

Board of Zoning Adjustment Staff Report

August 29, 2016



Case No:	16CUP1019/16WAIVER1016
Project Name:	T.I.E.S. Mortuary and Crematory
Location:	4515 Produce Road
Owners:	Timothy R. Borden Enterprises, Inc.
Applicant:	Timothy R. Borden Enterprises, Inc.
Representative(s):	James L. Griffin
Project Area/Size:	5,131 square feet
Existing Zoning District:	M-3, Industrial
Existing Form District:	SWC, Suburban Workplace
Jurisdiction:	Watterson Park
Council District:	10 – Patrick Mulvihill
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUESTS

- Modification of an existing Conditional Use Permit to allow the expansion of a crematorium in a M-3 zoning district
- Waiver to omit sidewalk along Produce Road

CASE SUMMARY

The applicant is proposing to add 5,131 square feet onto the existing crematory located near the west property line. One addition will be 1,360 square feet and the other one will be 3,771 square feet.

SITE CONTEXT

The site is triangular in shape and located on the north side of Produce Road and abutting Southern Railway to the north. The site currently has two structures on site. The smaller structure has a 720 square feet office and 2,910 square feet crematory. The larger structure has an 880 square feet office and 4,457 square feet crematory.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Crematory	M-3	SWC
Proposed	Crematory	M-3	SWC
Surrounding Properties			
North	Metro Repair Shop	M-2	SWC
South	Industrial, Office	M-3	SWC
East	Railroad	M-3	
West	Industrial	M-3	SWC

PREVIOUS AND ASSOCIATED CASES ON SITE

B-68-02

An application for a Conditional Use Permit to allow a crematory in an M-3 zoning district. This proposal was approved by BOZA on April 15, 2002.

B-68-02

An application for modified Conditional Use Permit to allow an expansion of the approved crematory in an M-3 zoning district. This proposal was approved by BOZA on September 5, 2006.

INTERESTED PARTY COMMENTS

Staff received no interested party comments.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan. Lighting will be code compliant.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with the surrounding land uses with respect to height, scale, noise, drainage, lighting and appearance.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: Transportation Planning/Public Works and MSD have reviewed and approved the proposal. The Buechel Fire Protection District did not provide comments to staff.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Crematories may be allowed in any non-residential district, or as an accessory use to a cemetery within a residential district upon the granting of a Conditional Use Permit and compliance with the following requirements.

A. The site shall be reviewed by the Air Pollution Control Board (APCD), and a permit shall be obtained in conformance with APCD requirements.

B. The crematory operation shall be a minimum of 200 feet from property containing a residential use, or greater distance as required by the board.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.8.1.B.
to not provide a sidewalk along Produce Road:**

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since the industrial/business uses in the area on the north side of Produce Road don't have sidewalks.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the use will not generate foot traffic.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant due to the lack of foot traffic the modification would create.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a modified Conditional Use Permit and sidewalk waiver.

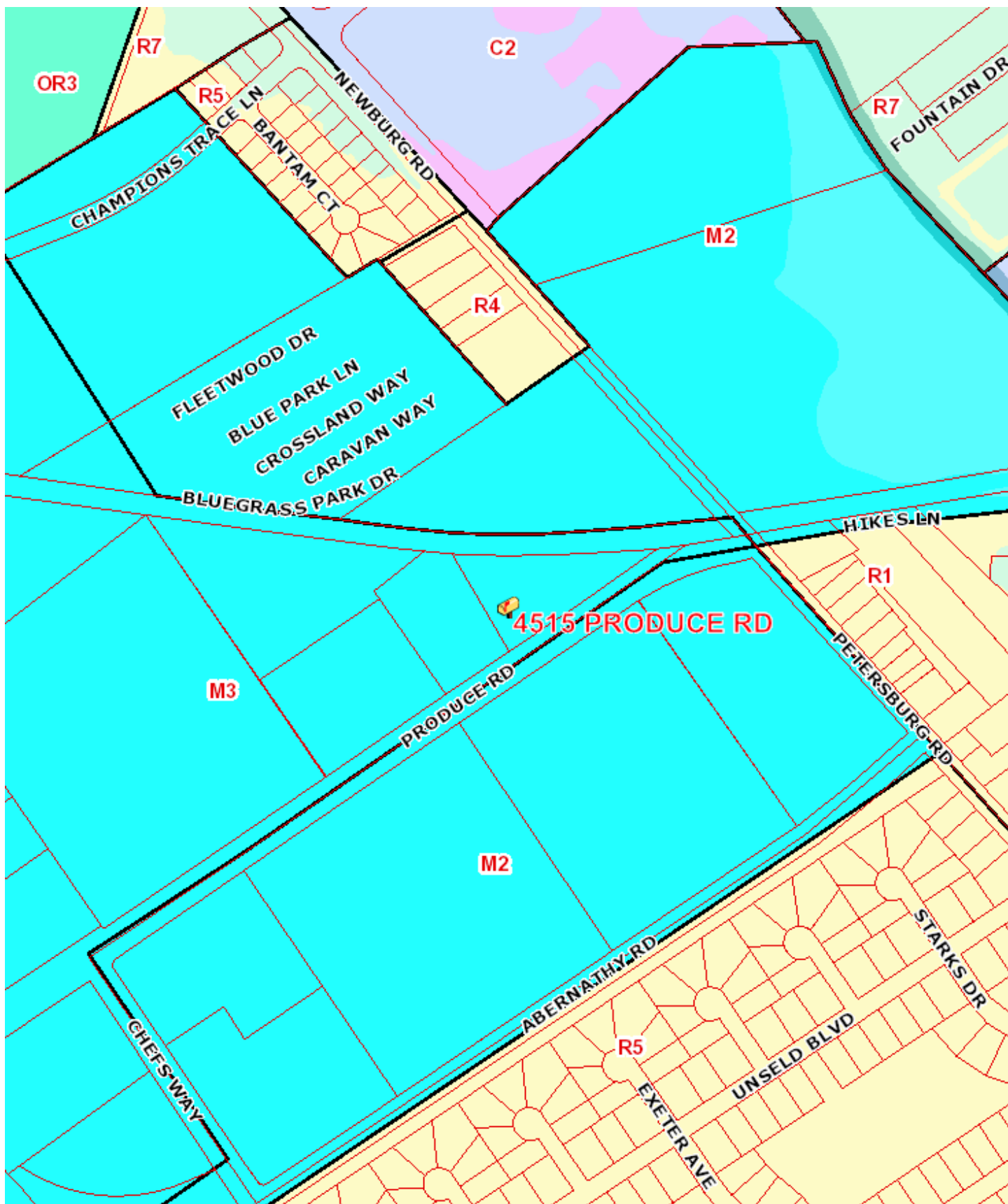
NOTIFICATION

Date	Purpose of Notice	Recipients
8/11/16	APO Notice	First tier adjoining property owners Neighborhood notification recipients
8/12/16	Sign Posting	Subject Property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



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The conditions are as follow:

1. The CUP shall not be effective until the applicant submits a revised plan showing the specific location of the crematory.
2. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.
3. Lighting shall be low wattage recessed in the eaves of the building. The light pole shall have a shielded fixture with a 90 degree cut-off and shall be directed away from the residences. Lighting shall only be used to illuminate the parking area and for building security.
4. The Conditional use Permit modification shall be "exercised" as described in KRS 100.237 within one year of the Board's vote on this case. If the Conditional use Permit is not so exercised, the site shall not be used for a crematory without further review and approval by the Board.

Additional Conditions from the Air Pollution Control Board Permit

1. Standards
 - a. PM (Regulation 7.08)
 1. No owner or operator shall cause to be discharged into the atmosphere from any affected facility, or from any air pollution control equipment installed on any affected facility, any gases that may contain particulate matter that is in excess of 2.34 lbs/hour.
 2. No owner or operator shall cause to be discharged into the atmosphere from any affected facility, or from any air pollution control equipment installed on any affected facility, any gases that may contain particulate matter that is equal to or greater than twenty percent (20%) capacity.

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- b. TAPs (Regulation 5.12)
The owner or operator shall not allow Toxic Air Pollutants to exceed the calculated adjusted significance level.
 - c. Odor (Regulation 1.13)
No person shall emit or cause to be emitted into the ambient air any substance that creates an objectionable odor beyond the person's property line. An odor will be deemed objectionable when documented investigation by the District includes, as a minimum: observations on the odor's nature, intensity, duration, and location, and evidence that the odor causes injury, detriment, nuisance, or annoyance to persons or to the public.
2. Monitoring
- a. PM
The afterburner/mixing and settling chamber shall be cleaned every ninety days to remove particles and debris which may restrict the air flow through the secondary chamber.
 - b. TAPs
 - 1. No medical or hazardous waster shall be accepted for destruction. This includes but not limited to undifferentiated body parts resulting from autopsies or surgical procedures. Should the undifferentiated body parts be the result of dissection of cadavers from medical schools, these may be cremated.
 - 2. All pacemakers and infusion pumps shall be removed before cremation;
 - 3. Fiberglass, plastic and Styrofoam containers shall not be used as containers of the body during cremation.
 - c. Odor
 - 1. The temperature on the afterburner controller for the secondary chamber shall not drop below 1600 F during combustion.

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2. Temperature must reach 800 F on the afterburner controller indicator before igniting main burner.
 3. Allow more time for cycle if unit is to be left unattended.
 4. Afterburner temperature indicator must read less than 400 F before starting preheat cycle.
 5. Lacquered and highly varnished wood caskets, when cremated, shall be the first run of the day.
 6. For obese remains (possibly greater than 200 pounds, always greater than 300 pounds), the owner of operator shall:
 - i. Make this case the first cremation of the day
 - ii. Insure that the casket be inserted head first
 - iii. Use manual control of main burner
 - iv. Observe during first hour of cycle and monitor temperature closely
 - v. Observe the exhaust stack for any visible emissions
 - vi. Shut down afterburner if temperature on afterburner controller exceeds 2000 F and restart when temperature drops to 1800 F.
3. Record Keeping
- a. Training records shall be maintained on all personnel that may operate this unit and the records shall be made available to the District upon request. The records shall include who was trained and when the training was done.
 - b. Records shall be maintained on the regular cleaning of the afterburner/mixing chamber. The record shall contain who performed the task and when it was performed.
 - c. Should the facility cremate a cadaver or body parts from a cadaver, records shall be maintained as to the source of the materials cremated.

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- d. The opacity monitor shall be verified that it is operational, once per operation week of the unit. Records shall be maintained as to the status of the opacity meter and who performed the inspection and when the inspection was completed.
 - e. Records shall be maintained of actual visual emission observations made of the stack when cremating an obese body. The record shall include when the observation was made and what was observed.
4. Reporting
- a. The District shall be supplied with one copy of the Operations and Maintenance Manual and this document shall be kept up dated on an annual basis.
 - b. The District shall be notified prior to initial operation so that District personnel may observe initial operation.
 - c. The District shall be supplied with the proposed operator training schedule prior to operation and when the training has been completed.
 - d. The owner or operator shall report to the District, every instance when the unit malfunctions. A malfunction is defined as when visible emissions are observer or odors detected.

The vote was as follows:

YES: Members Kline, Tonini, Hommrich, Saunders and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Hawkins.

ABSTAINING: No one.