

**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**



**To:** Chair and Planning Board Members

**From:** Vanessa Sellers, Planner II

**Through:** Patrick Wright, Planning Director

**Meeting Date:** April 18, 2019

**Agenda Item:** **Conditional Use – 3216 Flagler Avenue (RE # 00069060-000100) - A request for conditional use approval to allow for medical services on a parcel located within the Limited Commercial District (CL) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

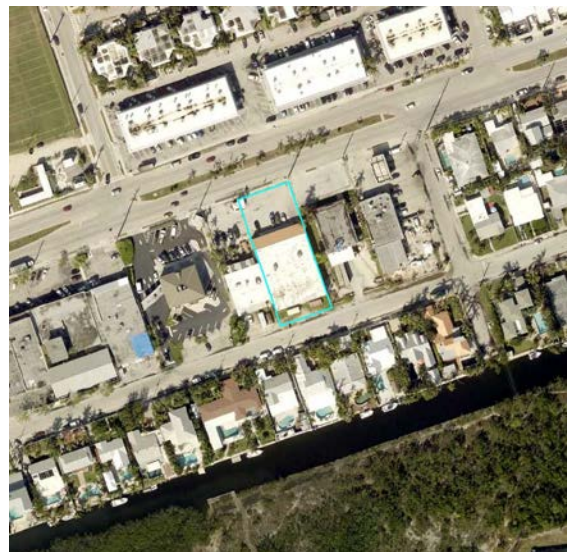
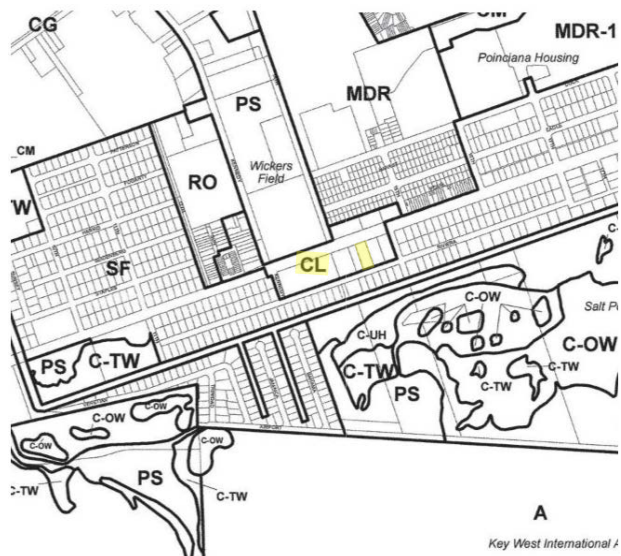
**Request:** A conditional use approval to allow for medical services in the CL zoning district.

**Applicant:** Matthew Mastrofrancesco, Project Manager

**Property Owner:** Bert J. and Josette M. Budde

**Location:** 3216 Flagler Avenue, Key West

**Zoning:** Limited Commercial (CL)



**Background:**

According to the Monroe County property appraiser card, the 10,800-square-foot structure at 3216 Flagler Avenue was constructed in 1967. A search of Polk City Directories revealed several uses throughout the years: a furniture store (Herbert’s Furniture), a gift shop (Gene & Jeanie’s Holiday House), an office supply and furniture store (Budde’s Office Supply), an arts/crafts/hobbies store (Budde’s Arts, Crafts, & Hobbies), a costume shop (Fantasy Costumes), and, once again, a furniture store (Fast Buck’s Furniture Outlet).

A search of city records revealed one (1) active business license at the subject property. The following table summarizes the license:

<b>License No.</b>	<b>Business Name</b>	<b>Description</b>	<b>Comments</b>
26877	Bert J. Budde Sr Photography	Miscellaneous other service	Photography, digital imaging, and web services

The applicant is requesting a conditional use permit in order to open and operate a business that will provide medical services. The business will occupy 2,817-square-feet of the 10,800-square-foot building. Pursuant to section 108-388 (13), medical services are a conditional use of the Limited Commercial (CL) zoning district. The proposed use will be in addition to the parcel’s current use.

Pursuant to section 86-9 of the city code, *medical services* are defined as the provision of therapeutic, preventive, or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging.

The proposed business, Fresenius Kidney Care, will treat dialysis patients approximately three (3) days per week. The facility will be equipped to treat up to three (3) patients at a time, with each treatment lasting approximately four (4) hours. A potential fourth patient may be accommodated in an exam room.

**Surrounding Zoning and Uses:**

- North:** CL – business & professional offices, commercial retail, multi-family dwellings
- South:** SF – single family residential dwellings
- East:** CL – athletic/fitness gymnasium
- West:** CL – business and professional offices

**Process:**

- Development Review Committee: March 28, 2019
- Planning Board: April 18, 2019
- Local Appeal Period: 10 days
- DEO Review: Up to 45 days

### **Conditional Use Review:**

The purpose of conditional use review, pursuant to City Code Section 122-61, is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. City Code Chapter 122, Article III sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

### **Conditional Use Specific Criteria pursuant to Code Section 122-62:**

#### ***(a) Findings***

Code Section 122-62(a) provides, in part, that “a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the Planning Board and/or the City Commission during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations.” This section also specifies that “a conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public’s interest.”

#### ***(b) Characteristics of use***

The proposed use is a medical service business serving the needs of dialysis patients.

#### **(1) Scale and intensity of the proposed conditional use as measured by the following:**

##### **a. Floor area ratio (FAR):**

The proposed reconstruction and use will not add additional floor area to the property.

##### **b. Traffic generation:**

According to the applicant, the proposed use will require four (4) employees and the facility will be able to accommodate up to four (4) patients at a time. Each dialysis treatment will last approximately four (4) hours. Given the length of time each patient will be at the facility, staff does not anticipate the proposed use will generate an unreasonable or significant change in trip generation at the property above the current or past uses.

##### **c. Square feet of enclosed space for each specific use:**

As depicted in the plans and application, the new use will be separate from the existing use and will have enclosed space totaling 2,817-square-feet.

##### **d. Proposed employment:**

The application indicates the proposed employment is four (4) employees.

##### **e. Proposed number and type of service vehicles:**

Staff does not anticipate any adverse impacts from service vehicles.

**f. Off-street parking needs:**

The parcel contains fourteen (14) paved and delineated off-street parking stalls at the front of the parcel, of which one (1) is handicap accessible. There is an additional parking space that straddles the subject property and the adjacent property. The property's prior uses were nonconforming to current off-street parking requirements (1 space per 300-square-feet of gross floor area).

The proposed use best fits section 108-572 (13), doctors' and dentists' offices or clinics, with a required off-street parking requirement of five (5) spaces per each doctor or dentist. The application estimates a parking need of up to six (6) parking spaces during business hours. The proposed use will lessen the off-street parking nonconformity.

**(2) On- or off-site improvement needs generated by the proposed conditional use and not identified above including the following:**

**a. Utilities:**

Based on comments at the DRC, Keys Energy has no objections to this conditional use request.

**b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94:**

None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance. Based on comments at the DRC, it does not appear the conditional use will trigger any public facility capacity issues.

**c. Roadway or signalization improvements, or other similar improvements:**

None expected.

**d. Accessory structures or facilities:**

None proposed.

**e. Other unique facilities/structures proposed as part of site improvements:**

None proposed.

**(3) On-site amenities proposed to enhance site and planned improvements, including mitigative techniques such as:**

**a. Open space:**

Pursuant to section 108-346, nonresidential uses shall provide a minimum of twenty-percent (20%) open space. The proposed use will not affect the current open space ratio.

**b. Setbacks from adjacent properties:**

No exterior construction is proposed.

**c. Screening and buffers:**

Screening and buffers are not proposed.

**d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:**  
Landscaping berms are not proposed.

**e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts:**  
No smoke, odor, noise, or other noxious impacts are expected.

***(c) Criteria for conditional use review and approval***

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

**(1) Land use compatibility:**

The proposed use would be located in the CL zoning district. Per Section 122-386, the intent of the CL zoning district is to implement comprehensive plan policies for areas designated "CL" on the comprehensive plan future land use map. The CL district shall accommodate limited commercial land uses with maximum gross floor area not exceeding 5,000 square feet, including total area both under roof and outside sales area, and which shall include shops catering primarily to neighborhood residential markets within the immediate vicinity as opposed to citywide or regional markets, specialized markets with customized market demands, or tourist-oriented markets in the immediate vicinity.

In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development in the CL district to activities generating no more than 100 trips per 1,000 square feet of gross leasable floor area per day. Areas designated for residential and limited commercial development shall not accommodate large scale retail sales and trade activities generally serving a citywide or regional market. Such stores usually differ from limited commercial shops since the former generally require a larger floor area, carry a relatively larger inventory, and require a substantially greater off-street parking area.

Uses which are not accommodated within the limited commercial area include the following: large scale discount stores or supermarkets; department stores; wholesale and warehousing activities; sales, service or repair of motor vehicles, machine equipment or accessory parts, including tire and battery shops; automotive services centers; and fast food establishments primarily serving in disposable containers and/or providing drive-in or drive-through facilities. In addition, the CL designation shall not accommodate transient residential uses, including motels or hotels and conversions from permanent residential use to transient residential use. However, existing motels within CL designated areas shall be grandfathered as lawful nonconforming uses.

The proposed use (medical services) will be operated in a 2,817-square-foot area and will generate minimal traffic. The proposed use complies with the intent of the district.

**(2) Sufficient site size, adequate site specifications and infrastructure to accommodate the proposed use:**

The size of the site and its specifications is adequate to accommodate the proposed scale and intensity of the conditional use requested.

**(3) Proper use of mitigative techniques:**

No adverse impacts anticipated.

**(4) Hazardous waste:**

None expected or proposed.

**(5) Compliance with applicable laws and ordinances:**

Compliance with all applicable laws and regulations would be required.

**(6) Additional criteria applicable to specific land uses:**

Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:

- a. **Land uses within a conservation area:** Not applicable.
- b. **Residential development:** Not applicable.
- c. **Commercial or mixed-use development:** No negative impacts expected.
- d. **Development within or adjacent to historic district:** The subject property is not located within or adjacent to the historic district.
- e. **Public facilities or institutional development:** Not applicable.
- f. **Commercial structures, uses, and related activities within tidal waters:** Not applicable.
- g. **Adult entertainment establishments:** Not applicable.

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Conditional Use be **Approved with the following conditions:**

**General conditions:**

1. The proposed use for medical services may occupy up to 2,817-square-feet of the 10,800-square-foot structure.
2. The required off-street parking spaces assigned to the proposed use may not be assigned to another use at the property at the same time.
3. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance may inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolutions, however, inspection is not required.