Town of

AMHERST *Massachusetts*

PLANNING BOARD **Report to Town Meeting**

ARTICLE 9 MEDICAL OFFICES (Planning Board)

To see if the Town will amend Section 3.360 and Article 12 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

~SEE ATTACHMENT ~

Recommendation

The Planning Board voted 5-3 to recommend that Town Meeting adopt Article 9. See the attachment for the form of Article 9 that the Planning Board will move.

Background

Article 9 seeks to fill in a gap in the way that Amherst's Zoning Bylaw regulates medical offices. A recent attempt to locate a medical office in the Professional Research Park (PRP) District resulted in a rejection of the application by the Building Commissioner, on the grounds that it constituted a "medical or dental center" and so was not permitted in that district. The Building Commissioner consulted with Town Counsel before rejecting the application and did not really have a choice in doing so. "Medical or dental center" was the closest category in the Bylaw to the medical office proposed. The Bylaw states: "It is intended that every possible use be included in some category, and a use that does not readily fall into any category listed shall be included in the one to which it is most similar." The applicants appealed the Commissioner's determination to the Zoning Board of Appeals (ZBA). After extended public hearings, the ZBA rejected the appeal and supported the Commissioner's decision, in part because no other determination was possible under the current language of the Zoning Bylaw.

Currently, the Zoning Bylaw only recognizes a medical office as an accessory medical office in the home of the doctor, or a "medical or dental center", which has to cover everything from the office of a single practitioner with a few staff to a very large aggregation of multiple medical group practices and associated uses in one or more buildings. No other distinctions are made, forcing all new medical offices proposed as stand-alone uses to be considered "medical or dental centers", no matter how small they are.

The amendments in Article 9 are intended to fill the gap. Article 9 proposes to create three categories of medical offices—medical office, medical group practice, and medical center—on the basis of their size. Article 9 would also add a 'clinic or emergency care facility' category, a non-hospital land use category currently not covered in the Zoning Bylaw.

These definitions of these medical office use categories are land use (zoning) regulations. They are not intended to be an exact reflection of the definitions used by the medical profession or insurance industry, because they do not serve those purposes. The categories of medical offices are defined and regulated based on the number of principal and 'other' health care providers they contain. Health care providers are the people that patients come to see. Patient visitation, with its traffic and related activity, is the principal impact created by medical office uses. In this way, these medical office categories are being defined and regulated on the basis of their relative impacts on their surroundings.

Article 9 only addresses medical offices—the offices of medical doctors (MDs), licensed dentists, and psychiatrists. It does not address stand-alone uses for other medically-related uses like psychotherapists (who are not MDs), chiropractors, acupuncturists, physical therapists, massage therapists, or similar practitioners who are sometimes affiliated with medical offices. Unless these uses are part of a medical office use (where the practitioners would be considered to count as "other" health care providers), they would continue to be regulated under either the "business or professional office" category, or under "personal care establishments", depending on the nature of the use and the zoning district where it was proposed. If regulation of these medically-related uses needs further clarification, it will require a different amendment.

The PRP Issue

Although Article 9 was spurred by a specific permit application in one PRP District, its amendments are crafted to operate in all zoning districts town-wide. Beginning with a Planning Board zoning forum in July, and the numerous Zoning Subcommittee meetings at which the amendments under Article 9 were developed, there was a great deal of participation and input from citizens focusing on this PRP District. This was divided between citizens who wanted Amherst to allow medical offices in the PRP District for reasons of increasing economic development, and citizens (often nearby residents) who did not under any circumstances want any medical offices permitted in the PRP District, as a potential source of additional traffic and impact on residential neighborhoods.

In an attempt to balance these conflicting public concerns, under Article 9, only the smallest and least impactful medical use category—"medical office"—is proposed to be permitted in the PRP District, and only under a discretionary Special Permit, which can be denied or strongly conditioned.

Extensive citizen focus on and concern about the PRP District helped to inform some aspects of this amendment. However, Article 9 is not principally about the PRP District. It is about amending Amherst's Zoning Bylaw so that it responsibly and usefully regulates medical offices in zoning districts throughout Amherst.

Public Hearing

The Planning Board held a public hearing on Article 9 on October 7, 2009. After extensive public comment for and against the amendment, and Board discussion, the Planning Board voted 5-3 to recommend that Town Meeting adopt Article 9 in a slightly amended form. See the attachment below for the form of Article 9 that the Planning Board will move.

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ATTACHMENT

ARTICLE 9 MEDICAL OFFICES

To see if the Town will amend Section 3.360 and Article 12 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Section 3.360 as follows:

3.360 *Medical uses*

3.360.0 Medical office

R-O	R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
	N	*N*	*SP*	*N*	*N*	*SPR*	*SPR*	*SPR*	*SPR*	*SPR*	*N*	*SP*	*N*

Standards & Conditions

See definition under Article 12. In the R-VC District, a medical office shall be permitted only under a Special Permit as part of a mixed use under Section 3.325, and is not otherwise permitted.

3.360.1 Medical group practice

R-O	R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
	N	*N*	*N*	*N*	*N*	*SPR*	*SPR*	*SPR*	*SPR*	*SPR*	*N*	*N*	*N*

Standards & Conditions

See definition under Article 12.

3.360.2 Medical ~~or dental~~ center

R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N

Standards & Conditions

See definition under Article 12.

3.360.3 *Clinic or emergency care facility*

R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
N	*N*	*N*	*N*	*N*	*SPR*	*SPR*	*SPR*	*SPR*	*SPR*	*N*	*N*	*N*

Standards & Conditions

An outpatient public health clinic as defined under Article 12.

B. Amend Article 12 by adding the following new definitions in alphabetical order under the appropriate section numbers and renumbering the remaining sections accordingly:

12.__ *Medical Uses:*

12.___ Medical office: A medical, dental, or psychiatric practice offering medical services on an outpatient basis and including a total of no more than the full time equivalent of three (3) principal health care providers and two (2) other medical or dental professionals, exclusive of administrative or clerical staff, providing services on the premises. A medical office may also contain associated in-house ancillary services such as in-house diagnostic testing facilities, medical counseling services, and similar services.

12.___ Medical group practice: A medical, dental, or psychiatric practice including the full time equivalent of four (4) or more principal health care providers, and three (3) or more other medical or dental professionals, exclusive of administrative or clerical staff, providing services on the premises. A medical group practice may also contain in-house diagnostic testing facilities, medical counseling services, and similar services, or may be associated with other similar accessory or complementary principal uses in the same building.

12.___ Medical center: Two (2) or more medical group practices, or an equivalent aggregation of medical offices, operating in the same building or on the same property, which may also contain associated accessory uses such as diagnostic testing facilities, physical therapy, therapeutic or counseling services, pharmacies, medical supply retailers, and similar uses. A medical center shall not include medical residential facilities.

12.___ Clinic or emergency care facility: Any private or public health clinic, or other similar community health facility providing diagnosis and ambulatory emergency medical care to persons on an exclusively outpatient basis as a principal use. A clinic or emergency care facility may also be accessory to a medical center, hospital, or similar facility.

12.__ Principal Health Care Provider: A health care professional licensed to operate as a physician in the Commonwealth of Massachusetts, who provides care to patients and may refer patients or receive referrals for specific medical or dental services, particularly in an outpatient setting. For the purposes of this Bylaw, principal health care providers shall include licensed physicians, dentists, psychiatrists, and physician specialists such as dermatologist, dental surgeon, ophthalmologist, and similar physicians.

12.__ Other Health Care Provider: A health care professional who may provide patient care, patient support, or ancillary medical services under the supervision of a principal health care provider. For the purposes of this Bylaw, this shall include nurse practitioners, registered or licensed practical nurses, physicians' assistants, dental hygienists, sonographers, phlebotomists, or similar licensed or certified medical professionals.