

RESOLUTION NO. 5883-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE AMENDMENT NO. A-018-2017, TO AMEND PORTIONS OF 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 CITY OF GARDEN GROVE MUNICIPAL CODE TO UPDATE THE DEFINITIONS, OPERATING CONDITIONS, AND DEVELOPMENT STANDARDS IN THE CITY'S LAND USE CODE, PERTAINING TO CREMATORIALS, MORTUARIES, FUNERAL HOMES, AND CEMETERIES.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on April 20, 2017, does hereby recommend that the City Council approve Amendment No. A-018-2017 and adopt the draft Ordinance attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED in the matter of Amendment No. A-018-2017, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The case was initiated by the City of Garden Grove.
2. The City of Garden Grove is proposing a zoning text amendment to portions of 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 City of Garden Grove 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.
3. The Planning Commission recommends the City Council find that the proposed amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. Pursuant to legal notice, a public hearing was held on April 20, 2017, and all interested persons were given an opportunity to be heard.
5. Report submitted by City staff was reviewed.
6. The Planning Commission gave due and careful consideration to the matter during its meeting of April 20, 2017; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

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.

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 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

* "Crematory" is another term for "Crematorium"

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 City has determined that 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.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

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.

The General Plan has goals and policies that address neighborhood preservation and land use compatibility.

Goal LU-2.1 of the General Plan directs the City to protect residential areas from the effects of potentially incompatible uses and to maintain standards for buffer areas to ensure compatibility between the uses.

Goal LU-2.3 of the General Plan directs the City to prohibit uses that may adversely impact the safety of a residential neighborhood.

Goal LU-4.4 of the General Plan directs the City to avoid intrusion of non-residential uses that are incompatible with existing neighborhoods.

Goal LU-4.5 of the General Plan directs the City of Garden Grove to require that commercial and industrial developments adjoining residential uses be adequately buffered from residential areas.

Goal LU-4.8 of the General Plan directs the City to ensure that minimum allowable distances are maintained between land uses defined as sensitive to their presence, which may include residences, schools, and parks.

The proposed Amendment is internally consistent with the goals, policies, and elements of the General Plan, by ensuring compatibility with sensitive uses such as residences, schools, and parks by limiting facilities with crematoriums, funeral homes, and/or mortuaries to the proposed respective zones, requiring Conditional Use Permit approval when applicable, and imposing specified operational conditions and development standards, which include minimum distance requirements to sensitive uses.

2. The Amendment will promote the public interest, health, safety and welfare.

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. The zoning and development standards proposed in this Amendment, promote the public interest, health, safety, and welfare and will ensure that crematorium, mortuary, funeral home, and cemetery related uses do not cause a nuisance to sensitive uses such as residences, schools, and parks.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT:

