Beverly Hills
Planning Division
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Planning Commission Report

Meeting Date: October 14, 2010

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

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

REPORT SUMMARY

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

BACKGROUND

7/21/09: City Council directed the Planning Commission to develop an ordinance regulating medical uses in the City with consideration of an exemption for existing buildings with Code-compliant parking for medical use

11/19/09

1/28/10: Planning Commission Study Sessions
Reviewed history of medical office regulation in Beverly Hills, summary of the City Council's discussions, impacts of medical office use in the City, information about the number and location of buildings in the City housing medical uses

Feb. – May/10: Staff conducts study of medical use floor area in Beverly Hills

6/10/10: Planning Commission Public Hearing
Information on amount of medical floor area in City and potential regulatory tools including prohibition, a cap, overlay zone, conditional use permit.

7/22/10: Planning Commission Public Hearing
Refinement of potential regulatory process focusing on a cap, floating medical overlay zone, conditional use permit

September 2010: Planning Commission Subcommittee Meeting

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

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DISCUSSION

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

- Severely limit the amount of new medical use in the City, including conversion of space in existing buildings. Existing legal medical use may remain as legal nonconforming use.
- Regulate new medical use with a two-step discretionary review process:

  Floating medical overlay zone ► Determines if site is appropriate for medical uses

  Conditional Use Permit (CUP) ► Make specific findings to approve a project with medical uses
- Exception for existing buildings with code-required parking

  Specific restrictions to be discussed by the Subcommittee.

Two Step Process: Medical Overlay Zone and Planned Development

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

Concurrent Review

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

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

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

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

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

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

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

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

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

A. "Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of this article;

B. The proposed project and medical uses:

   1. Will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the City, or any combination thereof,

   2. Will promote harmonious development in the area and will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed project.

C. The proposed project and medical use will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation and the building housing the

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

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

E. The proposed project and medical use contribute to and enhance the City's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the City.

F. The public benefit to the City shall, at a minimum, offset any long-term impacts to the City that result from allowing medical use in the City's limited commercial areas."

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

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

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

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

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

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

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

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

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

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

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

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

Impact on Existing Buildings and Businesses

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

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

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

GENERAL PLAN POLICIES

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

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

This is included under the following General Plan goal:

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

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

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

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

ENVIRONMENTAL ASSESSMENT

The subject draft ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines[2], and the environmental regulations of the City. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations

PUBLIC OUTREACH AND NOTIFICATION

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

Public Comment

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

[2] The CEQA Guidelines and Statue are available online at http://ceres.ca.gov/ceqa/guidelines

NEXT STEPS

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

Alternatively, the Planning Commission may consider the following actions:

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

Report Reviewed By:

_____

Susan Healy Keene, AICP
Director of Community Development

Attachment 1

Planning Commission Resolution

RESOLUTION NO.

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

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

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

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

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

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

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

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

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

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

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

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

Adopted:

_____

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

Attest:

_____
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

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

Attachment 1, Exhibit A

Proposed Ordinance

New Code language in red

EXHIBIT A

Attorney Client Privileged

EXHIBIT A

[DRAFT]
ORDINANCE NO. 10-O- _____

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

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

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

Section 2. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the proposed ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for protection of the environment because it will protect residential neighborhoods from impacts associated with uncontrolled intensification of commercial areas with medical land uses, and thus qualifies as a Class 8 exemption pursuant to Section 15308 of Title 14 of the California Code of Regulations.

Attorney Client Privileged

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

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

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

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

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

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

"Office (Excluding Medical Uses)."

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

"Offices (Excluding Medical Uses)."

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

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

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

EXHIBIT A

Attorney Client Privileged

"10-3-1620.1 Medical Uses:

A. Buildings that received a certificate of occupancy from the City prior to EFFECTIVE DATE, may continue to use the floor area legally permitted to be occupied by medical uses without obtaining a medical overlay zone designation for the site on which the building is located. If floor area committed to medical uses is changed to a different commercial use or uses, such change is subject to the nonconforming use requirements of Section 10-3-4100 of this chapter.[1]

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

1. The building is located on property in one of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A, C-3B, or E-O-PD.
2. If the property is located in the pedestrian-oriented area, as defined in Section 10-3-1653, the community development director may issue a minor accommodation pursuant to the provisions of Article 36 of this chapter to authorize a medical use to

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

occupy a space in a pedestrian oriented area provided that all other requirements of this section are met and the director makes all of the findings pursuant to 10-3-1655.[2]

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

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

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

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

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

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

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

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

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

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

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

"Office (Excluding Medical Uses)."

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

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

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

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

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

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

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

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

Attorney Client Privileged

10-3-1852: PURPOSE AND INTENT:

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

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

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

A. The property is located in one or more of the following commercial zones: C-3, C-3T-1, C-3T-2, C-3T-3, C-R-PD, C-R, C-3A and C-3B

B. The property is not located in the pedestrian-oriented area as defined in Section 10-3-1653.

Attorney Client Privileged

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

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

10-3-1855: DEFINITIONS:

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

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

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

10-3-1856: USES PERMITTED:

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

Attorney Client Privileged

10-3-1857: OBJECTIVES:

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

A. Medical uses in the particular location are consistent with the elements of the City's general plan and purpose and intent of this article;

B. The proposed development and medical use:

   1. Will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to density, height, scale and massing of the streetscape, garden quality of the City, or any combination thereof;

   2. Will promote harmonious development in the area; and,

   3. Will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development.

C. The proposed development and medical use will not result in any adverse impacts to existing or anticipated residential or commercial development in the vicinity of the project with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards, parking demand, parking design, loading or manner of operation and the development shall provide onsite parking that is designed for ease of use and efficiency, with vehicle ingress and egress and patient drop off and pick up locations that would not adversely impact adjacent properties.

D. The proposed development and medical use will contribute to and enhance the character of the neighborhood and location, will contribute positively to the image of the City and

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

E. The proposed development and medical use contribute to and enhance the City's economic base and granting the request will leave ample space available for future commercial growth including business headquarters, entertainment businesses, information/technology businesses, retail businesses and other businesses as determined by the City.

F. A public benefit shall be offered to the City and the public benefit shall, at a minimum, offset any long-term impacts to the City that result from allowing medical use in the City's limited commercial areas.

10-3-1858: RESTRICTIONS:

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

A. All restrictions applicable to the zone or underlying zone

B. All provisions of article 19.5[3] of this chapter;

C. Medical uses shall not be permitted on the ground floor of any building.

[3] Refers to Commercial-Residential Transition Zone regulations

Attorney Client Privileged

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

10-3-1859: PROCEDURES FOR APPROVAL:

A. The procedure for applying the C-PD-M Zone to any property in the city shall be the same as described in article 39 of this chapter for zoning amendment.[4]

B. The planning commission shall make a recommendation to the City Council to approve, deny or conditionally approve an application for a planned development. In making a recommendation to grant a planned development approval, the planning commission shall recommend such conditions on the approval that are reasonable and necessary to protect the health, safety and general welfare and to offset any potential adverse impacts resulting from the medical uses.

C. An application for a zoning amendment to apply the C-PD-M Zone to a property in the City shall be processed concurrently with an application for a planned development for a project with medical uses proposed on the same property.

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

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

Attorney Client Privileged

"10-3-4102: NONCONFORMING PARKING:

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

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

Attorney Client Privileged

"11. Medical offices as defined under section 10-3-100 of this chapter	1 space per 200 square feet of floor area; provided buildings constructed before December 6, 1989 that received building permits before December 16, 2005 to re-stripe parking areas to increase the number of parking spaces and permit additional medical floor area in the building, shall maintain on site free validated valet parking for all medical patrons and maintain posted signage in the parking garage indicating the availability of free validated valet parking for medical office patrons as required by the Zoning Code at the time such projects were permitted. Any building area converted to medical use on or after December 16, 2005 which relies on a valid re-stripe permit shall also comply with the above requirements."

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

Section 18. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be remain in full force and effect.

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

Attorney Client Privileged

Section 20. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

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

Adopted:
Effective:

_____
JIMMY DELSHAD
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

_____
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____
JEFFREY KOLIN
City Manager

_____
SUSAN HEALY KEENE AICP
Director of Community Development

Attachment 2

General Plan Consistency

General Plan Consistency: Medical Use Ordinance

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

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

This is included under the following General Plan goal:

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

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

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

> **"LU 1 Long-Term Stability.** In general, each of the land use issues is directed toward the enhancement and maintenance of the long-term durability and stability of the community. A plan which would accomplish this must recognize the unique qualities of the community, and with it, the factors which enhance the uniqueness as well as the factors which jeopardize them. Beverly Hills is fortunate in that it is able to serve a variety of residential and commercial demands in a manner and combination which is difficult to duplicate elsewhere in the Los Angeles area. Consequently, as long as Beverly Hills is able to provide an alternative not available elsewhere, it will endure....Aside from the issues of change which face the community as new development occurs and new demands are placed upon the City, ***it is equally important to recognize that the process of maintaining the quality of life is a dynamic one. The City's programs must be able to recognize and respond to the problems which typically affect Cities, such as*** deterioration of its older housing stock, ***obsolescence or loss of competitive ability of commercial areas***, rising costs and overburdened services and facilities, and increased problems of accessibility and parking."
>
> **"LU 3. Managed Change.** Managed change that respects and is complementary to the qualities that distinguish the city as a community, is orderly and well-planned, provides for the needs of existing and future residents and businesses, ensures the effective and equitable provision of public services, and makes efficient use of land and infrastructure."

---

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

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

> **"LU 5 Complete, Livable and Quality Neighborhoods.**
>
> **LU 5.8 Encroachment of Incompatible Land Uses.** Protect residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible. Zoning and design review should assure that compatibility issues are fully addressed when nonresidential development is proposed near or within residential areas."
>
> **"LU 10 Economically Vital Districts.** Retention of existing businesses and attraction of new businesses, sustaining employment, well-paying jobs, and extraordinary economic activity."
>
> **"LU 11 Well-Designed and Attractive Districts**
>
> **LU 11.1. Preservation of Pedestrian-Oriented Retail Shopping Areas.** Preserve, protect and enhance the character of the pedestrian-oriented retail shopping areas, which are typified by a variety of retail shops with displays to attract and hold the interest of pedestrian shoppers, to ensure the continuity of the pedestrian experience."

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

> **"LU 12 Business Districts Adjoining Residential Neighborhoods.** Compatible relationships between commercial districts and corridors and adjoining residential neighborhoods, assuring that the integrity, character, and quality of both commercial and residential areas are protected and public safety and quality of life are maintained."
>
> **"LU 15 Economic Sustainability.** Vital and successful businesses that contribute to the City's identity and culture, provide high-paying jobs, and contribute revenue that sustains the level and quality of services in the City."

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

Attachment 3

Table and Map of Commercial Zones

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

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

Regulation of Medical Use in the current BHMC

Michele McGrath 9-22-10

4 C-R-PD Overlay (BHMC 18.2)
(Dept Store Zone)

South side of Wilshire between Bedford and Camden; 9582-9620

Has underlying C-3 Zone

PC determines parking and loading through planned development; 20% of required parking can be compact or tandem.

12 E-O-PD Overlay (BHMC 18.6)
(Entertainment)

New -Formerly William Morris

Has underlying C-3 Zone but in pedestrian area so no medical

Medical allowed but need planned development approval of PC per BHMC 18.4; allows some compact and tandem; PC determines loading. Zone objectives would not appear to permit medical.

17 C-5 Zone (BHMC 20)

(old Industrial Area)

5 C-R Overlay (BHMC 34)
(Dept Store Zone)

Has underlying C-3 Zone

South side of Wilshire between McCarty and Bedford; 9650-9700

Hotel Regulations (BHMC 28.6)

Intensification of use at a hotel site requires CUP; there has been a question of medical use in hotels.

Specific Plans (*underlying Zone*):

18 9900 Wilshire
(*None*) (BHMC 15.7)

19 Beverly Hills Gardens
(*None*) (BHMC 15.6)

20 Beverly Hills Hotel
(*R.1X*) (BHMC 15.5)

21 Beverly Hilton
(*None*) (BHMC 15.8)

6 C-3A (BHMC 17)

South side of Little Santa Monica from Moreno to Charleville

No underlying C-3 Zone and no reference to C-3 uses

7 C-3B (BHMC 18)

415 N. Crescent Drive

No underlying C-3 Zone and no reference to C-3 uses

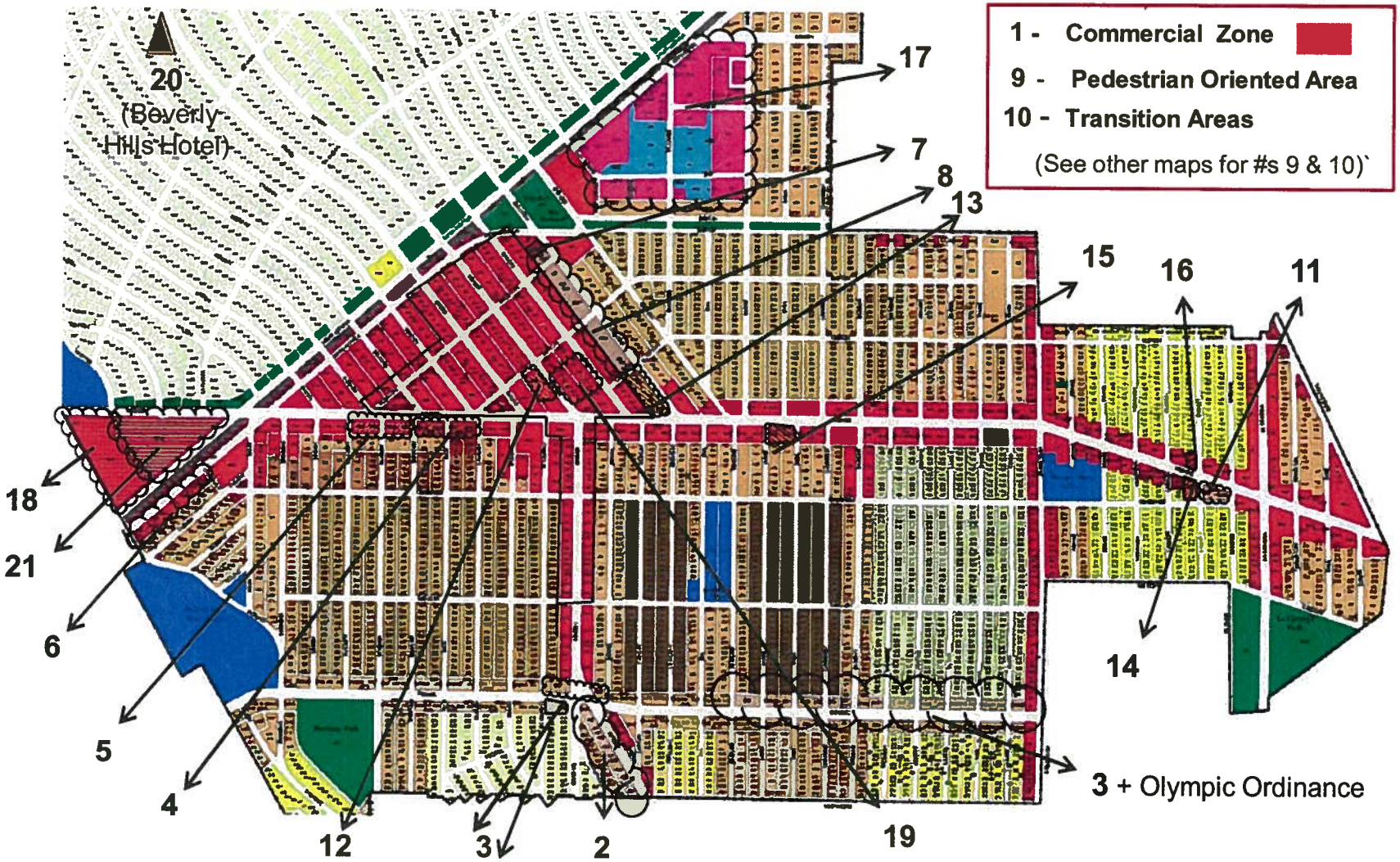
C-H(O) (BHMC 28.8)

125-131 Spalding Dr (Mosaic Hotel)

underlying R-4X2 zone; medical not allowed

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

Commercial Zones



ZONES:

SINGLE-FAMILY RESIDENTIAL

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

MULTI-FAMILY RESIDENTIAL

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

COMMERCIAL

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

INSTITUTIONAL/GOVERNMENT

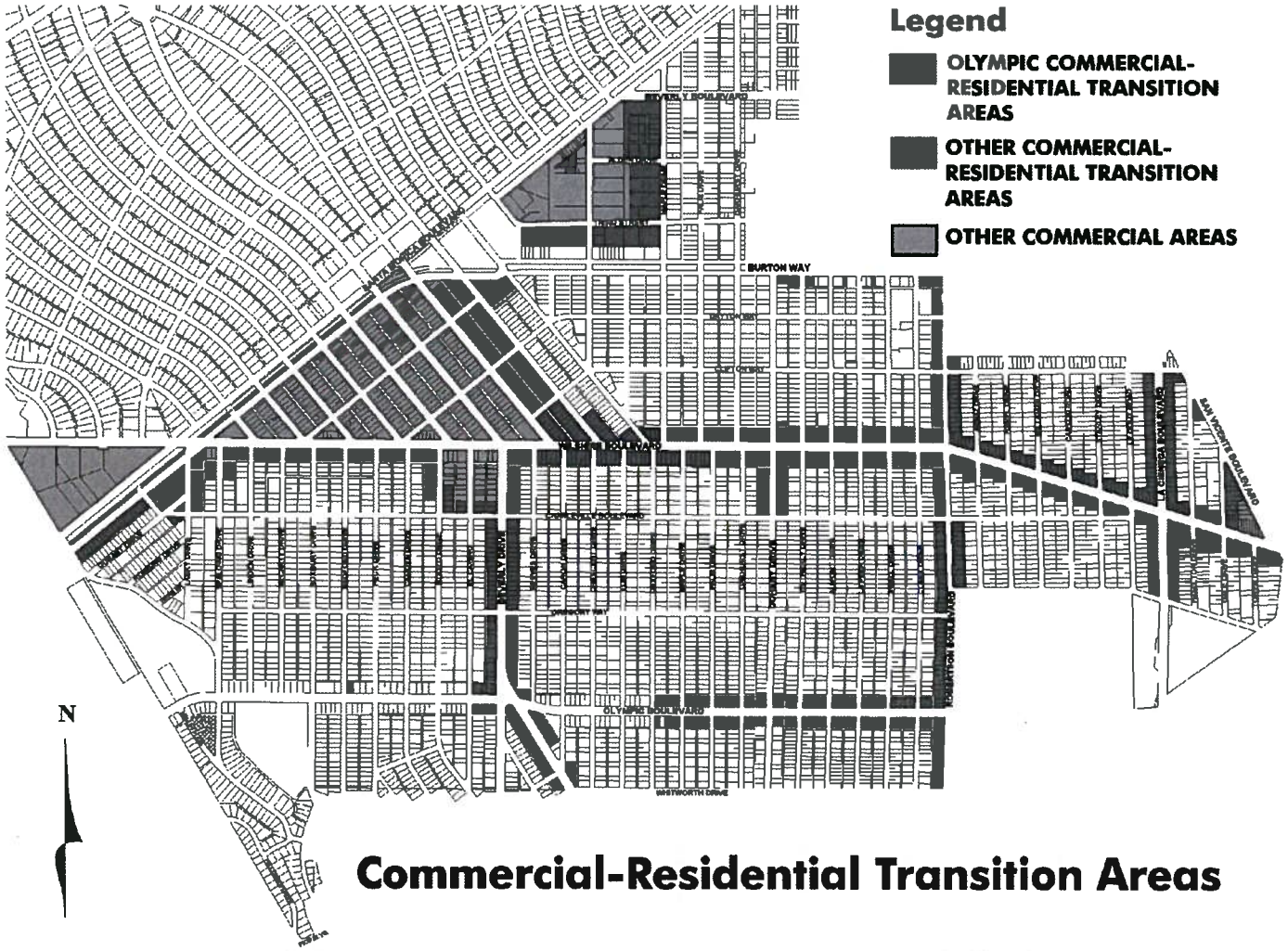
- Church Zone
- P-S Public Service Zone
- S School
- T-1 Transportation Zone
- Parks, Reservoirs, Government (Unzoned)

SPECIFIC PLAN AREAS & OVERLAY ZONES

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

Pedestrian-Oriented Areas

Commercial-Residential Transition Areas



Commercial-Residential Transition Areas

Attachment 4

Zoning Code Sections:

Planned Development
Conditional Use Permit
Pedestrian-Oriented Areas

Article 18.4. Planned Development

10-3-1841: APPLICABILITY:

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

10-3-1842: APPLICATION:

All planned development applications shall contain the following information:

A. The proposed distribution, location, and extent of the uses of land, including open space, in the subject zone and adjacent to the subject site including, but not limited to, site plans, photographs, elevations, garage layouts and landscaping plans.

B. The proposed physical improvements.

C. The proposed distribution, location, extent, and capacity of major components of public and private transportation, infrastructure, and other essential facilities proposed or affected by the proposal within the subject zone.

D. A program of implementation and operational measures which assure that the objectives of the subject zone are advanced, including a parking program.

E. A construction management program which addresses the following issues:

1. Fugitive dust,
2. Noise attenuation,
3. Air quality,
4. Hours of operation,
5. Street circulation and parking,
6. Employee parking,
7. Truck routing and staging,
8. Public notifications,

9. Pedestrian safety,

10. Holiday season considerations,

11. Truck traffic scheduling, and

12. Coordination with other construction activities in the vicinity of the project. (Ord. 91-O-2127, eff. 11-8-1991; amd. Ord. 92-O-2150, eff. 9-11-1992)

10-3-1843: PUBLIC HEARING:

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

10-3-1844: APPROVALS:

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

A. Expiration: The planning commission's approval of a planned development shall expire unless the applicant obtains building permits for the planned development within three (3) years after the date of the planned development approval. Furthermore, the planned development approval will also expire if the building permits for such development expire.

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

C. Vested Rights: The approval of a planned development shall not create any right to an extension of such approval or any vested right to develop the subject property in a manner that does not comply with the laws and regulations in effect at the time that the applicant obtains a building permit.

D. Notice Of Decision: Notice of the decision of the planning commission shall be provided to the applicant in the manner specified for notice of a hearing pursuant to section 10-3-1843 of this article.

E. Traffic Monitoring After Development Approval: The planning commission shall require as a condition of a planned development approval that the traffic generated by the development be periodically monitored, at the expense of the applicant, to ensure that the actual levels of traffic do not significantly exceed the levels of traffic anticipated by the environmental review of the development when it was approved. In the event that such monitoring shows there has been a significant increase in the anticipated traffic generation, the planning commission may impose additional traffic mitigation measures on the development that are reasonably necessary to mitigate the traffic to the anticipated levels. (Ord. 91-O-2127, eff. 11-8-1991)

10-3-1845: APPEALS:

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

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

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

A. A performance bond or other security, in an amount satisfactory to the director of building and safety, and in a form satisfactory to the city attorney to ensure that the subject project will be completed as authorized by the building permit for such project, or

B. Evidence, satisfactory to the director of finance administration, which demonstrates that the planned development approval applicant has the financial capability to complete the subject project as authorized by the building permit for such project. Such evidence may include, but shall not be limited to, proof of adequate construction financing. (Ord. 91-O-2127, eff.

11-8-1991)

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

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

Article 38. Conditional Use Permits

10-3-3800: AUTHORIZED:

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

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

10-3-3801: EXEMPTIONS AND REDUCTIONS:

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

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

A. Childcare uses other than family daycare homes,

B. Religious institution located in the C-5 zone provided all of the following criteria are met:

1. The use of the subject site is limited to religious institutional uses.

2. Except as otherwise permitted by the conditional use permit, no social events shall be allowed at the subject site. For the purposes of this section, "social events" shall include: a) celebrations associated with weddings and other life cycle events; b) fundraising events not involving a religious service, such as bingo games or auctions; c) gatherings of more than five (5) persons to foster interaction among congregation members or among congregation members and other members of the community, including but not limited to events such as dances, discussions, study groups or lectures.

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

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

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

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

10-3-3802: RESTRICTIONS:

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

10-3-3803: REVOCATION OR MODIFICATION:

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

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

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

A. The permittee has violated a condition of the conditional use permit approval, or violated any provision of this code that governs, in part, the operation of the conditionally permitted activity or the land on which it is located; or

B. The conditional use permit was obtained in a fraudulent manner; or

C. Operation of the conditional use constitutes or creates a nuisance. (1962 Code § 10-415; amd. Ord. 94-O-2212, eff. 9-9-1994; Ord. 95-O-2239, eff. 7-7-1995; Ord. 95-O-2247, eff. 11-10-1995)

10-3-3804: APPEALS:

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

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

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

Article 16.5. Restricted Uses In Pedestrian Oriented Areas

10-3-1651: PURPOSE AND INTENT:

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

10-3-1652: DEFINITIONS:

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

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

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

RESTRICTED USE: Any nonretail use or car dealer.

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

10-3-1653: PEDESTRIAN ORIENTED AREAS DESIGNATED:

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

A. South Beverly Drive To Gregory Way: All those parcels east of the first alley running parallel to and west of South Beverly Drive, and all those parcels west of the first alley running parallel to and east of South Beverly Drive from Wilshire Boulevard to Gregory Way, including those parcels having frontage on Wilshire Boulevard and located on the southeast and southwest corners of the intersection of Beverly Drive and Wilshire Boulevard and those parcels having frontage on Gregory Way and located on the northeast and northwest corners of the intersection of South Beverly Drive and Gregory Way.

B. North Beverly Drive To Santa Monica Boulevard: All those parcels east of the first alley running parallel to and west of North Beverly Drive, and all those parcels west of the first alley running parallel to and east of North Beverly Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Beverly Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Beverly Drive and Santa Monica Boulevard, South Roadway.

C. North Cañon Drive To Santa Monica Boulevard: All those parcels east of the first alley running parallel to and west of North Cañon Drive, and all those parcels west of the first alley running parallel to and east of North Cañon Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Cañon Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Cañon Drive and Santa Monica Boulevard, South Roadway.

D. North Rodeo Drive To Santa Monica Boulevard: All those parcels east of the first alley running parallel to and west of North Rodeo Drive, and all those parcels west of the first alley running parallel to and east of North Rodeo Drive, from Wilshire Boulevard to Santa Monica Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Rodeo Drive and Wilshire Boulevard and those parcels having frontage on the south side of the South Roadway of Santa Monica Boulevard and located on the southeast and southwest corners of the intersection of North Rodeo Drive and Santa Monica Boulevard, South Roadway.

E. Brighton Way: All those parcels having frontage on Brighton Way from Cañon Drive to Wilshire Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and northwest corners of the intersection of Brighton Way and Wilshire Boulevard.

F. Dayton Way: All those parcels having frontage on Dayton Way from Cañon Drive to Wilshire Boulevard, including those parcels having frontage on Wilshire Boulevard and located on the northeast and southeast corners of the intersection of Dayton Way and Wilshire Boulevard. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)

10-3-1654: USES PERMITTED:

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

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

10-3-1655: EXCEPTIONS:

A. Notwithstanding any other provision of this article, the director of planning and community development may issue a minor accommodation pursuant to the provisions of article 36 of this chapter to authorize a restricted use to occupy a space in a pedestrian oriented area with a width of up to thirty feet (30') provided that the director makes the following findings:

1. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;

2. Granting the request for a minor accommodation will leave ample space available for future retail uses and will not result in an over concentration of nonpedestrian oriented uses in the block in which the proposed restricted use will be located;

3. The architectural style of the facade for the proposed restricted use is compatible with adjacent development and is consistent with the city's urban design policies;

4. A restricted use is appropriate for the proposed space because:

   a. Structural constraints imposed by the design of the building are unduly restrictive on the use of the subject lease space thereby limiting the opportunity for retail or hotel uses in the proposed space; or

   b. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.

B. Notwithstanding any other provision of this article, the planning commission may issue a conditional use permit pursuant to the provisions of article 38 of this chapter to allow a restricted use to occupy any space subject to the provisions of this article. In addition to considering the criteria for conditional use permits set forth in article 38 of this chapter, the

planning commission shall make the following findings:

1. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;

2. Granting the request for a conditional use permit will not result in an over concentration of nonpedestrian oriented uses in the block in which the proposed restricted use will be located;

3. Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas;

4. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience. (Ord. 81-O-1784, eff. 3-18-1981; amd. Ord. 02-O-2391, eff. 3-8-2002)