



MEMORANDUM

TO: City Council

FROM: Lauren Russell, Associate Planner

DATE: April 5, 2021

SUBJECT: APP2021-0001 Appeal of Holman's Director's Interpretation (DI2020-0002)
Supplemental Memorandum

This supplemental memorandum provides the City Council with an additional document provided by the appellant in their February 16, 2021, appeal submittal that was erroneously omitted from the Agenda Bill packet. The document is titled *Appeal Form for Appeal of Land Use Decision-Additional sheet -1* and is attached to this memo as Exhibit APP 1.2. The assertions made in this document have already been addressed, in either the Director's original decision or in staff's March 16, 2021, appeal memorandum, which have both been provided with the Agenda Bill. For convenience, the main assertion and a staff response is provided below.

The appellant asserts that the Director's Interpretation is not consistent with Beaverton Development Code (BDC) Section 10.20 because the proposed use should be considered a mortuary instead of a funeral home use.

BDC Section 10.20.6 provides that where it is unclear how the Code shall apply, or if the terms are ambiguous or vague, terms defined in Chapter 90 (Definitions) shall have specifically stated meanings unless the context clearly requires otherwise and terms not defined in Chapter 90 (Definitions) shall have the meaning set forth in Webster's 1993 Third New International Dictionary. Chapter 90 of the Development Code does not define Mortuaries, but defines a Cemetery as, "A place in which the deceased are entombed. A cemetery may include crematoria and mortuaries within its boundary. This use includes, but is not limited to: Cemeteries, mausoleums, columbaria, or other similar uses."

The proposed funeral home use is not a Cemetery because it will not be a place in which the deceased are entombed; rather, the disposition of a body and final interment will occur off-site.

Webster's 1993 Third New International Dictionary defines "mortuary" as a place in which dead bodies are kept until burial, especially a funeral home. The proposed funeral home does meet this definition of mortuary. However, other than the definition above from Chapter 90, the Development Code only refers to "mortuary" use in Section 60.30 (Off-Street Parking). In the parking tables, the motor vehicle parking requirement for mortuaries is calculated per seat, at maximum occupancy. The use of a "per seat" parking metric is also used for determining the parking requirements for Arenas, Places of Worship, and Movie Theaters, indicating that the BDC assumes that a Mortuary is a gathering place for large groups of people for events. While

the proposed funeral home use meets the dictionary definition of mortuary, it does not match the Development Code's use of the term mortuary because the proposed funeral home will not host any on-site religious services or gatherings and thus there will be no seats by which to calculate the motor vehicle parking requirement.

Webster's 1993 Third New International Dictionary defines "funeral home" as an establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals. In general, the proposed funeral home use meets this dictionary definition because it would be an establishment with facilities for the preparation of the dead for burial; however, there would be no retorts for on-site cremation and it would not host any religious services or gatherings related to viewing of the body or a funeral service.

EXHIBITS:

Exhibit APP 1 – Appellant Materials:

APP 1.2 Additional Appeal Submittal Document from Susan Corbett, received February 16, 2021

Exhibit APP 2 – Applicant Materials:

No additional applicant materials received to date.

Exhibit APP 3 – Public Comment:

No additional public comments received to date.

Exhibit APP 4 – Agency Comment:

No additional agency comment received to date.

Appeal Form for Appeal of Land Use Decision- Additional sheet -1

***Appeal of D12020-0002 (Holman's Director's Interpretation)**

Additional sheet necessary for:

Specific reasons why a finding/conditions is in error as a matter of fact, law or both:

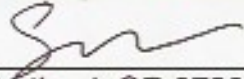
The director interprets a funeral home that receives and stores bodies as a "professional service" use. But the BDC Chapter 90 defines "professional service" use as "uses engaged in providing service to the general public: such as small dental and medical offices, real estate, insurance, administrative facilities, personal care, business, professional/ and similar series." This definition does not include mortuaries. BDC Section 10.20.4 states "proposals for uses where the code is silent or where rules of the code do not provide a basis for concluding that the use is allowed, are prohibited." The director's Interpretation for a funeral home use as a Service Business / Professional Services use is incorrect because this funeral home will receive and store bodies, which is the defined use of a mortuary. This fact of receiving, storing and embalming bodies has been confirmed in writing several times in the director's Memorandum. Therefore, the funeral home will have a mortuary on-site. The Director has carefully omitted the word "mortuary" from the memorandum in all FINDINGS.

February 15, 2021

APPEAL OF D12020-0002 - Exhibit -1

ANALYSIS AND FINDINGS FOR DIRECTOR'S INTERPRETATION APPROVAL

Received
Planning Division
02/16/2021

Appellant: SUSAN CORBETT, 
503-476-4903 PO Box 25154 Portland, OR 97298

The appellant did not receive any of the case files until after the director sent the approval. Had we known the history of this project, we would have written a different initial letter. This put us at a disadvantage.

In the SUMMARY of the NOTICE OF DECISION DIRECTOR'S INTERPRETATION, SR-1,

The applicant Holman's Funeral & Cremation Service has applied for a Director's Interpretation of the Development Code in writing. The applicant requests that their proposed "funeral home" use be classified as a Service Business / Professional Services use.

The appellant believes that the funeral home by itself could be considered a Service Business/ Professional Service use, but that a funeral home that receives and stores bodies requires an accessory use of that of a mortuary, and that use is not compatible with the definition of a Service/ Professional use. The word mortuary is not used in the application summary, but a mortuary will be part of the actual land use. The code is silent on the definition of a mortuary in: CHAPTER 90: DEFINITIONS

Therefore:

In CHAPTER 10 General Provisions:

10.20.4. [ORD 4224; August 2002] Proposals for uses where the code is silent or where the rules of the Code do not provide a basis for concluding that the use is allowed **are prohibited**.

10.20.5. [ORD 4224; August 2002] Uses of land not expressly allowed or not incidental to a Permitted or Conditional Use **are Prohibited**. [ORD 4498; January 2009]

Comment 2.

**In Analysis and Findings for Director's Interpretation Approval,
Section 40.25.15.1.C.Approval Criteria,**

3. That the interpretation is consistent with the City's Comprehensive Plan and other provisions within the Development Code.

In FINDING:

The director states again that the use will be that of a funeral home, with two dwellings on site. "Bodies may be transported to the funeral home outside business hours". *This statement confirms the use of a mortuary.* "The proposed funeral home provides on-site embalming.... again confirming the use of a mortuary.." No mention of the **word mortuary** is used in this finding. However, the necessity of the **use** of a mortuary has been confirmed. A mortuary as defined in Webster's Third Dictionary is "A place where bodies are kept until burial" Bodies are transported to the professional business and stored in a refrigerated storage unit called a mortuary. If Holman's received a body in the early evening after normal business hours, on a hot summer night, and the body was lying on a table for 10 hours until the office opened at 9:00 am, that would be very problematic. So, again, by necessity, a mortuary will be used and located in the garage.

Because mortuaries are not permitted in GC zones, the interpretation of allowing a funeral home and mortuary in a General Commercial zone is not consistent with the City's Comprehensive Plan and other provisions within the Development Code, and does not meet the interpreted use definition of Service Business/Professional Services cited in the Holman's Director's Interpretation.

The majority of Service Business or Professional Services located in a GC zone such as a dental or accountant office use normal business hours.

*When a business **always** operates outside of normal business hours, it is dissimilar to the majority of Service or Professional businesses, and should not be defined as such.*

The appellant believes a funeral home/mortuary that stays open 24/7 use cannot be defined as a Service Business / Professional Services use and therefore is not consistent with the City's Comprehensive Plan and other provisions within the Development Code.

In GOAL 3.7.4 Neighborhood Center: Provide opportunities for small scale commercial development that serves adjacent neighborhoods. D1-2

Policy 3.7.4.C States that development standards should be used to address potential issues related to compatibility of neighborhood commercial uses with adjacent housing, including noise, access and parking. The director states that no on site crematorium is proposed **as part of the funeral home**. *Why does the director mention a crematorium?*

Transporting bodies to this site at all hours of the day and night, are not compatible with the adjacent use, residential housing, R-5 zone. Twenty four hour, seven day a week noise and activity such as truck headlights, reverse beeping, doors slamming, mechanical overhead doors, forklifts, area lights, commercial refrigeration compressors and back up generators are not compatible with Neighborhood Goal 3.7.4 and do not provide a small scale commercial development that serves adjacent neighborhoods.

*When a business **always** operates outside of normal business hours, it is dissimilar to the majority of Service or Professional businesses, which do not operate after normal business hours, and should not be defined as such. For that reason this funeral home / mortuary is not the same as a Service business/ Professional Service, and **is the cause of potential issues related to compatibility of neighborhood commercial uses with adjacent housing, including noise, access and parking.***

One might walk their child to the local dentist to have teeth cleaned twice a year, but you wouldn't walk your child to the local funeral home/mortuary to have someone embalmed on a regular basis. Neighbors to funeral homes do not necessarily use neighborhood funeral homes. Funeral homes are chosen for other reasons such as faith-based traditions, cost, word of mouth, and family history of use.

Mortuaries use industrial chemicals to embalm bodies. This use should be in an industrial zone, not a neighborhood zone. What happens to the toxic waste?

In Goal 3.7.4.

The director states towards the end the first paragraph D1-2, “No on-site crematorium is proposed as part of the funeral home use so off site crematoria will be used...”

Why is a crematorium mentioned in an approval for a professional/service use and in a Neighborhood Center Goal that provides opportunities for small scale commercial development? This is the first use of the word crematorium.

The applicant does not mention the use of a crematorium in the application for interpretation in the SUMMARY page SR-1.

*The appellant believes that a crematorium will be a **new use** after the funeral home **new definition of use**, has been approved. The first must be approved for subsequent uses to follow.*

Section 40.25.05. Purpose.

The purpose of the director’s Interpretation is to address **new uses** which may come into existence over time that are not addressed specifically in the code or some of the terms or phrases within the code which may require **further interpretation**.

On the front page of the MEMORANDUM, the director states that:

The appeal shall include the following - Bullet point number 3: “Reference to the **written evidence provided by the decision making authority** by the appellant that is contrary to the decision.”

*Since the director has used the word crematorium several times, we will use that as **written evidence** of information about this Interpretation, that was written by the decision making authority. Therefore, if the word was written in the Director’s Interpretation **we may speak to it** even though the director has stated that a crematorium is not a part of **this** use Interpretation. It could be part of a future application to the Planning Department, because it was in every previous application, and was removed in order to be approved as a General Commercial use. **There was never written evidence that the applicant or the staff has rescinded the intention of having a future crematorium***

Previous Applications Cited:

1. The applicant’s Request for Planning Director Interpretation, May 25, 2020, states: “Holman’s Funeral and Cremation Service propose a mortuary at this site that would include a crematorium. The General Commercial Zone permits a mortuary. The code is silent regarding a crematorium in a commercial zone.”

*This history is relevant to the final decision made by the director because it shows the progression of thought process that occurred, and it **brings to light the true intended land use of the applicant**, that of a funeral home, which needs to be defined as a service/professional service business in order to be approved. After the funeral home use is approved, a crematorium, will be proposed which is not an allowed use in a GC zone and will require a huge amount of code manipulation to be approved.*

2. The applicant’s Pre-Application Project Description of July 8, 2020 states:

“Funeral home with cremation unit to be installed in proposed garage addition.

*This history is relevant to the final decision made by the director because it shows the progression of thought process that occurred, and it **brings to light** the true intended land use of the applicant.*

3. The General Notes section of the Pre-App meeting states:

“The applicant was very clear in stating that the proposed business model at this location will not include any rituals or events that are associated with processions but rather would more closely align with a service business of **holding, processing, and cremating deceased bodies.**”

*This history is relevant to the final decision made by the director because it shows the progression of thought process that occurred, and it **brings to light** the true intended land use of the applicant.*

*All preliminary applications request a funeral home, mortuary and crematorium in a General Commercial Zone. However, the final request was for **only** a funeral home use, in order for Holman’s Funeral & Cremation Service to be considered a Service Business / Professional Services use to meet requirements for a GC zone. The idea to change the use definition/classification in order to gain approval was given to the applicant by city planning staff. **There was never written evidence that the applicant or the staff has rescinded the intention of having a future crematorium.** Therefore, we believe they all still intend to have a crematorium.*

*The appellant believes that despite the approval of a funeral home only, there will also be a mortuary, as an accessory use, on site to store bodies in refrigeration. To say that this application is for a funeral home **only**, is not a correct statement. To say that a mortuary is a Service Business/ Professional Services use, that is like an accountant or dentist is also not a correct statement.*

The word mortuary was not used in the SUMMARY, because a mortuary is not a Service Business/ Professional Services use. A mortuary will be on site, though. If the applicant purposefully leaves out the use of a mortuary, then what other uses have they decided to leave out? What are the true intended uses for the business that will occur on this site in this GC zone?.

Section 40.225.05. Purpose

*The appellant believes that the **new use** that will come into existence over time will be that of a **crematorium**, which is not a service/ professional use and is not permitted in a GC zone.*

The request for a crematorium will need extensive code manipulation

*The following is from the APPLICATION FEES list in the Pre-Application notes of PA2020-0032 Holman's Funeral & Cremation Service pg. 5, that describes the many code manipulations required to get this project approved through the **Planning Department ONLY**:*

New Conditional Use

Design Review Two

Director's Interpretation

Legal Lot Determination

Replat Two

Final Land Division

Quasi-Judicial Zoning Map Amendment- *Why is it Quasi? What does that mean?*

Quasi-Judicial Comprehensive Plan Amendment

Possible Text Amendment

Possible Design Review Three

Possible Major Adjustment – Minimum Parking

Possible Shared Parking Determination

All of these requirements are shown to let everyone know how complex this project is. Ultimately, this site is not compatible with the proposed uses, and that is proven by the complexity of the land use application process that will be required to approve a use that is not allowed in a GC ZONE, and by the staff notes.

In the Pre Application notes, KEY ISSUES Considerations 1. Land Use Applications, Staff writes:

In the Pre-Application Conference Notes KEY ISSUES, 4, Continued Coordination with Staff, staff writes: **Given the complexity of this project as it relates to the Development Code, continued coordination with staff will be critical for project success.** *When a small commercial project has this many conflicts with the code, it must not be consistent with the intentions of the City's Comprehensive Plan or other provisions within the Development Code.*

In the Pre-Application Conference Notes KEY ISSUES CONSIDERATIONS PA2020-0032 Holman's Funeral and Cremation Service page 8, Staff writes the following:

“1. Land Use Applications. The applicant has already submitted a **Director's Interpretation** application. The original request was for the Director to determine that a crematorium is an allowed accessory use for a mortuary. In the original submittal, the applicant suggested that a “mortuary” is a “professional service” use but BDC Chapter 90 defines “professional service” as “uses engaged in providing services to the general public: such as small dental and medical offices, real estate, insurance, administrative facilities, personal care, business: professional, and similar services.” This definition does not include “mortuaries.” BDC Section 10.20.4 states that “proposals for uses where the code is silent or where the rules of the Code do not provide a basis for concluding that the use is allowed are prohibited,” and BDC Section 10.20.5 states that “uses of land not expressly allowed or not incidental to a Permitted or Conditional Use are Prohibited.” **Therefore because “mortuary” does not necessarily fall under the “professional service” definition,** the applicant must provide evidence to establish that a mortuary would be a professional service use instead of any other use category in the code or a use that is not intended to be allowed.

Staff recommends that the applicant **revise the request as follows: for the Director to interpret that a “funeral service/funeral home” business is a “professional service/service business” use based on the definition in BDC Chapter 90.**

In Goal 8.4.1: Create and protect a healthy acoustical environment within the City.

Transporting bodies to this site at all hours of the day and night, are not compatible with the adjacent use, R-5. Truck headlights, reverse beeping, doors slamming, mechanical overhead doors, forklifts, area lights, commercial refrigeration compressors and back up generators are not compatible with Neighborhood goal 8.4.1. Holman’s Funeral and Cremation Services will be open twenty- four hours a day, seven days a week. These hours of operation are dissimilar to a normal service/professional business and should not be defined as such. This use will have a detrimental impact on the bordering neighborhood R-5 zone, which shares a property line to the site in question.

Section 10.20 Interpretation and Application of Code Language

10.20.6 States that terms that are unclear, ambiguous or vague, use definitions in CHAPTER 90 In that chapter, the terms mortuary and crematorium are defined in accessory to a cemetery.

Although a funeral home/ mortuary is not a cemetery, a mortuary is defined in conjunction with and as an accessory to a cemetery, which is not an allowed use in a GC zone as shown in 20.10.20 Land Uses Table Civic. 20. cemetery -Not Permitted in GC zone

In the fourth paragraph page D1-4, the director states

“that a mortuary is defined as a place in which dead bodies are kept until burial especially a funeral home. The proposed funeral home does not meet this definition of mortuary.”

*The appellant believes that bodies **will** be kept at this site until being embalmed buried or cremated. Where else will they be kept when they are received at all hours of the day and night? Pg. D1-4, The director states that “the Development Code only refers to mortuary uses in Section 60.30. (Off Street Parking) and gives the various code references to parking in relation to a commercial uses and mentions that mortuaries are listed in Table 60.30.10.5 B. Then says, “**While the proposed funeral home use meets the dictionary definition of mortuary**, it does not match the Development Code use of the term.”*

The director interprets the parking table as a part of the definition for mortuary. That is sort of like the tail wagging the dog. If a term is not defined in CHAPTER 90 of the Code, Then the code says to use Webster’s 1993 Third New International Dictionary. The code does not say to use parking tables for definitions.

In **DEFINITIONS CHAPTER 90**, Mortuary is not defined. The code is silent on the term mortuary.

Therefore,

In **CHAPTER 10 General Provisions:**

10.20.4. [ORD 4224; August 2002] Proposals for uses where the code is silent or where the rules of the Code do not provide a basis for concluding that the use is allowed **are prohibited.**

10.20.5. [ORD 4224; August 2002] Uses of land not expressly allowed or not incidental to a Permitted or Conditional Use **are Prohibited**. [ORD 4498; January 2009] *Section 40.25.05. Purpose*

*The appellant believes that the **new use** that will come into existence over time will be that of a **crematorium**, which is not a service/ professional use and is not permitted in a GC zone. The reason that we believe the true intended and eventual use will include the use of a crematorium, is because the director has mentioned the word crematorium several times when the applicant's interpretation was for only a funeral home to be defined as a service/professional use.*

*In the third paragraph page D1-4, the director gives the Dictionary definition of a crematorium: "that a crematorium is a furnace for cremating bodies of the dead or a building containing such a furnace. The furnace is called a retort and if no retorts are proposed, the use will not be a crematorium." However, there is a new technology for disposing of bodies called Aqua Cremation, which does not use a retort. This process uses a sealed vessel filled with water and solvents and heated so that the flesh is dissolved from the bones and then the bones are taken out and grinded in a separate machine. Holman's currently offers Aqua Cremation service. This service could take in bodies from all over the metro region to Aqua Cremate from funeral homes that want to out source this service. If that were done, Holman's would no longer **service the general public in the neighborhood**, but the metro region, and should locate in an industrial zone.*

We believe that this cremation service (aqua cremation) will be used on the site, because:

- 1. The director has brought into the discussion, the mention of crematoriums several times, in writing in the Director's Interpretation Approval document.*
- 2. The intention of using a crematorium was given many times in previous applications and discussions with staff.*
- 3. There was never written evidence that the applicant or the staff has rescinded the intention of having a future crematorium.*
- 4. The business is named Holman's Funeral and **Cremation** Services*

This is clearly not an intended Service/Professional use similar to an accountant or dentist.

10.10.4.B. General Provisions:

To achieve a balanced and efficient land use pattern, **to protect and enhance real property values**, to promote safe and uncongested traffic movement and to avoid uses and development which might be detrimental to the stability and livability of the City.

*The appellant believes that a funeral home/ mortuary will do the opposite of the development standards set forth in this policy. We oppose this interpretation because it will **reduce our property values** in our R-5 zone.*

Section 20.10 Commercial Land Use Districts Page D1-5

The director states again that a funeral home is a Service Business/ Professional Service, and is therefore permitted in a GC zone. *However, a funeral home and a mortuary and potentially a crematorium, are not defined as the same business use as a dentist, accountant or lawyer etc. and are not a permitted use in this zone.*

The director again has isolated the use of funeral home from any negative use connotations such as that of mortuary and crematorium; neither word is used.

In the fourth paragraph, the director states that the funeral home, Service Business/ Professional Services uses will be open seven days a week, twenty four hours a day.

*A typical Service Business/ Professional Services business like an accountant or dentist might be open on occasion after normal business hours and during the weekend, but the majority of Service Business/ Professional Services businesses are closed for the weekend. The hours of operation of a business affect the livability of a neighborhood and are closely aligned with the intention of the code. That is why a conditional use permit is required to stay open after normal business hours. But the fact that they will **always** be open, makes this funeral home use substantially different from a normal Service Business/ Professional Services use. For that reason this funeral home is not permitted in a GC zone, especially because it borders an R-5 zone. Neighbors will see and hear everything across the property line.*

Section 60.50.25 Uses requiring Special Regulation

This section states that a cemetery, crematory, mausoleum or columbarium shall be located to have a principal access to site by way of a street with a Collector or higher designation.

SW 87th Street is a Neighborhood Route not a collector or higher designation. This site and its zoning of General Commercial fits in with the Code intention of a Neighborhood Route accessing a neighborhood business use. This GC zone that directly borders an R-5 neighborhood zone, was intended for neighborhood uses. A funeral home/mortuary with a potential crematorium, does not fit into the intended code neighborhood use.

The director states in Pg. D1-6 last paragraph, that the proposed funeral home use does not meet the definitions of cemetery, crematory, mausoleum or columbarium. *Why does the director keep bringing up the term crematorium when it was nowhere in the Interpretation Application? Again, this funeral home will have a mortuary which is an accessory use to a cemetery. However, the word mortuary is not in DEFINITIONS CHAPTER 90.*

There are two ways a mortuary will not be allowed:

1. 10.20.4. [ORD 4224; August 2002] Proposals for uses where the code is silent or where the rules of the Code do not provide a basis for concluding that the use is allowed **are prohibited**.
2. *Or as an accessory use to a cemetery, which is not an allowed use in a GC zone.*

In DEFINITIONS CHAPTER 90, a cemetery has accessory uses. "A cemetery may include **crematory and mortuary** within its boundaries." In Chapter 20 Land Use Table Civic 20: a cemetery *and its accessory uses* are not allowed in a GC zone.

*The director never uses the word mortuary to describe the business use. But a mortuary is a necessary and accessory use to a funeral home as a place of refrigerated storage when the "funeral home" receives dead bodies. A crematorium was requested in all of the previous applications and was only changed when the staff advised the applicant to define their business as a funeral home and not a funeral home with a mortuary and crematorium. Only a funeral home **without** a mortuary or a crematorium will fall under the definition of a professional service use.*

4. When interpreting that a use not identified in the Development Code is a Permitted, Conditional, or Prohibited Use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the code.

In FINDING:

The director again states that the proposed funeral home use is a Service Business/ Professional Services use. The director states the business is open seven days a week from 9:00 am to 5:00 pm. *Yet the director does not mention being open after normal business hours to receive dead bodies. A Service Business/ Professional Services use might **on occasion** be open after normal business hours and during the weekend, but a funeral home that receives dead bodies is **always** open after normal business hours and **seven days a week**, making it substantially different from a typical Service Business/ professional Services Use. The director again does not use the word mortuary, which will be used to store the dead bodies received during the night, in refrigeration, and which is not allowed in a GC/R-2 zone.*

Section 10.50 Authorization for Similar Uses:

The Director may authorize that a use, not specifically named in the allowed uses, be permitted if the use is of the same general type and is similar to the allowed uses; provided, however, that the Director may not permit a use **already allowed in any other zoning district of this Code**. The director states that the funeral home use is not an allowed use in any other zoning district of this code.

*There **are** funeral homes in Beaverton that are in other zoning districts.*

The following is a list of six funeral homes in other zones than General Commercial. There are no funeral homes, mortuaries and/or crematories in any GC zone in Beaverton. The following is a list of funeral homes in Beaverton. Six businesses are enough to show a zoning pattern.

- 1. Westside Cremation and Burial Services. 12725 SW Milliken Way. Regional Center Zone **(RC-BC)***
- 2. Tualatin Valley Funeral Alternatives. 12270 SW 1st St. Regional Center Zone **(RC-BC)***
- 3. Pegg, Paxson and Springer Funeral Home. 4675 SW Watson Ave. Regional Center Zone **(RC-BC)***
- 4. Threadgill Memorial Services. 4815 SW Jamieson Rd. They do not have a mortuary or provide cremations on site. Urban High Density Zone **(R-1)***
- 5. Smart Cremation Beaverton. 8249 SW Cirrus Dr. They **ONLY** provide cremations. Office Industrial/ Washington Square **(OL-WS)***
- 6. Springer and Sons 4150 SW 185th Ave. Outside of Beaverton zones. Unincorporated Washington County.*

Because there are so many funeral homes in zones other than the GC zone, the director may not permit a use already allowed in any other zoning districts of this Code.

Section 60.50.25 Uses Requiring Special Regulation page D1-6

The director states that a cemetery, crematory, mausoleum or columbarium shall be located to have a principal access to site by way of a street with a collector or higher designation.

In CHAPTER 90, DEFINITIONS: a cemetery is defined as:

[ORD 4102; May 2000] A place in which the deceased are entombed. A cemetery may include **crematoria and mortuaries** within its boundary. This use includes, but is not limited to: Cemeteries, mausoleums, columbaria, or other similar uses.

Mortuary and crematories are accessory uses to cemeteries. Therefore they require an access to site by way of a street with a Collector or higher designation as established by the Comprehensive Plan. SW 87th street is a Neighborhood Route, not a collector or higher designation, so this site is not consistent with the City's Comprehensive Plan or Development Code.

4. When interpreting that a use not identified in the Development Code is Permitted, Conditional, or Prohibited Use, that use must be substantially similar to a use currently in the subject zoning district or elsewhere in the development Code. Page D1-7

The director again describes this proposed funeral home as a Service/Professional use and describes the daily business as operating from 9:00 am to 5:00 pm.

The hours of operation stated above are falsely represented, because this business will be always open twenty four hours a day, seven days a week. This use is substantially different from other service/professional businesses, which are mostly closed on weekends and nights

This proposed funeral home provides on site embalming and a mortuary to store dead bodies that it receives. This use is substantially different from other service/ professional businesses and cannot be interpreted as such.

In the second paragraph, the director states that " The funeral home use is not an allowed use in any other zoning district of this Code" So does that mean it is ONLY allowed in a GC zone? This is also false because as shown on there is a list of many funeral homes in Beaverton which are in many different zones. In fact there are NO funeral homes in any GC zones.

“The director states that Holman’s will serve the general public and provide a range of professional services related to the physical and spiritual disposal of a human.” Do other Service business / Professional Businesses store and dispose of human remains? Is this use really similar to other Service Business /Professional Services uses like an insurance company or an accountant?

*Yes Holman’s Funeral and Cremation Service does provide help with insurance, legal and administrative tasks, but that is not their main business- they are all auxiliary to the main business which is stated in their name: **HOLMAN’S FUNERAL AND CREMATION SERVICES**. This use is not substantially similar to a use currently in the GC zone, or any Service Business / Professional Services use described in the Development Code.*

*In the director’s **CONCLUSION**, the director finds that the proposed funeral home use, is substantially similar to a Service/ Professional Services use.*

The appellant believes that because of the following, this funeral home is not at all similar to a Service Businesses / Professional Services:

- 1. This business will receive, store in a mortuary and embalm bodies using industrial chemicals that may be toxic and must be stored and used in safe conditions.*
- 2. Create noise associated with truck deliveries, doors slamming, garages opening, backing beeping, vehicle maneuvering, generators, compressors etc. and use area lights 24/7.*
- 3. Open business hours twenty four hours a day, seven days a week that are substantially different than most Service /Professional business hours adjacent to an R-5 zone and in GC zone.*
- 4. Locate this business on a Neighborhood Route and not a Collector or Higher Designation required for mortuaries.*
- 5. Reduce property values in the adjacent R-5 zone.*

*We also believe that the applicant intends to have a crematorium as a future use because the applicant applied for and discussed It with planning staff in all previous applications and there was never written evidence that the applicant or the staff has rescinded the intention of having a future crematorium. **A Funeral Home, Mortuary, and Crematorium are not Service Businesses / Professional Services and have no place in a neighborhood, general commercial and residential 5 zone surrounded by peoples homes. Therefore the appellant disagrees with and appeals the Director’s Interpretation.***

Respectfully submitted,

Susan Corbett, appellant