



Requested Interpretation		Case Number
See letter and attached documents.		UI-7-2016
Site Address/PIN: 1522 Jones Franklin Road/0783.01.4528		
Date Submitted: September 15, 2016	Date Issued: November 1, 2016	Code Sections Affected: Sec. 6.1.1; 6.1.2; 6.1.4; 6.3.1; 6.4.3; 6.4.4

STAFF ANALYSIS

The property owner of 1522 Jones Franklin Road has asked staff to provide an official interpretation of the proposed use of the property. The property is currently zoned Residential-4 with Special Highway Overlay District-2. Section 6.1.1.A of the Raleigh Unified Development Ordinance provides that the Zoning Enforcement Administrator has the responsibility for categorizing all uses. The UDO contains use categories, which can contain specific defined uses. The use categories and list of defined uses are not all-inclusive. Each use category or specific use is listed as either not permitted (--), a limited use (L), a permitted use (P) or a special use (S) in the table of permitted uses in section 6.1.4 of the UDO.

City staff subsequently asked the applicant a series of follow-up questions in an attempt to gain clarity to properly classify the use. The applicant restated the questions, along with responses, in a letter dated 19 October 2016. This is included as Attachment 1. In issuing this official zoning code interpretation, staff also considered the information contained in documents submitted by the applicant's representative to the City during the course of a rezoning request on the property. These forms completed by the applicant are included as Attachment 2 (DDS Report) and Attachment 3 (Neighborhood Meeting).

The information provided to staff by the applicant between 15 September 2016 and 27 October 2016 was compared to the property-specific information contained in City records. This collective information was considered when staff reviewed the table of permitted uses in section 6.1.4 and the allowed uses contained within Articles 6.3 and 6.4 of the Raleigh Unified Development Ordinance. In March of 2016, the property owner applied for a rezoning to the subject property, known as Z-7-16. As part of this submittal, the applicant completed the required application and submitted the required elements of a rezoning petition. In reviewing all of this information, a discrepancy was identified between how the applicants themselves referred to the proposed use during the rezoning process and how legal counsel for the applicant portrayed the use in both the claim against the City (Case No. 5:16-cv-746) and the information provided to support this official zoning code interpretation request. In this interpretation, staff has attempted to identify which information is the most credible – the information provided on application forms submitted to the City or the more detailed information submitted during the official interpretation process.

STAFF INTERPRETATION

Staff's considered three plausible use categories in drafting this official interpretation: "civic", "medical" and "office." The "civic" category is classified as a limited use in the R-1, R-2, R-4, R-6 and R-10 zoning districts. The "civic" category is a permitted use in the RX, OP, OX, NX, CX, DX, IX, AP, IH and CMP zoning districts. The use category is not permitted in the CM or MH districts. Section 6.3.1 of the Unified Development Ordinance defines civic use as: "Places of public assembly that provide ongoing governmental, life safety, educational and cultural services to the general public, as well as meeting areas for religious practice. Civic includes the following uses.

1. Cemetery.
2. College, community college, university.
3. Civic club.
4. Museum, library.



5. Places of worship including church, mosque, synagogue, temple.
6. Police, fire, EMS station.
7. School, public or private (K-12).

The “medical” category is classified as a limited use in the RX category. The “medical” category is classified as a permitted use in the OP, OX, OP, NX, CX, DX, IX and CMP districts. The “medical” category is not permitted in the R-1, R-2, R-4, R-6, R-10, CM, AP, IH or MH districts. Section 6.4.3 of the Unified Development Ordinance defines medical uses as: “A facility providing medical or surgical care to patients. Some facilities may offer overnight care. Medical includes the following uses.

1. Ambulatory surgical center.
2. Blood plasma donation center, medical or dental laboratory.
3. Hospital, urgent care, emergency medical office.
4. Medical, dental office or chiropractor, osteopath, physician, medical practitioner.
5. Medical clinic.
6. Student infirmary.

The “office” category is classified as a limited use in the RX district. The “office” category is classified as a permitted use in the OP, OX, NX, CX, DX, IX and CMP districts. The “office” category is not permitted in the R-1, R-2, R-4, R-6, R-10, OP, CM, AP, IH and MH districts. Section 6.4.4 of the Unified Development Ordinance defines an office use as: “Activities conducted in an office setting and generally focusing on business, professional or financial services. Office includes the following:

1. Business service including, but not limited to, advertising, business management consulting, data processing or collection agency.
2. Professional services including, but not limited to, lawyer, accountant, bookkeeper, engineer, architect, sales office or travel agency.
3. Financial services including but not limited to, lender, investment, or brokerage house, bank, call center, bail bonds, insurance adjuster, real estate or insurance agent or mortgage agent.
4. Charitable institution (not providing housing or shelter).
5. Counseling in an office setting.
6. City, county, state, federal government office.
7. Radio, TV or recording studio, utility office.
8. Trade, vocational, business school.”

The information provided by Hand of Hope in response to the City’s 3 October 2016 request was insufficient to conclusively clarify questions related to Hand of Hope’s proposed use on the property. As a result, the applicability of this interpretation is necessarily limited by the information that was provided by Hand of Hope. In order to avoid conflicts with the Raleigh Unified Development Ordinance, Hand of Hope is urged to notify the Zoning Enforcement Administrator immediately if any of the assumptions set forth in this official zoning code interpretation are partially or wholly erroneous as the applicability of this interpretation may be impacted.

In applicant’s response dated 19 October 2016, applicant states that the proposed use on the property would not contain an office, counseling or medical component. This information is not consistent with the information provided to the City by the applicant preceding this request for official zoning code interpretation. Each of these applicant-completed forms related to the property used the phrases “office,” “counseling,” or “medical.” In these documents completed by the applicant, there was no reference to religious institutions or beliefs. The distinction between these two different sources of information is the primary consideration in this request. If the property were to operate as a “medical,” “office” or “counseling” use, it would require a more intense mixed use zoning district than what is currently mapped on the property. By contrast, a civic use of the property could be permitted under the existing residential zoning.

The 19 October 2016 response states that Hand of Hope offers pregnancy tests and non-diagnostic ultrasounds. Based on the most recent information provided by the applicant, staff does not believe that the described use is medical in nature. While this response is not consistent with other Hand of Hope statements, which refer to Hand of Hope employees “Medical Director” and “RN” (presumably Registered Nurse) in the claim against the City. In the 19 October 2016 response, applicant states, and staff relies upon, an assertion that there would be no medical uses on the premises. The specific uses listed in section 6.4.3.A of the UDO envision medical services provided by a licensed practitioner. In the 19 October 2016 letter, the applicant states that “Hand of Hope does not provide medical



treatment, care, or prescribe drugs to the women who come to Hand of Hope for help and information.” Based on this statement, staff does not believe that the use as described contains a significant medical component.

Hand of Hope identified worship-related activities that it would conduct at the facility. Those included prayer, sharing religious beliefs, and providing religious-based advice to others about pregnancy. It is open to members of the general public. Hand of Hope will charge no fee and will receive no health insurance payments from its activities. It does not retain patient records.

Staff asked a series of questions, transmitted on 3 October 2016, related to any office-related component that might occur on the property. In asking these questions, staff was attempting to discern if the proposed use could be considered counseling. This was based upon the information contained in applications submitted to the city and language contained on the applicant’s website (www.handofhope.net). To wit: the applicant’s website refers to volunteer positions of “peer counselor” and “post-abortion counselor.” Regardless of this information, applicant responded that Hand of Hope seeks to “inform and educate” women. This information, as stated in Attachment 1, is intrinsically intertwined with their described religious beliefs. When used within the UDO, the term “counseling” refers to professional services provided in an attempt to resolve conflict or problems. The term “counseling” can also be used within the religious context, where non-licensed persons provide information, guided by religious tenets and beliefs. The State of North Carolina defines the practice of counseling as “assisting individuals, groups and families through the counseling relationship by evaluating and treating mental disorders and other conditions through the use of a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals, and to plan action reflecting the client’s interests, abilities, aptitudes, and mental health needs as these are related to personal-social-emotional concerns, educational progress, and occupations and careers.”

This is a broad definition; however, it refers to the professional practice of counseling and not counseling provided within a religious context performed by non-licensed and non-professional persons as a part of a religious practice. Based on this information, staff does not believe that the use as described constitutes “counseling in an office setting.”

If the applicant’s proposed use is neither a counseling service nor a medical use, staff is left to consider the civic use as an appropriate use category. As it has been described to staff, the applicant provides information to women, which is deeply rooted in religious beliefs. Section 6.4.4 is directed toward business, professional, and financial services and not toward non-commercial, non-professional volunteers. Section 6.3.1 is the more specific regulation related to places devoted to religious practice. The “civic” use category in the UDO speaks to places of public assembly and meeting areas for religious practices. The described use is not a meeting area; rather it is a place that provides religious education and cultural services to the general public.

Staff determines that the use as described is consistent with the “civic” use category, and therefore, permitted within the Residential-4 zoning district. This official zoning code interpretation is subject to the appeal provisions contained within section 10.2.11 of the Raleigh Unified Development Ordinance.

SIGNATORY



Travis R. Crane, Planning and Zoning Administrator

RICHARD C. BAKER
WHITMAN H. BRISKY
JOHN W. MAUCK
NOEL W. STERETT

ONE NORTH LASALLE STREET, SUITE 600
CHICAGO, ILLINOIS 60602

WWW.MAUCKBAKER.COM
TEL: 312.726.1243 FAX: 866.619.8661

MICHAEL P. MOSHER,
OF COUNSEL

SORIN A. LEAHU

Writer's Direct Line:
312-726-6454
nsterett@mauckbaker.com

October 19, 2016

Mr. Travis Crane
1 Exchange Plaza
Suite 304
Raleigh, North Carolina 27601

VIA EMAIL TO TRAVIS CRANE
TRAVIS.CRANE@RALEIGH.GOV

Re: **A Hand of Hope Pregnancy Resource Center v. City of Raleigh ("Hand of Hope")
Code Interpretation Request / Case No. 5:16-cv-746**

Dear Mr. Crane:

I am writing in your response to your e-mail of October 3, 2016 and the questions you raised therein concerning Hand of Hope's request pursuant to Article 6.1.2 of the Unified Development Ordinance ("UDO") and the Religious Land Use & Institutionalized Persons Act, 42 U.S.C. 2000cc et seq., for a determination that its proposed use of its property at 1522 Jones Franklin Road (the "Property") is sufficiently similar to the category of civic uses currently permitted as of right at the Property pursuant to Article 6.1.4 ("Table of Allowed Uses").

In view of how Article 6.3.1 broadly defines the "Civic Use Category" to include "places of public assembly that provide ongoing governmental, life safety, educational, and cultural services to the general public, as well as meeting areas for religious practice," many of your questions go beyond the scope of what is necessary to determine that Hand of Hope's not-for-profit, religious and educational activities fit within that category. Please also be advised that it is constitutionally impermissible for the City to regulate Hand of Hope's speech activities based on their content or viewpoint. See, Reed v. Town of Gilbert, 135 S. Ct. 2218, 2226 (2015). It is also constitutionally impermissible for Raleigh to define what is and is not a "worship-related activity" or "religious practice" and would be an impermissible basis upon which to prohibit Hand of Hope's use of its property. See United States v. Seeger, 380 U.S. 163 (1965).

On September 16, 2016, we provided you with all the information requested on the City's Code Interpretation Request Form and more than enough information to assess Hand of Hope's intended, not-for-profit use of the property. Nevertheless, and in the interest of resolving this matter out of court if possible, Hand of Hope's responses to your enumerated, follow-up questions are as follows:

1. Please explain why the Applicant lists its activities as medical in nature and does not list activities relating to worship or of religious activities of any kind [on its website]?

Hand of Hope's mission, which is not-for-profit and religious, is to inform women about the life that they have within them and the love of God for them and their child. As the website clearly sets forth, "We are committed to being a voice for the voiceless, sharing Christ in a real way to expectant parents regardless of the outcome." See, Lamentations 2:19. The website lists the ways by which Hand of Hope is able to educate and inform women of their pregnancies and of the life they have within them. The pregnancy test and non-diagnostic ultrasound is the most powerful way Hand of Hope can give voice to the child in the womb. No words can speak as loudly and kindly to a pregnant mother than an ultrasound image of the child's beating heart or fingers and toes. Bible studies and the Life Skills Program are listed and offered to each woman at the initial appointment as a follow up to their primary need of obtaining information and support related to their pregnancy. The website also shows Hand of Hope's prayer teams and request for volunteers from local churches to help serve in the ministry to young women.

2. Does Applicant intend to use the facility to provide medical care to patients (UDO § 6.4.3)?

Hand of Hope does not provide medical treatment, care, or prescribe drugs to the women who come to Hand of Hope for help and information. It does however provide women with free information concerning their pregnancies—this information comes by way of confidential pregnancy tests, limited/non-diagnostic ultrasounds which provide a window into the womb and the opportunity for the mother to see her child, and STI testing.

3. Does Applicant intend to use the facility to provide counseling in an office setting (UDO § 6.4.4)?

Hand of Hope's volunteers and staff simply seek to inform and educate women about their pregnancies and the love of God for them and their child. They are trained on how to communicate this information and message in crisis pregnancy coaching by the American Association of Christian Counselors and Care Net. As shown in the previously produced plans, there are rooms in the building where these discussions can be had in a confidential setting.

4. What percentage of Applicant's activities involves providing medical services (including the pregnancy testing, ultrasounds, STI or STD testing, Right to Know certification described on Applicant's website)?

Hand of Hope does not provide medical treatment, care, or prescribe drugs to the women who come to Hand of Hope for help and information. Every single woman who comes to Hand of Hope is informed of Hand of Hope's Life Skills Program which includes Bible studies and every single woman is offered prayer for themselves and their child. As such, all of Hand of Hope's

Travis Crane
October 19, 2016
Page 3

activities are motivated by their sincerely held religious beliefs and mission and involve prayer and the proclamation of the Gospel: God loves you and has a plan for your life and the life of your child. The vast majority of the women come to Hand of Hope to receive a free and confidential pregnancy test and to learn more about their pregnancy. If a pregnancy test is positive, the women are offered an opportunity to view their baby through the use of the non-diagnostic ultrasound. It is constitutionally impermissible for the City of Raleigh to regulate Hand of Hope's speech activities based on their content or viewpoint. It is also constitutionally impermissible for Raleigh to define what is and is not a "worship-related activity" or "religious practice."

5. What percentage of Applicant's activities involves worship-related activities or religious practice and not the direct provision of medical services?

See response to No. 4.

6. How many people does the Applicant reasonably expect to receive medical services at the facility during a given year and what is the basis of that estimate? How many people does the applicant reasonably expect will participate in worship-related activities or religious practices that do not involve the direct provision of medical services?

See the responses to Questions 4.

7. What percentage of floor area of Applicant's building will be used to provide medical services or office support for the provision of medical services? What percentage of the floor area of Applicant's building will be used for religious practice or office support of religious practice?

See responses to Questions 4 and the building plans submitted with the Code Interpretation Request Form on September 16, 2016.

8. The practice of counseling is defined in N.C. Gen. Stat. Ann. § 90-330:

(3) The "practice of counseling" means holding oneself out to the public as a professional counselor offering counseling services that include, but are not limited to, the following:

a. Counseling.--Assisting individuals, groups, and families through the counseling relationship by evaluating and treating mental disorders and other conditions through the use of a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals, and to plan action reflecting the client's interests, abilities, aptitudes, and mental health needs as these are related to personal-social-emotional concerns, educational progress, and occupations and careers.

Travis Crane
October 19, 2016
Page 4

b. Appraisal Activities.--Administering and interpreting tests for assessment of personal characteristics.

c. Consulting.--Interpreting scientific data and providing guidance and personnel services to individuals, groups, or organizations.

d. Referral Activities.--Identifying problems requiring referral to other specialists.

e. Research Activities.--Designing, conducting, and interpreting research with human subjects.

The “practice of counseling” does not include the facilitation of communication, understanding, reconciliation, and settlement of conflicts by mediators at community mediation centers authorized by G.S. 7A-38.5.

Will the “practice of counseling” as defined in this State statute occur in the applicant’s facility? If not, how does the counseling described in the September 15, 2016 letter from Applicant’s attorney compare with counseling performed at a medical office or counseling office?

North Carolina is a Woman’s Right to Know state. A woman seeking an elective abortion is required by law to receive information sufficient for her to provide informed consent for any abortion procedure, its risks and possible side effects among other information. Hand of Hope has volunteer nurses who are able to provide the women with this information. Hand of Hope also has volunteers that will sit down with women, who are often scared and alone, and provide them information and encouragement about their pregnancy. All other inquires about “counseling” are not applicable or appropriate for this request for a zoning determination. See also the Response to Question 4

9. Is Applicant’s counseling performed by health care providers licensed by the State of North Carolina? Is the counseling performed individually with a health care provider or in another setting?

See Response to Question No. 8.

10. During what portion of Applicant’s hours of operation will medical services be provided? During what portion of Applicant’s hours of operation will counseling services be provided?

See Response to Question No. 4. Hand of Hope offers free and confidential pregnancy information and support during its operating hours.

Travis Crane
October 19, 2016
Page 5

11. What percentage of time is a healthcare professional present on site during hours of operation?

This is not germane or relevant to Hand of Hope's request for a determination that its proposed use is sufficiently similar to the category of civic uses currently permitted as of right at the Property.

12. Will the Applicant or individuals working within the Applicant's facility retain patient records for the individuals who receive services at the facility?

Hand of Hope does not provide medical treatment, care, or prescribe drugs to the women who come to Hand of Hope for help and information. Hand of Hope does retain confidential records for the individuals who come and receive pregnancy information from Hand of Hope.

13. Will the Applicant individuals working within the Applicant's operation receive compensation in any way related to services provided to a particular individual (such as from a health insurance company or government source of healthcare funding)?

Hand of Hope does not provide medical treatment, care, or prescribe drugs to the women who come to Hand of Hope for help and information. Hand of Hope freely provides all of its pregnancy information and support, so no.

14. Please provide any additional information that will assist me in assessing Applicant's principle use of the facility.

Nothing further.

Kindly, please provide us with your determination by next Wednesday, October 26, 2016. If we do not receive your determination by then, we will proceed with our preliminary injunction motion in the United States District Court.

Very Truly Yours,
MAUCK & BAKER, LLC

Noel W. Sterett

cc: Dorothy K. Leapley, Esq. via email dottie.leapley@raleighnc.gov
Craig Schauer, Esq. via email cschauer@brookspierce.com



Planning & Development

**Development Services
Customer Service Center**
One Exchange Plaza
1 Exchange Plaza, Suite 400
Raleigh, North Carolina 27601
Phone 919-996-2495

Due Diligence Information Sheet

459065 2/4

Due Diligence Sessions are available Tuesday – Thursday from 3:00 – 3:30 p.m. or 3:40 – 4:10 p.m.		
Name Timothy Cain		
Address 500 Benson Road, Suite 101		
City Garner	State North Carolina	Zip 27529
Phone 919-662-4954	Mobile 919-455-7374	FAX 919-662-4956
Email Tim@Carolina1RE.com		
Requested date for DDS 04 Feb 16	Requested time for DDS 3:40 p.m.	Number of expected attendees 3

Is the project associated with an approved development plan? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, provide the plan name _____ Case _____

Property Information		
Owner A Hand of Hope Pregnancy Resource Center		
Project Name A Hand of Hope Pregnancy Resource Center		
Address 1522 Jones Franklin Road	Site Utilities City water / private septic	
City Raleigh	State North Carolina	Zip 27606
Property Identification Number (PIN) 0783 01 4528		
Description of the proposed work/special conditions Conversion of existing single-family residential property to office / counseling and minor medical space.		


The Due Diligence Session (DDS) is available at no cost to our clients and provides an opportunity to discuss potential site plan projects with multi-departmental staff members prior to processing development plans. These free Q & A sessions will guide clients prior to developing a plan for the property.

Clients may bring no more than two plan sheets to the DDS. These sheets may depict a design concept or a general site layout. No full sets of plans are allowed.

Once a DDS has been scheduled, staff members perform research to identify relevant information pertaining to a parcel. Failure to cancel a DDS will result in a loss of staff time and the inability to fill a vacant slot.

If for any reason, you must cancel a scheduled DDS, please do so no less than two (2) business days prior to the session. Failure to do so will prohibit scheduling future dates for any current or future projects.

I hereby acknowledge the Due Diligence Session policies as described above.

Signature 

12 Jan 2016

Date

Attachment 2

October 26, 2016

Plans Review Summary Report

Page 1 of

TRANSACTION: 459065

CONTACT PERSON: CAIN, TIMOTHY

PLAN ADDRESS: 1522 JONES FRANKLIN RD

PHONE #: 9196624954

REVIEW TYPE DESCRIPTION: Conversion of existing single family residential prop[erty to office/counseling and minor medical space

FAX #:

Group Created: 1/13/2016

Started Plans Routing: 1/13/2016

Review Approved: 2/5/2016

Final Review Approved:

Permits Issued:

**** REVIEW CYCLE ****

[1]

Started Review Cycle

1/13/2016

Completed Review Cycle

2/5/2016

<u>TRADE</u>	<u>STATUS</u>	<u>REVIEWER</u>	<u>DATE</u>
STORMWATER	Conditionally Approved	BURDICK 9199963520	2/4/2016
1	COMMENTS GIVEN IN MEETING BASED ON INFORMATION PROVIDED.FURTHER REVIEWS AND COMMENTS MAY BE NECESSARY AT SITE/PERMIT REVIEW..		
ZONING (SITE REVIEW)	Conditionally Approved	HALEY 9199962478	2/5/2016
1	admin site plan.		
2	vsa, hvac and dumpster screening.		
3	parking.		
4	parking will have to be in rear per transportation.		
5	buffer in rear where residential.		
PUBLIC UTILITIES	Conditionally Approved	CASEY 9199962176	2/4/2016
1	existing 5/8" meter for water only account- sewer is available..		
FIRE PROTECTION	Conditionally Approved	CUTRIGHT 9199962197	2/4/2016
1	dds.		
TRANSPORTATION	Conditionally Approved	BEARD 9199962407	2/4/2016
1	COMMENTS GIVEN IN MEETING BASED ON INFORMATION PROVIDED.FURTHER REVIEWS AND COMMENTS MAY BE NECESSARY AT SITE/PERMIT REVIEW..		
URBAN FORESTRY	Approved	METCALF 9199962562	2/4/2016
1	COMMENTS GIVEN IN MEETING BASED ON INFORMATION PROVIDED.FURTHER REVIEWS AND COMMENTS MAY BE NECESSARY AT SITE/PERMIT REVIEW..		
CSC PLAN INTAKE PROC	Conditionally Approved	MCCOY 9199962571	1/13/2016

Attachment 2

October 26, 2016

Plans Review Summary Report

2/4/2016

LONG RANGE PLANNING

- 1
- 2
- 3

Conditionally Approved

Applicant proposing to rezone property from R-4 to OX-3..

Proposal would be considered consistent with the Future Land Use Map..

No further comment at this time..

Z-17-16
450963

A Hand of Hope Pregnancy Resource Center
1522 Jones Franklin Road
Raleigh, NC 27606

January 28, 2016

Re: Rezoning request for 1522 Jones Franklin Road

Neighboring Property Owners:

You are invited to attend a neighborhood meeting on Friday, February 12th. The meeting will be held at 1522 Jones Franklin Road, and will begin at 6:00 p.m.

The purpose of this meeting is to discuss a potential rezoning of the property located at 1522 Jones Franklin Road. This site is current zoned R-4 and is proposed to be rezoned to OX. This proposed change conforms with established uses to the north, south, and east, as well as to Raleigh's 2030 Comprehensive Plan. The rezoning would allow the owners to utilize the existing improvements (with changes to the interior, only) in a professional office and minor medical office capacity.

The City of Raleigh requires that prior to the submittal of any rezoning application, a neighborhood meeting involving the property owners within 100 feet of the area requested for rezoning.

If you have any concerns or questions I can be reached at (919) 662-4954.

Thank you,



Timothy F. Cain

SUMMARY OF ISSUES (NEIGHBORHOOD MEETING)

A neighborhood meeting was held on February 12, 2016, to discuss a potential rezoning located at 1522 Jones Franklin Road. The neighborhood meeting was held at the property subject to the rezoning application. There were four neighbors – Charles and Nancy Wright of 5310 Woodsdale Road, Ed K. Bell of 5309 Woodsdale Road, and David Ferris, Jr., of 4113 Ridgebrook Bluffs Drive – in attendance. The general issues raised by the neighbors were:

- (1) The desire to see the exterior of the building painted,
- (2) That parking be relegated to the side and/or rear of the structure, and
- (3) General questions regarding landscaping improvements.

The meeting concluded with a tour of the property.

Submitted by:



Timothy F. Cain, Facilitator of meeting

2-7-16
450903

Attendance Roster:

Name	Address
Edward K. Bell, Jr.	5309 Woodsdale Road
David J. Ferris	1504 Jones Franklin Road*
Charles L. Wright, III	5310 Woodsdale Road
Nancy R. Wright	5310 Woodsdale Road
Tonya B. Nelson	607 N. Ennis St., Fuquay
Jay Summers	1908 Eagle Creek Court
Timothy F. Cain	500 Benson Road, Garner



Z-7-10
450903

TONYA BAKER NELSON
Founder | Executive Director

607 North Ennis Street
Fuquay Varina, NC 27526

optionsofhope.com | client
handofhope.net | supporter

March 7, 2016

City of Raleigh
One Exchange Plaza, Suite 400
Raleigh, NC 27601

Re: 1522 Jones Franklin Road rezoning process

To Whom It May Concern:

Tim Cain will be handling the rezoning application and process for 1522 Jones Franklin Road in Raleigh for A Hand of Hope Pregnancy Resource Center. Please accept this letter as the formal notification of his involvement for your records.

Please do not hesitate to contact me at 919-577-8002 should you have further questions.

Regards,

A handwritten signature in cursive script that reads "Tonya Baker Nelson".

Tonya Baker Nelson
Executive Director

MAUCK & BAKER, LLC

RICHARD C. BAKER
WHITMAN H. BRISKY
JOHN W. MAUCK
NOEL W. STERETT

ONE NORTH LASALLE STREET, SUITE 600
CHICAGO, ILLINOIS 60602

WWW.MAUCKBAKER.COM
TEL: 312.726.1243 FAX: 866.619.8661

MICHAEL P. MOSHER,
OF COUNSEL

SORIN A. LEAHU

Writer's Direct Line:
312-726-6454
nsterett@mauckbaker.com

September 15, 2016

Mr. Travis Crane
1 Exchange Plaza
Suite 304
Raleigh, North Carolina 27601

VIA EMAIL TO CHRISTINE DARGES
CHRISTINE.DARGES@RALEIGHNC.GOV

Re: **A Hand of Hope Pregnancy Resource Center v. City of Raleigh
Code Interpretation Request / Case No. 5:16-cv-746**

Dear Mr. Crane:

Pursuant to Article 6.1.2 of the Unified Development Ordinance ("UDO"), A Hand of Hope Pregnancy Resource Center ("Hand of Hope"), doing ministry as Your Choice Pregnancy Clinic, hereby requests a determination that its proposed use of its property at 1522 Jones Franklin Road (the "Property") is sufficiently similar to the category of civic uses currently permitted as of right at the Property pursuant to Article 6.1.4 ("Table of Allowed Uses"). Article 6.3.1 defines the "Civic Use Category" to include "places of public assembly that provide ongoing governmental, life safety, educational, and cultural services to the general public, as well as meeting areas for religious practice." Such civic uses include civic clubs, places of worship, and schools. City Attorney Dorothy Leapley, who is copied on this request, indicated that I should direct this request to you.

As you may already be aware, following the City Council's July 5, 2016 denial of Hand of Hope's application to rezone the Property, Hand of Hope filed a federal lawsuit asserting its rights under the United States Constitution and the Religious Land Use & Institutionalized Persons Act, 42 U.S.C 2000cc *et seq.* The primary goal of the suit is to get Hand of Hope's ministry operating at the Property as soon as possible and to avoid any further irreparable harm to the ministry in its exercise of its civil liberties. We believe our client has a right under the "equal terms" provision of the Religious Land Use & Institutionalized Persons Act, 42 U.S.C. 2000cc(b)(1) to be treated on equal terms with the not-for-profit and religious uses Raleigh currently permits as of right at the Property. The "equal terms" provision of RLUIPA, simply provides that:

No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

As this application and our federal complaint (which we or Ms. Leapley can provide you if needed) establishes, Hand of Hope is a religious institution, and its intended use of the property (provision of free pregnancy education and support, bible studies, and Life Skills classes) is akin to the non-religious uses Raleigh freely permits at the Property—namely not-for-profit civic clubs and their offices and activities, see, e.g. Kiwanis. According to Raleigh’s ordinances, a non-residential, not-for-profit, tax-exempt civic club is a “permitted use” and can freely have its offices at the Property and can engage in expressive and educational activities there—as can a place of public worship and a religious education building. In practice and effect, Hand of Hope’s activities would be no different than a civic club’s expressive conduct at the property or have any different impact than a place of public worship or religious education building.

As such, we hereby request a determination that Hand of Hope’s proposed use of 1522 Jones Franklin Road is sufficiently similar to the category of civic uses currently permitted as of right at the Property pursuant to Article 6.1.4 Please let us know your determination as soon as possible and no later than September 23, 2016 so as to avoid any further irreparable harm to Hand of Hope’s ministry.

Attached and below please find the information requested by the City’s Code Interpretation Request Form:

1. The Actual or Projected Characteristics of the Proposed Use: Hand of Hope is a religious organization structured as a North Carolina not-for-profit corporation. It operates the ministry called “Your Choice Pregnancy Clinic” which is committed to its religious mission of providing women in the general public with free, accurate, and complete information and education about prenatal development and abortion and to communicate the message of God’s love to expectant mothers and fathers in the context of their unplanned pregnancies, miscarriage, and abortion. The free pregnancy support offered by Hand of Hope includes pregnancy testing, pregnancy counseling, limited obstetrical ultrasounds, Life Skills classes, and post-abortion support counseling.

2. The relative amount of site area or floor area and equipment devoted to the proposed use: Hand of Hope seeks to conduct its not-for-profit ministry on its .9 acre Property and in the 1163 sq. ft. building already erected on the property.

3. Relative Amount of Sales: Hand of Hope is a not-for-profit ministry and has no sales.

4. The Customer type: Hand of Hope primarily seeks to serve women who are facing the challenges of an unplanned pregnancy, miscarriage, and abortion. Hand of Hope seeks to

communicate the love of God and its pro-life and pro-woman message from its Property in order to inform those coming and going from the abortion clinic adjacent to the Property about their pregnancy, the life they have within them, and the new life that can be found in Jesus.

5. The Relative Number of Employees: Hand of Hope's ministry is conducted by volunteers and five paid employees. Typically, there are two paid staff members and a volunteer serving at any given time.

6. Hours of Operation: Hand of Hope plans to operate the ministry Monday thru Friday from 9am – 4pm, and if needed by the pregnant women Hand of Hope seeks to serve, on Saturday 9am – noon.

7. Building and Site Arrangement: The single-story building (a former single family home) faces Jones Franklin Road and has parking available in front, side and back. Please see the proposed site plans and aerials attached as Exhibit 1.

8. Types of vehicles used and their parking requirements: Those visiting Hand of Hope typically come by way of car, truck, or minivan and have no special parking requirements.

9. The number of vehicle trips generated: Typically (and based on Hand of Hope's experience at another location), Hand of Hope would expect to see approximately 10-12 cars throughout the day.

10. Signs: Hand of Hope plans to install signage for Your Choice Pregnancy Clinic in front of the building.

11. How the Proposed Use is Advertised: Hand of Hope advertises its ministry online, through social media, and to pregnancy hotline numbers, social service organizations, medical offices, churches, individuals, through word of mouth, and its building signage.

12. Impact on Surrounding Properties: As found by the Raleigh Zoning Staff and Planning Commission, the Property to the north, south, and east are zoned for office mixed use and the Property and all of the surrounding properties are classified as Office/Research & Development on the Future Land Use Map. In its Certified Recommendation and Compatibility Analysis (attached as Exhibit 2), the Planning Commission found that Hand of Hope's proposed use of the Property was entirely compatible with the surrounding area.

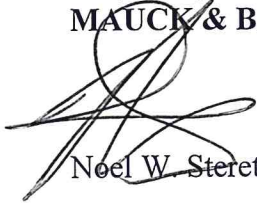
13. Whether the activity is likely to be found independent of the other activities on the site? All activities directly relate to Hand of Hope's mission statement: "As a Christian center, we affirm the value of life from conception by compassionately sharing the gospel of Jesus Christ; and assisting individuals facing the challenges of an unplanned pregnancy, to minister to

Travis Crane
September 15, 2016
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the emotional and spiritual needs resulting from abortion to miscarriage and to promote sexual abstinence until marriage.”

NWS: mnh

Very Truly Yours,
MAUCK & BAKER, LLC



Noel W. Sterett

cc: Dorothy K. Leapley, Esq.
Craig Schauer, Esq.
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