in section 10-3-2356 of this article. Any site area, as defined by this chapter, developed with surface parking pursuant to this provision may also include within the T-O zone a building, or portion of a building, with a gross area of two hundred seventy five (275) square feet, provided such building is used primarily to support the surface parking use.
- B. Any accessory structure located on the site area within the T-O zone, including, but not limited to, storage tanks, light standards, freestanding signs, landscape planters, and walls or fences, which was erected prior to June 19, 2001; provided such accessory structure is used primarily to support the surface parking use authorized by subsection A of this section and further provided the property owner submits a scaled plot plan to the department of planning and community development by August 19, 2001. Said plot plan shall be drawn to a reasonable scale and shall include such information as the director of planning and community development may reasonably require. (Ord. 01-O-2377, eff. 8-10-2001)

10-3-2356: RESTRICTIONS:

The following restrictions shall apply to development in the T-O zone:

- A. All restrictions applicable to the T zone;
- B. All provisions of article 31 of this chapter;
- C. No surface parking use shall be established, maintained, used, or occupied pursuant to subsection 10-3-2355A of this article unless the operator of the surface parking use and/or the owner of the lot or parcel on which the use is located or is to be located obtains approval from the architectural commission of a landscaping plan in accordance with the procedures set forth in article 30 of this chapter; and
- D. No surface parking use or accessory structure shall be established, maintained, used, or occupied pursuant to subsection 10-3-2355A of this article unless the operator of the surface parking use and/or the owner of the lot or parcel on which the use is located or is to be located obtains approval from the director of planning and community development of a plot plan setting forth the layout of the surface parking use and the location of accessory structures on the lot or parcel. If, in the opinion of the director, the plot plan merits review by the planning commission, the director may refer such application to the planning commission for review. If the plot plan review accompanies an application for any other discretionary approval from the planning commission, the planning commission shall be the reviewing authority for the plot plan.
 - 1. Findings: The director or planning commission may approve a plot plan for a surface parking use only upon finding:

- a. That the site is adequate in size and shape to accommodate the surface parking use;
 - b. That the site is adequate in size and shape to provide adequate circulation for both pedestrian and vehicular traffic both on and off site.
 - c. The surface parking use is consistent with the elements of the city's general plan and purpose and intent of this article;
 - d. The surface parking use and all accessory structures, if any, maintain appropriate setbacks; and
 - e. The surface parking use and all accessory structures, if any, comply with all applicable provisions of this code.
2. Conditions: In granting approval for a plot plan for a surface parking use pursuant to this article, the director or planning commission shall impose such conditions on the approval which are reasonable and necessary to protect the health, safety and general welfare and to ensure the surface parking use is compatible with the intent and purpose of this article. Such conditions may pertain to one or more of the following:
- a. Setbacks and buffers;
 - b. Landscaping and maintenance;
 - c. Vehicular and pedestrian traffic circulation and safety;
 - d. Such other conditions as will promote orderly and efficient development in conformity with the intent and purpose of this article. (Ord. 01-O-2377, eff. 8-10-2001)

10-3-2357: PROCEDURES FOR APPROVAL:

The procedure for applying the T-O zone to any properties located within the T zone shall be the same as described in article 39 of this chapter for zoning amendments. (Ord. 01-O-2377, eff. 8-10-2001)