

TOPEKA PLANNING COMMISSION

A G E N D A

Monday, April 16, 2018
6:00 P.M.

214 East 8th Street
City Council Chambers, 2nd Floor
Municipal Building
Topeka, Kansas 66603

Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.

Items on this agenda will be forwarded to the City Council for final consideration.

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <https://www.topeka.org/calendar>



ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

HEARING PROCEDURES

Welcome! Your attendance and participation in tonight's hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.
2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.
3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.
4. The applicant will be given an opportunity to respond to the public comments.
5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.
6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a role call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. **All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.**

Members of the Topeka Planning Commission

Katrina Ringler, 2018 Chairperson
Brian Armstrong
Ariane Burson
Marc Fried
Dennis Haugh
Carole Jordan
Wiley Kannarr
Corliss Lawson
Matt Werner

Topeka Planning Staff

Bill Fiander, AICP, Planning Director
Carlton O. Scroggins, AICP, Planner III
Dan Warner, AICP, Planner III
Mike Hall, AICP, Planner III
Tim Paris, Planner II
Annie Driver, AICP, Planner II
John Neunuebel, Planner I
Taylor Ricketts, Planner I
Tim Esparza, Planner I
Kris Wagers, Administrative Officer

AGENDA

Topeka Planning Commission

Monday, April 16, 2018 at 6:00 P.M.

- A. Roll call**
- B. Approval of minutes – March 19, 2018**
- C. Declaration of conflict of interest/ex parte communications
by members of the commission or staff**
- D. Public Hearings**
 - CU07/05A by Robert & Jeannene Freeman / Heavenly Pet Memorials** requesting to amend a Conditional Use Permit and site plan for 0.25-acre property located at 1137 SW Gage Blvd. to provide for the expansion of a pet crematorium to include one (1) cremator and outbuilding.
- E. Communications to the Commission**
- F. Adjournment**



CITY OF TOPEKA

TOPEKA PLANNING COMMISSION

MINUTES

Monday, March 19, 2018

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Brian Armstrong, Corliss Lawson, Marc Fried, Dennis Haugh, Wiley Kannarr, Ariane Messina, Matt Werner (7)

Members Absent: Katrina Ringler, Carole Jordan (2)

Staff Present: Bill Fiander, Planning Director; Dan Warner, Planner III; Mike Hall, Planner III; John Neunuebel, Planner II; Tim Esparza, Planner I; Kris Wagers, Administrative Officer; Mary Feighny, Legal

Roll Call – Acting Chairperson Brian Armstrong called the meeting to order with seven members present for a quorum.

Approval of Minutes from February 19, 2018

Motion to approve as typed; moved by Mr. Fried, **second** by Ms. Lawson. **APPROVED** (6-0-1 with Ms. Messina abstaining.)

Declaration of conflict of interest/ex parte communications by members of the commission or staff – Mr. Fried stated he will be abstaining from voting on CPA17/01.

Action Items

Z18/01 by McGhee, Jeremy & Angel requesting to amend the Zoning District for the subject property (0.5 acre) located at 2029 SW Topeka Blvd from C-2 Commercial District to C-3 Commercial District to provide for retail auto sales.

Mr. Neunuebel presented the staff report and staff recommendation for approval.

The applicant (Angel McGhee) came forward and explained that she and her husband wish to re-zone so they can sell cars at their 2029 SW Topeka Blvd. property.

Mr. Armstrong declared the public hearing open and, with none coming forward to speak, he declared the public hearing closed.

Motion from Mr. Wiley to recommend **APPROVAL** to the Governing Body of the reclassification of the subject property from "C-2" Commercial District to "C-3" Commercial District. Second by Mr. Fried. **APPROVAL** (7-0-0)

CPA17/01 by the City of Topeka amending the text and map of the City of Topeka's Comprehensive Plan updating the Quinton Heights-Steele Neighborhood Plan. The area affected by the amendment is bounded by SW 21st Street

DRAFT

to the north, SW Washburn Avenue to the west, SW 27th Street to the south, and SW Western Avenue to the east. The neighborhood comprises approximately 163 acres.

Mr. Warner explained that this is a Comprehensive Plan Amendment which was introduced to Planning Commission at their January 2018 meeting. He added that if approved by Council, the Neighborhood Plan will become part of the Comprehensive Plan.

Mr. Esparza presented the plan, focusing on changes made to it since the January presentation. He concluded by giving staff's recommendation of approval.

Mr. Armstrong asked if the pedestrian bridge is still in the plan and Mr. Esparza confirmed that it is.

Mr. Armstrong declared the **public hearing open**.

James Prout of 2529 SW Fillmore came forward to speak in support of the plan.

Mr. Prout spoke of the importance of the plan to the neighborhood and about how the pedestrian bridge could be used by many. He also spoke about the improvements to the park and the necessity of a safe place for the children in the neighborhood to play.

From the floor, a person stated that though none wished to speak, all in attendance this evening were there to support the plan.

With nobody else coming forward to speak, Mr. Armstrong declared the **public hearing closed**.

Motion by Mr. Kannarr to recommend approval to the Governing Body as an element of the City's Comprehensive Plan. **Second by Ms. Lawson.**

Mr. Armstrong thanked the staff and the efforts that were made to interact with landowners in the neighborhood. He stated the plan reflects this interaction.

Upon rollcall, **APPROVAL** (6-0-1 with Mr. Fried abstaining).

Presentation and Discussion

Building Design Standards & Sign Code Update –

Mr. Warner and Mr. Hall reviewed the outcome of the Visual Appeal Survey regarding building design standards and signs, reporting that 1,062 responded and 866 written comments were received.

Following were questions and discussion. The key take away from the survey in regard to both building design and signs is that visual appeal is important.

Mr. Warner pointed out with the current adult population of Topeka being 98,000, the survey was taken by approximately 1% of the adult population of Topeka.

Mr. Fiander stated that next steps would include technical committees and perhaps a public work session. It's likely that Building Design Standards and Sign Code update will ultimately be handled separately and may follow different timelines.

Communications to the Commission

Mr. Fiander reported that the Aqua Blast case went back to the Governing Body a 3rd time in consideration of extended hours of operation. Governing Body approved their remaining open until midnight as opposed to 10:00PM.

With no further agenda items, meeting was adjourned at 7:05PM.

Staff Report – Amendment of Conditional Use Permit Topeka Planning Department

PLANNING COMMISSION DATE: Monday, April 16, 2018

APPLICATION INFORMATION

APPLICATION CASE
NUMBER/NAME:

CU07/05A By: Robert & Jeannene Freeman / Heavenly Pet Memorials

REQUESTED ACTION /
CURRENT ZONING:

Amendment of a Conditional Use Permit (CUP) to provide for the expansion of a pet crematorium through the provision of one (1) additional cremator and associated outbuilding on property zoned "O&I-2" Office and Institutional District.

APPLICANT/
PROPERTY OWNER:

Robert & Jeannene Freeman; Owner/Operator of Heavenly Pet Memorials

APPLICANT REPRESENTATIVE:

Bryan Smith, Attorney at Law

PROPERTY ADDRESS &
PARCEL ID:

1137 SW Gage Boulevard
0983404001033000

PHOTOS:



View of front façade of Heavenly Pet Memorials, with commercial office uses adjacent and to the north.



Existing shelter structure containing two cremators in rear yard area of Heavenly Pet Memorials with residential development to the west. (Shelter structure is located approximately 13 feet from privacy fence, with privacy fence being located adjacent to utility easement extending approximately 13 feet from adjoining property boundary.)

PARCEL SIZE:	10,800 square feet
STAFF PLANNER:	John Neunuebel, Planner II
RECOMMENDATION:	APPROVAL subject to conditions in the staff report
RECOMMENDED MOTION:	Based on the findings and analysis in the staff report I move to recommend to the Governing Body APPROVAL of the Amendment to the Conditional Use Permit (CU07/05A) along with conditions to provide for the addition of a cremator and associated building.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:	Heavenly Pet Memorials in providing pet and animal cremation services has been operating on the subject site since 2007 when the CUP was approved by the City of Topeka. The Subject site presently includes a 1,430 square foot, one-story frame structure originally built as a single-family residence but now serves as business office. There is also a 12' x 21' structure onsite housing two (2) cremators (photo above). The CUP Amendment is proposing one (1) additional cremator for pet and animal cremations to be contained within an additional 12' x 21' prefabricated, carport type structure enclosed on three sides. (Proposed new structure sheltering the new cremator is essentially the same as the existing structure sheltering existing cremators.) The new cremator shelter will be 12 feet high, while a cremator smokestack atop is proposed to extend approximately 8 feet above the rooftop. Animal remains to be cremated will be stored in freezers onsite and any cremated remains not to be
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returned to pet owners will be disposed of by conventional trash service. (Cremated remains are sterile, odorless, and require no special handling for disposal.) Cremators have no visible emissions or detectible odors.

DEVELOPMENT / CASE HISTORY:

The subject site was re-zoned from R-1 Single Family Residential District to O&I-2 Office and Institutional District in 1994. The existing Conditional Use Permit was approved in 2007 for a pet crematorium comprised of two (2) cremators as contained within a 252 square foot prefabricated carport type structure enclosed on three sides. There have been no zoning or other code violations issued for the subject site.

ZONING AND CHARACTER OF SURROUNDING AREA:

The subject site is adjacent to single-story commercial office buildings located to the north and south, both having insurance agencies as primary tenants, while single-family residences lie to the west and to the east on east side of SW Gage Blvd. Adjacent zoning districts are as follows:

North: "O&I-2" Office and Institutional District
South: "O&I-2" Office and Institutional District
East: "R-1" Single-Family Dwelling District
South: "R-1" Single-Family Dwelling District

**COMPLIANCE WITH
DEVELOPMENT STANDARDS
AND GUIDELINES**

**BUILDING SETBACKS AND OTHER
DIMENSIONAL STANDARDS:**

All building setbacks and dimensional standards adhere to City of Topeka requirements except for there being only 3 feet between the existing and proposed new cremator shelters. The minimum such distance required within the O&I-2 district is 6 feet. Staff recommends a condition requiring the CUP site plan be revised to provide for a minimum of 6 feet of separation between all buildings and structures.

OFF-STREET PARKING:

The existing circular access driveway and parking area are of sufficient size to provide required off-street parking and access.

LANDSCAPING:

The amended CUP site plan as proposed includes no additional landscaping and, although there is a 6-foot high privacy fence on all sides of the rear yard of the subject site, the addition of landscaping adjacent to the cremator shelters will further partially screen and mitigate the industrial look of the shelters and smokestacks. Staff is recommending a project condition requiring landscaping in achieving said mitigation.

SIGNAGE:

There is no new signage proposed for the site.

**OPERATING
CHARACTERISTICS:**

The Statement of Operation as submitted by the applicant provides a general overview of cremation services and processes but does not include daily operating hours for the cremators although the applicant

has indicated such hours will be between 8:00 a.m. and 9:00 p.m. A project condition is recommended in stating these hours within the Statement of Operation.

Other than a complaint by one person attending the Neighborhood Information Meeting, there have been no reported problems or complaints related to the operation of the existing pet crematorium, and potential impacts in the form of noise, smoke, or odors are anticipated to be the same with the new proposed cremator.

New Cremator Equipment: The CUP application includes the "Equipment Manual" for the proposed cremator which contains this information:

- Model US 75/300 Gen II Animal Cremator (Sierra 300) by U.S. Cremation Equipment/American Incinerators Corporation, Altamonte Springs, Florida. Contains multiple chambers.
- Size – Outside Dimensions: 10' length, 5.2' width, 8.7' height.
- Weight: 18,000 pounds.
- Cremation Capacity: 75 lbs. per hour; 300 lbs. total.
- Cremator may be fueled by either Natural Gas or Propane.
- Operating temperature is 896 to 1,616 degrees Fahrenheit.
- Designed to comply with the Florida Department of Environmental Protection rules for emissions. (62-296 FAC)
- Emission Control: Cremator is equipped with an electronic exhaust gas scanner, which temporarily suspends operation of the primary chamber burner if opacity exceeds a preset limit, usually 15% to 20% opacity. "Opacity" is the percentage of light blocked by the emissions. (Wikipedia)

(Any further expansion of cremation operations beyond that proposed in the current application for CUP Amendment will require consideration and approval of an additional CUP Amendment, and further expansion would likely be deemed problematic within the subject location and considering the relatively small size of the subject property. A project condition noting likely constraints on any future expansion is recommended by staff.)

PUBLIC FACILITIES

TRANSPORTATION:

The property is located adjacent to SW Gage Boulevard a designated Principal Arterial, and there is an existing sidewalk adjacent to the roadway.

UTILITIES:

The property is connected to City sanitary sewer and water.

OTHER FACTORS

SUBDIVISION PLAT:	The subject site comprises Lot 2 of North Brentwood Addition.
FLOOD HAZARDS, STREAM BUFFERS:	N/A
HISTORIC PROPERTIES:	N/A
NEIGHBORHOOD INFORMATION MEETING:	The applicant conducted a neighborhood meeting on Wednesday, March 28 th , at 5:30 p.m. Three neighboring property owners attended. The owner of the residence to the west (Stephen and Janice Conser) expressed concerns about the cremators' effect on property values, fire hazard, and other possible effects. The owner of the office property to the north (Joe Mayea) stated he was not opposed but also mentioned that a former tenant (March of Dimes) suffered from odor from the cremator and no longer leases space from the owner. A more detailed summary of the meeting is attached. A letter from Mr. and Mrs. Conser describing their concerns is attached.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

Public Works /Engineering:	Additional drainage information requested.
Water Pollution Control:	No issues identified.
Fire Department:	No issues identified.
Development Services:	No issues identified.

KEY DATES

SUBMITTAL:	March 2, 2018
NEIGHBORHOOD INFORMATION MEETING:	March 28, 2018
LEGAL NOTICE PUBLICATION:	March 26, 2018

STAFF ANALYSIS

EVALUATION CRITERIA: In considering an application for a Conditional Use Permit, the Planning Commission and Governing Body will review the request following standards in Topeka Municipal Code Section 18.245(4)(ix) in order to

protect the integrity and character of the zoning district in which the proposed use is located and to minimize adverse effects on surrounding properties and neighborhood. In addition, all Conditional Use Permit applications are evaluated in accordance with the standards established in the Section 18.215.030 for land use compatibility, site development, operating characteristics, and consistency with the Comprehensive Plan.

1. **The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:** The subject property lies within an area designated *Existing Strip Center* by the Land Use and Growth Management Plan – 2040. This category recognizes these areas where there is already a cohesive display of commercial uses or commercial zoning fronting along the arterial street rather than being developed within near proximity to the intersection, and have developed in many cases with narrow lot frontages, shallow lot depths, and backing-up to residential areas. Strip commercial areas require unique considerations when opportunities for redevelopment arise because of negative consequences that arise from stripping out arterials with commercial uses. Inasmuch as the proposed CUP amendment provides for the measured expansion of pet cremation services in operation for many years, and is not an expansion of new property earmarked for commercial activity, the proposed CUP Amendment is in conformance with the Comprehensive Plan.
2. **The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, siting, open space and floor-to area ratio:** With the addition of landscaping along the west side of the cremator shelters, and with a limit on the height and design of the new smokestack, the existing and proposed cremators can be made compatible with the character of the adjacent office and residential land use.

The two buildings containing the cremators are prefabricated structures of the type commonly used as residential carports but with walls on the south, west, and north sides. The structures are located behind Heavenly Pet's main building in the rear yard enclosed by a privacy fence. The existing cremator and shelter and the proposed additional cremator and shelter are not readily visible from the front of the property but are visible from adjacent properties to the north and west. However, the existing shelter has a conspicuous unpainted metal exterior with two visible exhaust stacks extending above the roof. The proposed additional structure has the same outside dimension of the existing structure but with a bronze-brown exterior color.

The addition of landscaping to partially screen both the existing and proposed cremator shelters from adjacent residential uses, along with limiting the height of the new smokestack, or replacement smokestacks, and also including a cap or cupola on the smokestack will reduce the industrial look of the existing and proposed development and project conditions are thus recommended. Staff is also recommending a project condition that states the need for an additional CUP Amendment for any future expansion of cremation operations, although any future expansion is likely beyond what is compatible with the character of the neighborhood given the particular location of the project site and relatively small size of the subject property.

3. **The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:** Inasmuch as pet cremation services have been offered at the site for 10 years without problems reported to either the City of Topeka, or the Kansas Department of Health and Environment (KDHE) that monitors and receives reports regarding air quality, it has been demonstrated that the two existing cremators have not been incompatible within the area as far as operation is concerned. With the measured expansion of operations comprising the addition of one cremator, it is anticipated that said operations will continue to be harmonious with surrounding zoning and land uses.
4. **The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:** The applicant is requesting a conditional use permit and not a change in zoning. The site's present classification is consistent with the established pattern of zoning and land use in the area and is suitable for the uses to which it has been restricted.

5. **The length of time the property has remained vacant as zoned:** The subject property is not vacant and pet crematorium services have been provided since 2007. Pet memorial and related services have and will continue to be provided in the main building.
6. **The extent to which the approval of the application would detrimentally affect nearby properties:** The addition of a cremator and shelter has a cumulative impact with the potential to detrimentally affect adjacent properties. The potential detrimental impact is a function of the cremator shelters' appearance and negative perceptions about pet cremation, including perceptions of related environmental effects, including concerns about air quality. Physical design of the structures and the addition of landscaping can mitigate the visible impact of the existing and proposed land use.

Experience with the existing cremators and the air quality permitting requirements by the Kansas Department of Health and Environment (KDHE) indicate there is no substantial negative effect on air quality. Other than the concerns expressed about this application to amend the conditional use permit, neither the City of KDHE have received any complaints about the existing and proposed cremators.

7. **The extent to which the proposed use would substantially harm the value of nearby properties:** The potentially negative aspects of an additional cremator and associated structure arise in large part from their appearance, as well as generally negative perceptions associated with the cremation process. However, there are approximately six (6) crematoriums in the City of Topeka offering cremation services for humans and/or animals that have been operating for many years without any known complaints. The effect these crematoria have on property values is not known and very difficult to ascertain. The addition of landscape screening, cap (or cupola) to cremator smokestack, as well as the significant setback inclusive of utility easement between the new cremator and adjacent residential property, all help to prevent adverse impacts to adjacent residential property.
8. **The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:** Any increase in traffic associated with the additional cremator is minimal and, therefore, no adverse effects on the capacity or safety of the road network are anticipated. Sufficient parking is already being provided on site.
9. **The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:** Cremators have been demonstrated to produce no visible emissions or detectible odors although as with any process of combustion there is some amount of emissions which is why pet crematoriums are required to obtain an air quality permit as issued by the Kansas Department of Health and Environment (KDHE). After an initial inspection of such facilities by KDHE upon equipment installation, intermittent inspections continue through time, thus helping ensure operation within acceptable parameters so as to not adversely affect air quality. The air quality permit by KDHE determines compliance with Kansas Administrative Regulations (K.A.R. 28-19-40 and 28-19-41) which restrict emissions, including the amount of particulate matter emitted and the "opacity" of the emissions. "Opacity" is the percentage of light blocked by the exhaust (Wikipedia). (A project condition is recommended in documenting that all required KDHE permits are current.)

With regard to noise, cremators have been shown to generate noise equivalent to a residential air conditioning unit while in operation.

10. **The economic impact of the proposed use on the community:** The request for the CUP Amendment for an additional cremator is made in response to increasing demand for pet cremation services within the City of Topeka and surrounding region. Therefore, the proposed use is anticipated to have a positive effect on the local economy.

11. **The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:** There is no apparent gain to the public health, safety and welfare by denial of the application provided that the operation of the cremators do not produce objectionable noise, smoke, or odor. Denial of the CUP Amendment will restrict the applicant from expanding their business in response to increasing demand for pet cremation services.

RECOMMENDATION

The project demonstrates compliance with standards for evaluation as provided for in TMC 18.215.030 Conditional Use Permits for Land Use Compatibility, Site Development, Operating Characteristics, and consistency with the Comprehensive Plan.

STAFF RECOMMENDATION: Based upon the above findings and analysis, Planning staff recommend **APPROVAL** of this proposal, **subject to:**

1. Use and development of the site shall be in accordance with the approved Resolution and compliance with the Statement of Operations for Heavenly Pet Memorials Funeral Home and Crematorium and amended CUP Site Plan as approved.
2. The Statement of Operations shall be revised to include reference to the model of the new cremator as "The Sierra-300 by U.S. Cremation Equipment/American Incinerators Corporation or an equivalent model."
3. CUP Site Plan shall be titled as "Site Plan for Heavenly Pet Memorials Conditional Use Permit as Amended (Case CU07/05A)."
4. The applicant shall provide a landscape plan subject to the approval of Planning Department staff to demonstrate substantial screening to mitigate the visual impact of the two structures sheltering the cremators. The landscape plan shall include trees of one or more species centered between the rear fence and structures that will provide screening in all seasons of the year. Trees at time of planting shall conform to the minimum size requirements in the City of Topeka Landscape Ordinance, Section 18.235.060.
5. The CUP site plan shall be revised to provide for a minimum 6 feet of separation between all buildings and structures.
6. To mitigate visual impacts on adjoining properties, maximum smokestack height for new cremator, or replacement cremator(s), shall be no higher than 3'6" above the roof structure. Smokestack, or replacement smokestack(s), shall include a cap or cupola atop the smokestack of appropriate design and which may result in the height of smokestack exceeding the 3'6" height limitation above the rood structure. Both of these requirements shall be noted on the CUP site plan.
7. As indicated by the applicant, the daily hours of operation for any cremator shall be no earlier than 8:00 a.m. and no later than 9:00 p.m. The Statement of Operations for Heavenly Pet Memorials Funeral Home and Crematorium shall be revised to reflect these hours of operation for any cremator.
8. The applicant shall provide documentation that all permits required by the Kansas Department of Health and Environment for the existing pet cremators have been obtained. Said documentation shall be submitted to the Planning Department prior to the Conditional Use Permit Amendment being considered by the Governing Body. Additionally, documentation that permits have been obtained from KDHE for the new cremator shall be submitted to the Planning Department within 45 days of installation.

9. The CUP Site Plan shall be revised to include the following notations: "No further expansion of cremation footprint (12' x 21') beyond that approved as part of this CUP Amendment is permitted."
10. The CUP Site Plan shall be revised to include the following notation: "New shelter structure for cremator shall be comprised of non-glaring or non-reflective materials."

PLANNING COMMISSION MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the Amendment to the Conditional Use Permit (CU07/05A) along with conditions to provide for the addition of a cremator and associated building.

ATTACHMENTS:

Statement of Operations for Heavenly Pet Memorials Funeral Home and Crematorium
Aerial Map
Zoning Map
Future Land Use Map
CU07/05A – CUP Site Plan (Exhibit)
Public Comments Received
NIM Summary and Sign-In sheet

Statement of Operation for
Heavenly Pet Memorials Funeral Home and Crematorium

Heavenly Pets has operated cremators at its current location under a CUP approved on November 6, 2007. The business operates Monday thru Friday during the hours of 10 a.m. to 5 p.m. and after hours by appointment. Heavenly Pets is owned and operated by Robert & Jeannene Freeman. The applicants seek an amendment to the current CUP to add a third cremator at the current location.

The addition of the third cremator will not cause any adverse impact on the site or on surrounding properties. The development density of the site area should be similar to surrounding uses as the existing structure will continue to be the primary site for business. The height and building size of the existing structure will remain intact, and therefore, there will be no variance from the current height and building size in accordance with the surrounding structures. Likewise, there should be no variation to the preexisting set back lines in the surrounding area. The additional structure will be placed in the backyard with a six (6) foot wooden fence surrounding the entire backyard and existing structure concealing it from Gage Boulevard.

The site development will remain unchanged as the site's frontage along Gage Boulevard will remain similar to its lot width. Likewise, the landscaped areas shall also remain similar to the surrounding areas. The parking and internal circulation will also remain unchanged. The property is accessed off of Gage Boulevard with an entrance at the northeast corner of the property and exit at the southeast corner. Upon entering the site property there are parking spaces in front of the building with room for cars to maneuver through the parking lot and towards the exit.

Pets scheduled for cremation will be stored on site in freezers. Any cremated remains not returned to the owner of the pet will be disposed by conventional trash service. The remains have no odor and do not require any special handling for disposal. Several crematories operate in the Topeka area and cause no disruption to their surroundings.

The proposed use will not reduce the existing levels of services on the adjacent streets. The proposed use also should not have any impact on traffic in residential areas. The business will not have long operating hours and therefore should not have negative effects on the nearby residential areas. All outside storage areas shall be enclosed by the fence surrounding the entire backyard.

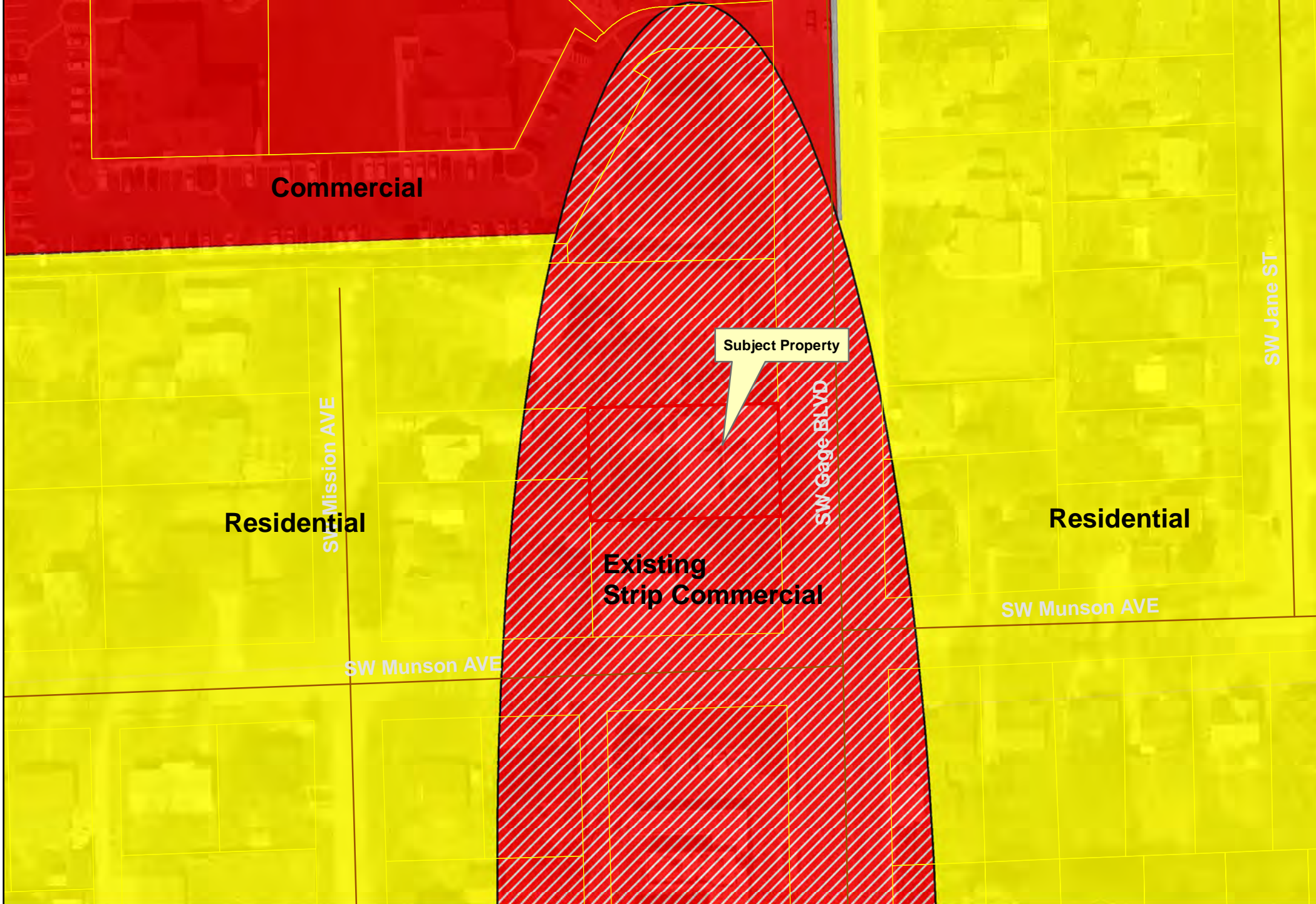
The site already has water and sanitary sewer services and therefore has adequate capacity to serve the proposed use. Likewise, the site already has operating utility service. The site has no onsite storm sewers; however, the runoff water flow runs out to Gage Boulevard and therefore should not negatively affect the surrounding properties.

Accordingly, the proposed use should not have any adverse effect on the surroundings properties, neighborhoods or community at large.



CU07/05A - Aerial Map
Heavenly Pet Memorials



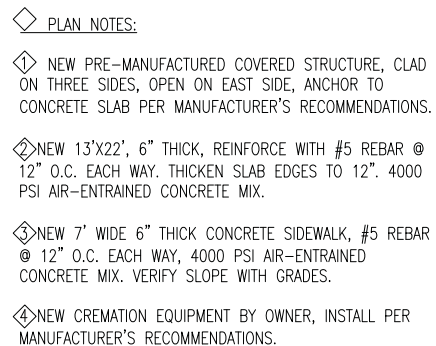


CU07/05A - Future Land Use Map Heavenly Pet Memorials



04/13/2017

A-101



SCALE: 1/8" = 1'-0"



Mr. Stephen W. Conser
1138 S.W. Mission Ave
Topeka, Kansas 66604
785-273-3611
March 28, 2018

Mr. John Neunuebel
Planner II
Topeka Planning Department

SUBJECT: Concerns of meeting March 28, 2018; 1137 Gage Blvd. Topeka, Kansas.

1. Health concerns due to exhaust of the incinerator. Mr. Smith says unit burns clean, there's been no apparent health risks.
 2. Flooding due to Mr. Freeman ground being higher than my ground. Mr. Smith said that the city engineer would evaluate the drainage and run-off that still needs to be done by the city inspector.
 3. Fire or explosion. Due to the dry climate I worry of fire from the exhaust. I also worry that any malfunction of the units wiring and gas lines. Mr. Freeman stated he will run both units at the same time. Which makes me wonder if the overheating of the unit could be a concern. Mr. Freeman stated the unit is inspected every 2 years. For safety reasons.
 4. Concerns of Loss of property value. I don't know if these units would affect my property value, if and when I choose to sell. This is a hard item to predict. Their visibility might influence my buyer in the future. As it looks over my back yard.
- This is my concerns for the meeting of the Heavenly Pet Crematorium March 28, 2018.

Thank you for your interest in my concerns.

Signed
Stephen W. Conser

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John Neunuebel

From: DEB BADER <debbader51@cox.net>
Sent: Monday, April 02, 2018 11:17 AM
To: John Neunuebel
Subject: Public hearing 4/16/18

I am unable to attend the Public Hearing re: expansion of Heavenly Pets Crematorium.

This business provides a valuable service to the city of Topeka and surrounding area, for persons with pets. I have used their service a number of times. Both Mr. and Mrs. Freeman and employees are extremely professional and compassionate. As a retired hospice nurse, those characteristics are important to me.

As a homeowner within the designated 300' of the business, I would have no knowledge a crematorium existed; except for signage and the fact I have used their services. It is my opinion any expansion would have no negative effect on the neighborhood, just as the existing business has not.

Thank you

Deb Bader

Report on Neighborhood Information Meeting for Conditional Use Permit Amendment for
Heavenly Pet Memorials

On March 28, 2018, at 5:30 p.m., the Neighborhood Information Meeting was held. Both owners of Heavenly Pet Memorials attended along with City Council Member, Mike Lesser, two members from the Topeka Planning Department.

The Neighborhood Information Meeting was led by Counsel, Bryan W. Smith, attorney for Heavenly Pet Memorials. Three individuals from the neighborhood attended. Steve and Janice Conser reside at 1138 SW Mission Avenue. Their property is directly behind the Heavenly Pet Memorials location to the West. The other neighborhood resident was Joe Mayea, who owns the State Farm Insurance Agency located at 1133 SW Gage. His business is immediately north of Heavenly Pet Memorials.

The following questions were raised by Mr. and Mrs. Conser. (1) Will the addition of the third cremator affect their property values? (2) Is there any fire concern with respect to the operation of the cremators and (3) what are the hours and will the cremators be operated overnight?

Joe Mayea indicated that the March of Dimes who had leased from him was unable to operate on certain days because of odor from the cremator. Heavenly Pets has never had any reports of any odor affecting any resident around the site. According to the March of Dimes.org website the local office is now located at 4400 College Blvd., Suite 180, Overland Park, KS. According to news reports the March of Dimes closed offices throughout the country to cut costs.

The attendees were offered a tour of the facility to view the current cremators and the location of the proposed cremator.

Neighborhood Information Meeting

Sign in Sheet

Conditional Use Permit Amendment for Heavenly Pet Memorials

Date: March 28, 2018 at 5:30 PM

Location:Heavenly Pet Memorials, 1137 SW Gage Avenue

[illegible]