

Board of Zoning Adjustment

Staff Report

July 30, 2018



Case No.	18CUP1035
Project Name	Cremated Remains Site
Location	330 N. Hubbards Lane
Owner/Applicant	St. Matthews Episcopal Church
Jurisdiction	City of St. Matthews
Council District	9 – Bill Hollander
Case Manager	Beth Jones, AICP, Planner II

REQUEST

Conditional Use Permit for Cemeteries and Mausoleums (LDC 4.2.13)

- Relief from LDC 4.2.13.A. to not construct the required fence
- Relief from LDC 4.2.13.B. to permit the cremated remains site to encroach on the required 30 ft buffer from the property line and from the existing buildings

CASE SUMMARY/BACKGROUND

The applicant proposes to set aside a 0.113 acre portion of its 8.23 acre site for use for cremated remains, which will be interred without a container. The site is located in an R-4 single-family residential zone. One parcel adjoining the subject site to the west is zoned R-6 multi-family residential; the remaining are R-4. The site and all adjoining properties are within a Neighborhood form district.

The proposed cremated remains site is located on the Massie Avenue frontage of the property near its northeast corner and defined by an easement plat. It is bordered to the northwest by Massie Avenue and the southwest by the church and a second existing structure.

The northeast corner of the proposed site is 25 ft 2 in ft from the Massie Avenue property line, and its southeast and southwest corners about the two structures; the applicant is requesting relief from requirements to maintain a 30 ft buffer from both Massie Avenue and from the existing structures (LDC 4.2.13.B.). The applicant is also requesting relief from the requirement for a 6 ft high fence around the premises (LDC 4.2.13.A.).

STAFF FINDING

The proposal meets the standard of review for the requested CUP and reliefs.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a Conditional Use Permit as established by the Land Development Code.

TECHNICAL REVIEW

No technical issues remain to be resolved.

INTERESTED PARTY COMMENTS

A meeting was held on March 21, 2018. The applicant has submitted an invitation, address list and sign-in sheet, showing six parties in attendance. No meeting summary has been submitted.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal is consistent with Comprehensive Plan policies as detailed in the Cornerstone checklist (Attachment 3).

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 and appearance?

STAFF: The proposal is compatible with existing development in the vicinity and the general character of the area.

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

STAFF: The subject property is served by existing public utilities and facilities. The proposal does not appear to create substantial additional requirements for the site.

4. Does the proposal comply with the specific standards required to obtain the requested Conditional Use Permit?

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way.

STAFF: The applicant has requested relief from this requirement. Since this is an internal site with no vehicular access from a public way, staff concurs with this request.

- B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot landscaped or open space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads designed for internal circulation within the cemetery, mausoleum or crematory property.

STAFF: The applicant has requested relief from this requirement. The boundary of the proposed cremated remains site encroaches on the 30 ft buffer requirement at its northeast, southeast and

southwest corners. Since this is an internal site within private property and will not further infringe on any public or private adjoining uses, staff concurs with this request.

- C. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 20 feet.

STAFF: This condition does not apply to the proposal.

NOTIFICATION

Date	Purpose of Notice	Recipients
3/21/2018	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 9
7/13/2018	Notice of BOZA Hearing	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 9 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

NEIGHBORHOOD: RESIDENTIAL

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form			
1	B.3: The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood.	NA	The proposal does not create housing.
2	B.3: If the proposal is classified as high density (greater than 12 dwelling units per acre), it is located on a major or minor arterial or in a location that has limited impact on adjacent low or moderate density developments.	NA	The proposal does not create housing.
3	B.3: If the proposal introduces a new housing type to the neighborhood, it is designed to be compatible with nearby land uses.	NA	The proposal does not create housing.
4	B.3: Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets.	NA	The proposal does not create new streets.
Community Form/Land Use Guideline 2: Centers			
5	A.1. Locate activity centers within the Neighborhood Form District at street intersections with at least one of the intersecting streets classified as a collector or higher, AND one of the corners containing an established non-residential use.	NA	The proposal is not a Center.
6	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	The proposal is not a Center.
7	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	NA	The proposal is not a Center.
8	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	NA	The proposal is not a Center.
9	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	NA	The proposal is not a Center.

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
10	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	NA	The proposal is not a Center.
11	A.8/11: Allow centers in the Neighborhood form district that serve the daily needs of residents and that are designed to minimize impact on residents through appropriate scale, placement and design.	NA	The proposal is not a Center.
12	A.10: Encourage outlot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such outlot development should provide street-level retail with residential units above.	NA	The proposal is not a Center.
13	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	NA	The proposal is not a Center.
14	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	NA	The proposal is not a Center.
15	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	NA	The proposal is not a Center.
16	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	NA	The proposal is not a Center.
17	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	NA	The proposal is not a Center.
Community Form/Land Use Guideline 3: Compatibility			
18	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	The proposal is compatible with existing development in the vicinity and the general character of the area.
19	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	NA	The proposal requires no construction.
20	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	The proposal is compatible with existing development in the vicinity and the general character of the area.
21	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	NA	The proposal is not expected to create significant traffic impacts.
22	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	NA	The proposal is not expected to create significant lighting impacts.
23	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	NA	The proposal does not create housing.

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	NA	The proposal is not higher density or intensity.
25	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	NA	The proposal does not create housing.
26	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	NA	The proposal does not create housing.
27	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	NA	Uses are not substantially different in scale or intensity.
28	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The proposal is compatible with existing development in the vicinity and the general character of the area.
29	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	The proposal is compatible with existing development in the vicinity and the general character of the area.
Community Form/Land Use Guideline 4: Open Space			
30	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	No open space requirements are associated with the proposal, but significant open space will remain on the site.
31	A.4: Open space design is consistent with the pattern of development in the Neighborhood form district.	✓	No open space requirements are associated with the proposal, but significant open space will remain on the site.
32	A.5: The proposal integrates natural features into the pattern of development.	✓	Proposal is not expected to create significant impacts on existing natural features.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources			
33	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	Proposal is not expected to create significant impacts on existing natural features.
34	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	These conditions do not exist on the site.
35	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	These conditions do not exist on the site.
Mobility/Transportation Guideline 7: Circulation			

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
36	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA	The proposal will not require public facility improvements.
37	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	The proposal will not require transportation facility improvements.
38	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	NA	The proposal will not require right-of-way dedication.
Mobility/Transportation Guideline 8: Transportation Facility Design			
39	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	The proposal does not create new streets.
40	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	NA	The proposal does not create new streets.
41	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	The proposal does not create new streets.
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit			
42	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	NA	The proposal will not require transportation facility improvements.
Livability/Environment Guideline 10: Flooding and Stormwater			
43	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	The proposal has received preliminary approval from MSD.
Livability/Environment Guideline 13: Landscape Character			
44	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The proposal is not expected to create significant impacts on existing natural features.
Community Facilities Guideline 14: Infrastructure			
45	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The site is fully served by existing utilities.
46	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The site is fully served by existing utilities.
47	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The site is fully served by existing utilities.

4. Conditions of Approval

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for a Cemetery or Mausoleum without further review and approval by BOZA.