

January 5, 2021

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2020-00866**



REQUEST:

A request from Graig Griffin, consultant for the proposed tenant, for an administrative interpretation regarding an accessory use proposed within the building located at 1371 East 2100 South– which is located in the CN Neighborhood Commercial district. The applicant intends to use the second-floor office space for a standard office use with a portion of the office for small scale product research. The applicant requests an interpretation on if the research use is an accessory use to the main office use or would be considered a separate, stand-alone use.

DECISION:

The Zoning Administrator finds that the proposed use described by the applicant meets the definition of an Accessory Use (see analysis and findings below) and is allowed as an accessory use to the proposed office in the CN zoning district.

FINDINGS:

The applicant has described the proposed business as "EyeGate Pharmaceuticals which is "...developing improved methods of delivering medicines to treated eye diseases, such as chronic dry eye and glaucoma..." The applicant describes the proposed accessory use to the office as an area to "...work on micro-medical techniques for distribution of medicine through the human eye – all procedures, testing, and materials are on an extremely small scale." According to the applicant, all clinical testing is done outside of Utah. The product research area is proposed to be 633 square feet of the 3,540 square foot office or approximately 17% for the accessory use. Additionally, the research area will be used for approximately 5-7% of the total hours worked at the office. The vast majority of work hours are everyday office work.

Definition of an Accessory Use

Per section 21A.62.040 of the Salt Lake City Zoning Code, to be considered an "Accessory Use" the use must meet the following definition: "A use that: A. Is subordinate in area, extent and purpose to, and services a principle use; B. Is customarily found as an incident to such principal use; C. Contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use; D. Is, except as otherwise expressly authorized by the provisions of this title, located on the same zoning lot as such principal use; and E. Is under the same ownership or control as the principal use." An analysis of the proposed use according to each element of the use definition is provided below:

A. The use is subordinate in area, extent and purpose to, and serves a principal use;

Analysis: The proposed use is subordinate in area to the proposed office, as well as in intent.

B. The use is customarily found as an incident to such principal use;

Analysis: Research areas and office laboratories secondary to the primary use are customarily found in offices that contain research functions. The proposed research area within the office is similar to facilities found in doctors' or dentists' office, which typically contain small research or laboratory areas. The definition of office states that "unless otherwise specified, office use shall include doctors' and dentists' offices." Clinic (Medical and Dental) is a permitted use in the CN

zoning district. Small laboratory or research areas are customary for the performance of testing in connection with the practice, similar to the EyeGate Pharmaceutical's proposed office and research area.

An office use is defined as:

A type of business use, which may or may not offer services to the public, that is engaged in the processing, manipulation or application of business information or professional expertise. An office use is not materially involved in fabricating, assembling or warehousing of physical products for the retail or wholesale market, nor is an office engaged in the repair of products or retail services. Examples of professional offices include accounting, investment services, architecture, engineering, legal services and real estate services. Unless otherwise specified, office use shall include doctors' and dentists' offices. Office use shall not include any use or other type of establishment which is otherwise specifically listed in the table of permitted and conditional uses for the applicable zoning districts. (21A.62, SLC Zoning Ordinance)

Similar uses, such as "Research and Development Facility" and "Laboratory, Medical, Dental, Optical" were reviewed but were determined to not be appropriate, as the proposed research area is not a standalone structure and is not a primary use of the facility. The primary use of the facility is an office. Additionally, the proposed research area is not doing clinical testing or processing, therefore it does not meet the definition of a "Laboratory, Medical, Dental, Optical" use.

C. The use contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use;

Analysis: A research area is not for the comfort or convenience of the employees or customers but is necessary for the function of their jobs and the type of office.

D and E. The use is located on the same zoning lot as the principal use and is under the same ownership or control as the principal use.

Analysis: The use would be on the same lot and under the same ownership.

In summary, the proposed use described by the applicant meets the definition of "Accessory Use" and is allowed as an accessory use to the proposed office at 1371 East 2100 South. The proposed use is subordinate in extent, is customarily found incidental to the most similar found use, and contributes to the necessity of those occupying, working at, or being serviced by the existing principal use.

If you have any questions regarding this interpretation, please contact Krissy Gilmore at 801-535-77870 or by email at kristina.gilmore@slcgov.com.

APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <https://www.slc.gov/planning/applications/> along with information about the applicable fee. Appeal applications must be submitted online. Find online application submission information on the webpage noted above.

NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

Krissy Gilmore

Krissy Gilmore, AICP
Principal Planner

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Greg Mikolash, Development Review Supervisor
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Applicable Recognized Organizations