



## Legislation Text

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File #: 18-007, Version: 1

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**TO:** Mayor and Members of City Council

**THRU:** Jay Reinstein, Assistant City Manager

**FROM:** Craig M. Harmon, AICP, CZO - Senior Planner

**DATE:** February 26, 2018

**RE:** P18-05F The issuing of a Special Use Permit for a crematory in a CC - Community Commercial Zoning District and to be located at 653-657 Hillsboro Street, at the intersection of Hillsboro and Edwards and being the property of Wiseman Mortuary.

**COUNCIL DISTRICT(S):** 2

**Relationship To Strategic Plan:**

Strong, diverse and viable local economy

Highly desirable place to live, work and recreate with thriving neighborhoods and a high quality of life for all residents.

**Executive Summary:**

Wiseman Funeral Home wishes to build a crematory across Hillsboro Street from the current location of its funeral home.

**Background:**

Applicant: Lenora & Tryphina Wiseman

Requested Action: SUP - Crematory

Property Address: 653 Hillsboro Street.

Council District: 2

Status of Property: vacant,

Size: 0.46 acres +/-

Adjoining Land Use & Zoning:

North - CC - Church

South - MR-5 - Edwards St and single family residential

West - MR-5 - Church

East - CC - Funeral Home

Letters Mailed: 63

Land Use Plan: Downtown

2030 Growth Vision Plan: Policy 1.1: The EXPANSION OF EXISTING BUSINESSES and the START

UP OF NEW BUSINESSES shall be a critical component of the area's economic development effort.

**Additional Reviews:**

Technical Review Committee (TRC) - A preliminary review was conducted on this site. TRC has no significant concerns at this time.

RLUAC/Fort Bragg - RLUAC has no issues or concerns with the proposed rezoning listed above. It is identified as suitable for URBAN development on the 2008 and 2009 JLUS maps, and it does not contain any military impacts.

**Issues/Analysis:**

Wiseman Funeral Home wishes to build a crematory across Hillsboro Street from its current location. All three properties are currently zoned CC. The owners of this property have requested a SUP for the operation of a crematory. On November 23<sup>rd</sup> a rezoning was approved to change one of these properties to CC. The other two properties were already zoned CC. There are no use-specific standards for this type of use. However, conditions can be imposed to improve compatibility and address site-specific issues. This proposed use should be a low impact to neighbors since it will only be used for the crematory. The emissions from all crematories in North Carolina are regulated and permitted through the NC Department of Environmental Quality's (DEQ) Air Quality Permitting section.

In January of 2016, the City Council approved a Special Use Permit to allow a crematory on these properties. Due to issues with the Wiseman's first engineer the project was delayed. In November of 2016, the owners were noticed that their SUP would expire that following January if they did not secure a building permit or request a six-month extension of their SUP. A six-month extension was requested and approved; however, the Wiseman's were still unable to secure a building permit within that six-month time period. SUP P15-37F expired on July 25, 2017. The Wiseman's have now reapplied for a new SUP.

Conditions of approval recommended by staff and the Zoning Commission:

1. Limit signage to a monument style and standard wall signage (Condition is acceptable to the property owner).
2. The attached site plan.

On January 9, 2018, the Zoning Commission held a public hearing regarding this case. There were two speakers in favor and none in opposition to this application. The Zoning Commission voted 5-0 to recommend approval.

The Zoning Commission and City staff recommend APPROVAL of the proposed SUP based on:

1. The City's Land Use Plan calls this property to be used for downtown uses.
2. The request supports the expansion of an existing business.
3. The property has commercial uses and a church on three sides and is the last property on this block.
4. Street yard buffering will be required by the UDO to buffer the residential along Edwards Street.

A Special Use Permit shall be approved only upon a finding that all of the following standards are met:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; *[There are no Use-Specific Standards for crematories.]*
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; *[The property has commercial uses and a church on three sides, including the applicant's funeral home.]*
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; *[The property has commercial uses and a church on three sides. On the fourth side a street yard buffer will be required to help minimize the impact on the residences across Edwards Street.]*
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; *[The property has commercial uses and a church on three sides. On the fourth side a street yard buffer will be required to help minimize the impact on the residences across Edwards Street.]*
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; *[Yes, this use must comply with all state and federal requirements.]*
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; *[Yes, this is a corner lot with access to both Hillsboro and Edwards streets.]*
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and; *[The property has commercial uses and a church on three sides. No evidence has been submitted that would indicate any negative effect on property values or the ability to develop lots surrounding these.]*
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. *[Yes, all development must comply with all City, State, and Federal laws.]*

#### **Budget Impact:**

This action will result in an increase in City services that will be offset by the new tax revenue received by the City.

#### **Options:**

- 1) Approval of a SUP for a crematory, with conditions listed above. (Recommended).
- 2) Approval of the SUP with additional conditions.
- 3) Approval of the SUP with no conditions.
- 4) Denial of the SUP.

#### **Recommended Action:**

The Zoning Commission and City Staff Recommend: That the City Council move to APPROVE the Special Use Permit, conditioned as presented by staff, with the eight findings of fact listed below. And that the SUP is consistent with applicable plans because: 1) the City's Land Use Plan calls for Downtown and 2) that all of the uses within this CC district fall into that category and 3) the proposed SUP is reasonable and in the public interest because the proposed zoning fits with the character of the area.

#### **OPTION 1**

I move to APPROVE the Special Use Permit (SUP) to allow a crematory in a commercial zoning district, as presented by staff, with the condition listed above and based on the standards of the City's development code and the evidence presented during this hearing. And that the SUP is consistent with applicable plans because: 1) the City's Land Use Plan calls for Downtown and 2) that all of the uses within this CC district fall into that category and 3) the proposed SUP is reasonable and in the public interest because the proposed zoning fits with the character of the area.

[Applicable to Motion to Approve] If approved, this Special Use Permit shall become effective ten days after its approval by the City Council, which is March 8, 2018. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

\*For a motion to approve, all eight findings below must be met. For a motion to deny, only one of the findings shown below needs to not apply.

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

## OPTION 2

I move to DISAPPROVE the Special Use Permit (SUP) to allow a crematory in a commercial zoning district, as presented by staff, with the condition listed above and based on the standards of the City's development code and the evidence presented during this hearing. And that the SUP is consistent with applicable plans because: 1) the City's Land Use Plan calls for Downtown and 2) that all of the uses within this CC district fall into that category and 3) the proposed SUP is reasonable and in the public interest because the proposed zoning fits with the character of the area. [List any of the eight findings below that have not been met.]

[Applicable to Motion to Deny] If denied this action shall become effective ten days after its denial by the City Council, which is March 8, 2018.

\* For a motion to deny only one of the findings shown below needs to not apply.

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]

- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

**Attachments:**

Zoning Map  
Current Land Use Map  
Land Use Plan Map  
Application  
Site Photos