



CITY COUNCIL COMMUNICATION
May 11, 2010

SUBJECT: HOLD PUBLIC HEARING FOR SPECIFIC USE PERMIT CASE NO. 09-09-SUP, AND CONSIDER FIRST AND FINAL READING OF ORDINANCE NO. 1876

SUBMITTED BY: Chris Barker, Director of Planning and Development

REFERENCE NO: 09-09-SUP

ACTION REQUESTED:

Receive public input regarding the request for a Specific Use Permit on Kitty House Survey, A-678, Tract 1B03 for Crematory and Mortuary in TX-10 (Texas Highway 10 Multi-Use District) zoning on 2215 W. Pipeline Road and consider approval or denial of Ordinance No. 1876 based on recommendation of denial by the Planning and Zoning Commission vote 4-3 on April 6, 2010.

ALTERNATIVES:

1. Open the Public Hearing and continue it to the next meeting.
2. Open, conduct, and close the Public Hearing.
3. Approve the request – *super majority*
4. Approve the request with modifications – *super majority*
5. Deny the request – *simple majority*

SUMMARY OF SUBJECT:

Community Mortuary Services is seeking to lease space within an existing structure, located at 2215 W. Pipeline Road, in order to establish a crematorium and mortuary use. The property is located within the TX-10 (Texas Highway 10 Multi-Use District) zoning district, which requires the approval of a Specific Use Permit (SUP) for the establishment of that use.

The proposed use would occupy lease space, within the existing structure, adjacent to All Paws Go to Heaven, a pet crematorium use approved by Specific Use Permit (06-08-SUP)

by the City Council in August 2006. The subject space was formerly occupied by a place of worship which had been granted a Specific Use Permit in April 2009.

The applicant has indicated that the service provided by the use is the preparation for burial of human remains as well as the preparation and cremation of human remains. The applicant would install a crematorium within the facility. The mortuary will also involve a refrigeration room for the storage of remains as they are moved in transit. The business will be open from 7:00am to 7:00pm and be staffed continuously during this time. The business will be on-call 24 hours a day for transportation requirements.

No services will be held at the location. Members of families may attend a cremation process.

If approved, the applicant would be required to submit building permit applications for the renovation of the interior of the building to be utilized by the crematory.

Staff has received two written responses from adjacent property owners opposed to the SUP. The primary reason for opposition to the use is cited as a repugnant "burning odor" that is frequently experienced from the existing pet crematorium on the site. The Planning and Development Department has not previously received any formal complaints from surrounding property owners regarding odor.

One of the thirteen conditions for approval of a SUP as listed in Sec 84-153 states: "adequate nuisance prevention measures have been or shall be taken to prevent or control offensive odors, fumes, dust, noise, vibration and visual blight." City staff would ensure through Code Enforcement any deviation of the use from being in compliance with the nuisance and performance standards regulating dust, noise, air pollution and vibration found in Sec 84-184 of the Unified Development Code. Control of offensive odors is not a performance standard found in 84-184 and is inherently difficult to quantify. The Texas Commission on Environmental Quality (TCEQ) regulates the air emissions from crematories. If approved, Staff would recommend that a condition be placed as part of the SUP that would require the applicant to provide Staff with current permits and licenses issued by TCEQ as well as the Texas Funeral Services Commission regarding their compliance with State regulations.

The Development Review Committee (DRC) has reviewed the application and finds that it substantially conforms to City regulations. Staff recommends denial of the Specific Use Permit.

The Planning and Zoning Commission held a public hearing on this item on April 6, 2010. The two letters sent in opposition to the SUP were noted into the record. The Planning and Zoning Commission initially considered a motion to recommend approval of the SUP which failed at the vote with 4 against and 3 in favor. A second motion to recommend denial of the SUP based on the proposed use not conforming with Section 84-153 (6) "the issuance of the specific use permit does not impede the normal and orderly development and improvement of neighboring vacant property;" and (8) "the proposed use will be compatible

and not injurious to the use and enjoyment of neighboring property, nor significantly diminish or impair property values within the vicinity.” The motion passed with a vote of 4 in favor and 3 against. A Planning and Zoning Commission recommendation for denial of an SUP requires a supermajority vote of the City Council to overturn and approve the SUP.

If the City Council should choose to approve the Specific Use Permit, Staff would recommend the following conditions:

- 1) Tied to the business owner: Sherrie Ann Dalton
- 2) Tied to the business name: Community Mortuary Services
- 3) Tied to the location for the period of one year to be renewed by application to the City of Euless.
- 4) All loading and unloading will be made through the rear entry of the structure.
- 5) All activities will be confined internally to the building.
- 6) A secondary power source will be provided to the cremation equipment in case of emergencies in order for a cool down process to occur.
- 7) The Owner shall provide to the City of Euless any reports, inspections, or certifications by Federal or State licensing agencies – including but not limited to the Texas Commission on Environmental Quality (TCEQ) and the Texas Funeral Services Commission (TFSC).

SUPPORTING DOCUMENTS:

- Ordinance No. 1876
- Draft Minutes – P & Z
- Application
- Cremator Specifications
- Explanatory Letter
- Protest from Voss Parts & Supply, Inc.
- Protest from Arrow Bolt and Electric, Inc.
- Map 1, Map 2, and Map 3

APPROVED BY:

_____ **GM** _____ City Manager’s Office

_____ **SC** _____ City Secretary’s Office