
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: February 25, 2010

SUBJECT: Petition PLNPCM2009-00726 - Proposed changes to the City's zoning regulations relating to animal cremation and funeral home cremation services

AFFECTED COUNCIL DISTRICTS: If the ordinance is adopted the zoning regulation changes would affect Council Districts citywide

STAFF REPORT BY: Janice Jardine, Land Use Policy Analyst

ADMINISTRATIVE DEPT. AND CONTACT PERSON: Community Development Department, Planning Division
Ray Milliner, Principal Planner

KEY ELEMENTS:

- A. An ordinance has been prepared for Council consideration that would change the City's zoning regulations relating to animal cremation and funeral home cremation services. Key elements are summarized below. (Please refer to the Administration's transmittal letter, the draft ordinance and Planning staff report for complete details.)
1. Add cremation to the current funeral home definition and create new definitions for animal cremation service and crematorium.
 2. Allow animal cremation services and crematoriums related to funeral homes as a permitted or conditional use in a variety of residential mixed-use, commercial, downtown, manufacturing and special purpose zoning districts.
 3. Crematoriums associated with a licensed funeral home or dedicated animal cremation service will be processed as a conditional use subject to the following criteria.
 - a. The crematorium shall emit no visible emissions or odor.
 - b. Noise emitted from the crematorium shall not exceed 65 decibels measured from the property line.
 - c. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
 - d. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
 - e. In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only.
 - f. The crematorium shall receive all necessary approvals from applicable state and federal agencies.
 - g. The crematorium use shall be consistent with all adopted City ordinance and master plans.
 - h. The crematorium use shall be associated with a licensed funeral home for human cremation, or a dedicated animal cremation service for animal cremation.
- B. The proposal relates to two unrelated projects, Raval Investments, represented by Jake Tate, Great Basin Engineering - proposed animal cremation service business located at 1727 South Major Street, and Russon Brothers Mortuary located at 255 South 200 East. The petitioner's application information contains a detailed discussion relating to the proposed zoning regulation changes. Russon Brothers

Mortuary has provided additional information related to mortuary cremation services. Please refer to Attachments A and B at the end of this staff report for details.

- Attachment A - Raval Investments application information. (A portion of the application information has been brought forward for ease of reference. For complete details please refer to Section 8 - Original Petition at the end of the Administration's paperwork.)
- Attachment B - Russon Brothers letters dated January 20, 2010 and February 2, 2010.

C. The Administration's paperwork provides detailed information relating to the proposed changes. Key items are summarized below. (Please refer to the Administration's paperwork for additional details.)

1. The applicant would like to open a pet cremation and funeral service business in the Commercial Corridor zone.
2. As staff reviewed the application, it was noted that there are also issues regarding the legal operation of funeral homes and cremation facilities for humans in the City.
3. The Planning Commission directed staff to prepare amendments to allow funeral homes in various zones throughout the City in addition to addressing animal cremation services.
4. The proposed changes will have a wide ranging impact on the way in which funeral homes (for both pets and humans) are defined and regulated throughout the City.
5. The proposed definition of a funeral home would apply to all funeral homes, enabling cremation as a conditional use on site. The existing definition only allows the preparation of a body for these activities, not the actual cremation.
6. Permitting funeral homes in zones where they currently are not allowed would legalize a number of existing nonconforming funeral homes.
7. Allowing funeral homes in zones where they are not currently permitted would:
 - a. Bring most of the existing mortuaries and funeral homes in the city into compliance with the Zoning Ordinance,
 - b. Enable funeral homes to expand or modify the use as a permitted use, rather than a nonconforming use, and
 - c. Allow new funeral homes to be built or relocate into these zones.
8. Funeral homes in residential zones will remain prohibited uses. (The proposed changes would allow funeral homes as a conditional use in the residential mixed-use zones). To permit them would significantly alter established City policy of not allowing commercial uses in residential zones.
9. An existing funeral home in a residential zone may expand through the City's Nonconforming Use regulations and allow operation of the funeral home without opening the zone to new uses.
10. Existing funeral homes in the City, current zoning of the property and the proposed changes to the zoning use tables are provided below.

Name	Location	Zone	Proposed Change
Larkin Mortuary	260 East South Temple	R-MU	Conditional
Niel ODonnell	372 East 100 South	R-MU	Conditional
Russon Brothers	255 South 200 East	D-1	Permitted
Garner Funeral Home	1001 11 th Avenue	OS	Permitted
Deseret Mortuary	36 East 700 South	D-2	Permitted
David Mcleod	617 East 600 South	RMF-30	No Change Not allowed
Evans and Early	574 East 100 South	RMF-45	No Change Not allowed
Larkin Sunset Lawn	2350 South 1300 East	OS	Permitted
Major Street Pet Services	1727 South Major Street	CC	Permitted

- D. The Planning staff report provides findings for the Zoning Ordinance Section 21A.50.050 - Standards for General Amendments. The standards were evaluated in the Planning staff report and considered by the Planning Commission. (Discussion and findings for the standards are found on page 6 of the Planning staff report.)
- E. The public process included a Planning Division sponsored open house and written notification of the Planning Commission hearing to Community Council Chairs and the Planning Division electronic list serve. Notice was also posted on the City and State websites. The Administration's transmittal notes the following:
 - 1. A number of written comments have been received both for and against this proposal. (Please see Section 7 – Public Comment – in the Administration's paperwork for details.)
 - 2. The primary objection to the proposed changes is from persons living and working in the Major Street neighborhood, who are concerned about the impact of a crematorium.
 - 3. Concerns have been generally centered on the visual and sensory impacts of the operation of the facility.
- F. On October 14 and November 18, 2009, the Planning Commission held an 'issues only' hearing and a public hearing. The Commission voted to forward a positive recommendation to the City Council to adopt the proposed zoning regulation changes with several modifications. (Please see the Planning Commission minutes in the Administration's paperwork for additional details.)
 - 1. The Administration's transmittal notes there was a significant amount of discussion regarding the petition and potential impacts of cremation facilities on neighborhoods.
 - 2. Additional issues discussed related to Federal and State standards, licensing requirements and cremation practices for funeral homes/mortuaries and new technology used in cremation facilities.

MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR THE ADMINISTRATION:

- A. The Council may wish to discuss with the Administration if it may be appropriate to designate existing funeral homes/mortuaries currently located in residential zoning districts as legal conforming uses.
 - 1. This would allow expansion/remodeling of existing facilities without causing significant costs and time delays and expenditure of city staff time and resources by requiring a conditional use process. The integrity of the City's residential neighborhoods would be protected because new funeral homes/mortuaries would not be allowed in most of the residential zoning districts. As previously noted, funeral homes will be allowed as a conditional use in the Residential Mixed-Use zoning districts.
 - 2. Currently, the City's zoning regulations specify that any single-family detached dwelling, two-family dwelling, or twin home, except those located in M-1 and M-2 zoning districts, that is in legal existence shall be considered legal conforming, subject to complying with all other current, local or state development standards. (Sec. 21A.38.120 – Legal Conforming Single-Family Detached Dwellings, Two-Family Dwellings and Twin Homes)
 - 3. As previously noted, there are two funeral homes currently located in multi-family residential zones.
 - a. David Mcleod at 617 East 600 South zoned Residential Multi-Family RMF-30
 - b. Evans and Early at 574 East 100 South zoned Residential Multi-Family RMF-45

MASTER PLAN AND POLICY CONSIDERATIONS:

- A. The Administration's paperwork and Planning staff report note the following related to master plan and policy considerations:
 - 1. The community master plan land use policies generally define neighborhood, community and regional land use locations and characteristics.

2. They do not specifically address the level of detail that code maintenance addresses.
 3. In Salt Lake City, the Zoning Ordinance and Subdivision Ordinance have been the main tools used to implement the goals and objectives of the adopted land use planning documents.
 4. The proposed changes do not alter the various purpose statements included in the Zoning Ordinance.
 5. The proposed amendments will help insure compatibility with the adopted master plans of the City.
- Additional citywide Master Plan and Policy considerations are provided below.
- A. The City’s Strategic Plan and the Futures Commission Report express concepts such as maintaining a prominent sustainable city, ensuring the City is designed to the highest aesthetic standards and is pedestrian friendly, convenient, and inviting, but not at the expense of minimizing environmental stewardship or neighborhood vitality. The Plans emphasize placing a high priority on maintaining and developing new affordable residential housing in attractive, friendly, safe environments and creating attractive conditions for business expansion including retention and attraction of large and small businesses.
 - B. The Council’s growth policy notes that growth in Salt Lake City will be deemed the most desirable if it meets the following criteria:
 1. Is aesthetically pleasing;
 2. Contributes to a livable community environment;
 3. Yields no negative net fiscal impact unless an overriding public purpose is served; and
 4. Forestalls negative impacts associated with inactivity.
 - C. The City’s 1990 Urban Design Element includes statements that emphasize preserving the City’s image, neighborhood character and maintaining livability while being sensitive to social and economic realities. Policy concepts include:
 1. Allow individual districts to develop in response to their unique characteristics within the overall urban design scheme for the city.
 2. Ensure that land uses make a positive contribution to neighborhood improvement and stability.
 3. Ensure that building restoration and new construction enhance district character.
 4. Require private development efforts to be compatible with urban design policies of the city regardless of whether city financial assistance is provided.
 5. Treat building height, scale and character as significant features of a district’s image.
 6. Ensure that features of building design such as color, detail, materials and scale are responsive to district character, neighboring buildings, and the pedestrian.

CHRONOLOGY:

The Administration’s transmittal provides a chronology of events relating to the proposed zoning regulation changes. Key dates are listed below. Please refer to the Administration’s chronology for details.

- June 22, 2009 Petition received in the Planning office
- June 24, 2009 Petition assigned to Ray Milliner
- August 20, 2009 Planning Division Open House to obtain public comment
- October 14, 2009 Planning Commission issues only hearing
- November 18, 2009 Planning Commission hearing
- December 9, 2009 Ordinance requested from City Attorney’s office
- December 17, 2009 Ordinance received from City Attorney’s office
- February 2, 2009 Transmittal paperwork received in Council office

cc: David Everitt, Karen Hale, Holly Hilton, Bianca Shreeve, Ed Rutan, Lynn Pace, Paul Nielson, Jeff Niermeyer, Tom Ward, Rick Graham, Frank Gray, Mary De La Mare-Schafer, Wilf Sommerkorn, Pat Comarell, Cheri Coffey, Joel Paterson, Ray Milliner, Craig Spangenberg, Randy Isbell, Orion Goff, Les Koch, Larry Butcher, City Council Liaisons, Mayors Liaisons

File Location: Community and Economic Development Dept., Planning Division, Zoning regulation changes, animal cremation and funeral home cremation services

ATTACHMENT A

Proposed Amendment to the Text of the Salt Lake City Zoning Code

in relation to

Major Street Pet Services

1727 South Major Street

June 17, 2009

Prepared for:
Raval Investments Co., Inc



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LAND SURVEYORS

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CONSULTING ENGINEERS
AND LAND SURVEYORS

June 17, 2009

Salt Lake City Planning
451 South State Street, Rm 406
Salt Lake City, UT 84111

Re: Major Street Pet Services Zoning Text Amendment

To Whom It May Concern:

This report and text amendment application have been created at the request of Raval Investments for the purpose of operating a business dedicated to providing pet owners a respectful alternative to disposing of their pets in the landfill. The need to accomplish this through an amendment to the definitions found in Chapter 21A.62.040 of the zoning code was a result of an administrative interpretation and the associated interaction with the City. The essence of the correspondence being that the zoning code was in need of being updated to be more in line with current cremation practices and clarification on the association of cremation facilities with funeral homes and cemeteries.

This report proposes two changes to the definitions found in Chapter 21A.62.040 of the Salt Lake City Zoning Code. The first is to update the definition of a funeral home from its current wording of "An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held" to a definition more in line with current practices found throughout the nation of "an establishment where the activities necessary for the care and custody of the dead, including: refrigeration; embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted". The second is the addition of a new term to the zoning code that would clarify the use dedicated to the cremation of animals for their owners which is not currently found in the code. The proposed text would read: "Animal Cremation Services – a facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested".

The attached report provides further discussion, reference material, data and information that led to these text amendment recommendations. It also provides background on previous communications with the city and details about the administrative interpretation. If there are any questions please feel free to call (801-521-8529) at any time. I look forward to working through this process with you.

Sincerely,
GREAT BASIN ENGINEERING – SOUTH

Jake Tate
Assistant Project Engineer

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- Salt Lake City Zoning Code Chapter 21A.62.040 – Definition of a Funeral Home
- Salt Lake City Zoning Code Chapter 21A.62.040 – Definition of a Cemetery
- Salt Lake City Zoning Code Chapter 21A.32.140 – Table of Permitted and Conditional Uses for Special Purpose Districts
- Copy of Administrative Interpretation
- Death Statistics for Salt Lake County from Utah 2007 Vital Statistics
- National Cremation Rates from C.A.N.A. (Cremation Association of North America)
- State of Utah Code Section 58.9.102(18)(b)(ii) – State’s Definition of a Funeral Service Establishment
- State of Utah Code Section 58.9.102(22)(e) – State’s Definition of Funeral Service
- State of Utah Code Section 58.9.610 – State Sets Forth Cremation Procedures
- B&L Cremation Systems Retort Information – Independent Tests, Technical Information and Emission Comparison Table
- Site Plan and Photos
- Salt Lake City Zoning Code Chapter 21A.62.040 – Definition of a Pet Cemetery
- Attachment “C” from the Staff Report for the Board of Adjustment Meeting
- Salt Lake City Zoning Code Chapter 21A.26.080 – Table of Permitted and Conditional Uses for Commercial Districts

I. Definition of a Funeral Home

Background

This process began with a call to Anna Anglin at the City's Buzz Center to try and determine if a pet crematory would be allowed in a corridor commercial (CC) zone. After a few minutes on hold Anna informed us that after speaking with her supervisor, Larry Butcher, this particular Use is considered to be Pet Cemetery and that it would only be allowed in the general commercial (CG) zone. Since the proposed Use did not involve burying or any other means of depositing remains in their final resting place, we did not feel the designation "cemetery" was appropriate for our Use. The services that are proposed and will be provided by Major Street Pet Services are more in line with those that take place at a traditional funeral home (i.e. meeting with grieving families, arranging for the cremation of a loved one, providing cremation services, making urns or other memorialization options available and returning the cremated remains to the family, all while providing a pleasing atmosphere for the pet owners). We raised our concerns about this with the city and were told to file an administrative interpretation. In that application we stated that our proposed Use was not at all like a cemetery but our business model was to a greater degree similar to that of a traditional funeral home (which is a permitted use in the CC zone). Unfortunately, along with a denial of our request for our Use to be allowed in a CC zone, we learned that even if we were considered most like a funeral home we would not be able to cremate due to the definition of a funeral home in Chapter 21A.62.040 which states that a funeral home is: "An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held", the emphasis being on the preparation of the dead for cremation, not the act of cremation (See Appendix).

Currently one of two places in the Salt Lake City zoning code where a crematorium is mentioned is in the definition of a cemetery found in Chapter 21A.62.040 which reads: "Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery" (See Appendix). The other mention of a crematorium can be found in Chapter 21A.32.140 which is the table of permitted and conditional uses for special purpose districts where cemeteries and accessory crematoriums are listed as a permitted use in the Open Space (OS) zone (See Appendix). The denial letter for our administrative interpretation clarified this by stating that "a crematorium is a conditional use in the OS Open Space zoning district when associated with a cemetery" (See Appendix). This leaves the availability to operate a cremation facility in Salt Lake City only in the Open Space (OS) zone and only when it is associated with a cemetery.

The portion of the City's definition of a cemetery which states: "Land used or intended to be used for the burial of the dead" is the traditional definition of the word with which most people are familiar with and would accept as a general description of the function of a cemetery. The City goes a step further to include the statement that a cemetery also is land "dedicated for cemetery purposes, including columbariums, crematories,

mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery". This statement is accurate in the sense that it allows these facilities to be included on the grounds of a cemetery (which we agree with) but it mistakenly implies that this is the only place where these facilities may be constructed. In the case of a burial plot, columbarium and mausoleum it makes sense that they would only be associated with a cemetery because they are all final resting places for human remains. A mortuary and crematorium, on the other hand, are service based facilities where human remains are prepared for interment in their final resting place (in this case the word prepared would mean getting the body to a point where final disposition is imminent). If you look only at the service provided by a crematorium, there is no direct link between a crematorium and a cemetery. As the code stands right now, when a family decides to have a loved one cremated the funeral director would have to take the body to a cemetery with a crematorium, have the body cremated and bring the remains back to the funeral home where the family can pick them up. As can be seen, there is a direct link between the services of a funeral home and those of a crematorium. A cemetery plays no part the transformation of a dead body to cremated remains. It may be a place where a crematory can be located, but it should not be the only place.

Changing Trends in Cremation

To the best of our knowledge there have been five (5) crematories located in Salt Lake City over the years. Only two (2) of these have been located near a cemetery property. These cemeteries are owned and operated by funeral homes that have chosen to include cremation facilities in their funeral operation. All of the others have been located in a variety of zones from the Residential Mixed Use zone, Central Business District zone (the cremation facility located in the D-1 zone is proposed/under-construction) and the Downtown Support District (D-2) all have their cremation facility onsite with a funeral home. In fact, there is no cremation facility in the State of Utah that is solely associated with a cemetery without a funeral home. They are always included as part of a funeral home.

Demand for cremation services has grown significantly in the past few decades. In 1990, Salt Lake County reported 492 of 3847 deaths chose cremation as they method of disposition, a rate of 12.8%. In 2000, 1217 of 5019 deaths chose cremation, a rate of 24.2%. The latest information indicates that in 2007, 1752 of 5437 deaths chose cremation for a rate of 32.2% (See Appendix for Data). Utah typically has one of the lower cremation rates in the country, but the steady growth pattern indicates that metropolitan Utah is falling in line with the rest of the nation. The national cremation rates were 26.2% in 2000, 34.9% in 2007 and are projected at 39% in 2010. As the demand for cremation rises, the need for additional cremation facilities will also rise. The zoning code, as it is currently written, is highly restrictive and preventative in some cases for funeral homes to meet the rising need for cremation in the City. With limited amounts undeveloped land available in Salt Lake City and land values as high as they have ever been, the probability that someone will build a cemetery in order to be able to build a crematorium (which the code currently would require) is extremely low. The

logical answer to meet the rising demand for cremation is to allow the act of cremation to take place at a funeral home regardless of its proximity to a cemetery.

State of Utah Code

In the State of Utah's Code, Section 58 includes information for occupations and professions. In Chapter 9, Section 102, definitions are set forth regarding the Funeral Service Licensing Act. Under definition (18)(b)(ii); it states: a "Funeral Service Establishment includes: a facility used by the business in which funeral services may be conducted." The Code continues to further define funeral service under definition (22)(a-k), but specifically (22)(e) states: "'Practice of funeral service' means: cremation, calcination, or pulverization of a dead human body or the body's remains;" (See Appendix). The Utah State code acknowledges a funeral service establishment (i.e. a funeral home) as having the right to perform cremation as part of its services. At no point in defining a funeral service establishment does the State of Utah mention a cemetery as a requirement for cremation. Specific cremation procedures are set forth in Section 58, Chapter 9, Section 610 and again a cemetery is never mentioned in conjunction with crematory, but a funeral service establishment (funeral home) is mentioned several times in the document (See Appendix) further establishing the connection between a funeral home and a crematory.

Air Quality & Modern Retorts

In trying to understand why the zoning code would require a crematorium to be located in conjunction with a cemetery, the only logical explanation that could explain a possible connection was environmental/air quality concerns. It would make sense to place a crematorium in the center of what essentially is a park, surrounded by trees, grass and other plants away from homes and people if a crematorium was a crude incinerator that spewed smoke, smells and other undesirable particles into the air. Fortunately, today's modern cremation retorts are not crude incinerators. They provide multi-chambered combustion which allows for exhaust gasses to be refined several times before they are released into the air which in turn reduces emissions to little more than water vapor with virtually no odor or visual emissions. They are fully automated utilizing computer technology to optimize internal temperatures and fuel consumption. They also have pollution monitoring systems that constantly monitor stack emissions and make adjustments automatically to the cremation process to minimize those emissions. Finally, they are designed and constructed to run quietly (See Appendix). Technology has allowed a process that may not have been environmentally friendly in the past to meet and in many cases exceed EPA, State and Local regulations. It is for this reason combined with the increased safety and insulation systems that are built into modern retorts that make a cremation facility compatible with a variety of locations throughout the City and not just on a cemetery.

Thoughts on Zone Applicability

Hopefully, the discussion above has been able to highlight the intrinsic connection between a funeral home and a cremation facility. The rise in cremation rate has moved funeral homes to consider adding this service to their facilities in order to meet the demand. The State of Utah recognizes that cremation is a service that is provided by a Funeral Director at a Funeral Service Establishment. Modern technology has progressed to a point where emission and safety concerns are less about concern and more about the need for public education. Taking all these factors into account we hope you will conclude, as we have, that because of their undeniable connection, cremation facilities should be allowed wherever a funeral home is permitted in the City of Salt Lake.

Proposed Text Changes

In Chapter 21A.62.040 of the Salt Lake City zoning code the definition of a funeral home is: "an establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held". It is proposed that the definition be changed to: "an establishment where the activities necessary for the care and custody of the dead, including: refrigeration; embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted". This definition would clarify the specific practices that are and should be taking place at a funeral home.

II. Definition of Animal Cremation Service

Proposed Use and Business Model

The proposed activities that will take place at 1727 S. Major Street include meeting with owners of deceased pets and making arrangements for their cremation. Memorial merchandise such as various types of urns, figurines, ect. will be on display and for sale. The cremation retort will be located in an accessory building that exists on the property behind the main house. It will be upgraded to current building and fire codes as required by the city (See Appendix).

The owner has tried to create an atmosphere like that of a traditional funeral home. The house located on the property was built in 1894 and recently has been beautifully restored inside and out. The yard has wonderful landscaping and provides a quiet, peaceful atmosphere for families should they choose to wait for their pet. The main focus of this business will be to provide a respectful option for owners who don't want to dispose of their beloved family pet in the landfill. Our research indicates that more and more families are dissatisfied with "industrial" disposal of their pets.

The location of the property is perfectly located for this use. It is close enough the freeway and major arterial streets that it is easily accessible to residents throughout the City. However, by being located at the end of a dead end street, it is isolated enough to provide the peaceful atmosphere desired while not being a disturbance to neighbors. The

site is bordered to the east, south and west by an alley, parking lot and street respectively. The neighbor to the north is a café/restaurant whose front doors are on 1700 South. The side adjacent to our property is the back of the building and is separated by a small parking lot. The location is perfect for the proposed Use of an animal cremation service.

Current City Interpretation

As mentioned above the original query that lead to this point was a request to see if a pet crematory would be allowed in a Corridor Commercial (CC) zone. -The administrative interpretation stated the determination of the Zoning Administrator to be "that a pet crematory/crematorium is not allowed in a CC Zoning District because the proposed use is most similar to a funeral home, a use that does not include the actual act of cremation, only the preparation of the dead for cremation and a pet cemetery, which is not an allowed use in the CC zoning district" (See Appendix).

Concerns with this Interpretation

The fact that the label of a pet cemetery was again assigned to the proposed Use at 1727 South Major Street even after detailed description of the activities that would take place at the property were given to the City seemed a mystery. In Chapter 21A.62.040 of the Salt Lake City zoning code the definition of a pet cemetery is listed as: "A place designated for the burial of a dead animal where burial rights are sold" (See Appendix). At no time will burial of an animal or the selling of rights to bury an animal take place at the property located at 1727 South Major Street. At no point was that ever offered, discussed or hinted at with the City. Yet the proposed Use was initially classified as a pet cemetery and even after an administrative interpretation it was still being classified as a pet cemetery.

Two reasons for this association became clear after an appeal of the administrative interpretation was filed. The first was the cremation/funeral home issue discussed at length at the beginning of this report. Even though our proposed Use would perform services that are exactly the same as those found in a funeral home (other than those services are offered to pets and their owners), according to the wording of the current zoning code, we could not cremate onsite due to the fact that cremation facilities are only currently allowed in conjunction with a cemetery. Once again, cremation is being linked to a cemetery. Due to the current code, the City is forced to interpret the act of cremation as a cemetery. Thus we are classified as a pet cemetery even though we do not comply with the City's own definition of a pet cemetery which is: "A place designated for the burial of a dead animal where burial rights are sold".

The second reason was evident upon receiving the City's Staff Report for the Board of Adjustment; included as "Attachment C" of that report was a previous ruling on a business that functioned similarly to the Use proposed at the Major Street Property. Precedent was set at that time by the Zoning Administrator, Kevin LoPiccolo, when he stated that "I find that a pet crematorium is not significantly different that a cemetery with the exception that burial is not being performed at a crematorium" (See Appendix).

This statement is fundamentally flawed. It may be accurate in relation to current zoning code, but in reality, there is no direct connection between a cemetery and crematory. Land on which burial takes place, on the other hand, is the very definition of a cemetery. The statement that “a pet crematorium is not significantly different than a cemetery” seems like a very loose interpretation when considering the actual activities and services provided by a crematory.

As can be seen, liberal interpretation has been required to try and address issues relating to the Use of pet/animal cremation. We are proposing the addition of a new definition to Chapter 21A.62.040 of the zoning code for the purpose of eliminating ambiguous interpretation and clearly defining the Use for future reference.

Discussion on Zone Applicability

The most similar Use to that proposed at Major Street is a funeral home, more so if the definition of a funeral home is amended to include cremation as proposed above. The only difference is that its services are provided for animals instead of humans. In order to address issues over concerns of where a business focused on animals should be located, a Use dedicated solely to the treatment of animals was used for comparison. A veterinary office provides service for animals at the request of their owners just as an animal cremation service would. It would therefore be logical to look at the permitted locations of a funeral home and a veterinary office to see if there are any zones in which they are both permitted, thus identifying a location where the proposed Use (cremation) is allowed as well as activities for the individuals that will be served by the Use (animals). According to Chapter 21A.26.080 which is the table of permitted and conditional uses for commercial districts there are four (4) zones in which both a funeral home and a veterinary office are permitted. They are the Corridor Commercial District (CC), Community Shopping District (CS1), Sugarhouse Business District (CSHBD1), and the General Commercial District (CG) (See Appendix). It is therefore proposed that an animal cremation service be permitted in these four commercial zones and any other zone which permits both a funeral home and a veterinary office within its boundaries.

Proposed Text Addition

It is proposed that the term “Animal Cremation Service” be added to Chapter 21A.62.040 of the Salt Lake City zoning code and the definition of the term is to be: “a facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested”.

III. Summary

This report proposes two changes to the definitions found in Chapter 21A.62.040 of the Salt Lake City Zoning Code. The first is to update the definition of a funeral home from its current wording of “An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held” to a definition more in line with current practices found throughout the nation of “an establishment where the activities

necessary for the care and custody of the dead, including: refrigeration; embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted". The second is the addition of a new term to the zoning code that would clarify the use dedicated to the cremation of animals for their owners which is not currently found in the code. The proposed text would read: "Animal Cremation Services – a facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested".

add mummification + Cryogenic Storage

ATTACHMENT B



February 2, 2010

RECEIVED FEB 04 2010

TO: All Member of the Salt Lake City Council

J.T. Martin, Chair; Jill Remington Love, Vice Chair; Carlton Christensen, Van Turner, Stan Penfold, Luke Garrott and Soren Simonsen

Salt Lake City Council
451 S. State Street, Room 304
P.O. Box 145476
Salt Lake City, UT 84114-5476

RE: Expanded Definition of a Funeral Home Allowing On-site Cremations

Dear Council Member:

We have been more than patient for over a year and a half but now express to you our extreme frustration with Salt Lake City's inability to find a resolution to our request for an on-site crematory. In short, we have been a tax-paying, law-abiding and supportive business at the same address since 1954 and cannot in good conscious understand this treatment.

Background

Russon Brothers has been serving families in Salt Lake City since 1954 and also serves Davis County residents from funeral homes in Bountiful and Farmington.

In order to better serve our families, we began extensive and costly remodeling of our Salt Lake City location some 18 months ago. Because of growing interest and demand for cremations, we prepared to install a crematory at our funeral home on 200 East.

You should know that cremations are allowed at other mortuaries in other zones in the city.

In compliance with Salt Lake City's requirements, we applied for a building permit. The plans were submitted for architectural review and requested changes and adjustments made. Subsequently, a building permit was granted and construction and remodeling commenced. We expended thousands of dollars in this endeavor trusting that we had been judicious in following Salt Lake City's permitting and building process.

SALT LAKE
255 South 200 East
Salt Lake City, Utah 84111
801 328-8846

FARMINGTON
1940 North 1075 West
Farmington, Utah 84025
801 447-8247

BOUNTIFUL
295 North Main
Bountiful, Utah 84010
801 295-5505

www.russonmortuary.com

P. 2
Russon Brothers
Funeral Directors

In the summer of 2008, our project, which was at the time 50% to 60% complete, was halted because of a perceived conflict with Salt Lake City's current definition of a Funeral Home allowing for on-site cremations.

We respectfully submit that under Utah Code, Title 58, Chapter 9, Funeral Services Licensing Act, cremation is a typical part of the services provided by a funeral home and no different than embalming, cosmetics, funeral services, visitations, and the selling of caskets, vaults and urns. And furthermore, cremation in the state of Utah can only be performed by a licensed funeral establishment and licensed funeral directors and is part of prescribed services at a funeral home.

We clearly understand concerns about environmental and sensory impact and assure you and the general public that cremation technology is highly advanced. The retort or cremator at Russon Brothers is 5'6" wide by 12' in length by 7' high and is enclosed in a room 12' wide by 24' in length and 10' high. It is used solely for the cremation of human bodies.

Flames do not shoot out of the cremator stack and gases are fully combusted in the chambers prior to exit, leaving only heat waves (not flames) to exit. No harmful particulates including ash spew into the air. The cremator/retort is designed and constructed to fully satisfy national, state, and local environmental standards.

As mandated, we submitted an application with the state of Utah's Division of Air Quality earlier this year for a Small Source Exemption Registration. DAQ granted the permit in March, 2009 and found that our gas-fired Cremation Retort was in full compliance

We have complied with all of Salt Lake City's building requirements and wrongly assumed that Salt Lake City would correct its error. When nothing happened after many months, we presented our petition to the Salt Lake City Planning Commission on Oct. 14, 2009. We appeared again on Nov. 18, 2009, and the Planning Commission unanimously agreed that the definition should be updated. Planning Commission Director Wilf Sommerkorn stated that the city's definition was antiquated, out-of-touch and needed updating.

Since then we have been waiting. Please do not confuse our petition with that of the Pet Crematory. That is a petition we are not involved with and have asked that the two petitions coincidentally coming at the same time be separated.

Councilmen Martin and Christensen have toured the facility and invitations have been extended to each of you.

**P. 3
Russon Brothers
Funeral Directors**

Proposed Changes to Ordinance

We also propose that the allowed decibel level of our crematory be raised from 65 to 75. Street traffic is rated at 80 so 75 seems to be reasonable. Also, we propose that the definition of a crematorium be amended as follows:

Wording that passed the Planning Commission on Nov. 18, 2009

Crematorium: An accessory use to a funeral home where the dead, both animal and human are prepared for and cremated, but not in the same crematorium.

Proposed


Crematorium: As applied to funeral homes: A conditional use associated with a licensed funeral home, where the dead are prepared for cremation and are cremated.

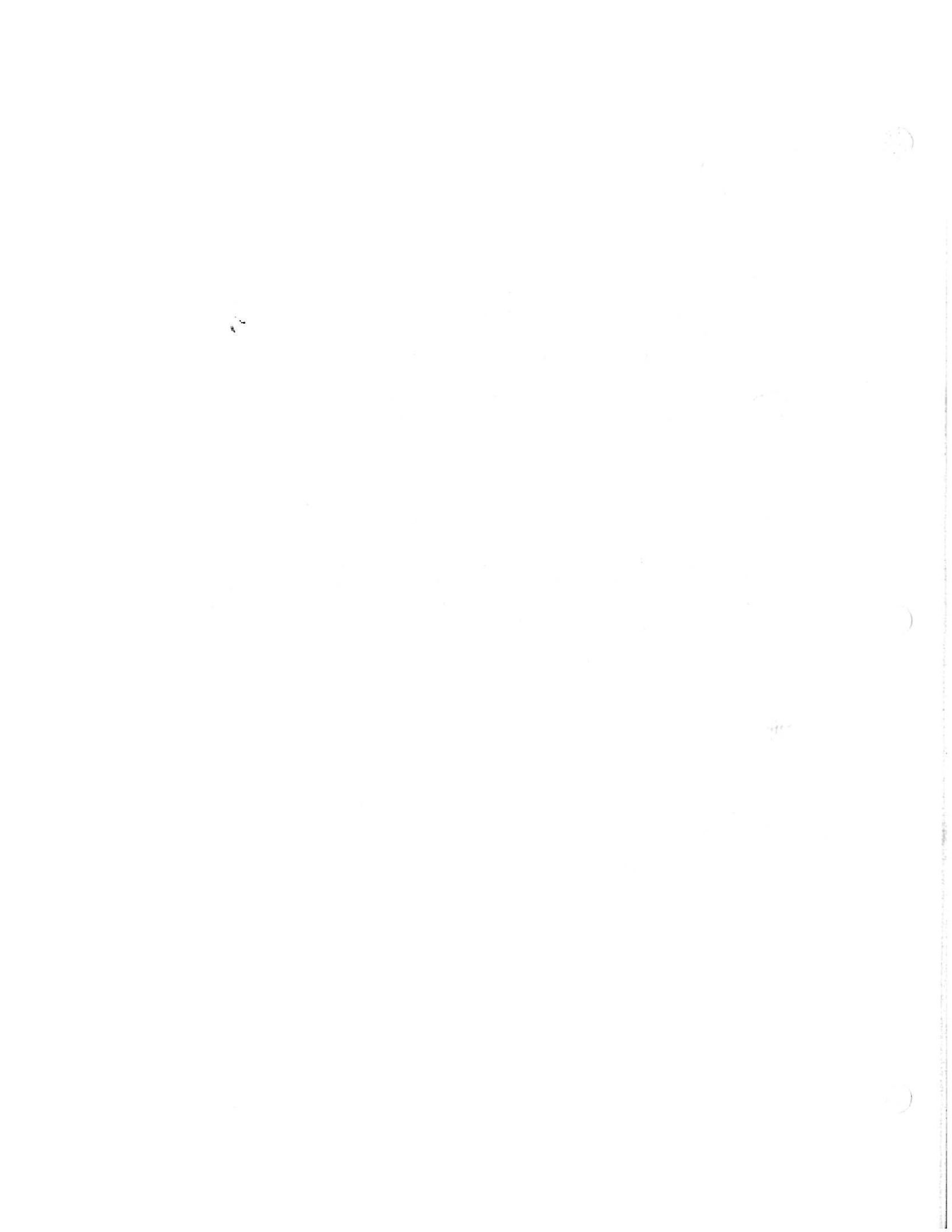
This extreme delay has resulted in significant revenue losses for our business and we respectfully request a reasonable and speedy resolution to this frustrating situation. We are aware of other funeral homes in Utah, also members of the Utah Funeral Directors Association, whose applications for a crematory are granted in 30 days!

We have believed in the past that Salt Lake City was business friendly and hope to be reassured that this is your attitude as well.

Should you have any questions please let us know.

Sincerely,


Gary Russon
Russon Brothers Mortuary
Salt Lake City



RUSSON BROTHERS MORTUARY
255 SOUTH 200 EAST
SALT LAKE CITY, UTAH 84111

January 20, 2010

Carlton Christensen, Van Turner, Stan Penfold,
Luke Garrott, Jill Remington Love, JT Martin,
Søren Simonsen

Salt Lake City Council
c/o Janice Jardine
P.O. Box 145476
Salt Lake City, UT 84114-5476

VIA EMAIL: janice.jardine@slcgov.com

RE: *Requested Changes to Proposed Amendment to Salt Lake City Ordinance
Amending Portions of Title 21A of the Salt Lake City Code Concerning Funeral
Homes*

Honorable City Council Members:

We are writing this letter to ask you to consider amendments to the above-referenced proposed ordinance as adopted by the Planning Commission.

Requested Change:

1. Under the definition of Crematorium "As applied to funeral homes," please add this sentence at the end: "This also includes cremations performed by the licensed funeral home as a service to other funeral homes."

This request arises from our concern that City officials may continue to take the harsh and unfair position that a funeral home may perform cremations only for its own clients. See "Background", ¶ 34.

2. In 21A.40.170, para. 2, please increase the decibels from 65 to 75.

We're not certain where the number 65 came from in the present draft, but here are some common decibel levels:

Here is a list of common noises and their decibel levels:

- Aircraft at take-off (180)
- Fireworks (140)
- Snowmobile (120)

Salt Lake City Council

January 20, 2010

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- Chain saw (110)
- Amplified music (110)
- Lawn mower (90)
- Noisy office (90)
- Vacuum cleaner (80)
- City traffic (80)
- Normal conversation (60)
- Refrigerator humming (40)
- Whisper (20)
- Leaves rustling (10)
- Calm breathing (10)

If city traffic is 80 db and a vacuum cleaner is 80 db then we suggest a compromise at 75 db. We think the RBM crematorium and others like it would be below 65, but we want to propose this small cushion.

Background:

We respectfully request that you review and consider the following background information as historical context for this proposed ordinance. We appreciate that this ordinance does not just apply to RBM, but we think it will be helpful to you to understand the unfortunate circumstances giving rise to this proposed ordinance.

Representatives of the City have treated RBM very unfairly, causing RBM significant economic loss. The details are outlined below:

1. RBM is located at 255 South 200 East, Salt Lake City, Utah (the "Property").
2. RBM has owned and operated a mortuary at the Property since 1954. Another mortuary business, RBM's predecessor, operated the mortuary at that same location before 1954.
3. The Property is located in the D-1 Central Business District zone which does not currently list a "funeral home" as a permitted or conditional use. Thus, RBM's and its predecessor's use of the Property as a mortuary has been a legal, nonconforming use of the Property for more than 55 years.
4. In early 2008, RBM decided to remodel its mortuary at the Property (the "Project"), using Bonneville Builders, LC as its contractor. This Project included the installation of a cremator (retort).

Salt Lake City Council

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5. In the summer of 2008, representatives of Bonneville Builders (principally Merv Holgate), acting in behalf of RBM, met with representatives of the City Building Department on several occasions to discuss RBM's plans for the Project.
6. From the beginning of the Project, it was fully disclosed by RBM and Bonneville Builders to the City that the Project included the installation of the cremator.
7. City officials and Bonneville Builders representatives reviewed City ordinances together as part of this process, to determine what RBM would need to do in order to obtain a building permit.
8. Bonneville submitted proposed plans for the Project prepared by ASWN Architects ("ASWN") to the City Building Department.
9. The plans clearly provided for a crematory with a retort.
10. As part of the City's response to the plans, the Building Department required RBM to consider the crematory room as an "incinerator room" and to make appropriate changes to the plans and specifications to qualify it as an "incinerator room." Accordingly, ASWN modified the plans to meet the "incinerator room" requirements.
11. Subsequent to meeting with the Building Department, it was suggested that Bonneville Builders meet also with the Planning and Zoning Department to make certain there were no conflicts with the existing zoning or with the nonconforming use of the mortuary, as it would be remodeled.
12. Bonneville Builders then met with then Zoning Administrator and Planning Director, George Shaw, to determine the City's position with respect to the Project and the crematory.
13. Zoning Ordinance Section 21A.62 defines "funeral home" as, "an establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held." Thus, one key issue before the City was the issue of whether RBM's use of the Property would still qualify as a "funeral home" after installation of the crematory, i.e., whether the cremator was an accessory use that is part of a "funeral home."
14. The Project did not enlarge the existing building at the Property, nor did it extend the nonconforming use to another structure or site. The Project merely remodeled and replaced a portion of the existing structure—the square footage of the building did not change.

Salt Lake City Council

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15. The Project did not exceed 50% of the original use of the Property, nor did it increase the parking requirements for the mortuary. The structure containing the mortuary business was not relocated or moved.

16. The then Zoning Administrator and Planning Director determined that the Project as planned was not in conflict with the nonconforming use designation and indicated that the Planning and Zoning Department would approve the plans as submitted and the issuance of a building permit.

17. Bonneville Builders then specifically asked Mr. Shaw whether that determination could be put in writing so as to avoid any future misunderstandings and so that RBM could have adequate assurance to proceed with the Project which represented a considerable expense.

18. Mr. Shaw emphatically assured Bonneville Builders that no further letter or authorization from the City would be necessary and that RBM could rely upon the City's building permit to proceed with the Project.

19. After revised plans prepared by ASWN were submitted to the City, the City issued a building permit in December 2008 authorizing RBM and Bonneville Builders to proceed with the Project.

20. At about the same time as RBM proceeded with obtaining approvals from the City, RBM also sought a permit from the Utah State Department of Environmental Quality ("DEQ"). RBM subsequently received this permit from DEQ, finding that the Project fits within the "small source exemption for one natural gas fired Cremation Retort and determined that the small source exemption applies."

21. Reasonably relying upon the building permit and verbal assurances given by the City to RBM, RBM proceeded with construction of the Project and has expended in excess of \$300,000 on the Project.

22. On or about February 23, 2009 when the Project was approximately 50% completed, a field inspector for the Building Department became concerned when he learned that a crematory was being installed as a part of the Project. Though the retort had already been placed in the building, the inspector stated that he intended to "red-tag" the Project until such time as the City could review whether the installation of the retort was allowed under the City's zoning ordinance.

23. Subsequently, RBM and its representatives met several times with representatives of the City's Building Services Division and the Planning Division to get direction on how to proceed with the Project. The Project was presented to the City's Interpretation Review Team ("IRT") on March 12, 2009. The IRT consist of representatives

Salt Lake City Council

January 20, 2010

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from the Community and Economic Development Department, the Attorneys' Office, the building Services Division, and the Planning Division. Following the IRT's review of the Project, the City's new Zoning Administrator, Wilford H. Sommerkorn, determined that this case should be forwarded to the City Board of Adjustment, to make a finding of whether cremation is a typical and customary function within a funeral home and to make a determination of whether the addition of a cremator would be allowed as an expansion or alteration of the current, legal nonconforming use.

24. On April 20, 2009, the Board of Adjustment met and, in RBM's view, arbitrarily, capriciously, and illegally determined that the crematory did not constitute an accessory use of the Property as a "funeral home" under Zoning Ordinance Section 21A.62. Thus, the Board of Adjustment effectively revoked the building permit based upon the definition of "funeral home" in the City's zoning ordinance.

25. The only way to remove the retort would be to tear the roof off of the building. It would be very expensive to return the retort and to further redesign and remodel the space vacated by the retort.

26. Cremation is a typical part and function of a funeral home. It is as much a function of the funeral home as embalming, funeral services, visitations, and the selling of caskets, vaults, and urns.

27. The complete Project does not increase the footprint of RBM's structure, and the retort is housed within that structure.

28. The RBM retort itself is 5'6" wide by 12' in length by 7' high and is enclosed in a room 12' wide by 24' length by 10' high. It will be used for the cremation of human bodies.

29. Typical business operating hours will be 8:00 a.m. to 6:00 p.m.

30. There have been significant advances in cremator technology. RBM's retort and others like it are not a fire hazard. They are fully automated. As the temperature increases the system provides the right amount of air and fuel to prevent overheating and it constantly monitors itself. The stack is constructed of steel plate and fully lined with 3" of material capable of withstanding temperatures in excess of 2500°F.

31. Flame does not shoot out of the retort stack. Gases are fully combusted in the chambers prior to exit from the stack, leaving only heat waves (not flames) to exit. The stack flue system prevents the liner from becoming too hot.

Salt Lake City Council

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32. The RBM retort and others like it do not pollute or spew harmful particulates into the air. They are designed and constructed to satisfy fully national, state and environmental standards, as mentioned above.

33. RBM's retort sits idle, and RBM continues to accrue lost revenues on this significant investment.

34. In a meeting held among City officials and RBM officers on August 24, 2009 at the Property, City officials offered to settle the dispute with RBM by allowing RBM to perform cremations only for its own clients and not for clients of other funeral homes. This was a wholly inadequate proposal and would not enable RBM to provide this reasonable service to other funeral homes. RBM invested in the retort, intending and needing to be able to provide cremation services for other funeral homes. This was a critical component of RBM's business plan for investing in the retort in the first place.

Thank you in advance for considering these requested changes.

Sincerely,

RUSSON BROTHERS MORTUARY

A handwritten signature in black ink, appearing to read "D. Gary Russon". The signature is written in a cursive style with a large, stylized "D" and "R".

D. Gary Russon, President

SCANNED TO: Mayor
SCANNED BY: JT
DATE: 1/28

SALT LAKE CITY CORPORATION

FRANK B. GRAY
DIRECTOR

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

RALPH BECKER
MAYOR

MARY DE LA MARE-SCHAEFER
DEPUTY DIRECTOR

ROBERT FARRINGTON, JR.
DEPUTY DIRECTOR

CITY COUNCIL TRANSMITTAL





David Everitt, Chief of Staff

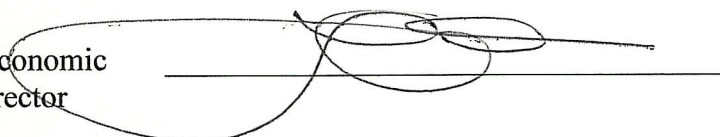
Date Received: By _____

Date Sent to City Council: 02/02/2010

TO: Salt Lake City Council
JT Martin, Chair

DATE: January 25, 2010

FROM: Frank Gray, Community & Economic
Development Department Director



RE: Petition # PLNPCM2009-00726 Pet Services City Code Text Amendments

STAFF CONTACTS: Ray Milliner, Principal Planner (801) 535-7645 or
ray.milliner@slcgov.com

RECOMMENDATION: That the City Council hold a briefing and schedule a Public
Hearing

DOCUMENT TYPE: Ordinance

BUDGET IMPACT: None

DISCUSSION

Issue Origin

On June 17, 2009 Rival Investments represented by Jake Tate of Great Basin Engineering submitted a petition to amend the following sections of the Zoning Ordinance.

- 1) Modify Chapter 21A.62.040 Definitions – Amend the definition of a funeral home to allow activities such as cremation.
- 2) Modify Section 21A.62.040 Definitions – Amend this section to create a definition of “Animal Cremation Services”
- 3) Modify Chapter 21A.32.140 Table of Permitted and Conditional Uses for Special Purpose Districts to allow “animal cremation services” in the Commercial Corridor (CC) zone.

The stated purpose of the request is to allow an animal cremation service in the Commercial Corridor (CC) zone. Currently cremation services of any kind are allowed only in the Open Space (OS) zone. The applicant would like to open a pet cremation and funeral service in the CC zone. In order to do this it is necessary that the ordinance be changed. As staff reviewed the application, it was noted that there are also code related issues regarding the legal operation of cremation facilities and funeral homes for humans in the City. As a result, the Planning Commission directed staff to prepare amendments to the code to allow funeral homes in various zones throughout the City. These changes would legalize a number of nonconforming funeral homes.

Analysis

The applicant has submitted this application with the intent of enabling a pet crematorium at 1727 South Major Street in the CC zone. Nevertheless, the proposed changes will have a wide ranging impact on the way in which funeral homes (for both pet and humans) are defined and regulated throughout the City, as the proposed definition of a funeral home would apply to all funeral homes, enabling cremation as a conditional use on site, and permitting funeral homes in zones where they currently are not allowed. The existing definition only allows the preparation of a body for these activities, not the actual cremation. The following is a short synopsis of the changes proposed:

1. Chapter 21A.62.040 Definitions – This change would modify the existing definition of a funeral home from:

“FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held.”

to:

“FUNERAL HOME: An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming, cremation, other necessary care, viewings, wakes, funerals, and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted.”

2. Modify Section 21A.62.040 – To create new definitions for Animal Cremation Services and a Crematorium. Proposed language would read:

“ANIMAL CREMATION SERVICE: A service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.”

“CREMATORIUM:

- A. As applied to funeral homes: A conditional use associated with a licensed funeral home, where the dead are prepared for cremation and are cremated.

- B. As applied to pets: A conditional use by a dedicated animal cremation service, where dead animals are prepared for cremation and are cremated.”
3. Modify the table of permitted and conditional uses to allow “animal cremation services” in the Commercial Corridor (CC), Light Manufacturing (M-1) and Heavy Manufacturing (M-2) zones.
 4. Modify the table of Permitted and Conditional Uses for the Central Business (D-1), Downtown Support (D-2), Downtown Warehouse/Residential (D-3), Light Manufacturing (M-1), Heavy Manufacturing (M-2), Residential Mixed Use (R-MU-35), (R-MU-45) and (R-MU) zones to allow “Funeral Homes” as either a conditional or permitted use.
 5. Modify Chapter 21A.40 Accessory Uses, Buildings and Structures to create criteria allowing crematoriums as a conditional use in specified zoning districts. Criteria would be as follows:

Crematoriums may be approved as a conditional use when associated with a licensed funeral home or dedicated animal cremation service. When reviewing the application for a crematorium, the Planning Commission or administrative hearing officer will consider the following factors for approval:

1. The crematorium shall emit no visible emissions or odor.
2. Noise emitted from the crematorium shall not exceed 65 decibels measured from the property line.
3. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
4. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
5. In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only.
6. The crematorium shall receive all necessary approvals from applicable state and federal agencies.
7. The crematorium use shall be consistent with all adopted City ordinance and master plans.
8. The crematorium use shall be associated with a licensed funeral home for human cremation, or a dedicated animal cremation service for animal cremation.

The modification of the use tables allowing funeral homes in a number of zones where they are not currently allowed would bring most of the existing mortuaries and funeral homes in the city into compliance with the Zoning Ordinance, and enable them to expand or modify the use as a permitted use, rather than a nonconforming use. This action will also enable other funeral homes to be built or relocate into these zones.

Staff is recommending that the funeral homes in the residential zones remain prohibited uses. To permit them would significantly alter established City policy of not allowing commercial uses in residential zones. If the owner of an existing funeral home in a residential zone would like to expand the use, he/she would be able to submit a conditional use application for the expansion of

a nonconforming use. This would enable the expansion and continued operation of the mortuary without opening the zone to new uses.

Below is a table of the existing funeral homes in the City, their location zoning and the proposed changes to the use table.

Name	Location	Zone	Proposed Change
Larkin Mortuary	260 East South Temple	R-MU	Conditional
Niel ODonnell	372 East 100 South	R-MU	Conditional
Russon Brothers	255 South 200 East	D-1	Permitted
Garner Funeral Home	1001 11 th Avenue	OS	Permitted
Deseret Mortuary	36 East 700 South	D-2	Permitted
David Mcleod	617 East 600 South	RMF-30	No Change Not allowed
Evans and Early	574 East 100 South	RMF-45	No Change Not allowed
Larkin Sunset Lawn	2350 South 1300 East	OS	Permitted
Major Street Pet Services	1727 South Major Street	CC	Permitted

Master Plan Considerations

The community master plan land use policies generally define neighborhood, community and regional land use locations and characteristics. They do not specifically address the level of detail that code maintenance addresses.

In Salt Lake City, the Zoning Ordinance and Subdivision Ordinance have been the main tools used to implement the goals and objectives of the adopted land use planning documents. All of the proposed changes to the text, as outlined, are intended to clarify or further advance the purposes, goals, objectives and policies of the adopted general plan of Salt Lake City. The proposed changes do not alter the various purpose statements included in the Zoning Ordinance. The proposed amendments will help insure compatibility with the adopted master plans of the City.

PUBLIC PROCESS:

An Open House was held on August 20, 2009. Notice of the Open House was sent to Community Council Chairs, business groups, and those whose names are on the Planning Division’s list serve. Notice was also posted on the City and State websites.

A number of written comments have been received both for and against this proposal. They are attached to this transmittal in Section 7. The primary objection to the ordinance is from persons living and working in the Major Street neighborhood, who are concerned about the impact of a crematorium. Concerns have been generally centered on the visual and sensory impacts of the operation of the facility.

The Planning Commission held a public hearing on October 14, 2009 and again on November 18, 2009. There was a significant amount of discussion regarding the petition, and the impacts of a crematory on neighborhoods. Ultimately, the Commission passed a motion to forward a positive recommendation to the City Council. The vote was unanimous.

RELEVANT ORDINANCES:

Amendments to the Zoning Ordinance and Maps are authorized under Section 21A.50 of the Salt Lake City Zoning Ordinance, as detailed in Section 21A.50.050: "A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard." It does, however, list five standards, which should be analyzed prior to rezoning property (Section 21A.50.050 A-E). The five standards are discussed in detail starting on page 3 of the Planning Commission Staff Report (Exhibit 5B).

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- 8. ORIGINAL PETITION**

1. Chronology

PROJECT CHRONOLOGY
Petition #PLNPCM2009-00726

June 22, 2009	Petition received by Planning.
June 24, 2009	Petition Assigned to Ray Milliner for staff analysis and processing
August 20, 2009	Petition reviewed at Public Open House.
September 30, 2009	Planning Commission hearing notice was published in the paper and notices were mailed to adjacent property owners.
October 14, 2009	Planning Commission held public hearing, provided staff direction.
November 18, 2009	Planning Commission held public hearing and voted unanimously to forward a positive recommendation to the City Council.
December 9, 2009	Planning Commission ratified minutes for November 18, 2009 meeting.
December 9, 2009	Staff requests ordinance from City Attorney's office.
December 17, 2009	Staff received draft of proposed ordinance from City Attorney's Office.

2. Ordinance

SALT LAKE CITY ORDINANCE

No. _____ of 2010

(An ordinance amending portions of Title 21A of the *Salt Lake City Code* concerning animal cremation services and funeral homes)

An ordinance amending sections 21A.62.040 (Zoning: Definitions) and 21A.32.140 (Table of Permitted and Conditional Uses for Special Purpose Districts) of the *Salt Lake City Code* pursuant to Petition No. PLNPCM2009-00726 to recognize animal cremation services as a permitted or conditional use and to allow cremation services in additional zoning districts.

WHEREAS, the Salt Lake City Planning Commission (“Planning Commission”) held a public hearing on November 18, 2009 to consider a request made by Rival Investments (petition no. PLNPCM2009-00726) to amend certain sections of Title 21A of the *Salt Lake City Code* to recognize animal cremation services as an allowable use in certain zoning districts and to allow human and animal cremation services in additional zoning districts; and

WHEREAS, at its November 18, 2009 hearing, the Planning Commission voted to transmit a positive recommendation to the Salt Lake City Council (“City Council”) on said application; and

WHEREAS, after a public hearing on this matter the City Council has determined that the following ordinance is in the City’s best interests,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending text of *Salt Lake City Code* section 21A.62.040. That section 21A.62.040 of the *Salt Lake City Code* (Zoning: Definitions), shall be, and hereby is, amended, in pertinent part, such that the following definitions shall be amended or added to read as follows:

FUNERAL HOME: An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted.

ANIMAL CREMATION SERVICE: A service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.

CREMATORIUM:

- A. As applied to funeral homes: A conditional use associated with a licensed funeral home, where the dead are prepared for cremation and are cremated.
- B. As applied to pets: A conditional use by a dedicated animal cremation service, where dead animals are prepared for cremation and are cremated.

SECTION 2. Amending text of *Salt Lake City Code* section to adopt section 21A.40.170.

That the *Salt Lake City Code* shall be, and hereby is, amended to adopt section 21A.40.170

(Zoning: Accessory Uses, Buildings and Structures: Crematoriums), which shall read as follows:

21A.40.170 CREMATORIUMS:

Crematoriums may be approved as a conditional use when associated with a licensed funeral home or dedicated animal cremation service. When reviewing the application for a crematorium, the Planning Commission or administrative hearing officer will consider the following factors for approval:

1. The crematorium shall emit no visible emissions or odor.
2. Noise emitted from the crematorium shall not exceed 65 decibels measured from the property line.
3. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
4. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
5. In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only.
6. The crematorium shall receive all necessary approvals from applicable state and federal agencies.
7. The crematorium use shall be consistent with all adopted City ordinance and master plans.
8. The crematorium use shall be associated with a licensed funeral home for human cremation, or a dedicated animal cremation service for animal cremation.

SECTION 3. Amending text of Salt Lake City Code section 21A.26.080. That the table, titled “Table of Permitted and Conditional Uses For Commercial Districts”, which is located at section 21A.26.080 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended:

Miscellaneous:	CN	CB	CS1	CC	CSHBD	CG	TC75
Animal Cremation Service				C			
Crematorium			C	C	C	C	C

SECTION 4. Amending text of Salt Lake City Code section 21A.28.040. That the table, titled “Table of Permitted and Conditional Uses For Manufacturing Districts”, which is located at section 21A.28.040 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended:

Use	M-1	M-2
Animal Cremation Service	P	P
Crematorium	P	P
Funeral Home	P	P

SECTION 5. Amending text of Salt Lake City Code section 21A.24.190. That the table, titled “Table of Permitted and Conditional Uses For Residential Districts”, which is located at section 21A.24.190 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended, and that the boxes for all other residential zone districts in such table not shown herein shall be left blank to indicate that the following uses are neither permitted nor conditional in all other residential zoning districts:

Use	R-MU-35	R-MU-45	R-MU
Funeral Home	C	C	C
Crematorium	C	C	C

SECTION 6. Amending text of Salt Lake City Code section 21A.30.050. That the table, titled “Table of Permitted and Conditional Uses For Downtown Districts”, which is located at section 21A.30.050 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended:

Use	D-1	D-2	D-3	D-4
Funeral Home	P	P	P	
Crematorium	C	C	C	

SECTION 7. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2010.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2010.

Published: _____.

HB_ATT-#11295-v2-Ordinance_-_Cremation.DOC

<p>APPROVED AS TO FORM Salt Lake City Attorney's Office</p> <p>Date: <u>JANUARY 13, 2010</u></p> <p>By: <u>Paul C. Nielson</u> Paul C. Nielson, <i>Senior City Attorney</i></p>
--

SALT LAKE CITY ORDINANCE

No. _____ of 2010

(An ordinance amending portions of Title 21A of the *Salt Lake City Code* concerning animal cremation services and funeral homes)

An ordinance amending sections 21A.62.040 (Zoning: Definitions) and 21A.32.140 (Table of Permitted and Conditional Uses for Special Purpose Districts) of the *Salt Lake City Code* pursuant to Petition No. PLNPCM2009-00726 to recognize animal cremation services as a permitted or conditional use and to allow cremation services in additional zoning districts.

WHEREAS, the Salt Lake City Planning Commission (“Planning Commission”) held a public hearing on November 18, 2009 to consider a request made by Rival Investments (petition no. PLNPCM2009-00726) to amend certain sections of Title 21A of the *Salt Lake City Code* to recognize animal cremation services as an allowable use in certain zoning districts and to allow human and animal cremation services in additional zoning districts; and

WHEREAS, at its November 18, 2009 hearing, the Planning Commission voted to transmit a positive recommendation to the Salt Lake City Council (“City Council”) on said application; and

WHEREAS, after a public hearing on this matter the City Council has determined that the following ordinance is in the City’s best interests,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending text of *Salt Lake City Code* section 21A.62.040. That section 21A.62.040 of the *Salt Lake City Code* (Zoning: Definitions), shall be, and hereby is, amended, in pertinent part, such that the following definitions shall be amended or added to read as follows:

FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held.”An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted.”

ANIMAL CREMATION SERVICE: A service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.

CREMATORIUM:

- A. As applied to funeral homes: A conditional use associated with a licensed funeral home, where the dead are prepared for cremation and are cremated.
- B. As applied to pets: A conditional use by a dedicated animal cremation service, where dead animals are prepared for cremation and are cremated.

SECTION 2. Amending text of Salt Lake City Code section to adopt section 21A.40.170.

That the *Salt Lake City Code* shall be, and hereby is, amended to adopt section 21A.40.170

(Zoning: Accessory Uses, Buildings and Structures: Crematoriums), which shall read as follows:

21A.40.170 CREMATORIUMS:

Crematoriums may be approved as a conditional use when associated with a licensed funeral home or dedicated animal cremation service. When reviewing the application for a crematorium, the Planning Commission or administrative hearing officer will consider the following factors for approval:

1. The crematorium shall emit no visible emissions or odor.
2. Noise emitted from the crematorium shall not exceed 65 decibels measured from the property line.
3. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
4. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
5. In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only.
6. The crematorium shall receive all necessary approvals from applicable state and federal agencies.

7. The crematorium use shall be consistent with all adopted City ordinance and master plans.

8. The crematorium use shall be associated with a licensed funeral home for human cremation, or a dedicated animal cremation service for animal cremation.

SECTION 3. Amending text of Salt Lake City Code section 21A.26.080. That the table, titled “Table of Permitted and Conditional Uses For Commercial Districts”, which is located at section 21A.26.080 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended:

Miscellaneous:	CN	CB	CS1	CC	CSHBD	CG	TC75
<u>Animal Cremation Service</u>				<u>C</u>			
<u>Crematorium</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

SECTION 4. Amending text of Salt Lake City Code section 21A.28.040. That the table, titled “Table of Permitted and Conditional Uses For Manufacturing Districts”, which is located at section 21A.28.040 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended:

Use	M-1	M-2
<u>Animal Cremation Service</u>	<u>P</u>	<u>P</u>
<u>Crematorium</u>	<u>P</u>	<u>P</u>
<u>Funeral Home</u>	<u>P</u>	<u>P</u>

SECTION 5. Amending text of Salt Lake City Code section 21A.24.190. That the table, titled “Table of Permitted and Conditional Uses For Residential Districts”, which is located at section 21A.24.190 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such

that only the following provisions of said table are amended, and that the boxes for all other residential zone districts in such table not shown herein shall be left blank to indicate that the following uses are neither permitted nor conditional in all other residential zoning districts:

Use	R-MU-35	R-MU-45	R-MU
<u>Funeral Home</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Crematorium</u>	<u>C</u>	<u>C</u>	<u>C</u>

SECTION 6. Amending text of Salt Lake City Code section 21A.30.050. That the table, titled “Table of Permitted and Conditional Uses For Downtown Districts”, which is located at section 21A.30.050 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, such that only the following provisions of said table are amended:

Use	D-1	D-2	D-3	D-4
<u>Funeral Home</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Crematorium</u>	<u>C</u>	<u>C</u>	<u>C</u>	

SECTION 7. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2010.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2010.

Published: _____.

HB_ATTYY-#11295-v1-Ordinance_-_Cremation.DOC

NOTICE OF PUBLIC HEARING

The Salt Lake City Council will hold a public hearing regarding Petition PLNPCM2009-00726, a request by Raval Investments for a text amendment modifying various sections of the Salt Lake City Zoning Ordinance. The purpose of the amendment is to:

- Modify section 21A.62.040 (definitions) to create a new definition of a “Funeral Home”
- Modify section 21A.62.040 (definitions) to create a new definition of an “Animal Cremation Service”
- Modify section 21A.62.040 (definitions) to create a new definition of a “Crematory”
- Modify Chapter 21A.40 Accessory Uses, Buildings and Structures to create criteria allowing crematoriums as a conditional use in specified zoning districts.
- Modify Chapters 21A.26.080 and 21A.28.040, tables of permitted and conditional uses for to allow “animal cremation services” in the Commercial Corridor (CC), Light Manufacturing (M-1) and Heavy Manufacturing (M-2) zones.
- Modify Chapters 21A.30.050, 21A.28.040, and 21A.24.190 tables of Permitted and Conditional Uses for the Central Business (D-1), Downtown Support (D-2), Downtown Warehouse/Residential (D-3), Light Manufacturing (M-1), Heavy Manufacturing (M-2), Residential Mixed Use (R-MU-35), (R-MU-45) and (R-MU) zones to allow “Funeral Homes” as either a conditional or permitted use.

As part of its review, the City Council is holding an advertised public hearing to receive comments regarding the petition. During this hearing, anyone who would like to address the City Council about this issue will be given an opportunity to speak. The hearing will be held:

Date:

Time: 7:00 p.m.

Place: Room 315 (City Council Chambers)*

Salt Lake City and County Building

451 S. State Street

Salt Lake City, UT

*Please enter building from east side.

If you have any questions relating to this proposal or would like to review the petition on file, please contact Ray Milliner, Principal Planner, at (801) 535-7645 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or via e-mail at ray.milliner@slcgov.com.

People with disabilities may make requests for reasonable accommodations no later than 48 hours in advance in order to attend this public hearing. Accommodations may include alternate formats, interpreters, and other auxiliary aids. The City & County Building is an accessible facility. For questions, requests, or additional information, please contact the City Council Office at (801) 535-7600, or TDD (801) 535-6021.

4. Mailing Labels

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SALT LAKE CITY, UT 84108

PETE TAYLOR
SUNNYSIDE EAST
933 SOUTH 2300 EAST
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VACANT
FOOTHILL/SUNNYSIDE CHAIR
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CENTRAL CITY NEIGHBORHOOD
COUNCIL CHAIR
228 EAST 500 SOUTH #100
SALT LAKE CITY, UT 84111

5. Planning Commission

5.A. Postmark of Planning Commission Notice

SALT LAKE COUNTY PLANNING COMMISSION MEETING AGENDA
In Room 326 of the City & County Building at 451 South State Street
Wednesday, October 14, 2009 at 5:45 p.m.

The field trip is scheduled to leave at 4:00 p.m. Dinner will be served to the Planning Commissioners and Staff at 5:00 p.m., in Room 126. **Work Session**—The Planning Commission will receive a briefing on the Small Neighborhood Business Analysis Project and may discuss other project updates and minor administrative matters. This portion of the meeting is open to the public for observation.

Approval of Minutes from Wednesday, September 9, 2009 & September 23, 2009

Report of the Chair and Vice Chair

Report of the Director

1. City Council policy statement regarding civic campus.

Vote for the new Chair and Vice Chair

Briefing

2. **Proposition #1-Public Safety Building**—Salt Lake City does not currently have a dedicated Emergency Operations center, leaving residents and businesses highly vulnerable in the event of an emergency or catastrophic event. Proposition #1 will allocate \$125 million in general obligation bonds that will pay for the Public Safety Building, an underground parking structure, and a dedicated Emergency Operations Center. The estimated tax impact is \$6.25 per month or \$75 per year for the average residential property and \$43.52 per month or \$522.32 per year for the average business. For additional information go to: www.slcgov.com/psb

Public Hearings

3. **PLNPCM2009-00726; Pet Cemetery Zoning Ordinance Amendment** —a request by the Rival Investments for a zoning text amendment to modify Sections 21A.62.040 (definitions) and 21A.30.080 (Commercial Table of Permitted and Conditional Uses) of the Salt Lake City Zoning Ordinance to create a new definition for a “Funeral Home” a new definition for an “Animal Cremation Service” and to allow Animal Cremation Services in the Commercial Corridor zoning district as a permitted-use. The purpose of the request is to allow a pet cremation service at approximately 1727 East Major Street. The proposed text amendments are City wide. (Staff contact: Ray Milliner at 801.535.7645 or ray.milliner@slcgov.com).
4. **PLNPCM2009-00174; Conditional Use Chapter Amendments**— a request by Mayor Ralph Becker for zoning text amendment approval to modify Chapter 21A.54, Conditional Uses, of the Salt Lake City Zoning Ordinance. The purpose of the amendments is to bring the chapter into compliance with state code, to clarify the intent of certain sections, and to revise the standards and factors necessary for conditional use approval. The proposed text amendments are City wide (Staff contact: Ray Milliner at 801.535.7645 or ray.milliner@slcgov.com).
5. **PLNPCM2009-00784; Dick N’ Dixie’s Private Club**—a request by Jason Rasmussen for a conditional use approval to operate a private club at approximately 479 East 300 South (currently “Andy’s Place”). The subject property is located in the R-MU (Residential Mixed Use) zoning district in City Council District 4, represented by Luke Garrott (Staff contact: Katia Pace at 801-535-6354 or katia.pace@slcgov.com).
6. **PLNPCM2009; Quest Assisted Living Facility Conditional Use**—a request by Quest Services for conditional use approval of a Small Assisted Living Facility in an existing single-family dwelling at approximately 1820 West 800 North. The property is located in the R-1/5000 zoning district in City Council District One, represented by Carlton Christensen (Staff contact: Wayne Mills at 801.535.7282 or wayne.mills@slcgov.com).

Visit the Planning Division’s website at www.slcgov.com/CED/planning for copies of the Planning Commission agendas, staff reports, and minutes. Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission.

5.B. Planning Commission Staff Report

PLANNING COMMISSION STAFF REPORT

Major Street Pet Services Zoning Ordinance Amendment: Issues Only Petition PLNPCM2009-00726 October 14, 2009



Planning Division
Department of Community and
Economic Development

Applicant

Rival Investments, Jake Tate
representative

Staff

Ray Milliner (801) 535-7645
ray.milliner@slcgov.com

Master Plan Designation

City-wide

Council District

City-wide

Review Standards

21A.50.050 Standards for General
Amendments

Affected Text Sections

21A.62.040
21A.32.140

Notification

- Notice mailed on September 28, 2009
- Published in Deseret News
September 29, 2009
- Posted on City & State Websites
September 28, 2009

Attachments

- A. Packet of information
submitted by the applicant.
Packet includes
interpretation letter and staff
report from previous actions
by City.

REQUEST

On June 17, 2009 Rival Investments represented by Jake Tate of Great Basin Engineering submitted a petition to amend the following sections of the Zoning Ordinance.

- 1) Modify Chapter 21A.62.040 Definitions – Amend the definition of a funeral home to allow activities such as cremation.
- 2) Modify Section 21A.62.040 Definitions – Amend this section to create a definition of “Animal Cremation Services”
- 3) Modify Chapter 21A.32.140 Table of Permitted and Conditional Uses for Special Purpose Districts to allow “animal cremation services” in the Commercial Corridor (CC) zone.

The stated purpose of the request is to allow an animal cremation service as in the Commercial Corridor (CC) zone. Currently cremation services of any kind are allowed only in the Open Space (OS) zone. A summary of the proposed changes is provided below.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed amendments to the Salt Lake City Zoning Ordinance as **issues only** hearing, conduct a public hearing and provide the applicant and staff with direction.

No action is requested at this time.

Background/ Project Description

The applicant, Rival Investments is requesting approval of three amendments to the Zoning Ordinance. These amendments, if approved, would enable the establishment of a pet cremation service at 1727 South Major Street. The applicant first approached the City with a request to install a crematorium on the property in January of 2009. On February 12, 2009, the Zoning Administrator issued an administrative interpretation letter stating:

“A pet crematory/crematorium is not allowed in the CC Zoning District because the proposed use is most similar to a Funeral Home, a use that does not include the actual act of cremation, only the preparation of the dead for cremation, and a Pet Cemetery, which is not an allowed used in the CC zoning district. (Letter attached as exhibit B)”

The applicant appealed this interpretation to the Board of Adjustment, who heard the case on April 20, 2009. The Board of Adjustment determined that the Zoning Administrator did not err in his interpretation of the Ordinance, and voted to uphold his determination.

Rival Investments submitted an application for an amendment to the Zoning Ordinance on June 16, 2009. As staff reviewed and discussed the issues related with this petition it was discovered that there are a number of issues relating to the way in which the City regulates businesses that care for the deceased (see issue discussion section below). As a result, staff is requesting that the Planning Commission provide direction with regard to this application as well as for a possible expansion of the scope of the project.

Public Participation

Public Open House

An Open House was held on July 19, 2009. Notice of the Open House was sent to Community Council chairs, business groups and those whose names are on the Planning Divisions List serve. Notice was also posted on the City and State website.

The open house was attended by one member of the community who was adamantly opposed to the cremation service. She stated that the use is not appropriate for the CC zone, that there are businesses and residences in the immediate vicinity of the proposed Major Street location that would be negatively impacted by the cremation use.

Public Comments

Aside from comments received at the open house, staff has received one telephone call in opposition to the project and one e-mail in favor (email attached as exhibit C).

Summary of Proposed Code Changes

The following is a short synopsis of the changes proposed by Rival Investments (language and redlines attached as Exhibit A):

1. Chapter 21A.62.040 Definitions – This change would modify the existing definition of a funeral home from:

“FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held.”

To:

“FUNERAL HOME: An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted.”

2. Modify Section 21A.62.040 – To create a new definition for an Animal Cremation Services. Proposed language would read:

“ANIMAL CREMATION SERVICE: A facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested.”

3. Modify Chapter 21A.32.140 Table of Permitted and Conditional Uses for Special Purpose Districts to allow “animal cremation services” in the Commercial Corridor (CC) zone.

Analysis

The applicant has submitted this application with the intent of enabling a pet crematorium at the Major Street location in the CC zone. Nevertheless, the proposed changes would have a wide ranging impact on the way in which funeral homes (for both pet and humans) are defined and regulated throughout the City, as the proposed definition of a funeral home would apply to all funeral homes, enabling cremation on site. Currently, the definition only allows the preparation of a body for these activities, not the actual cremation.

The applicant argues that because of technological advances, respectful and discreet care for the dead with limited impacts on the neighboring uses is viable because modern crematoriums generally do not emit visible emissions (smoke, ash, and the like), as this residue is filtered and processed greatly prior to being emitted into the atmosphere.

The creation of a definition for animal cremation services would simply create a separate definition for the applicant’s use, which would then be included on the use table as an allowed use in the CC zone. This action would enable animal cremation services throughout the city, as the CC zone is located in various areas of the City, most prominently along State Street, Main Street, Redwood Road, and some spots along North Temple.

Issue Discussion

Because the proposed redefinition of funeral home is included in the proposal, staff has researched the potential impacts of the amendment to all mortuaries and funeral homes in the City. The impact of the proposed text amendment would have a significant effect on the way in which future businesses are regulated, as they would be allowed to legally offer cremation services to their clients. Currently, funeral homes or cemeteries are permitted or conditional uses in the following zones:

- Corridor Commercial (CC)
- Community Shopping (CS)
- Sugar House Business District (CSHBD)
- General Commercial (CG)
- Transit Corridor – 75 (TC-75) Conditional Use
- Open Space (OS)

Only one of the existing funeral homes in the City is located in these zones. Most funeral homes are nonconforming uses. Consequently, these uses are unable to expand or modify their business legally, as the expansion of a nonconforming use is not allowed.

If the Planning Commission adopts the proposed changes to the funeral home definition, it would open a door for new businesses in these zones, to legally operate with crematoriums in place. It would not address existing funeral home that would like to expand.

With regard to the pet cremation service, the proposed modifications would allow for this business only in the CC zone. Other zones that allow for funeral homes would not be included, such as the CG, CS etc.

Staff requests that the Planning Commission review the proposal and provide staff with direction on the following questions:

- Are the proposed changes to the definition of a funeral home appropriate?
- Is the proposed new “Animal Cremation Service” definition appropriate?
- Should Animal cremation services be allowed in the CC zone?
- Should animal cremation services be allowed in any other zone?
- What, if anything, should be done about bringing nonconforming funeral homes into compliance (such as rezoning properties, or allowing these services in the zones where funeral homes currently exist)?

Staff Recommendation

Staff recommends that the Planning Commission consider the possibility of modifying the definitions and regulations for funeral homes in the Zoning Ordinance, but with the following modifications:

- That crematoriums be removed from the definition of a funeral home and defined separately.
- That crematoriums be allowed only as an accessory use to a funeral home and as a conditional use, thereby providing the Planning Commission an opportunity to review these uses and mitigate any potential issues that may arise on the site.
- That the Planning Commission direct staff to review the funeral home use and zoning issues as part of the ongoing Zoning Ordinance Amendment process.

Staff draft definition and criteria for a crematorium conditional use include:

Definition

Crematorium: An accessory use to a funeral home where the dead, both animal and human, are prepared for and cremated.

Criteria:

When reviewing the application for a crematorium, the Planning Commission or administrative hearing officer will consider the following factors for approval:

1. The crematorium shall emit no visible emissions.
2. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
3. The crematorium shall receive all necessary approvals from applicable state and federal agencies.
4. The crematorium use shall be consistent with all adopted City ordinance and master plans.
5. The crematorium use shall be associated with a licensed funeral home, or dedicated animal cremation service.

Attachment A: Packet of Information from Applicant

PLANNING COMMISSION STAFF REPORT

Major Street Pet Services Zoning Ordinance Amendment Petition PLNPCM2009-00726 November 18, 2009



Planning Division
Department of Community and
Economic Development

Applicant

Rival Investments, Jake Tate
representative

Staff

Ray Milliner (801) 535-7645
ray.milliner@slcgov.com

Master Plan Designation

City-wide

Council District

City-wide

Review Standards

21A.50.050 Standards for General
Amendments

Affected Text Sections

21A.62.040
21A.32.140

Notification

- Notice mailed on September 28,
2009
- Published in Deseret News
September 29, 2009
- Posted on City & State Websites
September 28, 2009

Attachments

- A. Proposed Ordinance
Amendments.

REQUEST

On June 17, 2009 Rival Investments represented by Jake Tate of Great Basin Engineering submitted a petition to amend the following sections of the Zoning Ordinance.

- 1) Modify Chapter 21A.62.040 Definitions – Amend the definition of a funeral home to allow activities such as cremation.
- 2) Modify Section 21A.62.040 Definitions – Amend this section to create a definition of “Animal Cremation Services”
- 3) Modify Chapter 21A.32.140 Table of Permitted and Conditional Uses for Special Purpose Districts to allow “animal cremation services” in the Commercial Corridor (CC) zone.

The stated purpose of the request is to allow an animal cremation service as in the Commercial Corridor (CC) zone. Currently cremation services of any kind are allowed only in the Open Space (OS) zone. In addition to the above changes, the Planning Commission directed staff to prepare amendments to the code to allow funeral homes in various zones throughout the City. These changes would legalize a number of nonconforming funeral homes. A summary of the proposed changes is provided below.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed amendments to the Salt Lake City Zoning Ordinance, conduct a public hearing and forward a positive recommendation to the City Council.

Background/ Project Description

The applicant, Rival Investments is requesting approval of three amendments to the Zoning Ordinance. These amendments, if approved, would enable the establishment of a pet cremation service at 1727 South Major Street. The applicant first approached the City with a request to install a crematorium on the property in January of 2009. On February 12, 2009, the Zoning Administrator issued an administrative interpretation letter stating:

“A pet crematory/crematorium is not allowed in the CC Zoning District because the proposed use is most similar to a Funeral Home, a use that does not include the actual act of cremation, only the preparation of the dead for cremation, and a Pet Cemetery, which is not an allowed used in the CC zoning district. (Letter attached as exhibit B)”

The applicant appealed this interpretation to the Board of Adjustment, who heard the case on April 20, 2009. The Board of Adjustment determined that the Zoning Administrator did not err in his interpretation of the Ordinance, and voted to uphold his determination.

Rival Investments submitted an application for an amendment to the Zoning Ordinance on June 16, 2009. As staff reviewed and discussed the issues related with this petition it was discovered that there are a number of issues relating to the way in which the City regulates businesses that care for the deceased (see issue discussion section below). As a result, staff is requesting that the Planning Commission provide direction with regard to this application as well as for a possible expansion of the scope of the project.

This application was reviewed by the Planning Commission at an issues only hearing on October 14, 2009. At the hearing, testimony was heard regarding the environmental and visual impacts of the cremation equipment, and the Planning Commission provided staff with direction to prepare the amendments for review and a potential recommendation to the City Council. Staff has done as directed, and is now requesting that the Planning Commission forward the amendments on to the City Council with a positive recommendation.

Public Participation

Public Open House

An Open House was held on July 19, 2009. Notice of the Open House was sent to Community Council chairs, business groups and those whose names are on the Planning Divisions List serve. Notice was also posted on the City and State website.

The open house was attended by one member of the community who was adamantly opposed to the cremation service. She stated that the use is not appropriate for the CC zone, that there are businesses and residences in the immediate vicinity of the proposed Major Street location that would be negatively impacted by the cremation use.

Public Comments

Aside from comments received at the open house, staff has received one telephone call in opposition to the project and one e-mail in favor (email attached as exhibit C).

In the time since the initial public hearing, staff has received no further comments either written or oral from the public.

Summary of Proposed Code Changes

The following is a short synopsis of the changes proposed by Rival Investments (language and redlines attached as Exhibit A):

1. Chapter 21A.62.040 Definitions – This change would modify the existing definition of a funeral home from:

“FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held.”

To:

“FUNERAL HOME: An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation (as an accessory conditional use) ; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted.”

2. Modify Section 21A.62.040 – To create new definitions for an Animal Cremation Services and a Crematorium. Proposed language would read:

“ANIMAL CREMATION SERVICE: A service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.”

“CREMATORIUM: An accessory use to a funeral home where the dead, both animal and human, are prepared for and cremated, but not in the same crematorium.”

3. Modify the table of permitted and conditional uses for to allow “animal cremation services” in the Commercial Corridor (CC), Light Manufacturing (M-1) and Heavy Manufacturing (M-2) zones.
4. Modify the table of Permitted and Conditional Uses for the Central Business (D-1), Downtown Support (D-2), Downtown Warehouse/Residential (D-3), Light Manufacturing (M-1), Heavy Manufacturing (M-2), Residential Mixed Use (R-MU-35), (R-MU-45) and (R-MU) zones to allow “Funeral Homes” as either a conditional or permitted use.
5. Modify Chapter 21A.40 Accessory Uses, Buildings and Structures to create criteria allowing crematoriums as a conditional use in specified zoning districts. Criteria would be as follows:

Crematoriums may be approved as a conditional use when associated with a licensed funeral home or dedicated animal cremation service. When reviewing the application for a crematorium, the Planning Commission or administrative hearing officer will consider the following factors for approval:

1. The crematorium shall emit no visible emissions.

2. Noise emitted from the crematorium shall not exceed 65 decibels measured from the property line.
3. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
4. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
5. In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only. The disposal of animals from other sources such as, but not limited to, veterinarian offices, research labs, and farms.
6. The crematorium shall receive all necessary approvals from applicable state and federal agencies.
7. The crematorium use shall be consistent with all adopted City ordinance and master plans.
8. The crematorium use shall be associated with a licensed funeral home, or dedicated animal cremation service.

Analysis

The applicant has submitted this application with the intent of enabling a pet crematorium at the Major Street location in the CC zone. Nevertheless, the proposed changes will have a wide ranging impact on the way in which funeral homes (for both pet and humans) are defined and regulated throughout the City, as the proposed definition of a funeral home would apply to all funeral homes, enabling cremation as a conditional use on site, and permitting funeral homes in zones where they currently are not allowed. The existing definition only allows the preparation of a body for these activities, not the actual cremation.

At the October 14, 2009 public hearing, the applicant stated that because of technological advances, respectful and discreet care for the dead with limited impacts on the neighboring uses is viable because modern crematoriums generally do not emit visible emissions (smoke, ash, and odor). He further stated that this residue is filtered and processed greatly prior to being emitted into the atmosphere.

The creation of a definition for animal cremation services would simply create a separate definition for the applicant's use, which would then be included on the use table as an allowed use in the CC zone. This action would enable animal cremation services throughout the city, as the CC zone is located in various areas of the City, most prominently along State Street, Main Street, Redwood Road, and some spots along North Temple.

The modification of the use tables allowing funeral homes in a number of zones where they are not currently allowed, would bring most of the existing mortuaries and funeral homes in the city into compliance with the Zoning Ordinance, and enable them to expand or modify the use as a permitted use, rather than a nonconforming use. This action will also enable other funeral homes to be built or relocate into these zones.

Staff is recommending that the funeral homes in the residential zones remain prohibited uses. To permit them would significantly alter established City policy of not allowing commercial uses in residential zones. If the owner of an existing funeral home in a residential zone would like to expand the use, she would be able to submit a conditional use application for the expansion of a nonconforming use. This would enable the expansion and continued operation of the mortuary without opening the zone to new uses.

Below is a table of the existing funeral homes in the City, their location zoning and the proposed changes to the use table.

Name	Location	Zone	Proposed Change
Larkin Mortuary	260 East South Temple	R-MU	Conditional
Niel ODonnell	372 East 100 South	R-MU	Conditional
Russon Brothers	255 South 200 East	D-1	Permitted
Garner Funeral Home	1001 11 th Avenue	OS	Permitted
Deseret Mortuary	36 East 700 South	D-2	Permitted
David Mcleod	617 East 600 South	RMF-30	No Change Not allowed
Evans and Early	574 East 100 South	RMF-45	No Change Not allowed
Larkin Sunset Lawn	2350 South 1300 East	OS	Permitted
Major Street Pet Services	1727 South Major Street	CC	Permitted

Issue Discussion

The Planning Commission discussed the issues associated with this application at the October 14, 2009 meeting. At the meeting, the Commission was asked to provide direction on the following questions:

- Are the proposed changes to the definition of a funeral home appropriate?
- Is the proposed new “Animal Cremation Service” definition appropriate?
- Should Animal cremation services be allowed in the CC zone?
- Should animal cremation services be allowed in any other zone?
- What, if anything, should be done about bringing nonconforming funeral homes into compliance (such as rezoning properties, or allowing these services in the zones where funeral homes currently exist)?

The Planning Commission responded in the affirmative to each of these questions, and directed staff to bring back language allowing funeral homes in the following zones. In order to provide the community with an opportunity to mitigate any issues that may be associated with new funeral homes, or the expansion of existing homes, staff is recommending that funeral homes in mixed use zones be featured as conditional uses and that funeral homes in residential zones remain unchanged. Staff further recommends that funeral homes in “D” zones and manufacturing zones be permitted uses on the use table.

Permitted

D-1, D-2, D-3, M-1, M-2

Conditional

R-MU-35, R-MU-45 and R-MU

This action will bring the existing funeral homes in the city into conforming status, and enable new funeral homes in these zones as well. Existing funeral homes in the residential districts will be required to receive conditional use approval if they would like to expand. With regard to the pet cremation service, the proposed modifications would allow for this business in the CC zone and the M-1 and M-2 zones.

STANDARDS FOR GENERAL AMENDMENTS

A decision to amend the text of the Zoning Ordinance or the Zoning Map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. However, in making its decision concerning a proposed amendment, the City Council should consider the following factors:

In making its decision concerning a proposed text amendment, the city council should consider the following factors:

1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;

Analysis: The purpose of this rewrite is to bring the language in the Zoning Ordinance up to date with definitions in the State Code, and to accommodate the changes in technology with regard to the operation of crematoriums. These amendments will make many of the funeral homes in the City legal conforming uses, allowing them to operate and conduct business as legal permitted uses. These amendments are an attempt to clarify and resolve problems encountered while applying the current standards and definitions in the Ordinance.

Finding: Staff finds that the proposed amendments to the Zoning Ordinance are consistent with the purposes, goals, objectives and policies of the various adopted planning documents.

2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance.

Analysis: The proposed changes to the ordinance will further the purpose statement of this chapter by modifying and clarifying the requirements necessary for approval of a funeral home or animal cremation service. By making the uses conditional in certain zones, the amendments provide decision makers with an opportunity to mitigate any impacts that the uses may have on specific neighbors or properties. These modifications create standards and factors for consideration that will facilitate mitigation of adverse impacts on neighboring property owners and will clarify sections of the chapter that were not clear or concise.

Finding: Staff finds that the proposed changes to the Zoning Ordinance are consistent with the purpose statement of said chapter.

3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards.

Analysis: The proposed amendments are not specifically tied to any overlay zoning district. Nonetheless, they will be applicable to all conditional uses established in the Zoning Ordinance (unless specifically exempted). When reviewing a project for compliance with the Zoning Ordinance, requirements from overlay zoning districts will be a necessary component to the review. No exemption is featured in these amendments.

Finding: Staff finds that the proposed amendments will be consistent with all applicable overlay zoning districts as featured on the zoning map.

Attachment A:
Proposed Amendment Language

21A.62.040 Definitions of Terms:

FUNERAL HOME: ~~An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held."~~

An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted."

ANIMAL CREMATION SERVICE:

A service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.

CREMATORIUM:

- A. As applied to funeral homes: A conditional use associated with a licensed funeral home, where the dead are prepared for cremation and are cremated.
- B. As applied to pets: A conditional use by a dedicated animal cremation service, where dead animals are prepared for cremation and are cremated.

21A.40.170 CREMATORIALS:

Crematoriums may be approved as a conditional use when associated with a licensed funeral home or dedicated animal cremation service. When reviewing the application for a crematorium, the Planning Commission or administrative hearing officer will consider the following factors for approval:

1. The crematorium shall emit no visible emissions or odor.
2. Noise emitted from the crematorium shall not exceed 65 decibels measured from the property line.
3. All activity relating to the dead shall be screened from public view, including delivery and storage of the corpse.
4. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
5. In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only.
6. The crematorium shall receive all necessary approvals from applicable state and federal agencies.
7. The crematorium use shall be consistent with all adopted City ordinance and master plans.
8. The crematorium use shall be associated with a licensed funeral home for human cremation, or a dedicated animal cremation service for animal cremation.

21A.26.080: TABLE OF PERMITTED AND CONDITIONAL USES FOR COMMERCIAL DISTRICTS:

Miscellaneous:	CN	CB	CS1	CC	CSHBD	CG	TC75
<u>Animal Cremation Service</u>				<u>C</u>			
<u>Crematorium</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

21A.28.040: TABLE OF PERMITTED AND CONDITIONAL USES FOR MANUFACTURING DISTRICTS:

Use	Permitted And Conditional Uses By District	
	M-1	M-2
<u>Animal Cremation Service</u>	<u>P</u>	<u>P</u>
<u>Crematorium</u>	<u>P</u>	<u>P</u>
<u>Funeral Home</u>	<u>P</u>	<u>P</u>

21A.24.190: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS:

Legend:	C =	Conditional	P =	Permitted
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Permitted And Conditional Uses, By District Residential Districts																			
Use	FR -1/ 43, 56 0	FR -2/ 21, 78 0	FR -3/ 12, 00 0	R- 1/ 12, 00 0	R- 1/ 7, 00 0	R- 1/ 5, 00 0	S R - 1	S R - 2	S R - 3	R - 2	R M F- 30	R M F- 35	R M F- 45	R M F- 75	R B	R - M U - 3 5	R - M U - 4 5	R - M U	R O
<u>Funeral Home</u>																<u>C</u>	<u>C</u>	<u>C</u>	
<u>Crematorium</u>																<u>C</u>	<u>C</u>	<u>C</u>	

21A.30.050: TABLE OF PERMITTED AND CONDITIONAL USES FOR DOWNTOWN DISTRICTS:

Legend:	C =	Conditional	P =	Permitted
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		Permitted And Conditional Uses By District			
Use		D-1	D-2	D-3	D-4
	<u>Funeral Home</u>	<u>P</u>	<u>P</u>	<u>P</u>	
	<u>Crematorium</u>	<u>C</u>	<u>C</u>	<u>C</u>	

5.C Planning Commission Minutes

SALT LAKE CITY PLANNING COMMISSION MEETING

In Room 326 of the City & County Building

451 South State Street, Salt Lake City, Utah

Wednesday, October 14, 2009

Present for the Planning Commission meeting were Chair Mary Woodhead Vice Chair Susie McHugh; Commissioners Michael Gallegos, Michael Fife, Frank Algarin, Tim Chambless, Babs De Lay, Kathleen Hill, and Matthew Wirthlin. Commissioners Prescott Muir and Angela Dean were excused.

A field trip was held prior to the meeting. Planning Commissioners present were: Tim Chambless, Michael Gallegos, Matthew Wirthlin, Michael Fife, and Frank Algarin. Staff members present were: Wayne Mills, Ray Milliner, and Katia Pace

A roll is being kept of all who attended the Planning Commission Meeting. Chair Woodhead called the meeting to order at 5:44 p.m. Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time. Planning staff members present at the meeting were: Cheri Coffey, Programs Manager; Paul Nielson, City Attorney; Ray Milliner, Principal Planner, Katia Pace, Associate Planner, Wayne Mills, Senior Planner and Tami Hansen, Senior Secretary.

Work session

Mary De La Mare-Schaeffer, CED Deputy Director, gave a briefing on the civic campus.

5:45:39 PM **Approval of Minutes from Wednesday September 9, 2009**

Commissioner McHugh made a motion to approve the September 9, 2009 minutes as written. Commissioner Gallegos seconded the motion. All in favor voted, "Aye". The minutes were approved.

5:46:21 PM **Approval of the minutes from Wednesday September 23, 2009**

Chair Woodhead stated regarding the Deseret Industries matter, the applicant made major modifications to their plan, which now complied with all of the conditions the Commission stated; however, the new building was slightly bigger. She stated that condition 12 stated that final approval was delegated to the Planning Director, and because of this the Commission did not need to completely rehear this issue, given that the applicant complied with all of the other conditions.

Mr. Sommerkorn inquired if the Commission was flexible regarding the size of the building as long as the applicant met the other conditions that were imposed.

Commissioner Hill stated the intent of the motion was to best serve the surrounding community.

Issues Only Hearings

6:03:23 PM **PLNPCM2009-00726; Pet Cemetery Zoning Ordinance Amendment** —a request by the Rival Investments for a zoning text amendment to modify Sections 21A.62.040 (definitions) and 21A.30.080 (Commercial Table of Permitted and Conditional Uses) of the Salt Lake City Zoning Ordinance to create a new definition for a “Funeral Home” a new definition for an “Animal Cremation Service” and to allow Animal Cremation Services in the Commercial Corridor zoning district as a permitted use. The purpose of the request is to allow a pet cremation service at approximately 1727 East Major Street. The proposed text amendments are city-wide.

Chair Woodhead recognized Ray Milliner as staff representative.

Mr. Milliner stated this was an issues only petition for purposes of gathering direction from the Planning Commission. He stated this pet cremation service would allow pet owners to cremate or bury pets in a more formal way and the definition modification would have an impact on the overall way the City regulated the disposition of the deceased, because it would also include mortuaries within the City limits as well. He stated after discussions with mortuaries within the City they had expressed they would like to offer crematory services as well as part of their business model.

Mr. Milliner inquired of the Commission if this definition was appropriate, and if crematoriums should be allowed in the CC Zone. He stated currently most of the mortuaries and funeral homes in the City were non-conforming uses located in the Downtown Zone, and if they wanted to put in cremation retorts it would be an expansion of a non-conforming use. He inquired if the Commission would also like staff to modify the use table to allow mortuaries, etc. in additional zones and if so, what zones would be appropriate for this use.

Vice Chair McHugh inquired if Mr. Milliner was saying there could not be a crematorium for pets only, without also allowing funeral homes and mortuaries that same service.

Mr. Milliner stated staff recommended that *cremation* be pulled from the definition and a conditional use should be created for a cremation service with the criteria outlined in the staff report.

Commissioner Algarin inquired if this definition was changed would funeral homes have to get permission to put a crematorium in, or would they have the right to put one in with whatever technology they had at their disposal.

Mr. Milliner stated assuming that the funeral home was an allowed use, under the staff recommendation, which would be to make it a conditional use, the Planning Commission would review each application and either approve or deny it.

Commissioner De Lay inquired if the crematorium industry was regulated by the health department.

Mr. Milliner stated there were some significant regulations with the State.

Chair Woodhead invited the applicant to the table.

Mr. Jake Tate stated he was with Great Basin Engineering. He introduced Earl Tate the owner of the property.

Mr. J. Tate stated at the beginning of the process he was told they would only be allowed as a pet cemetery, which he felt did not define their process because they would not actually be burying the animals only cremating them.

He stated the administrative interpretation denied this particular use, and it was clear that the zoning ordinance did not have a clear definition of what exactly would be done. He stated the decision was made by the City that a crematory would only be allowed in a cemetery; those that currently existed were grandfathered in or created before the zoning ordinance regulated them. He stated there were no cemeteries in Utah that currently operated a cremation facility, every facility associated with a cemetery was also connected to and ran by a funeral home.

Mr. J. Tate stated the public perception of a crematorium was negative. Modern technology allowed the exhaust gasses to be refined several times before they were released; crematoriums produce no odors, no visual emission, and they ran quietly.

He stated the proposed change to the text amendment would read, *an establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming, cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with proper disposition of the dead, are conducted.*

Mr. J. Tate stated the proposed activities of the crematorium would include: meeting with owners of deceased pets and making arrangements for their cremation, providing memorial merchandise for these owners should they require, and providing cremation service for the pet owners.

Mr. E. Tate stated removal services would also be provided from a home, without the pet being exposed to the elements.

Commissioner De Lay inquired if there was a limit in regards to the size of animal that could be cremated at the facility.

Mr. J. Tate stated they envisioned dogs and cats as being the most common.

Commissioner De Lay inquired what the objection was to the changes staff made regarding this petition.

Mr. J. Tate stated his concern with removing the word *cremation* from a funeral home definition, was in the future it would not be allowed at a funeral home.

Commissioner De Lay inquired if there currently were animal cremation services for the county, city, or even road kill, and were they associated with funeral homes and/or cemeteries.

Mr. Milliner stated currently the City landfill was used, and veterinarians could cremate.

Vice Chair McHugh stated there were two pet cremation services in Salt Lake County, and they were not associated with a funeral home or cemetery.

Mr. J. Tate stated there was a facility in Salt Lake City, and they operated under the terminology of a pet cemetery, which seemed like a very liberal interpretation of the code.

6:44:11 PM **Public Hearing**

Chair Woodhead opened the public hearing.

The following person spoke or submitted cards in *support* of the petition: **Steven Handy**, representing Russon Brothers Mortuary, stated their patrons had requested crematory services, which after remodeling would be included as a service. He stated the technology was so far advanced there were no emission from the building that would affect the environment. He stated they agreed with Mr. Milliner's staff report and proposal.

Commissioner De Lay inquired if Mr. Handy was encouraging the Commission to make the City guidelines more in sync with the State guidelines.

Mr. Handy stated that was correct.

Commissioner Hill recused herself from the meeting at 6:50 p.m.

Chair Woodhead inquired if there was special training regarding cremation within the specialty of funeral services.

Mr. Russon stated there was training, but not anything like formal licensing-everything operated under State law under a funeral director.

Commissioner Gallegos inquired if bodies were embalmed in preparation for cremation.

Mr. Russon stated there were two avenues to take one, an immediate cremation and in that instance embalming was not necessary; however, cremations that included a traditional funeral service before the cremation would require embalming.

Glen Lyle, representing Beeno Cremation systems of Florida, stated the company manufactures cremation equipment for both the human and pet industry.

Chair Woodhead inquired if Mr. Lyle wanted to express anything new that the Commission needed to know.

Mr. Lyle stated the cremation industry was changing, including environmentally friendly retorts for pet cremation. He stated pet cremation is huge, because a pet is a family member.

The following person spoke or submitted a card in *opposition* to the petition: **Joni Sorenson**, representing Joni's Deli, stated she was approximately 100 feet from Major Pet Services. She stated she was an entrepreneur of 25 years and the deli is her livelihood. She stated her concern was if you cannot sell alcohol around a school, why can a pet crematorium be placed next to a restaurant.

Chair Woodhead closed the public hearing.

Commissioner Gallegos inquired if cremation would be by appointment only, and would any animals be stored before being cremated.

Mr. J. Tate stated yes, the cost related to heating the retort for the cremation process was so high it made sense to do a lot of cremations in a row. He stated if there was only one request over a period of time the animal would be refrigerated for a short period of time.

Mr. E. Tate stated funeral services were changing around the country and many funeral homes had crematories in their facilities, as well as banquet halls for receptions following the funeral services, where food was served. He stated as far as there being a health problem in regards to food and the modern crematory there was none.

Commissioner Gallegos stated that might be the case, but a negative perception could be just as problematic.

Commissioner De Lay referred the Commission to page 4 of the staff report to review specific questions staff had requested direction on. First, are the proposed changes to the definition of the funeral home appropriate? She inquired if the existing State law should be used as a guideline for this question.

Mr. Milliner stated the proposed definition was close to the State definition.

Commissioner De Lay stated the proposed new "Animal Cremation Service" as proposed in the definition seemed appropriate. Third, should animal cremation services be allowed in the CC zone? She stated she did not have a problem with that. Fourth, Should animal cremation services be allowed in any other zone? She inquired if Mr. Milliner had a recommendation on this.

Mr. Milliner stated it was allowed in the Open Space Zone.

Chair Woodhead stated that zone allowance was probably only in conjunction with a cemetery, as opposed to a stand alone use in the OS zone.

Mr. Milliner suggested the M-1 Zone as well.

Mr. Sommerkorn stated any of the high intensity, commercial, and manufacturing zones would be appropriate.

Commissioner De Lay stated she perceived this use as more of an industrial use. Fifth, what, if anything, should be done about brining non-conforming funeral homes into compliance, such as rezoning properties, or allowing these services in the zones where funeral homes currently exist? She inquired of Mr. Milliner what he felt would be the easiest.

Ms. Coffey stated in general funeral services are in the R-MU, D-2, and the RO zones.

Chair Woodhead inquired if these services should be made conforming in those zones, would that be the appropriate thing to do. She stated any of the zones would be appropriate for this use, except for neighborhood, commercial, and residential.

Commissioner Algarin stated at this point these types of services are not a nuisance. He stated it was obvious the definition needed to change.

Commissioner De Lay inquired if staff needed more direction from the Commission.

Mr. Milliner stated he felt he had a good idea on where to go from here.

Commissioner Fife stated the number of zones should be expanded as well, because the services downtown are not a nuisance, and are definitely needed.

Chair Woodhead announced a small break at 7:31 p.m.

Commissioner McHugh recused herself from the meeting at 7:31 p.m.

Chair Woodhead reconvened the meeting at 7:41 p.m.

**SALT LAKE CITY PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, November 18, 2009**

Present for the Planning Commission meeting were Chair Babs De Lay and Vice Chair Frank Algarin and Commissioners Tim Chambless, Angela Dean, Michael Fife, Michael Gallegos, Prescott Muir, and Mary Woodhead. Commissioners Susie McHugh, Matthew Wirthlin, and Kathleen Hill were excused.

A field trip was held prior to the meeting. Planning Commissioners present were: Frank Algarin, Tim Chambless, Michael Fife, Michael Gallegos, and Mary Woodhead. Staff members present were: Cheri Coffey, Ray Milliner, and Nick Norris.

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at 5:46 p.m. Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time. Planning staff members present at the meeting were: Wilford Sommerkorn, Planning Director, Cheri Coffey, Programs Manager; Ray Milliner, Principal Planner; Paul Nielson, City Attorney; and Tami Hansen, Senior Secretary.

Work session

The Planning Commission heard presentations regarding the North Temple Master Plan and the Downtown Streetcar Project

5:47:11 PM **Approval of the minutes from Wednesday, October 28, 2009**

Commissioner Woodhead made a motion to approve the October 28, 2009 minutes with noted changes. Commissioner Fife seconded the motion. All in favor voted, "Aye". The minutes were approved.

5:48:16 PM **Report of the Chair and Vice Chair**

Chair De Lay stated neither she nor Vice Chair Algarin had anything to report.

5:48:18 PM **Report of the Director**

Mr. Sommerkorn stated the City Council was moving forward on some of the petitions staff had been working on for the past year. He stated on November 17, the City Council approved the amendment to the mixed-use zone, to allow for private/social clubs with a minor modification that a security and operations plan was required to be submitted along with a parking management plan.

Mr. Sommerkorn noted on December 7, from 4:00-6:00 p.m. an open house would be held regarding the streetcar planning effort. He noted on December 8 & 9 a workshop would also be held which Planning Commission members were invited to attend.

He stated on December 7, there would also be a workshop regarding the Public Safety Complex at the Salt Lake City Library.

Chair De Lay noted two Commissioners terms were expired and inquired where the Mayor was in appointing two new Commissioners.

Mr. Sommerkorn stated a petition was forwarded to the City Council today from the Mayor with the name of one new individual, and a decision should be scheduled within the next few weeks.

Public Hearings

5:54:38 PM **PLNPCM2009-00726; Pet Cemetery Zoning Ordinance Amendment**—a request by Rival Investments for a zoning text amendment to modify Sections 21A.62.040 (definitions) and 21A.30.080 (Commercial Table of Permitted and Conditional Uses) of the Salt Lake City Zoning Ordinance to create a new definition for a “Funeral Home” a new definition for an “Animal Cremation Service” and to allow Animal Cremation Services in the Commercial Corridor zoning district as a permitted use. The purpose of the request is to allow a pet cremation service at approximately 1727 East Major Street. The proposed text amendments are city-wide.

Chair De Lay recognized Ray Milliner as staff representative.

Mr. Milliner noted a conditional use process was added regarding crematoriums, and the criteria was expanded since the Commission had last seen this petition about a month ago which included: noises, screening from public view, and this should be a service for the preparation and cremation of pets only, as opposed to bringing animals in from a veterinary office, farms, etc. This service should stay as a funeral type service. He stated the permitted tables for permitted and conditional uses were also amended to allow the animal cremation services and crematorium in most of the C zones. The cremation and funeral homes would also be permitted in the M zones and would be conditional uses in the Mixed-Use zones and the D1, D2, and D3 zones.

Commissioner Fife inquired about the definition for a crematorium on Page 3 which stated, *An accessory use to a funeral home where the dead, both animal and human, are prepared for and cremated, but not in the same crematorium.* He inquired if this language should include, *or cremation service*, because they are being defined as two separate things.

Mr. Milliner stated that was a good point.

Commissioner Fife stated on Page 4, code change 5, which stated, *In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only. The disposal of animals from other sources such as, but not limited to, veterinarian offices, research labs, and farms.* He inquired if this language was trying to prohibit the disposal of animals from sources other than pets.

Mr. Milliner stated yes essentially that was what was happening. The idea behind this service was for an individual to take their pet and utilize this service on a more personal basis, rather than a veterinarian office bringing multiple deceased pets in that just needed to be cremated.

Commissioner Fife stated it seemed that most pets were euthanized at the veterinarian office, so a clarification was needed.

Chair De Lay stated she agreed the second sentence did not have a clear intent.

Ms. Coffey stated this would be an accessory use, a minor part of the overall operation, not a place where animals would be brought in to be disposed of. She stated this was to control the intensity of the use.

Commissioner Woodhead stated there was re-drafted language regarding the accessory structure in the letter received by the Commission from the Russon Brother funeral home. She inquired if those changes were acceptable.

Mr. Milliner stated he did not feel those changes changed the intent of the language, so he did not have a problem with it.

Mr. Sommerkorn stated he agreed with that amendment.

Chair De Lay invited Jake Tate and Earl Tate, the applicants to the table.

Mr. J. Tate stated regarding amendment 5, he felt it was clear that a veterinary service would be a facility where people would take their animals to be euthanized, and if they wanted the funeral services for the animal they could bring them to the crematorium. He stated he felt the second sentence did not capture this, because veterinary services are a source of business for what the pet crematorium was trying to do for families.

He stated he was concerned about the petition that was turned in; it seemed it was instigated from a source who gave the signers false pretences and misunderstandings.

Mr. E. Tate stated they had chosen a nice facility to be an alternative to the industrial disposition of animals and was available in many communities around the country.

Chair De Lay invited Gary Russon to the table.

Mr. Russon stated he was satisfied with the zoning ordinance changes, as far as it related to mortuaries and cremations. He stated the only change he would prefer would be to the accessory use phrase as had already been discussed.

Chair De Lay inquired about how many crematoriums were in Salt Lake City currently.

Mr. Russon stated approximately five.

Chair De Lay inquired if they were inspected by the Health Department or the Environmental Protection Agency (EPA).

Mr. Russon stated all of funeral homes were required to have a yearly permit issued by the EPA.

Chair De Lay inquired if most of these facilities were also located by residential neighborhoods and food services.

Mr. Russon stated yes, they were all around the City.

Commissioner Algarin stated there seemed to be a lot of questions surrounding the technology of this process. He inquired if there was anything he could do to educate the public regarding these types of services. He stated the EPA was very strict, so if there was a problem it would be dealt with.

Mr. Russon stated they were very open about this, so if the public had questions they were willing to answer those, there was nothing to hide. He stated the media could be involved if the Commission felt they wanted to get more information out there.

Commissioner Dean suggested code change 5.1 should be changed to include, *the crematorium shall emit no visible emissions or odor*. She inquired if that would address the technology question.

Mr. Russon stated he did not have a problem with that.

6:12:21 PM **Public Hearing**

Chair De Lay opened the public hearing portion of the petition.

The following people spoke or submitted cards in *support* of the petition: **Glenn Lyle** (6017 Kipps Colony Gulfport, FL) stated he was representing BNL Cremation Systems, the company that manufactured the equipment that would be used by the pet crematorium. He stated there was no odor associated with the cremation process because there was an after burn chamber which cleansed the gases for a second time and before it eliminated them.

Commissioner Chambless inquired if Mr. Lyle felt the cremation process was becoming a more common choice for people.

Mr. Lyle stated in Utah approximately 34 percent of people's remains were cremated and by 2020 these numbers were projected to rise to 50 percent.

Jane Ball (463 Sixth Avenue) stated she represented animal lovers everywhere, this was a needed service. One that was close and available and she would like to see this type of service in the City because if offered an intimate, personal, and caring atmosphere.

Scott Russon (Representing the Utah Funeral Directors Association) stated there was a growing need regarding this type of service.

Jamie Jackson (4580 Red Sage CT) stated she was Earl Tate's daughter and they had taken packets around to all of the neighbors regarding the pet crematorium and they were willing to talk to anyone who was concerned about this in the neighborhood.

The following people spoke or submitted cards in *opposition* to the petition: **Robert Holman** (1395 West Vanburen Avenue) stated he instigated the petition regarding this issue. He stated he was in opposition to this request because it would have a definite impact on businesses and residences in the neighborhood.

Commissioner Gallegos inquired if Mr. Holman would describe what he meant by impact.

Mr. Holman stated this was a friendly walkable neighborhood with cafés and coffee shops. He stated all businesses associated with food felt they would be affected by having this type of business in the area.

Commissioner Gallegos inquired if Mr. Holman felt this was really a perception issue.

Mr. Holman agreed that was the problem.

Vice Chair Algarin inquired if the neighbors did not believe what was being said about the technology, because there really was no way the neighborhood would know the crematorium was there. He stated there would not be lines of animals outside of the building, so what was the neighbor's objection.

Mr. Holman stated most people felt the smell would be a problem as well as possible catastrophic effects of the natural gas the applicant would be using in the furnaces.

Commissioner Woodhead inquired of staff, if the Commission approved this particular text amendment tonight, this particular crematorium would have to come back before the Commission for approval of a conditional use application.

Mr. Milliner stated that was correct.

Commissioner Dean stated there seemed to be a contradiction of the definition of crematorium, *an accessory use to a funeral home where the dead, both animal and human are prepared for and cremated, but not in the same crematorium*. She inquired if that meant not in the same physical location.

Mr. Milliner stated that meant animals and humans were not allowed to be cremated in the same retort/facility.

Commissioner Dean stated in 5.8 it states, *the crematorium use shall be associated with a licensed funeral home, or dedicated animal cremation service*. She stated this seemed to contradict the definition of crematorium.

Commissioner Fife stated, *or animal cremation service* should be added to the definition of crematorium.

Commissioner Dean stated the definition stated it should be separate.

Mr. E. Tate stated *facility* meant the retort, a machine which cannot be used for animals and humans, but the two machines could be located on the same property.

Commissioner Dean inquired how many machines one facility would typically have.

Mr. J. Tate stated it would depend on the volume of each facility and what they needed.

Commissioner Dean stated if legally you could pair human and animal then the cremation service could be a primary use as a standalone facility in a CC zone, she stated the intent largely was to say funeral homes could add a crematorium function, but animal cremation and human cremation services could function as a standalone service without the funeral home capacity in the CC zone.

Mr. Milliner stated the crematorium should be associated with either a funeral home for the animals or a funeral home for humans, but not a standalone crematorium. He stated the idea was to have crematoriums associated with a funeral home.

Commissioner Dean stated the definition of animal cremation service needed to be changed then. Instead of saying, *a service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.* She stated the word *may* should be removed from that definition.

Commissioner De Lay inquired if number 8 should read, *a crematorium should be associated with a licensed funeral home and/or a licensed animal funeral service.*

Commissioner Dean stated if that was the case animal funeral service would need to be defined.

Ms. Coffey suggested the definition of crematorium should include it was, *an accessory use to a funeral home, where the dead, either animal or human, are prepared for and cremated.*

Mr. Nielson stated number 8 might also read, *the crematorium use shall be associated with a licensed funeral home for human cremations, or dedicated animal cremation services for pet cremations.*

Mr. E. Tate stated the licensing requirement for a funeral home was through the state of Utah, and if an animal facility needed to be licensed it would need to go through state licensing.

Mr. Nielson stated animal services were not required to be licensed through the state as a funeral home, so if you do not have to be licensed to do cremations for animals, but a funeral home does; it would be a good idea to include language that specifies humans are not to be cremated at an animal cremation facility.

Mr. Sommerkorn inquired if staff felt this language would work with the changes suggested by the Russons in their letter to the Commission.

Mr. Milliner stated so far all the information and changes proposed would be acceptable.

Chair De Lay closed the public hearing.

Ms. Coffey inquired if the Commission could clarify the issue of whether or not the Commission would allow for standalone crematoriums or not.

Commissioner Fife stated he would like to see *animal cremation service* changed to *a service dedicated to the disposition of dead animal remains by means of cremation, that also provides necessary goods and services for the memorialization of the animal if requested.* So it would not say *may* it would say *provides.*

Commissioner Woodhead stated she was more comfortable with that.

6:35:24 PM **Motion**

Commissioner Fife made a motion regarding Petition PLNPCM2009-00726; Major Street Pet Services Zoning Ordinance Amendment. The Planning Commission forwards a positive recommendation to the City Council

regarding the request to modify the chapters of the Zoning Ordinance as detailed in the staff report with the following changes:

1. That the definition of *animal cremation service* now read: *a service dedicated to the disposition of dead animal remains by means of cremation that also provides necessary goods and services for the memorialization of the animal if requested.*
2. That the definition of *crematorium* now read: *an accessory use to a funeral home or animal cremation service where either the dead animal or human is prepared for and cremated.*
3. That under 21A.40.170 Crematoriums, condition 1 now read: *the crematorium shall emit no visible emissions or odors.*
4. That under 21A.40.170 Crematoriums, condition 8 now read: *the crematorium use shall be associated with a licensed funeral home for human cremation, or dedicated animal cremation service for animal cremation.*

Commissioner Woodhead seconded the motion.

Commissioner Gallegos, Fife, Dean, Muir, Chambless, Woodhead, and Algarin voted, "Aye". The motion passed unanimously.

6:37:40 PM Amendment to the Motion

Commissioner Woodhead made an amendment to the motion that a condition 5 be added stating, that changes proposed in the Russon Brothers letter, dated November 17, 2009, be included in the final changes, based on the testimony during the public hearing and the indication these language changes were acceptable to staff.

Commissioner Gallegos seconded the amendment to the motion.

Commissioners Gallegos, Fife, Dean, Muir, Chambless, Woodhead, and Algarin voted, "Aye". The motion passed unanimously.

6:38:57 PM **PLNPCM2009-01196 Conditional Use for Utility Box Installation**—a request by Rocky Mountain Power, represented by Alene Bentley for the installation of 18 utility boxes between 2830 East and 2940 East Oakhurst Drive, 2849 East and 2927 East Millicent Drive and 1063 South and 955 South Vista View Drive. The purpose of the application is to upgrade a failing electrical system in this neighborhood. The subject property is located in the R-1-12,000 Residential zoning district and is within Council District 6, represented by JT Martin.

Chair De Lay recognized Ray Milliner as staff representative.

Commissioner Muir recused himself from the meeting at 6:39 p.m.

Mr. Milliner stated the applicant was originally going to place eighteen (18) utility boxes in the area for the purpose of redoing the electrical services located on the streets. He stated this service was one of the first underground utility

6. Open House Information

NOTICE OF AN OPEN HOUSE
SALT LAKE CITY PLANNING DIVISION

This is not a public hearing. The intent of this Open House is to obtain public comments and input prior to any public hearings. Items are not heard in order, but in an open forum style. Booths will be set up to talk directly to the planners and applicants of each petition for the following items:

- **PLNPCM2009-00726; Zoning Text Amendment**—a request by Major Street Pet Services for a Zoning Text Amendment to allow pet cremation services in the Commercial Corridor (CC) zone and to change the definition of a Funeral Home and a Cemetery in the Salt Lake City Zoning Ordinance. The proposed zoning ordinance amendment would apply City- wide (Staff contact: Ray Milliner at 801.535.7645 or ray.milliner@slcgov.com).
- **Proposed Bicycle Lanes & Shared Lane Markings**—This Summer/Fall, the Transportation Division is planning to install 40 miles of new bicycle lanes city-wide, and an additional *marked green shared lane* downtown. These improvements will assist in the promotion and use of alternative modes of transportation within the city (Staff contact: Dan Bergenthal at 801.535.7106 or dan.bergenthal@slcgov.com).
- **PLNPCM2009-00749; Zoning Text Amendment**—The Planning Division is currently reviewing a proposal to amend the City's Zoning Ordinance related to Planned Developments. The proposal includes the following changes:
 - Remove Planned Development regulations from the Conditional Use Chapter of the Zoning Ordinance, thereby creating a stand-alone chapter entitled "Planned Developments";
 - Enhance the "Purpose Statement" and the desired "Objectives" of the Planned Development land use process; Reduce the minimum net lot area required for Planned Development eligibility, and;
 - Better define "Planned Development" in the definitions chapter in the Zoning Ordinance.

The proposed zoning text amendment would apply City-wide (Staff contact: Lex Traugher at .801.535-6184 or lex.traugher@slcgov.com).

You are invited to the public open house to be held:

Thursday, August 20, 2009

From 4:30 to 6:00 P.M.

FIRST FLOOR HALLWAY

**SALT LAKE CITY AND COUNTY BUILDING
451 SOUTH STATE STREET
SALT LAKE CITY, UTAH**

Since it is very difficult for us to inform all interested parties about these items, we would appreciate you discussing this matter with your neighbors and informing them of the meeting. *People with disabilities may make requests for reasonable accommodation no later than 48 hours in advance in order to attend this meeting. Accommodations may include: alternate formats, interpreters, and other auxiliary aids. This is an accessible facility. For questions, requests, or additional information, please contact the Planning Division at 535-7757; TDD 535-6220.*

**7. Public Comment received at or after the Planning
Commission public hearing**



STRONG & HANNI
LAW FIRM

A PROFESSIONAL CORPORATION

3 TRIAD CENTER
SUITE 500
SALT LAKE CITY, UTAH 84180

T : (801) 532-7080
F : (801) 596-1508

WWW.STRONGANDHANNI.COM

Paul W. Hess
phess@strongandhanni.com

November 17, 2009

Ray Milliner
Ray Sommerkorn

VIA EMAIL: ray.milliner@slcgov.com
VIA EMAIL: wilford.sommerkorn@slc.gov.com

RE: *Petition PLNPCM2009-00726—Input from Russon Brothers Mortuary*

Dear Messrs. Milliner and Sommerkorn:

I am writing this letter to you in behalf of Russon Brothers Mortuary (“RBM”). I spoke yesterday with Attorney Paul Nielsen regarding the Planning Commission Staff Report dated November 18, 2009 in reference to the above numbered Petition. Paul suggested that we give you input directly regarding the proposed ordinance.

Please note that it is very important to funeral homes with crematoriums that they be able to provide these cremation services for other funeral homes that may not have their own crematoriums. This is the reason for the suggested substantive changes herein.

RBM agrees with the criteria that you have proposed for Chapter 21A.40, namely, that the crematorium must be “**associated with** the licensed funeral home or dedicated animal cremation service.” However, we are concerned that some within the City might misconstrue the term “accessory use” in the definitions of “Funeral Home” and “Crematorium” to mean that a funeral home may provide cremation services only for its own clients and not for other funeral homes.

We are writing to request a change in the definitions of “FUNERAL HOME” and “CREMATORIUM” from the definitions you have proposed, as follows:

1. Definition of Funeral Home.

Your draft definition:

“FUNERAL HOME”: *An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation (as an accessory*

Ray Milliner
Ray Sommerkorn
November 17, 2009
Page 2

conditional use); other necessary care; viewings; wakes, funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted. ”

We simply request that the parenthetical be changed to delete the word “accessory” and to say, instead: “*(as a conditional use)*”. You already have adequate protections for the conditional use decision set forth in the Chapter 21A.40 list of criteria that you have proposed. There is no need, in the definition, to use the word “accessory”.

If you do not feel this is sufficiently clear by removing the word “accessory”, you could, in the alternative, state the parenthetical as follows: “*(as a conditional use associated with a licensed funeral home)*”.

2. Definition of Crematorium.

Your proposed definition of “CREMATORIUM”:

“An accessory use to a funeral home where the dead, both animal and human, are prepared for and cremated, but not in the same crematorium.”

We proposed the following rewrite, to address this same issue and some other suggestions to separate humans from animal:

*“(A) As applied to funeral homes: A conditional use associated with a licensed funeral home, where the dead are prepared for cremation and are cremated.
(B) As applied to pets: A use by a dedicated animal cremation service, where dead animals are prepared for cremation and are cremated.”*

Thanks to you and the Planning Commission for considering these requested language changes.

Very truly yours,

STRONG & HANNI

Paul W. Hess

Paul W. Hess

cc: Russon Brothers Mortuary
Paul Nielson

SALT LAKE CITY PLANNING COMMISSION MEETING AGENDA
In Room 326 (The City & County Building at 451 South State Street
Wednesday, November 18, 2009 at 5:45 p.m.

The field trip is scheduled to leave at 4:00 p.m. Dinner will be served to the Planning Commissioners and Staff at 4:45 p.m., in Room 126. **Work Session**—The Planning Commission may discuss project updates and minor administrative matters and an update on the North Temple Master Plan and the Downtown Streetcar Project. This portion of the meeting is open to the public for observation.

Approval of Minutes from Wednesday, October 28, 2009

Report of the Chair and Vice Chair

Report of the Director

Public Hearings

1. **PLNPCM2009-00726; Pet Cemetery Zoning Ordinance Amendment**—a request by Rival Investments for a zoning text amendment to modify Sections 21A.62.040 (definitions) and 21A.30.080 (Commercial Table of Permitted and Conditional Uses) of the Salt Lake City Zoning Ordinance to create a new definition for a “Funeral Home” a new definition for an “Animal Cremation Service” and to allow Animal Cremation Services in the Commercial Corridor zoning district as a permitted use. The purpose of the request is to allow a pet cremation service at approximately 1727 East Major Street. The proposed text amendments are City wide. (Staff contact: Ray Milliner at 801.535.7645 or ray.milliner@slcgov.com).

SOUTH

PETITION
ATTACHED ARE AGAINST PET CEMETERY
ZONING ORDINANCE AMMENDMENT.

IMPACTS BUSSINES & RESIDENCES.

PRINT NAME	ADDRESS	PHONE NUMBER	SIGNATURE
Robert ^{OWNER} ^{PROPERTY} Hobman	#52 E 1700 SO	801 972 2183	Robert H. Hahn
Joni's Deli Joni Sorensen	#52 E 1700 SOUTH	801 466 6662	Joni Sorensen
Lewis Lockwood	1726 S. Major St.	801-486-0584	Lewis Lockwood
VINGFRED LOCKWOOD	1726 S. Major St	801-486-0584	Vingfred Lockwood
Utzel Selva	1760 So State St	801 406 0646	Utzel Selva
BEL MONTAG	#43 E COATSVILLE	801 466 3982	Bill
Pamela Ortiz	44 Coatsville	801 466 8583	Pamela K
Juan Felix	39 Coatsville Ave	801 (548-6586)	Juan
Jacob Schipaanboom	1875 S. Main St. #10	801 (466-4055)	Jacob Schipaanboom
Shewelle Cook	1817 So Main St 14	801-487-0377	Shewelle Cook
Hoang Mai	1766 S. Main St	801 466 3650	Hoang Mai
ERIC BRIZZE	1878 S MAIN	801-702-0058	Eric Brizze
Evelia Espericueta	1724 S. Main St	801-486-5012	Evelia Espericueta
HUGH COLTHARP	#74 EAST 1700 SOUTH	801-557-9485	Hugh Coltharp
ZHANG X LI	1701 So STATE ST	(801) 485-3226	Zhang X Li
Steve LuTan	1767 So State	801-556-3452	Steve LuTan
TIM STOUT	1669 SO MAJOR	801-486-2300	Tim Stout

OPPOSITION
TO APPEAL

THE BOARD OF ADJUSTMENT ON ZONING WILL MEET MONDAY APRIL 20, 2009 BEGINNING 7:45 PM AT THE CITY & COUNTY BUILDING, 451 SOUTH STATE STREET IN ROOM 326 ALL THOSE IN FAVOR OR IN OPPOSITION WILL BE GIVEN OPPORTUNITY TO BE HEARD AT THE MEETING. GREAT BASIN ENGINEERING, REPRESENTED BY JACK TATE, 1727 SOUTH MAJOR ST (50) EAST APPEALING AN ADMINISTRATIVE DECISION HOLDING THAT A PET CREMATORY IS NOT ALLOWED USE IN THE CC ZONING DISTRICT FIVE. (21a.112.050, 21a.26.080 and 21a.62) NICK NORRIS at 801-535-6141 or njck.norris@slcgov.com

NAME / ADDRESS	TELEPHONE	SIGNATURE
ROBERT + MARJORIE HOLMAN #52 E 1700 SO	801 922 2183	Robert Holman
Bryan Geertgens 1704 So Main St CUTLER 237 EST	801-918-0209 801-883951	Bryan Geertgens ART
Steve Meeke R 561 E WATER LILY DR SLC	801-205-7989	Steve Meeke
MARK HAYWOOD 1716 S. Major St		M H
Shane Evans 1716 S. Major St.	801-577-0734	Shane Evans
Leah Hill 1669 S. Major Str.	801-489-2388	Leah Hill
Alan Sorensen 25 E 1700 S SLC	(801) 487-1891	Alan Sorensen
Grant Erickson 1726 S Major St	801 466 6654	Grant Erickson
Ryan Brown	801-550-1075	Ryan Brown
Joni Sorensen 52 E 1700 S	801-466-6662	Joni Sorensen
Imajuel Moulton 1726 S MAJOR ST	801-486-0584	Imajuel Moulton
Lewis Lockwood 1726 S Major St.	801-486-0584	Lewis C Lockwood
Brandon Lockwood 1726 S. Major St	486-0584	Brandon Lockwood
Kimberly Lockwood 1726 S. Major St.	486-0584	Kimberly Lockwood
Madeline Brown 1618 South ST	467-3676	GRINDERS 13 Ave
Butch 1612 So. St	801-485-5561	Interventay Products
Greg Van Otten 6854 S. 190 E Midvale 84047	801 562 9345	Greg Van Otten

THE BOARD OF ADJUSTMENT ON ZONING WILL MEET
 TONDAY APRIL 20, 2009 BEGINNING AT 7:45 PM AT THE
 CITY & COUNTY BUILDING, 451 SOUTH STATE STREET
 IN ROOM 326 ALL THOSE IN FAVOR OR IN OPPOSITION
 WILL BE GIVEN OPPORTUNITY TO BE HEARD AT THE
 MEETING. GREAT BASIN ENGINEERING,
 REPRESENTED BY JACK TATE, 1727 SOUTH MAJOR ST
 (50) EAST APPEALING AN ADMINISTRATIVE DECISION
 HOLDING THAT A PET CREMATORY IS NOT ALLOWED
 USE IN THE CC ZONING DISTRICT FIVE. (21a.112.050,
 21a.26.080 and 21a.62) NICK NORRIS at 801-
 535-6141 or nick.norris@slcgov.com

OPPOSITION
TO APPEAL

NAME / ADDRESS	TELEPHONE	SIGNATURE
Tony C MANCUSO	801-824-2227	Tony C Mancuso
Justin W. Jomni	801-647-6252	[Signature]
Rich Ruiz	801-266-2424	Rich Ruiz
JEFF WEST	801-701-9257	[Signature]
Steven B. Rundahl	801-565-1482	[Signature]
Arlinn Roquero (52 E 1700 SO)	801-243-9434	[Signature]
Julie Davis 52 E 1700 S.	801-419-3530	[Signature]
Rachel Raleigh 1779 S. Major St.	801-712-4047	Rachel Raleigh
Wendy Morse (52 E. 1700 SO)	801-238-0694	Wendy Morse
JAN THOMPSON 390 W. VAN BUREN	801-908-7369	[Signature]
HUGH N. COLTHARP (OWNER OF 74 E 1700 SO.)	801-557-9485	[Signature]
MILBON F. BENARDIS	801-466-2535	[Signature]
Larry Montfredi 361 W 1700 SO	801-466-6753	[Signature]
DONALD MONTFREDI	801-918-5214	[Signature]
JOHN HAYNES 1704 MAJOR ST	801-487-4800	[Signature]
Bob Coyuro 1716 STATE ST	801-994-7886	[Signature]
Dave Witzel 1760 STATE ST	801-466-0246	[Signature]
Mohit Khanna 1735 S. MAJOR ST. (801) 485-0404		[Signature]
MUKHTIAR SINGH 1708 S STATE ST	801-864-4171	[Signature]

Milliner, Ray

From: Judy Duncombe [judyd@fiber.net]
Sent: Wednesday, December 09, 2009 9:33 AM
To: Milliner, Ray
Subject: Major Street Pet Services

To Whom It May Concern -

Please accept this letter of support for the issuance of the permits required for Major Street Pet Services to open for business and operate at 1727 Major Street in Salt Lake City.

As a long time pet owner, I and my relatives appreciate having the option of this type of end of life care for the animals that are part of our family.

As a responsible member of the community I reviewed information relating to similar businesses in other areas and find they do not pose any environmental hazards or adversely affect the areas where they are located. In fact, cremation is a much more responsible means of disposal than burial or incineration.

Thank you for your consideration and if I can be of further assistance or support in this matter, please contact me.

Judy Duncombe
6577 S Green Meadow Way 10F
Murray UT 84107

Milliner, Ray

From: Jamie Jackson [jamiet@fiber.net]
Sent: Tuesday, December 08, 2009 8:00 AM
To: Milliner, Ray
Cc: Tyler Jackson
Subject: Major Street Pet Services
Attachments: Major Street.docx

Ray,

Good Morning! Just wanted to make sure your received this letter. If you have this one already, please disregard. Thank you!

Jamie Tate Jackson

Dear Major Street Pet Services,

After reading the article in the Salt Lake Tribune about your struggles with permits to open your business, I wanted to express my support for your services.

Offering a service such as yours, that honors and shows respect for an animal after it's death is something that is needed here in Salt Lake City. It is something I plan to use in the future. Many of my friends and family welcome this option over leaving a beloved pet, who for most of us is a family member, at the veterinarian's office, or finding a suitable and legal burial location. It will give us the opportunity to recognize our pet, grieve the loss, and find some peace in knowing how it's remains are cared for. As a condo owner, I don't have the option to "bury "my pet in the back yard. Many people are living in apartments and townhomes, like me. Your service is really the only option that seems like the right thing to do.

After reading material on the environmental impact, and those objections posed from the others living and working in the immediate vicinity of your location, I don't see any cause for objection to your business. I wouldn't mind at all living or working next to a mortuary or crematory.

Best to you in a successful outcome for your opening your new business.
Please contact me if I can help in any way.

With support,

Denise

Denise Allen
(801) 503-1351
denise84070@yahoo.com

Milliner, Ray

From: Adam Ball [aball463@gmail.com]
Sent: Wednesday, November 18, 2009 1:00 PM
To: Milliner, Ray
Subject: Support

My name is Adam Ball
I support the major street pet Services in their bid for a pet crematorium
permit. I hope this Permit gets passed

Thank you for your time and please make it a happy day.

Milliner, Ray

From: Jane Ball [jakball@mac.com]
Sent: Wednesday, November 18, 2009 12:32 PM
To: Milliner, Ray
Subject: Major Street Pet Crematorium Issue

Dear Mr. Milliner,

I understand that you are voting today on a crematory issue for Major Street Pet Services. I strongly support this vote. I think that pet owners like myself want and need that type of service. It also means that you can support new and diverse businesses.

I hope you will consider the yes vote because it is a service that is long overdue in this valley.
Thank you for your time.

Regards,

Jane Ball

Milliner, Ray

From: Susan Allred [scallred@gmail.com]
Sent: Wednesday, November 18, 2009 10:57 AM
To: Milliner, Ray
Subject: Major Street Pet Services

Dear Ray,

As a resident of Salt Lake City, I write in support of the permitting of Major Street Pet Services.

There is a need for this type of business in our local area.

And, there is also the need for new business in our city.

Thank you for your time,

Susan Allred
801-859-4808

Milliner, Ray

From: Mike and Kristina Heintz [mikeheintz@msn.com]
Sent: Monday, August 10, 2009 4:58 PM
To: Milliner, Ray

We would support this zoning change.

PLNPCM2009-00726; Zoning Text Amendment request by Major Street Pet Services for a Zoning Text Amendment to allow pet cremation services in the Commercial Corridor (CC) zone and to change the definition of a Funeral Home and a Cemetery in the Salt Lake City Zoning Ordinance. The proposed zoning ordinance amendment would apply City- wide.

Kristina and Mike Heintz

8. Original Petition



Zoning Amendment

OFFICE USE ONLY
 Petition No. PLN PCM 2009-00726
 Date Received: 6/17/09
 Reviewed By: Thomas Iruvn

- Amend the text of the Zoning Ordinance by amending Section:
21A.62.040
- Amend the Zoning Map by reclassifying the above property from a zone to a zone. (attach map or legal description)

SALT LAKE CITY PLANNING

Address of Subject Property:
1727 S. Major St., SLC, UT 84115

Name of Applicant: Great Basin Engineering (Jake Tate) Phone: 801-521-8529

Address of Applicant: 2010 N. Redwood Rd., SLC, UT 84116

E-mail Address of Applicant: jake.t@ghesouth.com Cell/Fax: 801-521-9551

Applicant's Interest in Subject Property:
Owners Authorized Agent

Name of Property Owner: Raval Investments (Earl Tate) Phone: 801-949-4141

E-mail Address of Property Owner: etate@SSLCO.COM Cell/Fax: 435-882-7814

County Tax ("Sidwell #"): 16-18-30-2002 \$ 2001 Zoning: Corridor Commercial (CC)

Legal Description (if different than tax parcel number):

		Existing Property Use	Proposed Property Use

Please include with the application:

1. A statement of the text amendment or map amendment describing the purpose for the amendment and the exact language, boundaries and zoning district.
2. A complete description of the proposed use of the property where appropriate.
3. Reasons why the present zoning may not be appropriate for the area.
4. Printed address labels for all property owners within 450 feet of the subject property. The address and Sidwell number of each property owner must be typed or clearly printed on gummed mailing label. Please include yourself and the appropriate Community Council Chair(s). Address labels are available at the address listed below. **The cost of first class postage for each address is due at time of application. Please do not provide postage stamps.**
5. Legal description of the property.
6. Six (6) copies of site plans drawn to scale and one (1) 11 x 17 inch reduced copy of each plan and elevation drawing.
7. If applicable, a signed, notarized statement of consent from property owner authorizing applicant to act as agent
8. **Filing fee of \$885.92, plus \$110.74 for each acre over one acre and the cost of first class postage is due at time of application.**

RECEIVED
 JUN 19 2009
 BY: [Signature]

Applications must be reviewed prior to submission. Please call 535-7700 for an appointment to review your application.

Notice: Additional information may be required by the project planner to ensure adequate information is provided for staff analysis.
 All information submitted as part of the application may be copied and made public including professional architectural or engineering drawings which will be made available to decision makers, public and any interested party.

County tax parcel ("Sidwell" maps and names
of property owners are available at:

Salt Lake County Recorder
2001 South State Street, Room N1600
Salt Lake City, UT 84190-1051
Telephone: (801) 468-3391

File the complete application at:

Salt Lake City Buzz Center
451 South State Street, Room 215,
Salt Lake City, UT 84111

Signature of Property Owner
Or authorized agent

A handwritten signature in black ink, appearing to be "John H.", is written over a horizontal line. The signature is cursive and somewhat stylized.

VTDI 16-18-302-002-0000 LIST 13 TOTAL ACRES 0.31
RAVAL INVESTMENT COMPANY INC TAX CLASS UPDATE REAL ESTATE
LEGAL BUILDINGS
PRINT U TOTAL VALUE

128 S MAIN ST
TOOELE UT 84074 EDIT 1 FACTOR BYPASS
LOC: 1727 S MAJOR ST EDIT 0 BOOK 9706 PAGE 0001 DATE 04/06/2009
SUB: RIGBY PLACE TYPE UNKN PLAT
06/03/2009 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY
LOTS 2, 3, 4 & 5, BLK 1, RIGBY PLACE 4019-0122 6337-1852,
1850 6337-1853 9267-6532

PFKEYS: 1=RXPH 2=VTOP 4=VTAU 6=NEXT 7=RTRN VTAS 8=RXMU 10=RXBK 11=RXPN 12=PREV

VTDI 16-18-302-001-0000 LIST 13 TOTAL ACRES 0.15
RAVAL INVESTMENT COMPANY INC TAX CLASS UPDATE REAL ESTATE
LEGAL BUILDINGS
PRINT U TOTAL VALUE

128 S MAIN ST
TOOELE UT 84074 EDIT 1 FACTOR BYPASS
LOC: 1719 S MAJOR ST EDIT 0 BOOK 9706 PAGE 0001 DATE 04/06/2009
SUB: RIGBY PLACE TYPE SUBD PLAT
06/03/2009 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY
LOTS 6 & 7, BLK 1, RIGBY PLACE. 5026-441 5147-0646 5584-1101
5987-2061 6283-1807 6458-2394 9267-6532

PFKEYS: 1=RXPH 2=VTOP 4=VTAU 6=NEXT 7=RTRN VTAS 8=RXMU 10=RXBK 11=RXPN 12=PREV

Proposed Amendment to the Text of the Salt Lake City
Zoning Code

in relation to

Major Street Pet Services

1727 South Major Street

June 17, 2009

Prepared for:
Raval Investments Co., Inc



CONSULTING ENGINEERS &
LAND SURVEYORS

GREAT BASIN ENGINEERING - South

2010 North Redwood Road • P.O. Box 16747 • Salt Lake City, Utah 84116
(801) 521-8529 • (801) 394-7288 • Fax (801) 521-9551

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CONSULTING ENGINEERS
AND LAND SURVEYORS

June 17, 2009

Salt Lake City Planning
451 South State Street, Rm 406
Salt Lake City, UT 84111

Re: Major Street Pet Services Zoning Text Amendment

To Whom It May Concern:

This report and text amendment application have been created at the request of Raval Investments for the purpose of operating a business dedicated to providing pet owners a respectful alternative to disposing of their pets in the landfill. The need to accomplish this through an amendment to the definitions found in Chapter 21A.62.040 of the zoning code was a result of an administrative interpretation and the associated interaction with the City. The essence of the correspondence being that the zoning code was in need of being updated to be more in line with current cremation practices and clarification on the association of cremation facilities with funeral homes and cemeteries.

This report proposes two changes to the definitions found in Chapter 21A.62.040 of the Salt Lake City Zoning Code. The first is to update the definition of a funeral home from its current wording of "An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held" to a definition more in line with current practices found throughout the nation of "an establishment where the activities necessary for the care and custody of the dead, including: refrigeration; embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted". The second is the addition of a new term to the zoning code that would clarify the use dedicated to the cremation of animals for their owners which is not currently found in the code. The proposed text would read: "Animal Cremation Services – a facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested".

The attached report provides further discussion, reference material, data and information that led to these text amendment recommendations. It also provides background on previous communications with the city and details about the administrative interpretation. If there are any questions please feel free to call (801-521-8529) at any time. I look forward to working through this process with you.

Sincerely,
GREAT BASIN ENGINEERING – SOUTH

Jake Tate
Assistant Project Engineer

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Appendix

- Salt Lake City Zoning Code Chapter 21A.62.040 – Definition of a Funeral Home
- Salt Lake City Zoning Code Chapter 21A.62.040 – Definition of a Cemetery
- Salt Lake City Zoning Code Chapter 21A.32.140 – Table of Permitted and Conditional Uses for Special Purpose Districts
- Copy of Administrative Interpretation
- Death Statistics for Salt Lake County from Utah 2007 Vital Statistics
- National Cremation Rates from C.A.N.A. (Cremation Association of North America)
- State of Utah Code Section 58.9.102(18)(b)(ii) – State’s Definition of a Funeral Service Establishment
- State of Utah Code Section 58.9.102(22)(e) – State’s Definition of Funeral Service
- State of Utah Code Section 58.9.610 – State Sets Forth Cremation Procedures
- B&L Cremation Systems Retort Information – Independent Tests, Technical Information and Emission Comparison Table
- Site Plan and Photos
- Salt Lake City Zoning Code Chapter 21A.62.040 – Definition of a Pet Cemetery
- Attachment “C” from the Staff Report for the Board of Adjustment Meeting
- Salt Lake City Zoning Code Chapter 21A.26.080 – Table of Permitted and Conditional Uses for Commercial Districts

I. Definition of a Funeral Home

Background

This process began with a call to Anna Anglin at the City's Buzz Center to try and determine if a pet crematory would be allowed in a corridor commercial (CC) zone. After a few minutes on hold Anna informed us that after speaking with her supervisor, Larry Butcher, this particular Use is considered to be Pet Cemetery and that it would only be allowed in the general commercial (CG) zone. Since the proposed Use did not involve burying or any other means of depositing remains in their final resting place, we did not feel the designation "cemetery" was appropriate for our Use. The services that are proposed and will be provided by Major Street Pet Services are more in line with those that take place at a traditional funeral home (i.e. meeting with grieving families, arranging for the cremation of a loved one, providing cremation services, making urns or other memorialization options available and returning the cremated remains to the family, all while providing a pleasing atmosphere for the pet owners). We raised our concerns about this with the city and were told to file an administrative interpretation. In that application we stated that our proposed Use was not at all like a cemetery but our business model was to a greater degree similar to that of a traditional funeral home (which is a permitted use in the CC zone). Unfortunately, along with a denial of our request for our Use to be allowed in a CC zone, we learned that even if we were considered most like a funeral home we would not be able to cremate due to the definition of a funeral home in Chapter 21A.62.040 which states that a funeral home is: "An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held", the emphasis being on the preparation of the dead for cremation, not the act of cremation (See Appendix).

Currently one of two places in the Salt Lake City zoning code where a crematorium is mentioned is in the definition of a cemetery found in Chapter 21A.62.040 which reads: "Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery" (See Appendix). The other mention of a crematorium can be found in Chapter 21A.32.140 which is the table of permitted and conditional uses for special purpose districts where cemeteries and accessory crematoriums are listed as a permitted use in the Open Space (OS) zone (See Appendix). The denial letter for our administrative interpretation clarified this by stating that "a crematorium is a conditional use in the OS Open Space zoning district when associated with a cemetery" (See Appendix). This leaves the availability to operate a cremation facility in Salt Lake City only in the Open Space (OS) zone and only when it is associated with a cemetery.

The portion of the City's definition of a cemetery which states: "Land used or intended to be used for the burial of the dead" is the traditional definition of the word with which most people are familiar with and would accept as a general description of the function of a cemetery. The City goes a step further to include the statement that a cemetery also is land "dedicated for cemetery purposes, including columbariums, crematories,

mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery”. This statement is accurate in the sense that it allows these facilities to be included on the grounds of a cemetery (which we agree with) but it mistakenly implies that this is the only place where these facilities may be constructed. In the case of a burial plot, columbarium and mausoleum it makes sense that they would only be associated with a cemetery because they are all final resting places for human remains. A mortuary and crematorium, on the other hand, are service based facilities where human remains are prepared for interment in their final resting place (in this case the word prepared would mean getting the body to a point where final disposition is imminent). If you look only at the service provided by a crematorium, there is no direct link between a crematorium and a cemetery. As the code stands right now, when a family decides to have a loved one cremated the funeral director would have to take the body to a cemetery with a crematorium, have the body cremated and bring the remains back to the funeral home where the family can pick them up. As can be seen, there is a direct link between the services of a funeral home and those of a crematorium. A cemetery plays no part the transformation of a dead body to cremated remains. It may be a place where a crematory can be located, but it should not be the only place.

Changing Trends in Cremation

To the best of our knowledge there have been five (5) crematories located in Salt Lake City over the years. Only two (2) of these have been located near a cemetery property. These cemeteries are owned and operated by funeral homes that have chosen to include cremation facilities in their funeral operation. All of the others have been located in a variety of zones from the Residential Mixed Use zone, Central Business District zone (the cremation facility located in the D-1 zone is proposed/under-construction) and the Downtown Support District (D-2) all have their cremation facility onsite with a funeral home. In fact, there is no cremation facility in the State of Utah that is solely associated with a cemetery without a funeral home. They are always included as part of a funeral home.

Demand for cremation services has grown significantly in the past few decades. In 1990, Salt Lake County reported 492 of 3847 deaths chose cremation as they method of disposition, a rate of 12.8%. In 2000, 1217 of 5019 deaths chose cremation, a rate of 24.2%. The latest information indicates that in 2007, 1752 of 5437 deaths chose cremation for a rate of 32.2% (See Appendix for Data). Utah typically has one of the lower cremation rates in the country, but the steady growth pattern indicates that metropolitan Utah is falling in line with the rest of the nation. The national cremation rates were 26.2% in 2000, 34.9% in 2007 and are projected at 39% in 2010. As the demand for cremation rises, the need for additional cremation facilities will also rise. The zoning code, as it is currently written, is highly restrictive and preventative in some cases for funeral homes to meet the rising need for cremation in the City. With limited amounts undeveloped land available in Salt Lake City and land values as high as they have ever been, the probability that someone will build a cemetery in order to be able to build a crematorium (which the code currently would require) is extremely low. The

logical answer to meet the rising demand for cremation is to allow the act of cremation to take place at a funeral home regardless of its proximity to a cemetery.

State of Utah Code

In the State of Utah's Code, Section 58 includes information for occupations and professions. In Chapter 9, Section 102, definitions are set forth regarding the Funeral Service Licensing Act. Under definition (18)(b)(ii); it states: a "Funeral Service Establishment includes: a facility used by the business in which funeral services may be conducted." The Code continues to further define funeral service under definition (22)(a-k), but specifically (22)(e) states: "'Practice of funeral service' means: cremation, calcination, or pulverization of a dead human body or the body's remains;" (See Appendix). The Utah State code acknowledges a funeral service establishment (i.e. a funeral home) as having the right to perform cremation as part of its services. At no point in defining a funeral service establishment does the State of Utah mention a cemetery as a requirement for cremation. Specific cremation procedures are set forth in Section 58, Chapter 9, Section 610 and again a cemetery is never mentioned in conjunction with crematory, but a funeral service establishment (funeral home) is mentioned several times in the document (See Appendix) further establishing the connection between a funeral home and a crematory.

Air Quality & Modern Retorts

In trying to understand why the zoning code would require a crematorium to be located in conjunction with a cemetery, the only logical explanation that could explain a possible connection was environmental/air quality concerns. It would make sense to place a crematorium in the center of what essentially is a park, surrounded by trees, grass and other plants away from homes and people if a crematorium was a crude incinerator that spewed smoke, smells and other undesirable particles into the air. Fortunately, today's modern cremation retorts are not crude incinerators. They provide multi-chambered combustion which allows for exhaust gasses to be refined several times before they are released into the air which in turn reduces emissions to little more than water vapor with virtually no odor or visual emissions. They are fully automated utilizing computer technology to optimize internal temperatures and fuel consumption. They also have pollution monitoring systems that constantly monitor stack emissions and make adjustments automatically to the cremation process to minimize those emissions. Finally, they are designed and constructed to run quietly (See Appendix). Technology has allowed a process that may not have been environmentally friendly in the past to meet and in many cases exceed EPA, State and Local regulations. It is for this reason combined with the increased safety and insulation systems that are built into modern retorts that make a cremation facility compatible with a variety of locations throughout the City and not just on a cemetery.

Thoughts on Zone Applicability

Hopefully, the discussion above has been able to highlight the intrinsic connection between a funeral home and a cremation facility. The rise in cremation rate has moved funeral homes to consider adding this service to their facilities in order to meet the demand. The State of Utah recognizes that cremation is a service that is provided by a Funeral Director at a Funeral Service Establishment. Modern technology has progressed to a point where emission and safety concerns are less about concern and more about the need for public education. Taking all these factors into account we hope you will conclude, as we have, that because of their undeniable connection, cremation facilities should be allowed wherever a funeral home is permitted in the City of Salt Lake.

Proposed Text Changes

In Chapter 21A.62.040 of the Salt Lake City zoning code the definition of a funeral home is: “an establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held”. It is proposed that the definition be changed to: “an establishment where the activities necessary for the care and custody of the dead, including: refrigeration; embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted”. This definition would clarify the specific practices that are and should be taking place at a funeral home.

II. Definition of Animal Cremation Service

Proposed Use and Business Model

The proposed activities that will take place at 1727 S. Major Street include meeting with owners of deceased pets and making arrangements for their cremation. Memorial merchandise such as various types of urns, figurines, ect. will be on display and for sale. The cremation retort will be located in an accessory building that exists on the property behind the main house. It will be upgraded to current building and fire codes as required by the city (See Appendix).

The owner has tried to create an atmosphere like that of a traditional funeral home. The house located on the property was built in 1894 and recently has been beautifully restored inside and out. The yard has wonderful landscaping and provides a quiet, peaceful atmosphere for families should they choose to wait for their pet. The main focus of this business will be to provide a respectful option for owners who don't want to dispose of their beloved family pet in the landfill. Our research indicates that more and more families are dissatisfied with “industrial” disposal of their pets.

The location of the property is perfectly located for this use. It is close enough the freeway and major arterial streets that it is easily accessible to residents throughout the City. However, by being located at the end of a dead end street, it is isolated enough to provide the peaceful atmosphere desired while not being a disturbance to neighbors. The

site is bordered to the east, south and west by an alley, parking lot and street respectively. The neighbor to the north is a café/restaurant whose front doors are on 1700 South. The side adjacent to our property is the back of the building and is separated by a small parking lot. The location is perfect for the proposed Use of an animal cremation service.

Current City Interpretation

As mentioned above the original query that lead to this point was a request to see if a pet crematory would be allowed in a Corridor Commercial (CC) zone. The administrative interpretation stated the determination of the Zoning Administrator to be “that a pet crematory/crematorium is not allowed in a CC Zoning District because the proposed use is most similar to a funeral home, a use that does not include the actual act of cremation, only the preparation of the dead for cremation and a pet cemetery, which is not an allowed use in the CC zoning district” (See Appendix).

Concerns with this Interpretation

The fact that the label of a pet cemetery was again assigned to the proposed Use at 1727 South Major Street even after detailed description of the activities that would take place at the property were given to the City seemed a mystery. In Chapter 21A.62.040 of the Salt Lake City zoning code the definition of a pet cemetery is listed as: “A place designated for the burial of a dead animal where burial rights are sold” (See Appendix). At no time will burial of an animal or the selling of rights to bury an animal take place at the property located at 1727 South Major Street. At no point was that ever offered, discussed or hinted at with the City. Yet the proposed Use was initially classified as a pet cemetery and even after an administrative interpretation it was still being classified as a pet cemetery.

Two reasons for this association became clear after an appeal of the administrative interpretation was filed. The first was the cremation/funeral home issue discussed at length at the beginning of this report. Even though our proposed Use would perform services that are exactly the same as those found in a funeral home (other than those services are offered to pets and their owners), according to the wording of the current zoning code, we could not cremate onsite due to the fact that cremation facilities are only currently allowed in conjunction with a cemetery. Once again, cremation is being linked to a cemetery. Due to the current code, the City is forced to interpret the act of cremation as a cemetery. Thus we are classified as a pet cemetery even though we do not comply with the City’s own definition of a pet cemetery which is: “A place designated for the burial of a dead animal where burial rights are sold”.

The second reason was evident upon receiving the City’s Staff Report for the Board of Adjustment; included as “Attachment C” of that report was a previous ruling on a business that functioned similarly to the Use proposed at the Major Street Property. Precedent was set at that time by the Zoning Administrator, Kevin LoPiccolo, when he stated that “I find that a pet crematorium is not significantly different that a cemetery with the exception that burial is not being performed at a crematorium” (See Appendix).

This statement is fundamentally flawed. It may be accurate in relation to current zoning code, but in reality, there is no direct connection between a cemetery and crematory. Land on which burial takes place, on the other hand, is the very definition of a cemetery. The statement that “a pet crematorium is not significantly different than a cemetery” seems like a very loose interpretation when considering the actual activities and services provided by a crematory.

As can be seen, liberal interpretation has been required to try and address issues relating to the Use of pet/animal cremation. We are proposing the addition of a new definition to Chapter 21A.62.040 of the zoning code for the purpose of eliminating ambiguous interpretation and clearly defining the Use for future reference.

Discussion on Zone Applicability

The most similar Use to that proposed at Major Street is a funeral home, more so if the definition of a funeral home is amended to include cremation as proposed above. The only difference is that its services are provided for animals instead of humans. In order to address issues over concerns of where a business focused on animals should be located, a Use dedicated solely to the treatment of animals was used for comparison. A veterinary office provides service for animals at the request of their owners just as an animal cremation service would. It would therefore be logical to look at the permitted locations of a funeral home and a veterinary office to see if there are any zones in which they are both permitted, thus identifying a location where the proposed Use (cremation) is allowed as well as activities for the individuals that will be served by the Use (animals). According to Chapter 21A.26.080 which is the table of permitted and conditional uses for commercial districts there are four (4) zones in which both a funeral home and a veterinary office are permitted. They are the Corridor Commercial District (CC), Community Shopping District (CS1), Sugarhouse Business District (CSHBD1), and the General Commercial District (CG) (See Appendix). It is therefore proposed that an animal cremation service be permitted in these four commercial zones and any other zone which permits both a funeral home and a veterinary office within its boundaries.

Proposed Text Addition

It is proposed that the term “Animal Cremation Service” be added to Chapter 21A.62.040 of the Salt Lake City zoning code and the definition of the term is to be: “a facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested”.

III. Summary

This report proposes two changes to the definitions found in Chapter 21A.62.040 of the Salt Lake City Zoning Code. The first is to update the definition of a funeral home from its current wording of “An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held” to a definition more in line with current practices found throughout the nation of “an establishment where the activities

necessary for the care and custody of the dead, including: refrigeration; embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted". The second is the addition of a new term to the zoning code that would clarify the use dedicated to the cremation of animals for their owners which is not currently found in the code. The proposed text would read: "Animal Cremation Services – a facility dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for memorialization of the animal if requested".

add mummification + Cryogenic Storage

APPENDIX

Salt Lake City Zoning Code
Chapter 21A.62.040:
Definition of a Funeral Home

farmers' market may provide space for one or more vendors.

FEE SCHEDULE: A schedule of fees in connection with applications for a zoning amendment, a special exception, a conditional use, a zoning certificate, a certificate of occupancy, sign certificate, or any other type of approval required by the provisions of this title which is established by the city council and revised from time to time upon recommendation by the zoning administrator. The fee schedule is available from the zoning administrator.

FENCE: A structure erected to provide privacy or security which defines a private space and may enhance the design of individual sites. A wall or similar barrier shall be deemed a fence.

FENCE, OPAQUE OR SOLID: An artificially constructed solid or opaque barrier that blocks the transmission of at least ninety five percent (95%) of light and visibility through the fence, and is erected to screen areas from public streets and abutting properties.

FENCE, OPEN: An artificially constructed barrier that blocks the transmission of a maximum of fifty percent (50%) of light and visibility through the fence, and is erected to separate private property from public rights of way and abutting properties.

FINANCIAL INSTITUTION: A building, property or activity, the principal use or purpose of which is the provision of financial services, including, but not limited to, banks, facilities for automated teller machines (ATMs), credit unions, savings and loan institutions, stock brokerages and mortgage companies. "Financial institution" shall not include any use or other type of institution which is otherwise listed in the table of permitted and conditional uses for each category of zoning district or districts under this title.

FIXED DIMENSIONAL STANDARDS: Numerical maximum or minimum conditions which govern the development on a site.

FLAG LOT: A lot of irregular configuration in which an access strip (a strip of land of a width less than the required lot width) connects the main body of the lot to the street frontage. (See illustration in section 21A.62.050 of this chapter.)

FLAMMABLE LIQUIDS OR GASES, HEATING FUEL DISTRIBUTION: A type of wholesale distributor engaged in supplying flammable liquids, gases and/or heating fuel. This use does not include the accessory storage of such substances on site.

FLEA MARKET (INDOOR): "Indoor flea market" means a building devoted to the indoor sales of new and used merchandise by independent vendors with individual stalls, tables, or other spaces.

FLEA MARKET (OUTDOOR): "Outdoor flea market" means an outdoor area devoted to the periodic outdoor sales of new and used merchandise by independent vendors with individual stalls, tables, or other spaces.

FLOOR: See definition of Story (Floor).

FLOOR AREA, GROSS: "Gross floor area" (for determining floor area ratio and size of establishment) means the sum of the gross horizontal area of all floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area of a building shall include basement floor area, penthouses, attic space having headroom of seven feet (7') or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. The floor area of covered accessory buildings, including parking structures, shall be included in the calculation of floor area ratio. Space devoted to open air off street parking or loading shall not be included in floor area.

The floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks, shall be determined on the basis of height in feet (i.e., 10 feet in height shall equal one floor).

FLOOR AREA RATIO: The number obtained by dividing the gross floor area of a building or other structure by the area of the lot on which the building or structure is located. When more than one building or structure is located on a lot, the floor area ratio is determined by dividing the total floor area of all the buildings or structures by the area of the site.

FLOOR AREA, USABLE: "Usable floor area" (for determining off street parking and loading requirements) means the sum of the gross horizontal areas of all floors of the building, as measured from the outside of the exterior walls, devoted to the principal use, including accessory storage areas located within selling or working space such as counters, racks, or closets, and any floor area devoted to retailing activities, to the production or processing of goods or to business or professional offices. Floor area for the purposes of measurement for off street parking spaces shall not include:

- A. Floor area devoted primarily to mechanical equipment or unfinished storage areas;
- B. Floor area devoted to off street parking or loading facilities, including aisles, ramps, and maneuvering space.

FRATERNITY/SORORITY HOUSE: A building which is occupied only by a group of university or college students who are associated together in a fraternity/sorority that is officially recognized by the university or college and who receive from the fraternity/sorority lodging and/or meals on the premises for compensation.

FRONT YARD: See definition of Yard, Front.

FUEL CENTER: A subordinate building site located on the same site as a principal building/use for the sale and dispensing of motor fuels or other petroleum products and the sale of convenience retail.

FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held.

GARAGE: A building, or portion thereof, used to store or keep a motor vehicle.

GARAGE, ATTACHED: "Attached garage" means an accessory building which has a roof or wall of which fifty percent (50%) or more is attached and in common with a dwelling. Where the accessory building is attached to a dwelling in this manner, it shall be considered part of the dwelling and shall be subject to all yard requirements of the main building.

Salt Lake City Zoning Code
Chapter 21A.62.040:
Definition of a Cemetery

finished lot grade at each face of the building, to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof. (See illustration in section 21A.62.050 of this chapter.)

BUILDING LINE: A line dividing a required yard from other portions of a lot.

BUILDING MATERIAL DISTRIBUTOR: A type of wholesale distributor supplying the building materials industry, but excluding retail outlets conducted in a warehouse format.

BUILDING OFFICIAL: The building official of the department of community and economic development.

BUILDING, PRINCIPAL: "Principal building" means a building that is used primarily for the conduct of the principal use.

BUILDING, PUBLIC: "Public building" means a building owned and operated, or owned and intended to be operated by a public agency of the United States of America or the state of Utah, or any of its subdivisions.

BULK: The size and setbacks of the buildings or structures and the location of same with respect to one another, and including: a) height and area of buildings; b) location of exterior walls in relation to lot lines, streets or other buildings; c) gross floor area of buildings in relation to lot areas (floor area ratio); d) all open spaces allocated to buildings; e) amount of lot area required for each dwelling unit; and f) lot coverage.

BUSINESS: Any occupation, employment or enterprise which occupies time, attention, labor and/or materials for compensation whether or not merchandise is exhibited or sold, or services are offered.

BUSINESS, MOBILE: "Mobile business" means a business that conducts all or part of its operations on premises other than its own. The term "mobile business" shall not include any business involved in construction, home or building improvement, landscape construction, surveying or medical related activities, including veterinary services. The simple delivery of goods shall not constitute a mobile business.

BUSINESS PARK: A business district planned and developed as an optimal environment for business occupants while maintaining compatibility with the surrounding community.

CAR POOL: A mode of transportation where two (2) or more persons share a car ride to or from work.

CARPOR: A garage not completely enclosed by walls or doors. For the purpose of this title, a carport shall be subject to all of the regulations prescribed for a garage.

CEMETERY: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CERTIFICATE OF APPROPRIATENESS: A certification by the historic landmark commission stating that proposed work on historic property is compatible with the historic character of the property and of the historic preservation overlay district in which it is located.

CERTIFICATE OF OCCUPANCY: An official authorization to occupy a structure as issued by the building official.

CERTIFICATE, ZONING: "Zoning certificate" means a written certification that a structure, use or parcel of land is, or will be, in compliance with the requirements of this title.

CHANGE OF USE: The replacement of an existing use by a new use, or a change in the nature of an existing use which does not increase the size, occupancy, or site requirements. A change of ownership, tenancy, name or management, or a change in product or service within the same use classification where the previous nature of the use, line of business, or other function is substantially unchanged is not a change of use. (See also definition of Land Use Type (Similar Land Use Type).)

CHARITY DINING HALL: A sit down dining facility operated by a nonprofit organization to feed, without charge, the needy and the homeless.

CHEMICAL MANUFACTURING: A use engaged in making chemical products from raw or partially finished materials, but excluding chemical wholesale distributors.

CITY COUNCIL: The city council of Salt Lake City, Utah.

COLLEGE OR UNIVERSITY: An institution accredited by the state providing full time or part time education beyond the high school level for a BA, BS or associate degree, including any lodging rooms or housing for students or faculty. (See also definitions of Schools.)

COMMERCIAL DISTRICTS: Those districts listed in subsection 21A.22.010B of this title.

COMMERCIAL INDOOR RECREATION: Public or private recreation facilities, tennis or other racquet courts, swimming pools, bowling alleys, skating rinks, or similar uses which are enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. The term "commercial indoor recreation" shall include any accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. The term "commercial indoor recreation" shall not include theaters, cultural facilities, commercial recreation centers, massage parlors, or any use which is otherwise listed specifically in the table of permitted and conditional uses found at the end of each chapter in part III of this title for each category of zoning district or districts.

COMMERCIAL LAUNDRY: An establishment primarily engaged in the provision of laundering, dry cleaning, or dyeing services other than retail services establishments. Typical uses include bulk laundry and cleaning plants, diaper services, and linen supply services.

COMMERCIAL OUTDOOR RECREATION: Public or private golf courses, golf driving ranges, swimming pools, tennis courts, ball fields, ball courts, fishing piers, skateboarding courses, water slides, mechanical rides, go-cart or motorcycle courses, raceways, drag strips, stadiums, marinas, overnight camping, or gun firing ranges, which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. The term "commercial

Salt Lake City Zoning Code
Chapter 21A.32.140:
Table of Permitted and Conditional
Uses for Special Purpose Districts

21A.32.140: TABLE OF PERMITTED AND CONDITIONAL USES FOR SPECIAL PURPOSE DISTRICTS:

Legend: C = Conditional use P = Permitted use

Use	Permitted And Conditional Uses																
	RP	BP	FP	AG	AG-2	AG-5	AG-20	OS	NOS	A	PL	PL-2	I	UI	MH	EI	MU
Residential:																	
Assisted living facility (see section 21A.36.050 of this title)																	
Congregate care facility																	
Group home, large (see section 21A.36.070 of this title)																	
Group home, small (see section 21A.36.070 of this title)																	
Living quarters for caretakers and security guards																	
Manufactured home																	
Mixed use developments, including residential and other uses allowed in the zoning district																	
Mobile homes																	
Multi-family (no maximum density limitation)																	
Multiple-family dwellings																	
Nursing care facility																	
Resident healthcare facility (see section 21A.36.040 of this title)																	
Rooming (boarding) house																	
Single-family attached dwellings																	
Single-family detached dwellings																	
Twin home and two-family dwellings																	
Office and related uses:																	
Accessory offices supporting an institutional use																	
Financial institutions with drive-through facilities																	
Financial institutions without drive-through facilities																	
Government offices																	
Medical and dental offices																	
Municipal service uses, including city utility uses and police and fire stations																	
Offices																	
Offices, research related																	
Veterinary offices, operating entirely within an enclosed building and keeping animals overnight only for treatment purposes																	
Retail sales and services:																	
Accessory retail sales and services uses when located within a principal building																	
Accessory retail sales and services uses, when located within the principal building and operated primarily for the convenience of employees																	
Commercial service establishments																	
"Gas station" (may include accessory convenience retail and/or minor repairs) as defined in chapter 21A.62 of this title																	

Qualifying Provisions:

1. Subject to conformance to the provisions in subsection 21A.02.050B of this title.
2. When located in a building listed on the Salt Lake City register of cultural resources.
3. When located on an arterial street.
4. Subject to Salt Lake Valley health department approval.
5. In conjunction with, and within the boundaries of, a cemetery for human remains.
6. Radio station equipment and antennas shall be required to go through the site plan review process to ensure that the color, design and location of all proposed equipment and antennas are screened or integrated into the architecture of the project and are compatible with surrounding uses.
7. When approved as part of a business park planned development pursuant to the provisions of section 21A.54.150 of this title.
8. Kennels, public or private, whether within panned enclosures or within enclosed buildings, shall not be permitted within 200 feet of an existing single-family dwelling on an adjacent lot.
9. Trails and trailheads without parking lots and directional and informational signage specific to trail usage shall be permitted.
10. Greater than 3 ambulances at location require a conditional use.
11. Building additions on lots less than 20,000 square feet for office uses may not exceed 50 percent of the building's footprint. Building additions greater than 50 percent of the building's footprint or new office building construction are subject to the conditional use process.

(Ord. 61-08 § 4 (Exh. C), 2008; Ord. 21-08 § 6 (Exh. E), 2008; Ord. 2-08 § 2, 2008; Ord. 61-06 § 2 (Exh. B), 2006; Ord. 13-06 § 5 (Exh. D), 2006; Ord. 10-06 § 1 (Exh. A), 2006; Ord. 1-06 § 30, 2005; Ord. 74-05 § 1 (Exh. A), 2005; Ord. 18-04 § 4, 2004; Ord. 13-04 § 12 (Exh. F), 2004; Ord. 73-02 § 4 (Exh. A), 2002; Ord. 23-02 § 7 (Exh. E), 2002; Ord. 64-01 § 2, 2001; Ord. 68-00 § 1, 2000; Ord. 14-00 § 4, 2000; Ord. 9-00 § 3, 2000; Ord. 35-99 § 41, 1999; Ord. 12-98 § 4, 1998; amended during 5/96 supplement: Ord. 85-95 § 1 (Exh. A), 1995; Ord. 84-95 § 1 (Exh. A), 1995; Ord. 26-95 § 2(16-12), 1995)

Copy of Administrative Interpretation

WILFORD H. SOMMERKORN
PLANNING DIRECTOR
PATRICIA COMARELL
ASSISTANT PLANNING DIRECTOR

SALT LAKE CITY CORPORATION
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
PLANNING DIVISION

RALPH BECKER
MAYOR
FRANK B. GRAY
COMMUNITY AND ECONOMIC
DEVELOPMENT DIRECTOR

February 12, 2009

Great Basin Engineering
Attn: Jake Tate
2010 North Redwood Road
Salt Lake City Utah 84116

Re: Administrative Interpretation regarding a pet crematorium in the CC Corridor Commercial Zoning District.

Dear Mr. Tate:

You have requested an administrative determination regarding your proposed Funeral Home/Mortuary for pets located at 1727 South Major Street in a CC Commercial Corridor Zoning District. Staff has reviewed your request and made the following findings:

- The property is zoned CC Commercial Corridor.
- The purpose of the CC zoning district is to provide an environment for efficient and attractive automobile oriented commercial development along arterial and major collector streets.
- There is a single family dwelling on the property that has been converted to an office.
- According to Zoning Ordinance 21A62.040 a Funeral Home is defined as "an establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held."
- According to Zoning Ordinance 21A62.040 a Pet Cemetery is defined as "a place designated for the burial of a dead animal where burial rights are sold."
- Zoning Ordinance 21A.62.040 does not define a crematory or crematorium.
- A crematorium is a conditional use in the OS Open Space zoning district when associated with a cemetery.

Zoning Ordinance 21A.12.050 establishes the standards for land use interpretations. Standard A states that any use defined in 21A.62 shall be interpreted as defined. Crematory or Crematoriums are not defined. A Funeral Home is defined and it states that the dead are prepared for burial or cremation, but not actually cremated at the funeral home.

Standard B states that any use listed without a P or a C in the table of permitted and conditional uses for a district shall not be allowed in the zoning district. In this case, a funeral home is listed as a permitted use. A pet cemetery is listed but not allowed in the CC zoning district.

Standard C states that no interpretation shall allow a proposed use in a district unless evidence is presented demonstrating that the proposed use will comply with the development standards established for the district. In this case, the proposed use would comply with the development standards of the CC Corridor Commercial zoning district.

Standard D states that no use interpretation shall allow any use in a particular district unless such use is substantially similar to the uses allowed in that district and is more similar to such uses than to uses allowed in a less restrictive district. A crematory/crematorium is only listed in the OS Open Space zoning district, which is more restrictive than the CC district. The similar uses listed in the commercial districts include funeral home and pet cemetery. A funeral home and pet cemetery are the most similar use to what is being proposed. A funeral home specifically states that it is a place for the dead to be prepared for burial or cremation, but not actually buried or cremated. A pet cemetery is for the burial of dead animals. Crematoriums are commonly found in cemeteries, if a pet cemetery was listed as an allowed use in the CC zone, than a crematorium may be allowed because it would be a similar use to a pet cemetery. However, pet cemeteries are specifically not allowed in the CC zoning district but are allowed in the less restrictive CG zoning district.

Standard E states that if the proposed use is most similar to another use that requires a conditional use, the proposed use shall require a conditional use. Because the most similar use is a permitted use, a conditional use is not required.

Standard F states that no use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of that zoning district. The proposed use would occupy an existing structure on a local street, not an arterial or collector as stated in the purpose statement. However, Major Street dead ends in front of the subject property and connects directly to 1700 South, which is designated as an arterial.

Based on the findings above, it is the determination of the Zoning Administrator that a pet crematory/crematorium is not allowed in the CC Zoning District because the proposed use is most similar to a Funeral Home, a use that does not include the actual act of cremation, only the preparation of the dead for cremation and a Pet Cemetery, which is not an allowed use in the CC zoning district.

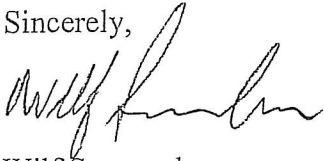
If you have any further questions or issues that you would like to discuss, please contact Nick Norris at (801) 535-6173 or by email nick.norris@slcgov.com

NOTICE:

Please be advised that a use interpretation 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 site plan approval.

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Board of Adjustment. Notice of appeal shall be filed within thirty (30) days of the administrative decision. The appeal shall be filed with the Zoning Administrator and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. A nonrefundable application and hearing fee of \$200.00 is required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wilf Sommerkorn', written in a cursive style.

Wilf Sommerkorn
Planning Director

cc: Cheri Coffey
Larry Butcher
File

Death Statistics for Salt Lake County
from the State of Utah, Dept. of
Health, Vital Statistics*

(*Method of Disposition [i.e. # of Cremations] Information was Provided per a Phone
Discussion with: Leisa Finch, State of Utah, Department of Health, Office of Vital
Records, (801) 538-6907)

Table 22. Deaths by local health district and county of residence: Utah, 1990-2007

Health district and county	Year													
	1990	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Total	9,125	10,854	10,974	11,545	11,784	11,981	12,339	12,607	13,042	13,341	13,270	13,325	13,645	13,988
Bear River	561	627	596	683	646	696	737	699	745	755	728	715	708	761
Box Elder	208	250	236	272	258	267	279	297	303	293	295	298	281	314
Cache	340	371	351	394	382	410	447	394	425	450	417	409	410	434
Rich	13	6	9	17	6	19	11	8	17	12	16	8	17	13
Central Utah	424	473	489	495	513	503	508	523	511	587	577	526	560	564
Juab	43	51	51	59	66	56	56	52	50	68	75	71	55	68
Millard	89	91	102	99	99	108	90	114	117	119	110	104	102	99
Piute	12	12	14	17	24	9	15	15	21	18	19	11	17	19
Sanpete	125	143	153	158	130	147	164	165	174	175	180	166	166	159
Sevier	137	145	149	141	169	160	164	157	137	183	173	156	198	195
Wayne	18	31	20	21	25	23	19	20	12	24	20	18	22	24
Davis	667	828	858	912	1,044	1,022	1,094	1,100	1,212	1,204	1,206	1,267	1,284	1,368
Salt Lake	3,847	4,583	4,736	4,802	4,817	4,962	5,019	5,144	5,220	5,312	5,285	5,252	5,291	5,437
Southeastern	347	392	324	404	384	393	379	428	407	479	409	383	414	456
Carbon	158	203	164	205	197	183	185	200	186	238	202	174	189	213
Emery	65	72	54	80	56	78	61	76	79	80	72	83	73	89
Grand	54	53	53	62	63	61	58	71	74	66	58	62	77	67
San Juan	70	64	53	57	68	71	75	81	68	95	77	64	75	87
Southwest	605	776	824	877	983	992	1,000	985	1,094	1,113	1,148	1,212	1,329	1,263
Beaver	47	48	45	63	50	57	62	45	59	65	61	78	51	62
Garfield	32	31	32	32	52	42	49	43	45	41	33	38	35	38
Iron	107	149	144	168	184	170	147	163	199	199	193	216	255	262
Kane	42	43	58	42	60	53	70	54	54	42	62	48	71	80
Washington	377	505	545	572	637	670	672	680	737	766	799	832	917	821
Summit	58	71	82	59	92	94	84	100	89	97	102	105	108	130
Tooele	147	184	164	199	198	215	230	202	235	255	259	252	265	263
TriCounty	193	245	251	270	232	248	271	291	308	316	315	283	309	319
Daggett	4	3	3	6	6	2	0	7	3	6	1	4	4	8
Duchesne	65	95	101	100	90	79	101	114	118	113	126	108	115	115
Uintah	124	147	147	164	136	167	170	170	187	197	188	171	190	196
Utah County	1,104	1,367	1,369	1,422	1,516	1,459	1,546	1,610	1,710	1,736	1,696	1,731	1,836	1,853
Wasatch	63	87	77	80	75	77	79	87	114	87	86	110	92	87
Weber-Morgan	1,109	1,221	1,204	1,342	1,284	1,320	1,392	1,438	1,397	1,400	1,459	1,489	1,449	1,487
Morgan	34	32	31	34	24	29	26	24	34	40	41	29	29	47
Weber	1,075	1,189	1,173	1,308	1,260	1,291	1,366	1,414	1,363	1,360	1,418	1,460	1,420	1,440

National Cremation Rates from
C.A.N.A. (Cremation Association of
North America)

About CANA	Membership	Publications	Statistics	For Consumers	CANA Showcase
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Site Search

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Top



Who is CANA?

Founded in 1913, the Cremation Association of North America (CANA) is an International organization of over 1,300 members, composed of cremationists, funeral directors, funeral home operators and owners, cemeterians, industry suppliers and consultants. CANA members believe that cremation is preparation for memorialization.

The Cremation Association of North America was originally formed to promote the "modern way" and the "safe and hygienic way" of dealing with a dead human body. It was a form of disposition and had nothing to do with the funeral and memorialization of the deceased.

At that time, and up into the early 1920's, cremation was the choice of the wealthy and the well-educated. All crematories were located on cemetery property and elaborate columbariums were built for the elaborate urns then being used.

After it became apparent, through scientific investigation, that proper in-ground, full body burial was safe, cremation fell out of favor and remained in the 3 % to 5% range. It wasn't until the early 1980's that the rate reached double digits and started to increase on the average of about 8% annually.

In 1985, CANA, which had been monitoring the annual national and state cremation rates, projected the cremation rate for the year 2000 would be a little over 25%. This prediction made a real impact in the death care profession because that projected to over 600,000 cremations in 2000 compared to fewer than 300,000 in 1985.

CANA's projection was actually a little under the actual cremation percentage for 2000 as the rate was 26.19% with 629,362 cremations. Since 2000, CANA has projected the cremation rate to 2010 and 2025, which based on current confirmed figures of 2006 (33.61%) and preliminary 2007 figures (34.89%), stand at 39.03% for 2010 and 58.89% for 2025, which equates to nearly 1,909,802 United States cremations in 2025.

A CANA survey done in 1998 showed that 26% of those cremated were Catholic, and recent survey results from other groups now put that figure at 30%, which would mean that approximately 420,000 Catholic cremations would occur in 2025, with over 250,000 Catholics being cremated in 2006.

- CANA members have recognized this steady growth of cremation and have been active in promoting the importance of memorialization when cremation is chosen.
- CANA is not a 'pro-cremation over burial' association, but is concerned with the proper treatment and respect for those who have chosen cremation and that cremation is preparation for memorialization.

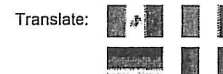
CANA also feels that the word "cremains" should not be used when referring to "human cremated remains." "Cremains" has no real connection with the deceased whereas a loved one's "cremated remains" has a human connection.

A membership in CANA is the best way for any cremationist, funeral director or cemeterian to stay abreast of what is going on in cremation and how to deal with an aging population that is choosing cremation in greater and greater numbers.

CANA Code of Cremation Practice

In the practice of cremation, we believe:

Officers
Board
Staff
Committees
By-Laws
For Funeral Homes
CANA Site Map
Request More Info
Disclaimer



- In dignity and respect in the care of the deceased, in compassion for the living who survive them, and in the memorialization of life;
- That a Cremation Authority should be responsible for creating and maintaining an atmosphere of respect at all times;
- That the greatest care should be taken in the appointment of crematory staff members, any of whom must not, by conduct or demeanor, bring the crematory or cremation into disrepute;
- That cremation should be considered as preparation for memorialization;
- That the dead of our society should be memorialized through a commemorative means suitable to the survivors.



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State of Utah Code
Section 58.9.102(18)(b)(ii):
State's Definition of a Funeral Service
Establishment

58-9-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Authorizing agent" means a person legally entitled to authorize the cremation of human remains.
- (2) "Beneficiary" means the individual who, at the time of the beneficiary's death, is to receive the benefit of the property and services purchased under a preneed funeral arrangement.
- (3) "Board" means the Board of Funeral Service created in Section 58-9-201.
- (4) "Body part" means:
 - (a) a limb or other portion of the anatomy that is removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or
 - (b) a human body or any portion of a body that has been donated to science for medical research purposes.
- (5) "Buyer" means a person who purchases a preneed funeral arrangement.
- (6) "Calcination" means a process in which a dead human body is reduced by intense heat to a residue that is not as substantive as the residue that follows cremation.
- (7) "Cremated remains" means all the remains of a cremated body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.
- (8) "Cremation" means the technical process, using direct flame and heat, that reduces human remains to bone fragments through heat and evaporation and includes the processing and usually the pulverization of the bone fragments.
- (9) "Cremation chamber" means the enclosed space within which the cremation process takes place and which is used exclusively for the cremation of human remains.
- (10) "Cremation container" means the container:
 - (a) in which the human remains are transported to the crematory and placed in the cremation chamber for cremation; and
 - (b) that meets substantially all of the following standards:
 - (i) composed of readily combustible materials suitable for cremation;
 - (ii) able to be closed in order to provide a complete covering for the human remains;
 - (iii) resistant to leakage or spillage;
 - (iv) rigid enough for handling with ease; and
 - (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.
- (11) "Crematory" means the building or portion of a building that houses the cremation chamber and the holding facility.
- (12) "Direct disposition" means the disposition of a dead human body:
 - (a) as quickly as law allows;
 - (b) without preparation of the body by embalming; and
 - (c) without an attendant funeral service or graveside service.
- (13) "Disposition" means the final disposal of a dead human body by:
 - (a) earth interment;
 - (b) above ground burial;
 - (c) cremation;
 - (d) calcination;
 - (e) burial at sea;
 - (f) delivery to a medical institution; or
 - (g) other lawful means.
- (14) "Embalming" means replacing body fluids in a dead human body with preserving and disinfecting chemicals.
- (15) (a) "Funeral merchandise" means any of the following into which a dead human body is placed in

connection with the transportation or disposition of the body:

- (i) a vault;
 - (ii) a casket; or
 - (iii) other personal property.
- (b) "Funeral merchandise" does not include:

- (i) a mausoleum crypt;
 - (ii) an interment receptacle preset in a cemetery; or
 - (iii) a columbarium niche.
- (16) "Funeral service" means a service, rite, or ceremony performed:
- (a) with respect to the death of a human; and
 - (b) with the body of the deceased present.

(17) "Funeral service director" means an individual licensed under this chapter who may engage in all lawful professional activities regulated and defined under the practice of funeral service.

(18) (a) "Funeral service establishment" means a place of business at a specific street address or location licensed under this chapter that is devoted to:

- (i) the embalming, care, custody, shelter, preparation for burial, and final disposition of dead human bodies; and
- (ii) the furnishing of services, merchandise, and products purchased from the establishment as a preneed provider under a preneed funeral arrangement.

(b) "Funeral service establishment" includes:

- (i) all portions of the business premises and all tools, instruments, and supplies used in the preparation and embalming of dead human bodies for burial, cremation, and final disposition as defined by division rule; and
- (ii) a facility used by the business in which funeral services may be conducted.

(19) "Funeral service intern" means an individual licensed under this chapter who is permitted to:

- (a) assist a funeral service director in the embalming or other preparation of a dead human body for disposition;
- (b) assist a funeral service director in the cremation, calcination, or pulverization of a dead human body or its remains; and
- (c) perform other funeral service activities under the supervision of a funeral service director.

(20) "Graveside service" means a funeral service held at the location of disposition.

(21) "Memorial service" means a service, rite, or ceremony performed:

- (a) with respect to the death of a human; and
- (b) without the body of the deceased present.

(22) "Practice of funeral service" means:

- (a) supervising the receipt of custody and transportation of a dead human body to prepare

the body for:

- (i) disposition; or
- (ii) shipment to another location;
- (b) entering into a contract with a person to provide professional services regulated under this chapter;
- (c) embalming or otherwise preparing a dead human body for disposition;
- (d) supervising the arrangement or conduct of:
 - (i) a funeral service;
 - (ii) a graveside service; or
 - (iii) a memorial service;
- (e) cremation, calcination, or pulverization of a dead human body or the body's remains;
- (f) supervising the arrangement of:
 - (i) a disposition; or
 - (ii) a direct disposition;
- (g) facilitating:
 - (i) a disposition; or
 - (ii) a direct disposition;
- (h) supervising the sale of funeral merchandise by a funeral establishment;

(i) managing or otherwise being responsible for the practice of funeral service in a licensed funeral service establishment;

(j) supervising the sale of a preneed funeral arrangement; and

(k) contracting with or employing individuals to sell a preneed funeral arrangement.

(23) (a) "Preneed funeral arrangement" means a written or oral agreement sold in advance of the death of the beneficiary under which a person agrees with a buyer to provide at the death of the beneficiary any of the following as are typically provided in connection with a disposition:

(i) goods;

(ii) services, including:

(A) embalming services; and

(B) funeral directing services;

(iii) real property; or

(iv) personal property, including:

(A) a casket;

(B) another primary container;

(C) a cremation or transportation container;

(D) an outer burial container;

(E) a vault;

(F) a grave liner;

(G) funeral clothing and accessories;

(H) a monument;

(I) a grave marker; and

(J) a cremation urn.

(b) "Preneed funeral arrangement" does not include a policy or product of life insurance providing a death benefit cash payment upon the death of the beneficiary which is not limited to providing the products or services described in Subsection (23)(a).

(24) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual means.

(25) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation and processing to granulated particles by manual or mechanical means.

(26) "Sales agent" means an individual licensed under this chapter as a preneed funeral arrangement sales agent.

(27) "Temporary container" means a receptacle for cremated remains usually made of cardboard, plastic, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

(28) "Unlawful conduct" is as defined in Sections **58-1-501** and **58-9-501**.

(29) "Unprofessional conduct" is as defined in Sections **58-1-501** and **58-9-502**.

(30) "Urn" means a receptacle designed to permanently encase the cremated remains.

Amended by Chapter 353, 2008 General Session

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Last revised: Friday, December 12, 2008

State of Utah Code
Section 58.9.102(22)(e):
State's Definition of Funeral Service

58-9-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Authorizing agent" means a person legally entitled to authorize the cremation of human remains.
- (2) "Beneficiary" means the individual who, at the time of the beneficiary's death, is to receive the benefit of the property and services purchased under a preneed funeral arrangement.
- (3) "Board" means the Board of Funeral Service created in Section 58-9-201.
- (4) "Body part" means:
 - (a) a limb or other portion of the anatomy that is removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or
 - (b) a human body or any portion of a body that has been donated to science for medical research purposes.
- (5) "Buyer" means a person who purchases a preneed funeral arrangement.
- (6) "Calcination" means a process in which a dead human body is reduced by intense heat to a residue that is not as substantive as the residue that follows cremation.
- (7) "Cremated remains" means all the remains of a cremated body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.
- (8) "Cremation" means the technical process, using direct flame and heat, that reduces human remains to bone fragments through heat and evaporation and includes the processing and usually the pulverization of the bone fragments.
- (9) "Cremation chamber" means the enclosed space within which the cremation process takes place and which is used exclusively for the cremation of human remains.
- (10) "Cremation container" means the container:
 - (a) in which the human remains are transported to the crematory and placed in the cremation chamber for cremation; and
 - (b) that meets substantially all of the following standards:
 - (i) composed of readily combustible materials suitable for cremation;
 - (ii) able to be closed in order to provide a complete covering for the human remains;
 - (iii) resistant to leakage or spillage;
 - (iv) rigid enough for handling with ease; and
 - (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.
- (11) "Crematory" means the building or portion of a building that houses the cremation chamber and the holding facility.
- (12) "Direct disposition" means the disposition of a dead human body:
 - (a) as quickly as law allows;
 - (b) without preparation of the body by embalming; and
 - (c) without an attendant funeral service or graveside service.
- (13) "Disposition" means the final disposal of a dead human body by:
 - (a) earth interment;
 - (b) above ground burial;
 - (c) cremation;
 - (d) calcination;
 - (e) burial at sea;
 - (f) delivery to a medical institution; or
 - (g) other lawful means.
- (14) "Embalming" means replacing body fluids in a dead human body with preserving and disinfecting chemicals.
- (15) (a) "Funeral merchandise" means any of the following into which a dead human body is placed in

connection with the transportation or disposition of the body:

- (i) a vault;
- (ii) a casket; or
- (iii) other personal property.

(b) "Funeral merchandise" does not include:

- (i) a mausoleum crypt;
- (ii) an interment receptacle preset in a cemetery; or
- (iii) a columbarium niche.

(16) "Funeral service" means a service, rite, or ceremony performed:

- (a) with respect to the death of a human; and
- (b) with the body of the deceased present.

(17) "Funeral service director" means an individual licensed under this chapter who may engage in all lawful professional activities regulated and defined under the practice of funeral service.

(18) (a) "Funeral service establishment" means a place of business at a specific street address or location licensed under this chapter that is devoted to:

(i) the embalming, care, custody, shelter, preparation for burial, and final disposition of dead human bodies; and

(ii) the furnishing of services, merchandise, and products purchased from the establishment as a preneed provider under a preneed funeral arrangement.

(b) "Funeral service establishment" includes:

(i) all portions of the business premises and all tools, instruments, and supplies used in the preparation and embalming of dead human bodies for burial, cremation, and final disposition as defined by division rule; and

(ii) a facility used by the business in which funeral services may be conducted.

(19) "Funeral service intern" means an individual licensed under this chapter who is permitted to:

(a) assist a funeral service director in the embalming or other preparation of a dead human body for disposition;

(b) assist a funeral service director in the cremation, calcination, or pulverization of a dead human body or its remains; and

(c) perform other funeral service activities under the supervision of a funeral service director.

(20) "Graveside service" means a funeral service held at the location of disposition.

(21) "Memorial service" means a service, rite, or ceremony performed:

- (a) with respect to the death of a human; and
- (b) without the body of the deceased present.

(22) "Practice of funeral service" means:

(a) supervising the receipt of custody and transportation of a dead human body to prepare

the body for:

- (i) disposition; or
- (ii) shipment to another location;
- (b) entering into a contract with a person to provide professional services regulated under this chapter;
- (c) embalming or otherwise preparing a dead human body for disposition;
- (d) supervising the arrangement or conduct of:
 - (i) a funeral service;
 - (ii) a graveside service; or
 - (iii) a memorial service;
- (e) cremation, calcination, or pulverization of a dead human body or the body's remains;
- (f) supervising the arrangement of:
 - (i) a disposition; or
 - (ii) a direct disposition;
- (g) facilitating:
 - (i) a disposition; or
 - (ii) a direct disposition;
- (h) supervising the sale of funeral merchandise by a funeral establishment;

(i) managing or otherwise being responsible for the practice of funeral service in a licensed funeral service establishment;

(j) supervising the sale of a preneed funeral arrangement; and

(k) contracting with or employing individuals to sell a preneed funeral arrangement.

(23) (a) "Preneed funeral arrangement" means a written or oral agreement sold in advance of the death of the beneficiary under which a person agrees with a buyer to provide at the death of the beneficiary any of the following as are typically provided in connection with a disposition:

(i) goods;

(ii) services, including:

(A) embalming services; and

(B) funeral directing services;

(iii) real property; or

(iv) personal property, including:

(A) a casket;

(B) another primary container;

(C) a cremation or transportation container;

(D) an outer burial container;

(E) a vault;

(F) a grave liner;

(G) funeral clothing and accessories;

(H) a monument;

(I) a grave marker; and

(J) a cremation urn.

(b) "Preneed funeral arrangement" does not include a policy or product of life insurance providing a death benefit cash payment upon the death of the beneficiary which is not limited to providing the products or services described in Subsection (23)(a).

(24) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual means.

(25) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation and processing to granulated particles by manual or mechanical means.

(26) "Sales agent" means an individual licensed under this chapter as a preneed funeral arrangement sales agent.

(27) "Temporary container" means a receptacle for cremated remains usually made of cardboard, plastic, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

(28) "Unlawful conduct" is as defined in Sections **58-1-501** and **58-9-501**.

(29) "Unprofessional conduct" is as defined in Sections **58-1-501** and **58-9-502**.

(30) "Urn" means a receptacle designed to permanently encase the cremated remains.

Amended by Chapter 353, 2008 General Session

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Last revised: Friday, December 12, 2008

State of Utah Code
Section 58.9.610:
State Sets Forth Cremation
Procedures

58-9-610. Cremation procedures.

(1) A funeral service establishment may not cremate human remains until a death certificate is completed and filed with the office of vital statistics and the county health department as indicated on the regular medical certificate of death or the coroner's certificate.

(2) (a) A funeral service establishment may not cremate human remains with a pacemaker or other battery powered potentially hazardous implant in place.

(b) (i) An authorizing agent for the cremation of human remains is responsible for informing the funeral service establishment in writing on the cremation authorization form about the presence of a pacemaker or other battery powered potentially hazardous implant in the human remains to be cremated.

(ii) (A) The authorizing agent is ultimately responsible to ensure that a pacemaker or other implant is removed prior to cremation.

(B) If the authorizing agent informs the funeral service establishment of the presence of a pacemaker or other battery powered implant under Subsection (2)(b)(i) and the funeral service establishment fails to have it removed prior to cremation, then the funeral service establishment and the authorizing agent are jointly liable for all resulting damages.

(3) Only authorized persons are permitted in the crematory while human remains are in the crematory area awaiting cremation, being cremated, or being removed from the cremation chamber.

(4) (a) Simultaneous cremation of the human remains of more than one person within the same cremation chamber or processor is not allowed, unless the funeral service establishment has received specific written authorization to do so from the authorizing agent of each person to be cremated.

(b) The written authorization exempts the funeral license establishment from liability for co-mingling of the cremated remains during the cremation process.

(5) A funeral service establishment shall:

(a) verify the identification of human remains as indicated on a cremation container immediately before placing them in the cremation chamber and attach a metal identification tag to the container; and

(b) remove the identification tag from the cremation container and place the identification tag near the cremation chamber control where it shall remain until the cremation process is complete.

(6) Upon completion of a cremation, the funeral service establishment shall:

(a) in so far as is possible, remove all of the recoverable residue of the cremation process from the cremation chamber;

(b) separate all other residue from the cremation process from remaining bone fragments, in so far as possible, and process the bone fragments so as to reduce them to unidentifiable particles; and

(c) remove anything other than the unidentifiable bone particles from the cremated residuals, as far as possible, and dispose of that material.

(7) (a) A funeral service establishment shall pack cremated remains, including the identification tag referred to in Subsection (5)(a), in a temporary container or urn ordered by the authorizing agent.

(b) The container or urn shall be packed in clean packing materials and not be contaminated with any other object unless otherwise directed by the authorizing agent.

(c) If the cremated remains cannot fit within the designated temporary container or urn, the funeral service establishment shall:

(i) return the excess to the authorizing agent or the agent's representative in a separate container; and

(ii) mark both containers or urns on the outside with the name of the deceased person and an indication that the cremated remains of the named decedent are in both containers or urns.

(8) (a) If the cremated remains are to be shipped, then the funeral services establishment shall pack the designated temporary container or urn in a suitable, sturdy container.

(b) The funeral service establishment shall have the remains shipped only by a method that:

(i) has an available internal tracing system; and

(ii) provides a receipt signed by the person accepting delivery.

Enacted by Chapter 353, 2008 General Session

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Last revised: Friday, December 12, 2008

B&L Cremation Systems Retort
Information – Independent Test,
Technical Information and Emission
Comparison Table



Cremation Systems, Inc.

7205 - 114th Avenue North Largo, Florida 33773 USA
1-800-622-5411 727-541-4666 Facsimile 727-547-0669
e-mail: sales@blcremationsystems.com www.blcremationsystems.com

May 23, 2008

TO WHOM IT MAY CONCERN:

B & L Cremation Systems, Inc. has had all of its cremation models tested by independent laboratories to show compliance with the Federal EPA, State and Local Regulations.

Under normal operations, our equipment has met or exceeded the regulations. (See enclosed results for Model BPL-500/150)

As you will see from the results, the amount of particulate emission is 0.03 LBS/ HR. The CO emission rate was 4.3ppm. The visible emissions were zero as were detectable odors.

I hope this information is adequate to allow our customers to place this system at the intended facility.

Sincerely,

Steve Looker
President

SL/jah

1.0 INTRODUCTION

Southern Environmental Sciences, Inc. conducted emissions testing of the Foster's Pet Cremation Service animal crematory on March 9, 2004. This facility is located at 15204 County Line Road, Spring Hill, Florida. Testing was conducted for particulates, carbon monoxide and visible emissions. Oxygen (O_2) concentrations were measured to correct emission rates to 7% O_2 . Testing was performed to determine if the plant was operating in compliance with requirements of the Florida Department of Environmental Protection (FDEP).

2.0 SUMMARY OF RESULTS

The facility was found to be in compliance with all applicable emission limiting standards. Results of the particulate and carbon monoxide testing are summarized in Table 1. Particulate emissions from this source are limited to a maximum allowable concentration of 0.080 grains per dry standard cubic foot (corrected to 7% O_2), and 0.30 pounds per hour. The average measured particulate concentration was 0.009 grains per dry standard cubic foot (corrected to 7% O_2), and 0.031 pounds per hour, well within the limit. The maximum allowable carbon monoxide emissions concentration from this source is 100 parts per million, dry basis (corrected to 7% O_2), and 0.17 pounds per hour. The average measured carbon monoxide emission concentration was 4.3 parts per million, dry basis (corrected to 7% O_2), and 0.01 pounds per hour, well within the allowable limit.

A visible emissions evaluation was performed over a one hour period. The average

SOUTHERN ENVIRONMENTAL SCIENCES, INC.
1204 North Wheeler Street, Plant City, Florida 33566 (813)752-5014

VISIBLE EMISSIONS EVALUATION

COMPANY Foster's Pet Cremation Service
 UNIT Animal Crematory Incinerator
 ADDRESS 15204 County Line Rd
Spring Hill, FL

PERMIT NO. 1010377-002-A0 COMPLIANCE? YES NO
 AIRS NO. 1010377 EU NO. 003
 PROCESS RATE 497 lb Batch PERMITTED RATE 500 lb Batch
124 lbs/hr 150 lbs/hr

PROCESS EQUIPMENT Bth 500/150 crematory
 CONTROL EQUIPMENT AFTERBURNER

OPERATING MODE Nat. Gas Fired AMBIENT TEMP. (°F) START 70 STOP 75

HEIGHT ABOVE GROUND LEVEL START 230' STOP same HEIGHT REL. TO OBSERVER START 230' STOP same

DISTANCE FROM OBSERVER START 280' STOP same DIRECTION FROM OBSERVER START 350° STOP 350°

EMISSION COLOR NONE PLUME TYPE N/A CONTIN. INTERMITTENT

WATER DROPLETS PRESENT NO YES IS WATER DROPLET PLUME N/A ATTACHED DETACHED

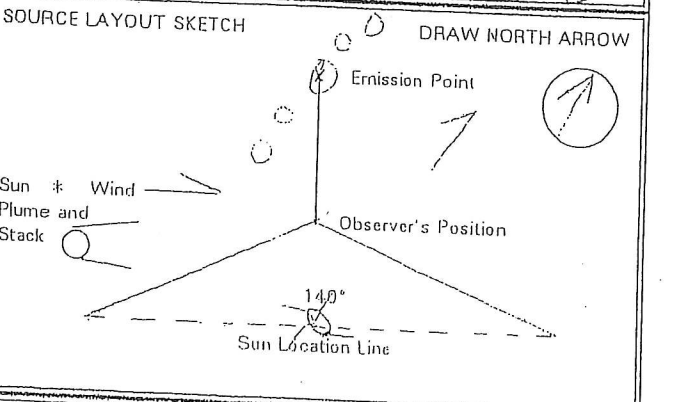
POINT IN THE PLUME AT WHICH OPACITY WAS DETERMINED START Stack Exit STOP same

DESCRIBE BACKGROUND START SKY STOP same

BACKGROUND COLOR START bl/w STOP same SKY CONDITIONS START scat. STOP same

WIND SPEED (MPH) START 3-10 STOP same WIND DIRECTION START S STOP S

AVERAGE OPACITY FOR HIGHEST PERIOD 0% RANGE OF OPAC. READINGS MIN. 0 MAX. 0



OBSERVATION DATE 3/9/04 START TIME 11:35 STOP TIME 12:35

SEC	0				15				30				45			
	0	15	30	45	0	15	30	45	0	15	30	45	0	15	30	45
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
17	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
22	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
23	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
24	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
25	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
26	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
27	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
28	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
29	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Observer: Mark Gierke

Certified by: FDA P Certified at: Ty MP9

Date Certified: 3/04 Exp. Date: 8/04

I certify that all data provided to the person conducting the test was true and correct to the best of my knowledge.

Signature: See Process w/ Statement

Title:

COMMENTS Serial # 203-17-93
#3 Incinerator

TABLE 1. EMISSIONS TEST SUMMARY

Company: FOSTER'S PET CREMATION SERVICE
 Source: Animal Crematory Incinerator

	Run 1	Run 2	Run 3
Date of Run	3/9/04	3/9/04	3/9/04
Process Rate (lbs/hr)	124	124	124
Start Time (24-hr. clock)	1135	1302	1425
End Time (24-hr. clock)	1238	1403	1526
Vol. Dry Gas Sampled Meter Cond. (DCF)	35.293	36.308	37.298
Gas Meter Calibration Factor	0.986	0.986	0.986
Barometric Pressure at Barom. (in. Hg.)	30.14	30.14	30.14
Elev. Diff. Manom. to Barom. (ft.)	0	0	0
Vol. Gas Sampled Std. Cond. (DSCF)	34.324	34.476	35.476
Vol. Liquid Collected Std. Cond. (SCF)	8.020	6.794	5.913
Moisture in Stack Gas (% Vol.)	18.9	16.5	14.3
Molecular Weight Dry Stack Gas	29.04	29.12	29.30
Molecular Weight Wet Stack Gas	26.95	27.29	27.69
Stack Gas Static Press. (in. H ₂ O gauge)	-0.01	-0.01	-0.01
Stack Gas Static Press. (in. Hg. abs.)	30.14	30.14	30.14
Average Square Root Velocity Head	0.164	0.175	0.178
Average Orifice Differential (in. H ₂ O)	1.049	1.041	1.118
Average Gas Meter Temperature (°F)	80.6	93.7	92.9
Average Stack Gas Temperature (°F)	1240.3	1367.1	1359.6
Pitot Tube Coefficient	0.84	0.84	0.84
Stack Gas Vel. Stack Cond. (ft./sec.)	17.01	18.68	18.85
Effective Stack Area (sq. ft.)	1.77	1.77	1.77
Stack Gas Flow Rate Std. Cond. (DSCFM)	457	482	501
Stack Gas Flow Rate Stack Cond. (ACFM)	1,803	1,981	1,999
Net Time of Run (min.)	60	60	60
Nozzle Diameter (in.)	0.611	0.611	0.611
Percent Isokinetic	108.7	103.6	102.5

TABLE 1. EMISSIONS TEST SUMMARY (con't)

Company: FOSTER'S PET CREMATION SERVICE
 Source: Animal Crematory Incinerator

	Run 1	Run 2	Run 3	
Date of Run	3/9/04	3/9/04	3/9/04	
Process Rate (lbs/hr)	124	124	124	
Start Time (24-hr. clock)	1135	1302	1425	
End Time (24-hr. clock)	1238	1403	1526	
Oxygen (%)	8.0	10.0	10.5	
Particulate Collected (mg.)	34.0	11.1	7.4	<u>Average</u>
Particulate Emissions (gr./DSCF)	0.015	0.005	0.003	0.008
Particulate Emissions (gr./DSCF @ 7% O2)	0.016	0.006	0.004	0.009
Allowable Part. Emissions (gr./DSCF @ 7% O2)				0.080
Particulate Emissions (lb./hr.)	0.060	0.021	0.014	0.031
Allowable Part. Emissions (lb./hr.)				0.30
CO Emissions (PPM)	3.08	2.25	5.00	4.3
CO Emissions (PPM @ 7% O2)	3.3	2.9	6.7	4.3
Allowable CO Emissions (PPM @ 7% O2)				100
CO Emissions (lb./hr.)	0.006	0.005	0.011	0.007
Allowable CO Emissions (lb./hr.)				0.12

Note: Standard conditions 68°F, 29.92 in. Hg

maximum six minute opacity was zero percent, well within the allowable limit of 5 percent.

3.0 PROCESS DESCRIPTION

The B & L Systems, Inc. Model BLP 500/150 Series crematory incinerator cremates animal remains in an environmentally acceptable manner. Emissions are controlled by an afterburner. The afterburner is preheated and maintained at a minimum operating temperature of 1600°F prior to ignition of the primary chamber. The unit is designed to be charged with a maximum of 500 pounds of animal remains and incinerate at a maximum rate of 150 pounds per hour with a maximum heat input of 1.35 MMBTU per hour (primary chamber 0.35 MMBTU per hour, secondary chamber 1.0 MMBTU/hr), each chamber fired exclusively on propane gas only. The time required for complete incineration depends upon the total weight of the waste. Process operational data was provided by facility personnel and is included in the appendix.

4.0 SAMPLING PROCEDURES

4.1 Methods

All sampling was performed using methods currently acceptable to the FDEP. Particulate sampling and analyses were conducted in accordance with EPA Method 5 - Determination of Particulate Emissions from Stationary Sources, 40 CFR 60, Appendix A-3. Carbon monoxide emissions were conducted in accordance with EPA Method 10 - Determination of Carbon Monoxide Emissions from Stationary Sources, 40 CFR 60, Appendix A-4. The oxygen content of the stack gas was determined in accordance with EPA Method 3B - Gas

Analysis for the Determination of Emission Rate Correction Factor or Excess Air, 40 CFR 60, Appendix A-2. The visible emissions evaluation was performed using procedures described in EPA Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources, 40 CFR 60, Appendix A-4.

4.2 Sampling Locations

Locations of the sample ports and stack dimensions are shown in Figure 1. Particulate sampling was accomplished by conducting horizontal traverses through each of two ports located on the stack at a ninety degree angle from one another. Twenty four sample points were chosen in accordance with EPA Method 1 - Sample and Velocity Traverses for Stationary Sources, 40 CFR 60, Appendix A-1. Carbon monoxide and oxygen sampling were performed from the same sampling ports as the particulate sampling.

4.3 Sampling Trains

The particulate sampling train consisted of a Nutech Corporation 3 foot quartz lined probe and nozzle, a heated glass fiber filter and four impingers arranged as shown in Figure 2. Flexible tubing was used between the heated filter and the impingers. The first two impingers were each charged with 100 milliliters of water, the third served as a dry trap and the fourth impinger was charged with indicating silica gel desiccant. The impingers were cooled in an ice and water bath during sampling. A Nutech Corporation control console was used to monitor the gas flow rates and stack conditions during sampling.

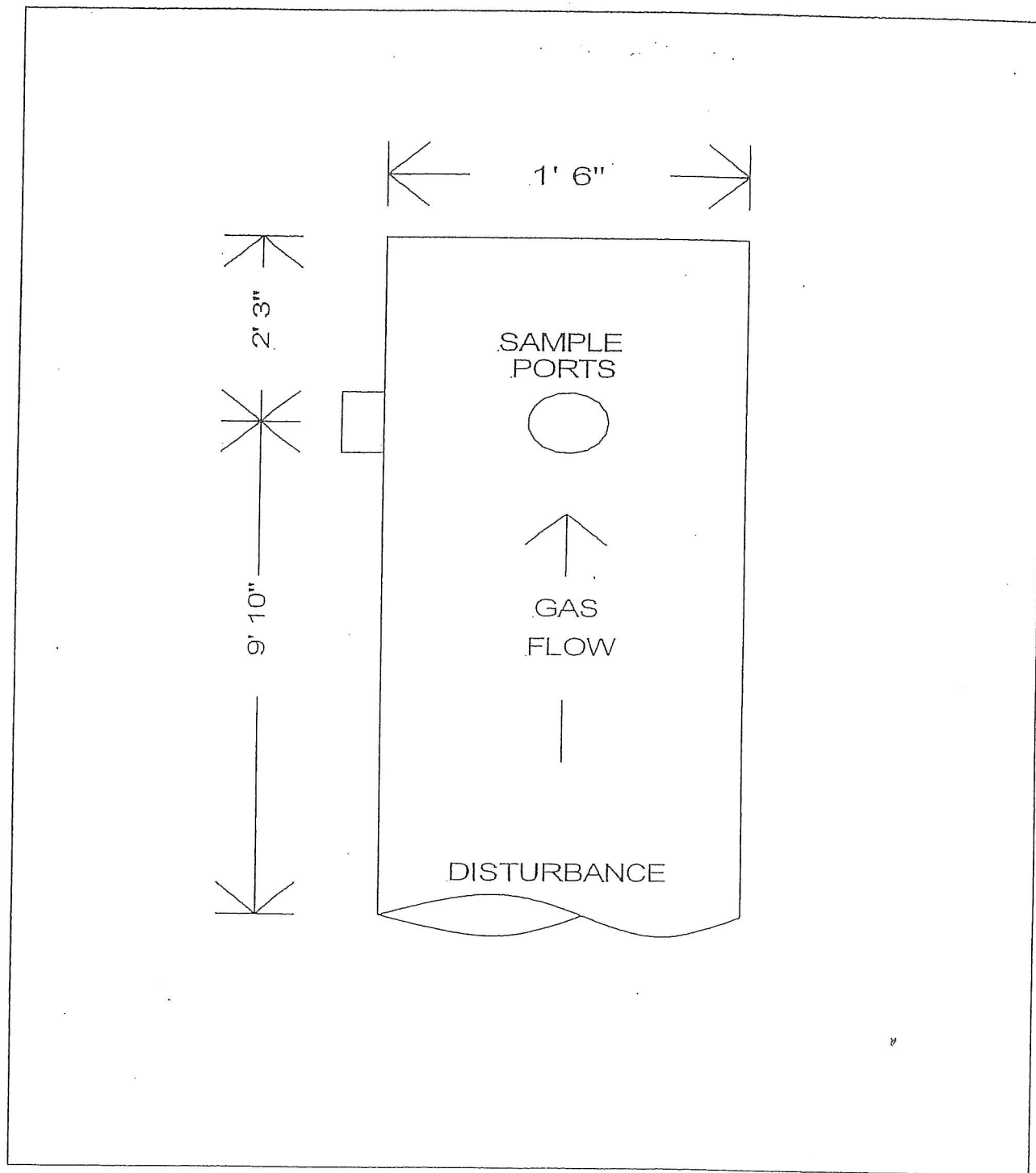


Figure 1. Stack Dimensions and Sample Port Locations, Foster's Pet Cremation Service, Animal Crematory Incinerator, Spring Hill, Florida.

CO / VOC / NOX / PM

VOC (Volatile Organic Compounds) - Any organic compound that participates in atmospheric photochemical reactions, except those designated by the EPA as having negligible photochemical reactivity

PM (Particulates) – Fine liquid or solid particles such as dust, smoke, mist, fumes or soot found in air or emissions

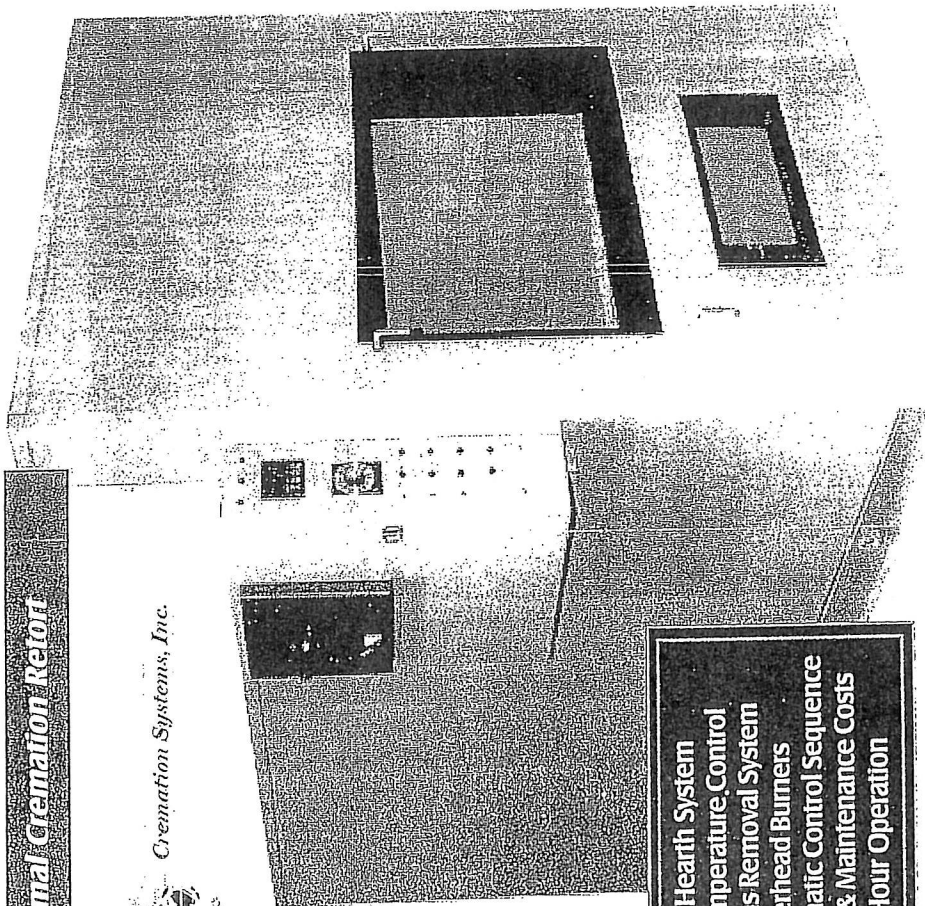
NOX (Nitrogen Oxide) – Product of combustion from transportation and stationary sources as well as being a major contributor to the formation of ozone in the atmosphere and acid rain deposition.

CO (Carbon Monoxide) – Product of incomplete combustion, gas without smell or color.

BLP 500 Annual Cremation Retort



Cremation Systems, Inc.



- Hot Hearth System
- Full Temperature Control
- Remains Removal System
- Overhead Burners
- Fully Automatic Control Sequence
- Low Fuel & Maintenance Costs
- 24 Hour Operation

All dimensions are approximate

SPECIFICATIONS

BLP 200

Dimensions:
 Height 90"
 Width 62"
 Length 95"
 Weight 15,000 lbs.
Power Requirements:
 220 volts, 1-phase, 30 AMPS
Gas Pressure:
 Natural Gas 7" W.C.
 Propane Gas 11" W.C.
Cremation Rate:
 Burner Output: 75 Pounds per Hour
 Maximum Input Rating: 1,100,000 BTU's per Hour
 Afterburner Maximum: 800,000 BTU's per Hour
 Modulation Minimum: 100,000 BTU's per Hour
Cremation Burner:
 300,000 BTU's per Hour
Air Requirements:
 Outside air inlet louvers in the room located at or below burner height, capable of passing 2,500 CFM of free air.

BLP 500

Dimensions:
 Height 96"
 Width 66"
 Length 126"
 Weight 20,000 lbs.
Power Requirements:
 220 volts, 1-phase, 30 AMPS
Gas Pressure:
 Natural Gas 7" W.C.
 Propane Gas 11" W.C.
Cremation Rate:
 Burner Output: 150 Pounds per Hour
 Maximum Input Rating: 1,500,000 BTU's per Hour
 Afterburner Maximum: 1,000,000 BTU's per Hour
 Modulation Minimum: 100,000 BTU's per Hour
Cremation Burner:
 500,000 BTU's per Hour
Air Requirements:
 Outside air inlet louvers in the room located at or below burner height, capable of passing 2,500 CFM of free air.

BLP 750

Dimensions:
 Height 96"
 Width 66"
 Length 144"
 Weight 26,000 lbs.
Power Requirements:
 220 volts, 1-phase, 30 AMPS
Gas Pressure:
 Natural Gas 7" W.C.
 Propane Gas 11" W.C.
Cremation Rate:
 Burner Output: 150 Pounds per Hour
 Maximum Input Rating: 1,500,000 BTU's per Hour
 Afterburner Maximum: 1,000,000 BTU's per Hour
 Modulation Minimum: 100,000 BTU's per Hour
Cremation Burner:
 500,000 BTU's per Hour
Air Requirements:
 Outside air inlet louvers in the room located at or below burner height, capable of passing 2,500 CFM of free air.

BLP 1000

Dimensions:
 Height 110"
 Width 70"
 Length 144"
 Weight 32,000 lbs.
Power Requirements:
 220 volts, 1-phase, 30 AMPS
Gas Pressure:
 Natural Gas 7" W.C.
 Propane Gas 11" W.C.
Cremation Rate:
 Burner Output: 250 Pounds per Hour
 Maximum Input Rating: 2,000,000 BTU's per Hour
 Afterburner Maximum: 1,200,000 BTU's per Hour
 Modulation Minimum: 100,000 BTU's per Hour
Cremation Burner:
 800,000 BTU's per Hour
Air Requirements:
 Outside air inlet louvers in the room located at or below burner height, capable of passing 2,500 CFM of free air.

FULLY AUTOMATIC CONTROL SEQUENCE

Operation is made simple by the fully automatic control sequence. A microprocessor temperature controller, with a digital readout, ensures optimum control while providing the lowest fuel consumption. Visual verification of each stage is provided on the control panel. Operator override is achieved at a turn of a switch for semi-manual control.

HOT HEARTH DESIGN

First introduced by B & L, this design allows for wasted afterburning heat to be recycled through the floor, eliminating fluid problems, lowering fuel consumption and extending the hearth life.

MULTI-CHAMBER AIR CONTROLLED DESIGN

The entire combustion process is completed within the air controlled chambers eliminating burning in the stack, allowing for 24 hour operation and providing for greater fuel efficiency over excess air designs.

POLLUTION MONITORING & CONTROL SYSTEM

This system constantly monitors the stack gases to prevent visible emissions. Integrated with the automatic system, this feature enables the unit to make all necessary adjustments automatically.

REFRACTORY LINED STACK

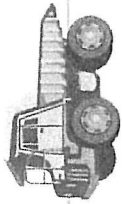
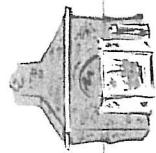
A three inch insulating liner is provided as a safety feature. While gases seldom exceed 1000° F, the liner reduces heat penetration under every condition, preventing the possibility of fire.

LOW NOISE

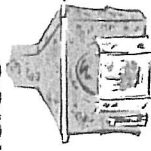
The secondary combustion blower has been manufactured and installed to allow for low noise operation. The BLP series retorts are the quietest units available.



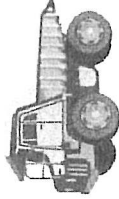
Emissions Comparison - Emission Rate (lb./hr.)



Residential Fireplace



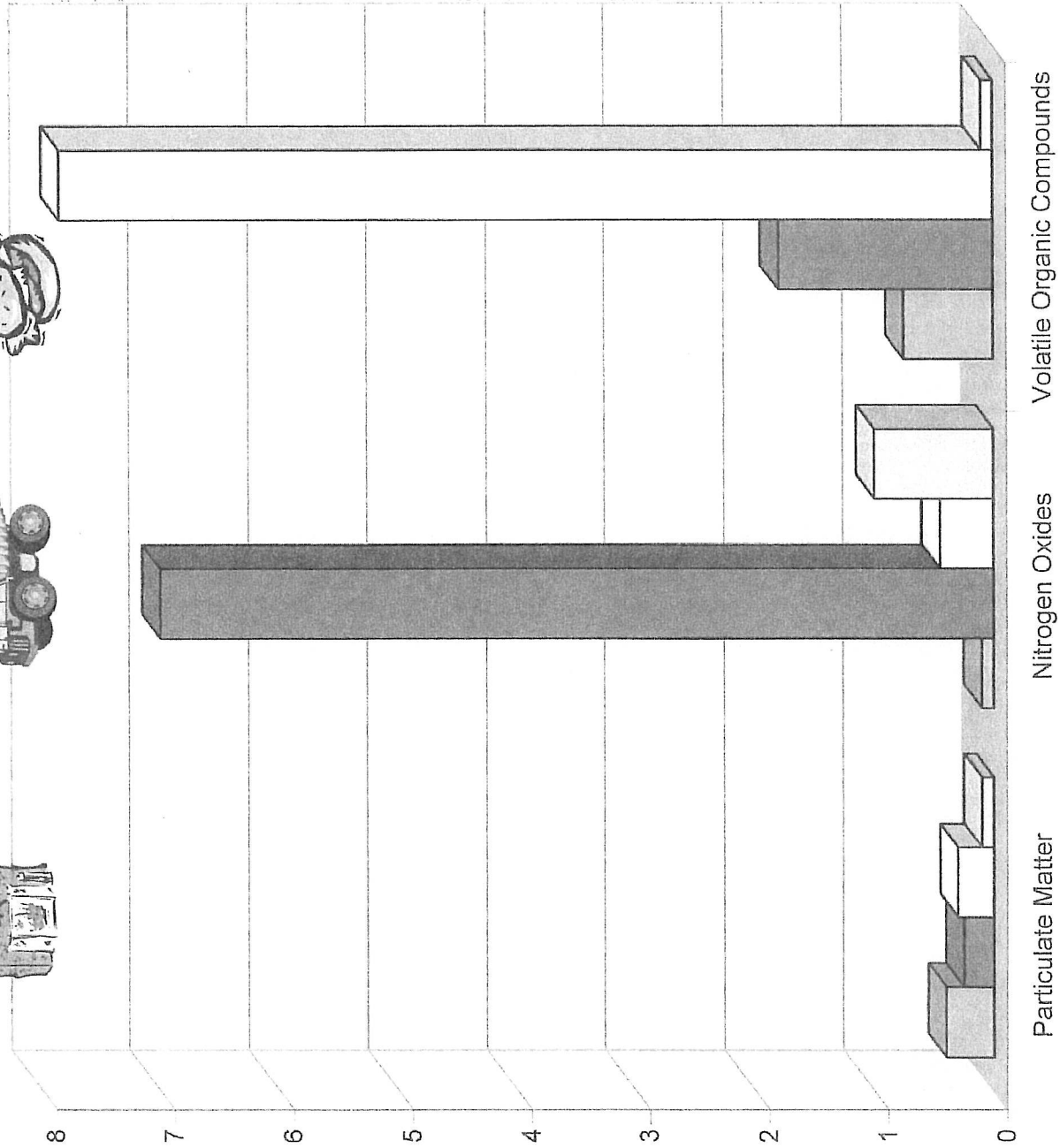
Diesel Truck



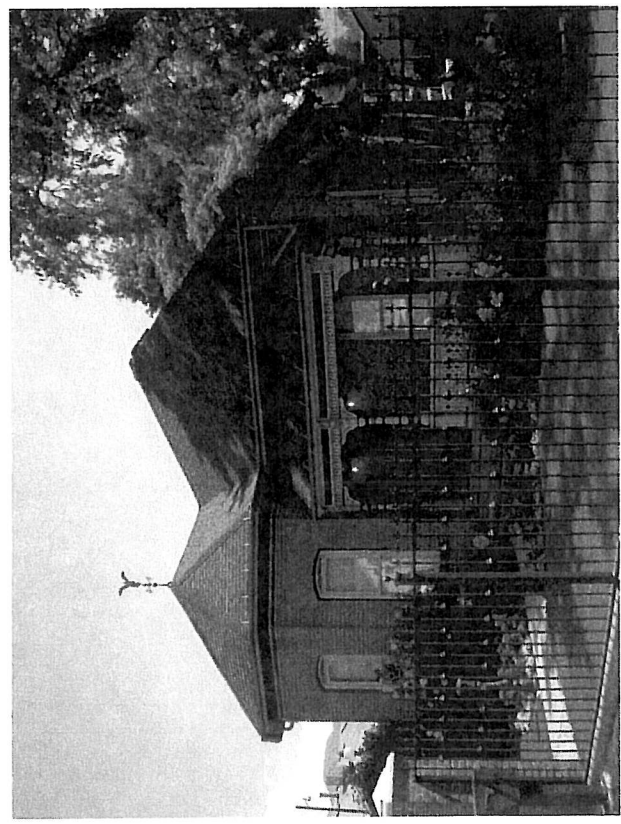
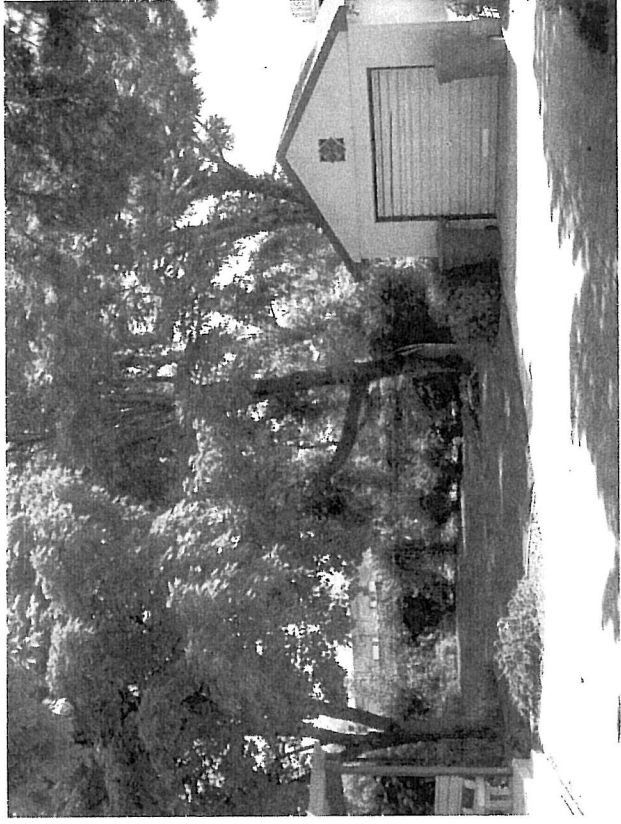
Restaurant Cooking 100
Hamburgers per hour

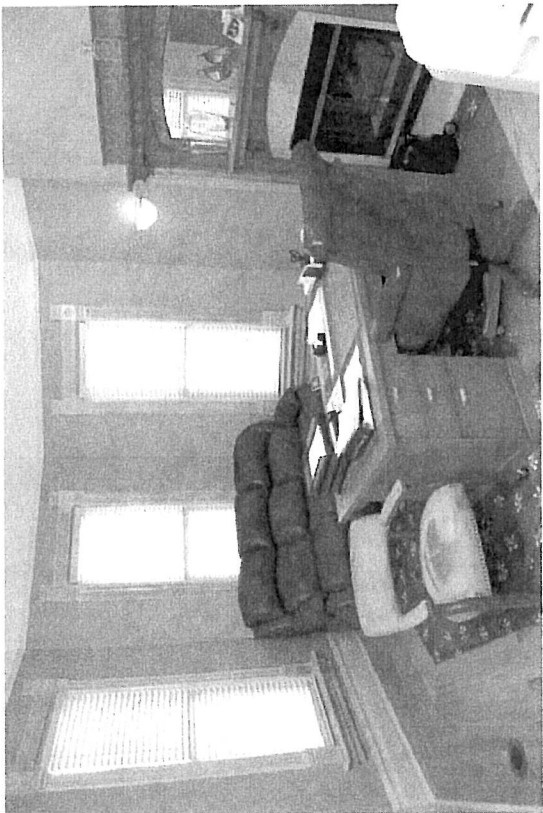
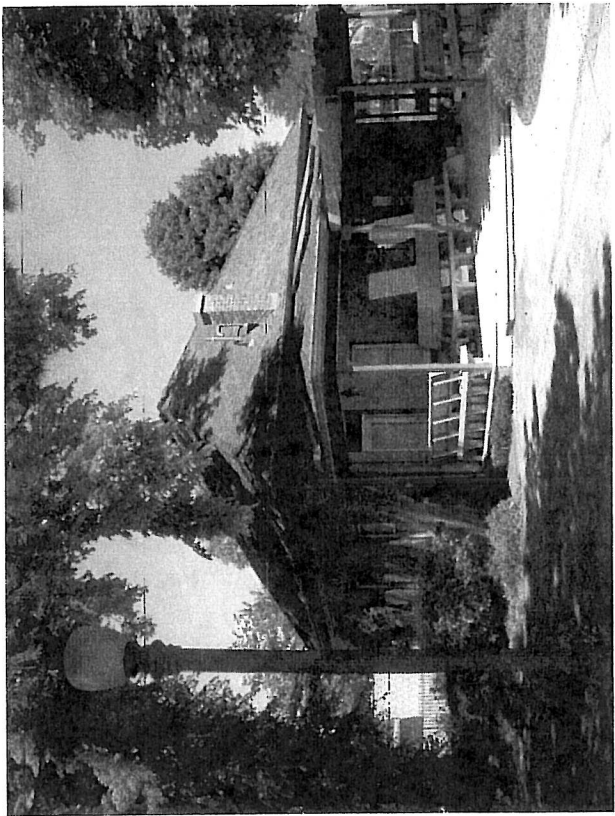
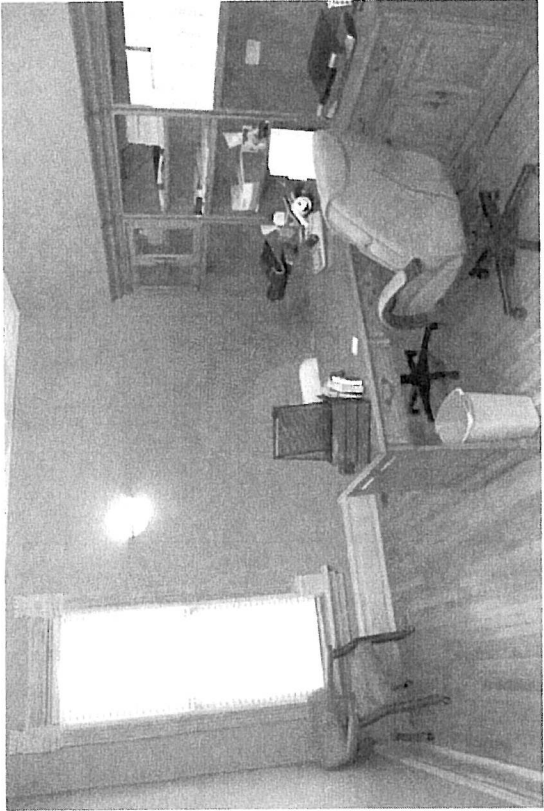
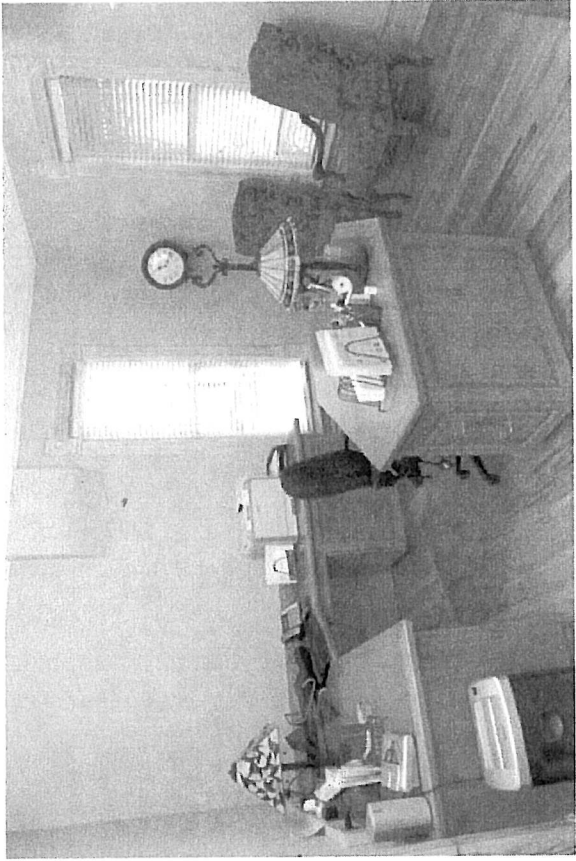


B&L Cremator



Site Plan and Photos





Salt Lake City Zoning Code
Chapter 21A.62.040:
Definition of a Pet Cemetery

PARKING, SHARED: "Shared parking" means off street parking facilities on one lot shared by multiple uses because the total demand for parking spaces is reduced due to the differences in parking demand for each use during specific periods of the day.

PARKING SPACE: Space within a parking area of certain dimensions as defined in chapter 21A.44 of this title, exclusive of access drives, aisles, ramps, columns, for the storage of one passenger automobile or commercial vehicle under two (2) ton capacity.

PARKING STUDY-ALTERNATIVE PARKING: "Parking study-alternative parking" means a study prepared by a licensed professional traffic engineer specifically addressing the parking demand generated by a use for which an alternative parking requirement is sought and which provides the city information necessary to determine whether the requested alternative parking requirement will have a material negative impact to adjacent or neighboring properties and be in the best interests of the city.

PATIO: A paved surface on an earthen/stone base that is not more than two feet (2') above established grade, designed for pedestrian use.

PAWNSHOP: A commercial establishment which lends money at interest in exchange for valuable personal property left with it as security.

PEDESTRIAN CONNECTION: A right of way intended for pedestrian movement/activity, including, but not limited to, sidewalks, internal walkways, external and internal arcades, and plazas.

PERENNIAL: A plant having a life span more than two (2) years.

PERFORMANCE STANDARDS: Standards which establish certain criteria which must be met on a site, but allow flexibility as to how those criteria can be met.

PERFORMING ARTS PRODUCTION FACILITY: A mixed use facility housing the elements needed to support a performing arts organization. Such facility should include space for the design and construction of stage components; costume and prop design and construction, administrative support, rehearsal space, storage space, and other functions associated either with an on site or off site live performance theater.

PERSON: A firm, association, authority, organization, partnership, company or corporation as well as an individual.

PERSONS WITH DISABILITIES: The city adopts the definition of "disabled" from the Americans with disabilities act, the rehabilitation act, title 8 of the civil rights act and all other applicable federal and state laws.

PET CEMETERY: A place designated for the burial of a dead animal where burial rights are sold.

PHILANTHROPIC USE: An office or meeting hall used exclusively by a nonprofit public service organization.

PLACE OF WORSHIP: A church, synagogue, temple, mosque or other place of religious worship, including any accessory use or structure used for religious worship.

PLANNED DEVELOPMENT: A lot or contiguous lots of a size sufficient to create its own character where there are multiple principal buildings on a single lot, where not otherwise authorized by this title, or where not all of the principal buildings have frontage on a public street. A planned development is controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the character of which is compatible with adjacent parcels and the intent of the zoning district or districts in which it is located.

PLANNING COMMISSION: The planning commission of Salt Lake City, Utah.

PLANNING OFFICIAL: The director of the planning division of the department of community and economic development, or his/her designee.

PLANTING SEASON: That period during which a particular species of vegetation may be planted for maximum survivability and healthy growth.

PLAZA: An open area which is available to the public for walking, seating and eating.

PRECISION INSTRUMENT REPAIR SHOP: A shop that provides repair services for industrial, commercial, research, and similar establishments. Precision instrument repair does not include consumer repair services for individuals and households for items such as watches or jewelry, household appliances, musical instruments, cameras, and household electronic equipment.

PREPARED FOOD, TAKEOUT: "Takeout prepared food" means a retail sales establishment which prepares food for consumption off site only.

PRINTING PLANT: A commercial establishment which contracts with persons for the printing and binding of written works. The term "printing plant" shall not include a publishing company or a retail copy or reproduction shop.

PRIVATE RECREATIONAL FACILITY: A golf course, swimming pool, tennis club or other recreational facility under private control, operation or management which functions as the principal use of the property.

PUBLIC/PRIVATE UTILITY BUILDINGS AND STRUCTURES: Buildings or structures used in conjunction with the provision of public or private utilities.

PUBLIC TRANSPORTATION, EMPLOYER SPONSORED: "Employer sponsored public transportation" means a program offering free or substantially discounted passes on the Utah transit authority to employees.

PUBLISHING COMPANY: A company whose business is the editing and publishing of works of authors. The term "publishing company" shall not include a printing plant, unless it is only accessory to the publishing business.

Attachment “C” from the Staff Report
for the Board of Adjustment Meeting

BOARD OF ADJUSTMENT STAFF REPORT



Planning and Zoning Division
Department of Community and
Economic Development

PLNAPP2009-00304 Major Street Pet Mortuary Appeal of Administrative Decision 1727 South Major Street April 20, 2009

Applicant

Jake Tate, representing property owner Even Properties, LLC

Master Plan Designation

Central City Master Plan
Medium Residential/Mixed Use
(10-50 dwelling units per acre)

Council District

Council District 5, Jill Remington Love

Lot Size

13,503 square feet

Land Use Regulations

Salt Lake City Code:
Section 21A.12.050
Section 21A.26.080
Section 21A.62

Notice

The agenda was published on April 6, 2009 and posted on the City and State's websites. The agenda was mailed to property owners within 450 feet on April 6, 2009. The property was posted on April 6, 2009.

Attachments

- A. Application Materials
- B. Zoning Administrator Interpretation Letter
- C. Previous Administrative Interpretation relating to a pet funeral home

Request

The applicant is appealing the Zoning Administrator's decision that a crematory is not an allowed use in the CC Corridor Commercial zoning district. The Board of Adjustment is the appeal authority for this type of administrative decision.

Potential Motions

Uphold the Administrative Interpretation

From the evidence and testimony presented and pursuant to the information submitted, I move that the Board uphold the Zoning Administrator interpretation that a funeral home does not include the act of cremation and that a pet funeral home with a pet crematory is prohibited in the CC Zoning District because:

1. The use interpretation does not comply with standard A: Any use defined in part VI, chapter 21A.62 of this title, shall be interpreted as defined;
2. The use interpretation does not comply with standard B: Any use specifically listed without a "P" or "C" designated in the table of permitted and conditional uses for a district shall not be allowed in that zoning district.

Overturn the Administrative Interpretation

From the evidence and testimony presented and pursuant to the information submitted, I move that the Board overturn the Zoning Administrator interpretation that a funeral home does not include the act of cremation and that a pet funeral home with a pet crematory is prohibited in the CC Zoning District because:

1. The use interpretation complies with standard A: Any use defined in part VI, chapter 21A.62 of this title, shall be interpreted as defined;
2. The use interpretation complies with standard B: Any use specifically listed without a "P" or "C" designated in the table of permitted and conditional uses for a district shall not be allowed in that zoning district.
3. The use interpretation complies with standard C: No use interpretation shall allow a proposed use in a district unless evidence is presented demonstrating that the proposed use will comply with the development standards established for that particular district.
4. The use interpretation complies with standard D: No use interpretation shall allow any use in a particular district unless such use is substantially similar to the uses allowed in that district and is more similar to such uses than to uses allowed in a less restrictive district.
5. The use interpretation complies with standard E: If the proposed use is most similar to a conditional use authorized in the district in which it is proposed to be located, any use interpretation allowing such use shall require that it may be approved only as a conditional use pursuant to part V, chapter 21A.54 of this title.
6. The use interpretation complies with standard F: No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of that zoning district.

Attachment C
Previous Administrative Interpretation
Relating to a pet funeral home

September 27, 2004

Koefran Services for Pets
Brian Bagley
589 West 220 South #1
Pleasant Grove, Utah 84062

Subject: 238 West Paramount Avenue, Salt Lake City (Pet Crematorium)

Dear Mr. Bagley:

This letter is in response to your request for a zoning interpretation for a pet crematorium at 238 West Paramount Avenue, located in the General Commercial (CG) District. Pet crematorium has not been defined in Chapter 21A.62 of the Salt Lake City Zoning Ordinance. The Zoning Ordinance permits pet cemeteries in the General Commercial District, subject to Salt Lake City/County Health Department approval. The Code is silent in terms of defining cremation for pets, and does not associate between cremation and a pet cemetery. The Code does define cremation, but only in conjunction with cemetery use.

The following are definitions found in Chapter 21A.62 of the Salt Lake City Zoning Ordinance:

Pet cemetery "means a place designated for the burial of a dead animal where burial rights are sold".

Cemetery " means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery".

The following information summarizes the results of my research:

Koefran intends to construct a 6,000 square-foot, pre-fabricated steel building for the use of a pet crematorium in the General Commercial District. The proposal will include the use of two incinerators and be completely enclosed within the proposed structure. The business operator has contracts with local veterinarian clinics and the Salt Lake City Humane Society to take care of their pet cremation needs.

I find that a pet crematorium is not significantly different than a cemetery with the exception that a burial is not being performed at a crematorium. Since crematoriums are a permitted use when in conjunction with a cemetery, the relationship between crematorium and cemetery become incidental to the operation. The intent of the Zoning Ordinance is to classify appropriate land uses, and to consider if a specified land uses promote the health, safety, and general welfare of the public. The proposed pet crematorium meets the general intent of the zone, and does not materially harm the District. Based on the submitted information, I conclude that the proposed pet crematorium does not create any unnecessary nuisances, and is consistent with upholding the intent of the zoning district. Based on these conclusions, I find that the pet crematorium is permitted at 238 West Paramount Avenue.

This zoning interpretation is for use only. The proposed pet crematorium will require Health and Fire Department approval. Your request to construct a pre-fabricated building will be subject to the General Commercial (CG) District zoning guidelines and be subject to a Building Permit.

If I may be of further assistance on this matter, please contact me at (801) 535-6003 or by email kevin.lopiccolo@slcgov.com

NOTICE:

Please be advised that a use interpretation 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 site plan approval.

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Board of Adjustment. Notice of appeal shall be filed within thirty (30) days of the administrative decision. The appeal shall be filed with the Zoning Administrator and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. A nonrefundable application and hearing fee of \$100.00 is required.

Sincerely,

Kevin LoPiccolo
Zoning Administrator

cc: Louis Zunguze, Planning Director
Brent Wilde, Deputy Planning Director
Larry Butcher, Development Review Supervisor
Jeff Davis, Chair, Glendale Community Council

Salt Lake City Zoning Code
Chapter 21A.26.080:
Table of Permitted and Conditional
Uses for Commercial Districts

This section has been affected by a recently passed ordinance, 2009-02 - Community Correctional Facilities. [Go to new ordinance.](#)

This section has been affected by a recently passed ordinance, 2009-07 - Check Cashing/Payday Loan Businesses. [Go to new ordinance.](#)

21A.26.080: TABLE OF PERMITTED AND CONDITIONAL USES FOR COMMERCIAL DISTRICTS:

Legend:	C =	Conditional	P =	Permitted
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Use	Permitted And Conditional Uses By District						
	CN	CB	CS ¹	CC	CSHBD ¹	CG	TC-75
Residential:							
Assisted living center, large		P		P		P	P
Assisted living center, small		P		P		P	P
Dwelling, single room occupancy ⁶							P
Group home, large (see section 21A.36.070 of this title)				C		C	P
Group home, small (see section 21A.36.070 of this title) above or below first story office, retail and commercial uses or on the first story, as defined in the adopted building code where the unit is not located adjacent to the street frontage	P	P	P	P	P	P	P
Halfway homes (see section 21A.36.110 of this title)						C	
Living quarters for caretaker or security guard	P	P	P	P	P	P	P
Mixed use developments including residential and other uses allowed in the zoning district	P	P	P	P	P	P	P
Multiple-family dwellings	P	P	P	P	P	P	P
Nursing home		P		P		P	P
Residential substance abuse treatment home, large (see section 21A.36.100 of this title)				C		C	C
Residential substance abuse treatment home, small (see section 21A.36.100 of this title)				C		C	C
Rooming (boarding) house	C	C	C	C	C	C	C
Transitional treatment home, large (see section 21A.36.090 of this title)				C		C	C
Transitional treatment home, small (see section 21A.36.090 of this title)				C		C	C
Transitional victim home, large (see section 21A.36.080 of this title)				C		C	C
Transitional victim home, small (see section 21A.36.080 of this title)				C		C	C
Office and related uses:							
Financial institutions with drive-through facilities		P	P	P	P	P	C
Financial institutions without drive-through facilities	P	P	P	P	P	P	P
Medical and dental clinics and offices	P	P	P	P	P	P	P
Offices	P	P	P	P	P	P	P
Veterinary offices, operating entirely within an enclosed building and keeping animals overnight only for treatment purposes	C	P	P	P	P	P	C
Retail sales and services:							
Auction sales				P		P	
Automobile repair, major			C	P		P	C
Automobile repair, minor	C	P	P	P	P	P	P
Automobile sales/rental and service				P		P	
Boat/recreational vehicle sales and service				P		P	
Car wash as accessory use to gas station or convenience store that sells gas		P	P	P	P	P	C
Car wash, with or without gasoline sales			P	P		P	C
Conventional department store			P		P		
Equipment rental, indoor and outdoor				P		P	C
Furniture repair shop	C	P	P	P	P	P	P
"Gas station" (may include accessory convenience retail and/or minor repairs) as defined in chapter 21A.62 of this title	C	C	P	P	P	P	
Health and fitness facility		P	P	P	P	C	P
Liquor store		C	C	C	C	C	C
Manufactured/mobile home sales and service						P	
Mass merchandising store			P		P	P	
Pawnshop						P	

Restaurants with drive-through facilities	C	P	P	P	P	P	C
Restaurants without drive-through facilities	P	P	P	P	P	P	P
Retail goods establishments with drive-through facilities	C	P	P	P	P	P	C
Retail goods establishments without drive-through facilities	P	P	P	P	P	P	P
Retail services establishments with drive-through facilities	C	P	P	P	P	P	C
Retail services establishments without drive-through facilities	P	P	P	P	P	P	P
Specialty store			P	P	P	P	
Superstore and hypermarket store			P			P	
Truck repair, large						P	
Truck sales and rental, large				P		P	
Upholstery shop	C	P	P	P	P	P	P
Value retail/membership wholesale						P	
Warehouse club store						P	
Institutional (sites <2 acres):							
Adult daycare center	P	P	P	P	P	P	P
Child daycare center	P	P	P	P	P	P	P
Colleges and universities with nonresidential campuses						P	P
Community recreation centers on lots less than 4 acres in size	P	P	P	P	P	P	P
Government facilities (excluding those of an industrial nature and prisons)	P	P	P	P	P	P	P
Libraries	C	C	C	C	C	C	C
Medical/dental research facilities							P
Museum		P	P	P	P	P	P
Music conservatory		P	P	P	P	P	P
Places of worship on lots less than 4 acres in size	C	P	P	P	P	P	P
Research, commercial, scientific, educational							P
Schools, professional and vocational		P	P	P	P	P	P
Seminaries and religious institutes	C	P	P	P	P	P	P
Commercial and manufacturing:							
Bakery, commercial							P
Blacksmith shop							P
Blood donation centers, commercial and not accessory to a hospital or medical clinic				C			P
Cabinet and woodworking mills							P
Commercial laundries, linen service and dry cleaning							P
Industrial assembly							P
Laboratory, medical, dental, optical	P	P	P	P	P	P	P
Laboratory, testing			C	C			P
Miniwarehouse				P			P
Motion picture studio			P		P	P	P
Photo finishing lab			P	P	P	P	P
Plant and garden shop, with outdoor retail sales area	C	C	C	C	C	P	P
Sign painting/fabrication							P
Warehouse				P			P
Welding shop							P
Wholesale distributors				P			P
Recreation, cultural and entertainment:							
Amusement park			P				P
Art gallery	P	P	P	P	P	P	P
Art studio	P	P	P	P	P	P	P
Commercial indoor recreation			P	P	P	P	P
Commercial outdoor recreation			C				P
Commercial video arcade				P	P	P	P
Community gardens	P	P	P	P	P	P	P
Dance studio	P	P	P	P	P	P	P
Live performance theaters		C	P	P	P	P	P
Miniature golf			P	P			P
Movie theaters		C	P	P	P	P	P
Natural open space and conservation areas	C	C	C	C	C	C	C

Parks and playgrounds, public and private, on lots less than 4 acres in size	P	P	P	P	P	P	P
Pedestrian pathways, trails, and greenways	P	P	P	P	P	P	P
Private club		C	P	C	P	P	C
Sexually oriented businesses						P ⁵	
Squares and plazas on lots less than 4 acres in size	P	P	P	P	P	P	C
Tavern/lounge/brewpub, 2,500 square feet or less in floor area			P	P	P	P	P
Tavern/lounge/brewpub, more than 2,500 square feet in floor area			C	C	P	P	C
Miscellaneous:							
Accessory uses, except those that are specifically regulated in this chapter, or elsewhere in this title	P	P	P	P	P	P	P
Ambulance services, dispatching, staging and maintenance conducted entirely within an enclosed building		P	P	P	P	P	P
Ambulance services, dispatching, staging and maintenance utilizing outdoor operations		P ⁷	P ⁷	P ⁷	P ⁷	P	
Auditorium			P	P	P	P	P
Auto salvage (indoor)						P	
Bed and breakfast	P	P	P	P	P	P	P
Bed and breakfast inn	P	P	P	P	P	P	P
Bed and breakfast manor	C ³	C ³		P	P	P	P
Bus line terminals				P		P	C
Bus line yards and repair facilities						P	
Commercial parking garage or lot				C	P	P	C
Communication towers		P	P	P	P	P	P
Communication towers, exceeding the maximum building height		C	C	C	C	C	C
Contractor's yard/office (including outdoor storage)				C		P	
Farmers' market			C	C		P	C
Flea market (indoor)			P	P	P	P	C
Flea market (outdoor)						P	
Funeral home			P	P	P	P	C
Homeless shelter						C	
Hotel or motel				P	P	P	C
House museum in landmark sites (see subsection 21A.24.010T of this title)	C	C	C	C	C	C	C ⁸
Impound lot						C	
Intermodal transit passenger hub						C	
Kennels						P	
Limousine service utilizing 4 or more limousines						P	
Limousine service utilizing not more than 3 limousines		C		C		P	
Microbrewery						P	
Off site parking, as per chapter 21A.44 of this title	C	P	P	P	P	P	C
Offices and reception centers in landmark sites (see subsection 21A.24.010T of this title)	P	P	P	P	P	P	P
Outdoor sales and display		C	C	P	P	P	C
Outdoor storage				C		P	
Outdoor storage, public				C		P	
Park and ride lots		C	C	C	P	P	C
Park and ride, parking shared with existing use		P	P	P	P	P	P
Pet cemeteries ⁴						P	
Precision equipment repair shops				P		P	
Public/private utility buildings and structures ²	P ²	P ²	P ²	P ²	P ²	P ²	P ²
Public/private utility transmission wires, lines, pipes and poles ²	P	P	P	P	P	P	P
Radio, television station			C		P	P	P
Recreational vehicle park (minimum 1 acre)				C			
Recycling collection station	P	P	P	P	P	P	
Reverse vending machines	P	P	P	P	P	P	P
Taxicab facilities, dispatching, staging and maintenance						P	
Temporary labor hiring office						P	
Vehicle auction use						P	
Vending carts on private property as per title 5, chapter 5.65 of this code					P		
Wireless telecommunications facility (see table 21A.40.090E of this title)							

Qualifying Provisions:

1. Development in the CS district shall be subject to planned development approval pursuant to the provisions of section 21A.54.150 of this title. Certain developments in the CSHBD zone shall be subject to the conditional building and site design review process pursuant to the provisions of subsection 21A.26.060D of this chapter and chapter 21A.59 of this title.
2. Subject to conformance to the provisions in subsection 21A.02.050B of this title for utility regulations.
3. When located in a building listed on the Salt Lake City register of cultural resources (see subsection 21A.24.010T of this title and subsection 21A.26.010K of this chapter).
4. Subject to Salt Lake Valley health department approval.
5. Pursuant to the requirements set forth in section 21A.36.140 of this title.
6. Subject to location restrictions as per section 21A.36.190 of this title.
7. Greater than 3 ambulances at location require a conditional use.
8. Building additions on lots less than 20,000 square feet for office uses may not exceed 50 percent of the building's footprint. Building additions greater than 50 percent of the building's footprint or new office building construction are subject to the conditional uses process.

(Ord. 61-08 § 4 (Exh. C), 2008: Ord. 60-08 § 10 (Exh. D), 2008: Ord. 21-08 § 3 (Exh. B), 2008: Ord. 2-08 § 2, 2008: Ord. 61-06 § 3 (Exh. C), 2006: Ord. 13-06 § 2 (Exh. A), 2006: Ord. 1-06 § 30, 2005: Ord. 89-05 § 6 (Exh. F), 2005: Ord. 76-05 § 8 (Exh. C), 2005: Ord. 68-05 § 1 (Exh. A), 2005: Ord. 18-04 § 2, 2004: Ord. 17-04 § 6 (Exh. E), 2004: Ord. 13-04 § 7 (Exh. B), 2004: Ord. 6-03 § 1 (Exh. A), 2003: Ord. 23-02 § 3 (Exh. A), 2002: Ord. 2-02 § 1, 2002: Ord. 38-99 § 6, 1999: Ord. 35-99 § 29, 1999: Ord. 19-98 § 2, 1998: amended during 5/96 supplement: Ord. 88-95 § 1 (Exh. A), 1995: Ord. 84-95 § 1 (Exh. A), 1995: Ord. 26-95 § 2(13-7), 1995)

Remarks:

Petition No: **PLNPCM2009-00726**

By: **Great Basin Engineering – Jake Tate**

Zoning Amendment

Date Filed: 06/17/2009

Address: 1727 S Major Street