



July 31, 2020

**Ms. Dottie Kibler,
Deputy City Attorney
Mr. Craig Schauer,
Counsel for Hand of Hope**

Via electronic mail to: dorothy.kibler@raleighnc.gov and cschauer@brookspierce.com

Re: UI-1-2020, UDO Interpretation Request for 1522 Jones Franklin Rd.

Dear Ms. Kibler and Mr. Schauer:

This letter is in response to your jointly submitted written interpretation request of the Unified Development Ordinance of June 7, 2020. Please find my response below:

Background and Analysis:

The property owner of the above-referenced property and the Raleigh City Attorney's Office have submitted a joint request for interpretation of the Unified Development Ordinance (UDO). The question posed is whether a set of proposed activities on the property constitute an allowable accessory use to a principal Civic Use. As background, the property owner previously requested and received a zoning interpretation on the property in 2016 (see UI-7-2016). The interpretation classified the use of the subject property in the 'Civic' use category, a use permitted in the Residential-4 (R-4) zoning district. The adjacent property owner appealed this decision to the Board of Adjustment (BOA), who at its February 13, 2017 meeting reversed the interpretation and ruled the activities on-site comprised of two principal uses: Civic and Medical, the latter of which is prohibited as a principal use in the R-4 zoning district. The Board's decision was not appealed. The applicant has provided additional clarifying information of their description of the proposed activities on-site (see Exhibit A of the application) and has requested a use determination for said activities.

The property owner requests a determination that the uses as described would be permitted in the R-4 zoning district. While the Civic use remains unchanged, limitations voluntarily placed on ancillary medical activities result in an alteration of the previous analysis. The request seeks a determination that would result in a principal use in the Civic category with a permitted accessory use as described in Section 6.7.1. of the UDO, rather than two principal uses.

The application states no changes are to be made to the religious activities taking place on-site, thus the classification of those activities as a Civic use by the BOA still applies and does not need further analysis with this interpretation. Accessory uses are allowed in conjunction with a permitted principal use as set forth in Article 6.7., *Accessory Uses & Structures*. Article 6.7. provides a list of allowed accessory uses and states that additional uses may be allowed that, as interpreted by the Zoning Administrator, meet the following:

1. Are clearly incidental to and customarily found in connection with an allowed principal building or use;
2. Are subordinate to and serving an allowed principal building or use;
3. Are subordinate in area, extent, and purpose to the principal building or use served;
4. Contribute to the comfort, convenience or needs of occupants, business or industry in the principal building or use served; and
5. Are located on the same lot as the principal building or use served.

The applicant attempts to address these provisions by limiting the amount of medical activity on-site to those items described in the Settlement Agreement between the City and Hand of Hope, the property owner, as part of pending litigation. These activities consist of:

- STD testing conducted by representatives of Wake County;
- Self-administered pregnancy testing;
- Activities described as 'Accessory Medical Activities' in the agreement, which includes ultrasound imaging, nurse-administered pregnancy testing, and administration of limited prescription medication (issuing limited prescriptions but not dispensing medication on-site).

The applicant has further agreed to limit the Accessory Medical Activities by providing them to only one out of every four clients on average and limiting the square footage of the existing structure and any future additions devoted to these activities to 25% of the floor area of the structure.

Decision:

Section 6.7.1.A. allows accessory uses in conjunction with allowed principal uses (in this case a Civic Use) when the accessory uses meet the following:

1. Are clearly incidental to and customarily found in connection with an allowed principal building or use;

Hand of Hope operates primarily as a religious place of worship, a type of Civic Use, which is allowable as a limited use in the R-4 zoning district (See Sec. 6.3.1.A. and 6.1.4.). Though the additional activities described by the applicant are clearly medical in nature, the limitations and restrictions offered are sufficient to deem them incidental to the principal Civic use. Because the stated focus of Hand of Hope is one of faith-based pregnancy assistance, it is customary that the limited medical activities described in the Settlement Agreement would take place on-site. Limited medical activities are also common in other Civic uses, such as schools and universities.

2. Are subordinate to and serving an allowed principal building or use;

Again, the limitations and restrictions ensure the limited amount of medical activities are subordinate to the allowed principal use. The limited medical activities described in the Settlement Agreement aid and

serve the principal Civic use, an allowed principal use in the R-4 zoning district, by allowing Hand of Hope to carry out its faith-based pregnancy assistance.

3. Are subordinate in area, extent, and purpose to the principal building or use served;

Hand of Hope states that, on average, only one out of every four of its clients will receive 'accessory medical activities', as defined by the Settlement Agreement. Hand of Hope also states that only 25% of the floor area of the structure will be used for accessory medical activities, as shown on the floor plan attached to this application. The remainder of the structure is devoted to meeting space, office space, and other activities related to its Civic use. These limitations are sufficient to deem the limited medical activities as subordinate in area, extent, and purpose to the principal Civic use.

4. Contribute to the comfort, convenience or needs of occupants, business or industry in the principal building or use served; and

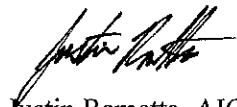
The proposed limited medical activities specified in the Settlement Agreement contribute to the convenience of the operator's clients by allowing them to receive a host of services in one centralized location.

5. Are located on the same lot as the principal building or use served.

The proposed limited medical activities will take place in the existing structure located at 1522 Jones Franklin Road, on the same lot as the principal Civic use.

The proposed activities as described in this application and the attachments thereto constitute an allowable accessory use, as permitted by Section 6.7.1. of the UDO.

Sincerely,



Justin Rametta, AICP, CZO
Planning and Zoning Administrator
City of Raleigh Planning and Development