

# COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.2.	<b>SITE LOCATION:</b> Citywide
<b>HEARING DATE:</b> April 20, 2017	<b>GENERAL PLAN:</b> N/A
<b>CASE NO.:</b> Amendment No. A-018-2017	<b>ZONE:</b> N/A
<b>APPLICANT:</b> City of Garden Grove	
<b>OWNER:</b> N/A	<b>CEQA DETERMINATION:</b> Exempt

## **REQUEST:**

A request for Planning Commission recommendation to the City Council to approve Amendment No. A-018-2017, which includes City-initiated zoning text amendments to Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code, pertaining to crematoriums, mortuaries, funeral homes, and cemeteries. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

## **BACKGROUND:**

In early 2016, the City of Garden Grove received a request, Conditional Use Permit No. CUP-073-2016, to operate a new funeral home, within an existing approximately 19,460 square foot office building, which included a mortuary and crematory\*. The subject property, located at 13272 Garden Grove Boulevard, is zoned C-2 (Community Commercial), and directly abuts, and is located within close

\* "Crematory" is another term for "Crematorium"

proximity to single-family homes. Mortuaries and crematoriums are permitted uses in the C-2 zone, subject to the approval of a Conditional Use Permit.

On June 2, 2016, the Planning Commission conducted a public hearing and took testimony from the applicant and numerous interested members of the public. Staff provided a report and recommended the Commission adopt a Resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approving Conditional Use Permit No. CUP-073-2016. The applicant, a representative of the manufacturer of the cremation equipment, and a real estate broker testified in favor of the application. The environmental consultant, who prepared the initial study, also testified and answered questions posed by the Commissioners. Approximately 36 members of the public testified in opposition to the application. Several members of the public testified that, due to its proximity to single-family residences and other sensitive uses, the proposed funeral home with a mortuary and crematory would be an inappropriate use at the proposed location. Several residents of the adjacent residential neighborhood testified that the nature of the use makes them and their children uncomfortable, that they are concerned about the potential long-term physical and mental health impacts from residing and/or working in such close proximity to a crematory, that the proximity of the proposed use would interfere with their use and enjoyment of their properties, and that, due to negative public perceptions about living in proximity to a mortuary and crematory, their property values would decrease if the proposed use was established at this location.

Six (6) Commissioners were present at the June 2, 2016 meeting, and a motion to adopt the proposed Resolution of Approval failed to garner the affirmative vote of a majority of the Commissioners present. The Commission ultimately voted to continue the public hearing to the June 16, 2016 Planning Commission meeting in an effort to have all seven (7) Planning Commissioners present to consider and vote on the item and directed Staff to prepare alternative draft Resolutions of Approval and Denial for its consideration.

Pursuant to the direction of the Planning Commission, Staff prepared an alternative draft Resolution of Denial based on facts presented by members of the public at the public hearing on June 2, 2016, for the Commission's consideration along with the original proposed Resolution of Approval. On June 16, 2016, the Planning Commission held a continued public hearing. Approximately 29 members of the public testified in opposition to the application, citing similar reasons mentioned at the prior Planning Commission meeting on June 2, 2016. Five (5) persons spoke in favor of the request. Ultimately, the Planning Commission voted unanimously to adopt Resolution of Denial No. 5863-16, denying the applicant's request to operate the new funeral home with mortuary and crematory. Subsequent to the 21-day appeal period, the applicant decided not to appeal the case to the City Council for its consideration.

Following the Planning Commission's denial of CUP-073-2016, in July of 2016, the City Council adopted Urgency Ordinance No. 2869 imposing a 45-day moratorium on the issuance of permits or land use entitlements for crematoriums and/or mortuaries. Shortly thereafter, in August of 2016, the City Council adopted

Urgency Ordinance No. 2870 authorizing a ten (10) month and fifteen (15) day extension of Urgency Ordinance No. 2869. The intent of the moratorium was to provide additional time for the City to thoroughly review and evaluate the issues giving rise to Urgency Ordinance No. 2869, to conduct a zoning study, and process a Zoning Code Amendment to determine the appropriate zoning, development standards, and other proper regulations applicable to mortuaries, crematoriums, funeral homes, and cemeteries to protect the health, safety, and welfare of the community.

A review of the Municipal Code ("Code") disclosed that the City has a lack of regulations for crematoriums, mortuaries, funeral homes, and cemeteries, which were not a problem when the City previously had larger and predominantly agricultural uses throughout the community. Today, the City is mostly built-out with very few vacant parcels of land, and has become a primarily residential community. The Code needs to be revised to address negative impacts associated with crematoriums, mortuaries, funeral homes, and cemeteries, especially with respect to sensitive uses such as residences, schools, and parks. Some of the negative impacts include fear, concerns about long-term physical and mental health effects, interference with use and enjoyment of residential properties, schools, and parks, and property devaluation arising from the negative public perception pertaining to living in proximity to crematoriums, mortuaries, funeral homes, and cemeteries.

### **DISCUSSION:**

The following discussion presents proposed amendments to the Municipal Code to address negative impacts associated with crematoriums, mortuaries, funeral homes, and cemeteries. The proposed amendments will ensure the Municipal Code is updated, and includes appropriate development standards and regulations for crematoriums, mortuaries, funeral homes, and cemeteries. The new standards and regulations will reflect the current makeup and environment of the Garden Grove community, which has changed significantly since the City was incorporated in 1956.

Recently, the City has received inquiries about establishing mortuaries and/or crematoriums in the City. Current trends in the mortuary and crematory industry show that such businesses may come in the form of a standalone crematorium, a crematorium with incidental funeral home/mortuary, or a funeral home/mortuary with no crematorium.

#### **Crematoriums:**

Currently, the Municipal Code lists "Mortuaries/Crematoriums" as a combined use and defines them as "establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries." Furthermore, the Municipal Code also lists a separate definition for "Crematory," which is defined as "a facility where human remains are reduced to ashes in a furnace and are incidental to a church, cemetery, or mortuary." These terms and definitions imply that a crematorium always operates in conjunction with

either a church, cemetery, or mortuary. However, current trends in the mortuary and crematory industry show that a crematorium *may* operate as a standalone business, without any on-site incidental services related to a funeral home (for viewing purposes), mortuary (for temporary storage of human dead), church, or cemetery. As such, the title of "Mortuaries/Crematoriums" will be modified to "Crematoriums." Furthermore, the definition of "Mortuaries/Crematoriums" will be deleted and replaced by a new definition for "Crematoriums", which will read as follows: "means facilities where human or animal remains are reduced to ashes in a furnace and may include incidental uses such as a Funeral Home/Mortuary."

The proposed Amendment will identify the zones where new "Crematoriums" will be allowed with a Conditional Use Permit. Said zones will include C-3 (Heavy Commercial), M-1 (Light Industrial), and M-P (Industrial Park). Currently, the Municipal Code allows "Mortuaries/Crematoriums" in the C-2 (Community Commercial) zone. However, there are many existing C-2 zoned properties in the City that are within close proximity to sensitive uses such as residences, schools, and parks. This was evident in the prior denied case of Conditional Use Permit No. CUP-073-2016, where the subject site, for the proposed funeral home with on-site crematory and mortuary facilities, was zoned C-2 and directly abutted single-family homes. To prevent this type of future occurrence, "Crematoriums" will not be permitted in the C-2 zone. Conversely, many M-1 and M-P zoned properties in the City, where industrial businesses are allowed, are not within close proximity to residences, schools, and parks.

The proposed amendment to the Land Use Matrix is as follows (Deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

<b>COMMERCIAL</b>							
<b>Other Services</b>	<b>O-P</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>M-1</b>	<b>M-P</b>	<b>O-S</b>
Mortuaries/Crematoriums	-	-	€	<del>P</del> <b><i>C*</i></b>	<b><i>C*</i></b>	<b><i>C*</i></b>	-

The proposed Amendment will further establish Special Operating Conditions and Development Standards applicable to "Crematoriums" which include requiring any new crematoriums to maintain a minimum distance of 500 feet to any property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. The 500-foot minimum distance requirement will ensure that sensitive uses such as residences, schools, and parks are protected from any potential negative impacts associated with crematoriums. Other Special Operating Conditions and Development Standards applicable to "Crematoriums" will include the following:

- Crematoriums are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD (Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.

- Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.
- Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.

Crematoriums with Incidental Funeral Home/Mortuary:

The City has received inquiries to establish Crematoriums with an incidental Funeral Home/Mortuary on-site. This was evident in the prior denied case of Conditional Use Permit No. CUP-073-2016, where the applicant proposed to operate a funeral home with on-site crematory and mortuary facilities. To address this type of business activity and its impacts, a new use, "Crematoriums with Incidental Funeral Home/Mortuary", will be added to the "Table 1 City of Garden Grove Land Use Matrix" and the proposed Amendment will identify the zones where new "Crematoriums with Incidental Funeral Home/Mortuary" will be allowed with a Conditional Use Permit. Said zones will include C-3 (Heavy Commercial), M-1 (Light Industrial), and M-P (Industrial Park).

The new use will be added as follows (Additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

<b>COMMERCIAL</b>							
<b>Other Services</b>	<b>O-P</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>M-1</b>	<b>M-P</b>	<b>O-S</b>
<b><i>Crematoriums with Incidental Funeral Home/Mortuary</i></b>	-	-	-	<b><i>C*</i></b>	<b><i>C*</i></b>	<b><i>C*</i></b>	-

A new definition for "Crematoriums with Incidental Funeral Home/Mortuary" will be added to the Municipal Code which will read as follows: "means establishments primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary is incidental to an on-site crematory facility and may include related and incidental business activities, which include a florist, gift shop, and casket sales. See "Crematorium" definition."

The proposed Amendment will establish Special Operating Conditions and Development Standards applicable to "Crematoriums with Incidental Funeral Home/Mortuary", which include requiring any new crematoriums with an incidental funeral home/mortuary to maintain a minimum distance of 500 feet to any property boundary of any "O-S" (Open Space) zoned property developed with a school or

park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. The 500-foot minimum distance requirement will ensure that sensitive uses such as residences, schools, and parks are protected from any potential negative impacts associated with crematoriums with an incidental funeral home/mortuary. Other Special Operating Conditions and Development Standards applicable to "Crematoriums" will include the following:

- Crematoriums with Incidental Funeral Home/Mortuary are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD (Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.
- Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be properly obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.
- Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.

#### Funeral Home/Mortuary with No Crematorium:

The City has received inquiries to establish a funeral home/mortuary with no on-site crematorium. To address this type of business activity and its impacts, a new use, "Funeral Home/Mortuary with No Crematorium", will be added to the "Table 1 City of Garden Grove Land Use Matrix" and the "Table 9.18-1 Use Regulation for the Mixed Use Zones" land use matrix as follows (Additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

<b>COMMERCIAL</b>							
<b>Other Services</b>	<b>O-P</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>M-1</b>	<b>M-P</b>	<b>O-S</b>
<b><i>Funeral Home/Mortuary with No Crematorium</i></b>	-	-	<b><i>P*</i></b>	<b><i>P*</i></b>	-	-	-

Table 9.18-1 **Use Regulations for the Mixed Use Zones**

<b>Other Services</b>	<b>GGM U-1,- 2,-3</b>	<b>CC-1</b>	<b>CC-2</b>	<b>CC-3</b>	<b>CC- OS</b>	<b>NMU</b>	<b>AR</b>
<b><i>Funeral Home/Mortuary with No Crematorium</i></b>	-	-	-	-	-	-	<b><i>P*</i></b>

A new definition for "Funeral Home/Mortuary with No Crematorium" will be added to the Municipal Code which will read as follows: "means an establishment primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary may include related and incidental business activities, which include a florist, gift shop, and casket sales. No crematorium services or activities are permitted on-site."

Most funeral home establishments in the Orange County area do not provide on-site cremation services. Funeral homes typically contract out cremation services and the cremations are performed at an off-site crematory facility usually found in industrial areas away from residences, schools, and parks.

The proposed Amendment will establish a Special Operating Condition and Development Standard applicable to a "Funeral Home/Mortuary with No Crematorium", which includes requiring any new funeral home/mortuary with no crematorium to maintain a minimum distance of 250 feet of a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. The 250-foot minimum distance requirement will ensure that sensitive uses such as residences, schools, and parks are not subjected to potential negative impacts such as fear, interference with use and enjoyment of residential properties, schools, and parks, and property devaluation arising from the negative public perception pertaining to living in proximity to a "Funeral Home/Mortuary with No Crematorium."

Cemeteries:

Currently, "Cemeteries" are only permitted in the O-S (Open Space) zone as a Conditional/Incidental (C/I) use. "Cemeteries" will no longer be permitted as an incidental use in the O-S zone, and only as a Conditional Use (requiring a Conditional Use Permit). The Conditional Use Permit process allows the City to review each application individually to evaluate any potential negative impacts and to apply the most appropriate conditions of approval tailored to the proposed project.

The Land Use Matrix will be revised as follows (Deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

<b>COMMERCIAL</b>							
<b>Other Services</b>	<b>O-P</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>M-1</b>	<b>M-P</b>	<b>O-S</b>
Cemeteries <b><i>Cemetery</i></b>	-	-	-	-	-	-	<b><i>C/I</i></b>

Furthermore, the definition of "Cemetery" will be modified as follows (Deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***)

..."means a land used or intended to be used for the burial of human and/or pet remains and dedicated for cemetery purposes. Cemeteries ***may*** include business and administrative offices, chapels, flower shops, mausoleums ***and columbaria*** as

an incidental uses, and necessary maintenance facilities. **No crematorium or funeral home/mortuary services or activities are permitted on-site.**

Finally, a new definition for "Columbarium" will be added to the Municipal Code which will read as follows: "means a sepulchral vault or other structure(s) with recesses in the interior walls to receive the ashes of the dead."

Parking:

The proposed Amendment will establish new parking standards for "Crematoriums", "Crematoriums with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

The Table in Section 9.16.040.150 (Parking Spaces Required) of Section 9.16.040 (Commercial/Office, Industrial Development Standards) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Municipal Code is to be amended as follows to include parking requirements for a "Crematorium", a "Crematorium with Incidental Funeral Home/Mortuary", and a "Funeral Home/Mortuary with No Crematorium" (Additions shown in **bold-italics**):

<b>USE</b>	<b>REQUIRED MINIMUM PARKING SPACES</b>
<b>B. Commercial Uses</b>	
<b>14. Funeral Home/Mortuary with No Crematorium</b>	
<b>Fixed seats in viewing room(s):</b>	<b>1 space per each 3 fixed seats in area(s) designated for assembly purposes</b>
<b>No fixed seats in viewing room(s):</b>	<b>1 space for each 21 sq. ft. of area designated for assembly purposes</b>
	<b>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</b>
<b>D. Industrial Uses</b>	
<b>3. Crematorium</b>	
<b>a. Buildings less than 20,000 sq. ft. of gross floor area</b>	<b>2.25 spaces per 1,000 sq. ft. of gross floor area</b>
<b>b. Buildings 20,001 to 100,000 sq. ft. of gross floor area</b>	<b>2 spaces per 1,000 sq. ft. of gross floor area</b>
<b>c. Buildings over 100,000 sq. ft. of gross floor area</b>	<b>1 space per 1,000 sq. ft. of gross floor area</b>
<b>d. Incidental office</b>	
<b>i. Under 30% of gross floor area</b>	<b>No additional requirements</b>
<b>i. 30 to 50% of gross floor area of a building</b>	<b>1 space per 250 sq. ft. of gross floor area</b>
<b>4. Crematorium with Incidental Funeral Home/Mortuary</b>	
<b>Fixed seats in viewing room(s):</b>	<b>1 space per each 3 fixed seats in area(s) designated for assembly purposes</b>
<b>No fixed seats in viewing room(s):</b>	<b>1 space for each 21 sq. ft. of area designated for assembly purposes</b>
	<b>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</b>

The Table in Section 9.18.140.030 (Parking Spaces Required) of Section 9.18.140 (Parking) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Municipal Code is to be amended as follows to include parking requirements for a "Funeral Home/Mortuary with No Crematorium" (Additions shown in ***bold-italics***):

**Table 9.18-11  
Required Parking Spaces**

<b>Use</b>	<b>Required Minimum Parking Spaces</b>
<b>Commercial Uses</b>	
<b><i>Funeral Home/Mortuary with No Crematorium</i></b>	
<b><i>Fixed seats in viewing room(s):</i></b>	<b><i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i></b>
<b><i>No fixed seats in viewing room(s):</i></b>	<b><i>1 space for each 21 sq. ft. of area designated for assembly purposes</i></b>
	<b><i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i></b>

**RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Adopt the proposed Resolution recommending approval of Amendment No. A-018-2017 to the City Council.

LEE MARINO  
Planning Services Manager

By: Chris Chung  
Associate Planner