



AGENDA ITEM#: 5

MEMORANDUM

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: April 11, 2013

SUBJECT: Request by Knoxville City Council to consider appropriate amendments to zoning ordinance for funeral establishments, crematories and related facilities in the City of Knoxville.
4-A-13-OA

REQUEST

Following consideration of MPC recommendations regarding the proposed regulation of crematories and funeral establishments at a workshop on August 30, City Council has directed that MPC consider minor amendments to proposed definitions and regulation of funeral establishments as a use permitted on review in various districts.

BACKGROUND

In the fall of 2011, a funeral establishment in Fountain City obtained a license from the State of Tennessee, approval by the Knox County Health Department, and a building permit from the City of Knoxville and began construction of a crematory within its Fountain City facility.

At its December 13, 2011 meeting, City Council asked MPC to study this issue and make recommendations on amendments to the zoning ordinance, with discussion by Council members related to crematories as an accessory use, a use-on-review, or a permitted use with respect to the zoning ordinance.

At its January 19, 2012 meeting, the City's Board of Zoning Appeals (BZA) considered an appeal by residents of the Fountain City area of the decision by the City's building official to issue a permit for this construction. The BZA denied the appeal, thereby upholding the decision of the Building Official to issue a building permit for the crematory.

At its February 21, 2012 meeting, City Council considered an appeal of the BZA decision. City Council, in a 4 – 5 vote, failed to approve a motion to approve the appeal, thereby letting stand the decision by the Building Official.

At its March 8, 2012 meeting, MPC postponed consideration to its May 10, 2012 meeting and requested that staff invite local funeral directors to an additional public meeting. Staff conducted a meeting on Thursday, May 3, 2012 at the Cansler YMCA building and described the proposed amendments to those in attendance.

At its May 10, 2012 meeting, MPC recommended to City Council that new facilities for cremation be considered as accessory uses permitted on review in funeral establishments, including those establishments currently operating, and that crematories be allowed as a use permitted on review in the I-4 (Heavy Industrial) zone district.

At an August 30, 2012 City Council workshop, there was consensus among council members on the following direction:

- Existing funeral establishments may install crematory facilities without further regulation.
- Funeral establishments should not be allowed in residential zone districts.
- Funeral establishments and crematories could be considered in industrial zone districts.
- There should be a separation distance of 500 feet from the smokestack of a facility for cremation and the nearest property line of an established residential property, park, school or day care facility, unless there is evidence on record that demonstrates that a smaller separation distance is safe.
- There shall be no more than a single facility for cremation (a cremator having two chambers, a primary chamber in which the cremation takes place and a secondary chamber to control air emissions) allowed in a funeral establishment.
- There shall be no more than 33% of the floor area of a funeral establishment devoted to a single facility for cremation.
- Facilities for cremation should be allowed as a use-on-review in cemeteries.
- Crematories should be allowed as a use-on-review only in the I-4 (Heavy Industrial) zone district.
- Funeral establishments should be limited to the C-3, C-4 and C-6 zone district as a use-on-review. Funeral establishments should no longer be allowed in the O-1 zone district.

At its October 11, 2012 meeting, MPC considered amendments consistent with the results of the August City Council workshop and forwarded a recommendation to City Council.

Following a February 29, 2013 workshop, City Council requested at its March 5, 2013 meeting that MPC review several minor changes to Exhibits B and E of the amendments and make a recommendation.

ANALYSIS

These amendments are minor and are best characterized as wordsmithing. They make no significant change to the previously recommended amendments.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend to City Council approval of the proposed amendments to the zoning ordinance as shown in Exhibits B and E. The highlighted text represents changes from previous recommendations.

EXHIBITS

- Exhibit B (V4), Proposed definitions related the funeral establishments and crematories
- Exhibit E (V3), Proposed Use-on-Review in O-1 and C-3 districts

Proposed Additional Definitions

Add to Article II.

Animal Crematory - A building or structure, or a room or space within a building or structure having an apparatus for the cremation of deceased animals.

Cemetery – Any land or structure dedicated to and used or intended to be used for interment of human remains. A cemetery may include ~~a crematory~~, a mausoleum, columbarium, a memorial garden, or a scattering garden for the interment of cremated remains, but ~~may~~ **shall** not include a crematory.

Columbarium – A building or structure, or a room or space in a building or structure, used or intended to be used for the interment of cremated human remains. A columbarium may also include a building or structure with access to crypts, vaults, niches or similar architectural features from the exterior and may include a memorial garden for the purpose of creating a designated area where certain themes or designs create distinctive memorials and interment or direct earth burial (with or without an urn) of cremated human remains.

Cremation – The heating process by which a body or body parts are reduced to bone fragments through combustion and evaporation. Cremation includes the processing and usually includes the pulverization of the bone fragments.

Crematory – A building or structure, or a room or space in a building or structure, not a part of a funeral establishment which has been certified by the State for the cremation of deceased persons. Crematory includes crematorium.

Funeral establishment – A place used for human funeral services. Such place may include space and facilities for (a) display of deceased persons and rituals connected therewith before burial or cremation; (b) embalming and the performance of other services used in the preparation of the dead for burial or cremation; (c) the performance of autopsies and other surgical procedures upon the dead; (d) the sale and/or storage of caskets, funeral urns, and other related funeral supplies; (e) the storage of funeral vehicles, and (e) facilities **necessary** for cremation.

Proposed Amendments to Development Standards for Funeral Establishments as a Use Permitted on Review

Article V, Section 3

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F. *Other uses permitted on review.*

12. Funeral Establishments.

- a. Any smokestack of a facility for cremation within a funeral establishment shall be located no less than five hundred (500) feet from the nearest property line of an existing school, park, day care center or residence ~~unless there is evidence on record that demonstrates that a smaller separation distance is safe.~~
- b. ~~There shall be no more than a single facility for cremation (a cremator having two chambers, a primary chamber in which the cremation takes place and a secondary chamber to control air emissions) allowed in a funeral establishment.~~
The funeral establishment shall be limited to one single unit cremator designed to cremate the remains of one deceased person at a time, with two chambers, a primary chamber in which the cremation takes place and a secondary chamber to control air emissions.
- c. There shall be no more than 33% of the floor area of a funeral establishment devoted to a single unit for cremation **the crematory, including area for the cremator, cremation observation, crematory access and maintenance areas, and any additional areas used primarily for services related to cremation.**