

MEMO TO: Zoning Hearing Board  
FROM: Emily Moldovan  
DATE: March 11, 2011  
TOPIC: Audia Group Investments, LLC. Special Exception request- Use Not Provided For

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**Applicant:** Audia Group Investments, LLC. and  
Danielle Andy Belusko and Rod Belusko  
450 Racetrack Road  
Washington, PA 15301

**Status of Applicant:** Agreement of Sale

**Property Owner:** George and Philip Teplitz  
307 S Dithridge St. Apt. #912  
Pittsburgh, PA 15213

**Property Location:** 3287 Washington Rd.  
Tax ID Number: 540-009-00-00-0037-00  
(Former Lazy Boy Furniture location)

**Requested Action:** Request by Audia Group Investments, LLC. for a Special Exception to have a funeral home with a crematory in the C-2 General Commercial zoning district. The Applicant has requested to have crematory services as part of funeral homes as a use not provided for.

**Section Reference:** Section 101 E. Uses Not Provided For, E. Uses Not Provided For - When under this Chapter a use is neither specifically permitted or denied and an application is made by a property owner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board which shall have the authority to permit or deny the use in accordance with criteria in this Chapter.

The Township Zoning Hearing Board shall determine its decision in accordance with the following standards and criteria: Section 1302 Special Exceptions- B-(2). (A) through (J).

**Site Zoning and Use:** C-2 General Commercial, former Lay Z Boy building.

**Surrounding Zoning and Use:** The property is surrounded in three directions by the C-2 General Commercial zoning district, and to the rear of the site is R-1A Single Family Conventional, the Crossgates Phase 14 neighborhood. See aerial view.

**Analysis:** Audia Group Investments, LLC along with Danielle Andy Belusko and Rod Belusko are proposing to locate a funeral home with a crematory at the former 26,000 Sq. Ft. Lay Z Boy building located at 3287 Washington Road. This building has been vacant (other than a Halloween Store) for at least 5 or 6 years. A parking variance and variance on the required front buffer will also be needed at the same hearing and will be Appeal #843-2011. Only 10,190 Sq. Ft. of the building is proposed to be used as the funeral home. No structural changes will occur, but the exterior façade will be changed for aesthetic reasons, and there will be interior renovations as well.

A funeral home is a permitted use by right in the C-2 General Commercial zoning district as well as in the C-1 Neighborhood Commercial, and VNC Venetia Neighborhood Commercial zoning districts. The definition of funeral home in the Zoning Ordinance reads as follows:

Funeral Home - A building used for the embalming of the deceased prior to burial, but not including cremation, and/or for the viewing of the deceased and ceremonies connected therewith before burial or cremation.

Audia Group Investments, LLC. can legally develop this site as a funeral home. Peters Township does not specifically provide for crematories in any Zoning District and specifically excludes them from funeral homes, therefore the Applicant has challenged the validity of the Ordinance. Pennsylvania law requires municipalities to provide for every legal zoning use, and thus this makes the Ordinance subject to challenge.

Section 1302, Special Exceptions, of the Peters Township Zoning Ordinance sets forth the following criteria which must be determined to be met in the granting of a Special Exception. In consideration of an application for special exception (and conditional uses wherever these standards are adopted by reference in this Chapter) the applicant shall have the burden of proving that the proposed use does not conflict with the general purposes and

intent of this Chapter as determined both by the standards and criteria enumerated herein, or any other conditions which the Township Zoning Hearing Board deems necessary to implement the purposes of the law of this Commonwealth of Pennsylvania and this Chapter.

- That the proposed use will not detract from or injure the use of a neighboring lot or detract from the character of the neighborhood, and that the neighboring uses are safeguarded.
- The proposed use will serve Peters Township's best interest, convenience of the community and public welfare.
- Consider the effects of extension of public services.
- Impose conditions that ensure that hazardous conditions are minimized and that the intent of the Zoning District is met.
- Ensure that the need for the Special Exception was not created by the Owners, and that it is not caused by the general conditions of the zoning district.
- Consider that the site is acceptable in terms of traffic/transportation impacts.
- Ascertain the adequacy of sanitation and public safety in terms of water and sewerage.
- Financial hardship cannot be construed as the need for the Special Exception.
- The ZHB can attach reasonable conditions if granted.
- Burden of proof shall be on the Applicant to determine the safety and welfare will be maintained.

Audia Group Investments, LLC hired an environmental firm, Civil and Environmental Consultants (CEC) to perform studies and a literature review on the impacts of the crematory on the atmosphere and soils. The first report submitted to the Township was entitled Air Quality Evaluation of Atmospheric Emissions from Proposed Cremator. The review involved a literature review, description of the cremation process, emissions estimates in comparison to other every day emissions (such as an idling engine, wood burners and fireplaces, and charbroiling restaurants), and a screening level human health risk assessment evaluation. The CEC concluded that the proposed facility would generate significantly lower emissions of several criteria air pollutants than other common sources of combustion emissions, and that the facility would not be a health risk.

CEC performed a repeat addendum to the Air Quality Evaluation of atmospheric emissions from the proposed cremator dated 2-24-11 upon the request of Mrs. Belusko concerning mercury emissions. They took a conservative estimate of 1.5 grams every 2

hours continually for 24 hours/ day/ 365 days / year. Based on those assumptions, CEC concluded that since the cremator would not exceed EPA's non-cancer risk screen threshold, there would be no significant health risk. The predicted exposure is estimated to be 77 times less than the screening threshold. The study found no negative impacts on soil.

The Pennsylvania Department of Environmental Protection (DEP) requires a general operating permit entitled GP 14 for crematories. The permit sets forth operating standards and levels of acceptable emissions for pollutants such as CO (carbon monoxide), NO (nitrogen dioxide and other oxides of nitrogen), VOC's (volatile organic compounds), and HAP's (hazardous air pollutants). It requires that a trained operator shall observe stack emissions for every cycle to confirm that there are no visible or odor emissions. A stack test for particulate matter must be performed on the unit. The DEP may require the owner to conduct tests on the unit to determine actual emission rates if a problem is reported to the DEP. The permit also sets forth specific monitoring, record keeping, and reporting criteria. The permit requires the operator to remove medical devices such as pacemakers and defibrillators, and other potentially harmful devices such as radioactive implants, and this has to be documented. There is a body weight limit, and it also prohibits the incineration of any other types of waste.

The Applicants have hired an additional environmental consultant to conduct a study on mercury emissions at a crematory in McKeesport. We have not yet received this data as it is being conducted on March 3, 2011. In addition, the Township hired Air Science Consultants Inc. to perform a complete review of the literature, and provide an opinion to the Township prior to the March 10, 2011 meeting. The Air Science Consultants report is included for ZHB review.

**Planning Commission Recommendation:** The Planning Commission recommended that the Zoning Hearing Board deny this Special Exception request at their March 10, 2011 meeting. Should the Zoning Hearing Board approve this Special Exception, the Board can attach conditions and safeguards in addition to those expressed as it may deem necessary to implement the purposes of the law of the Commonwealth of Pennsylvania and this Chapter.

1. The funeral home can be limited to one crematory unit.
2. The owners can be prohibited from performing cremations for other funeral homes.
3. Any additional conditions Air Science Consultants Inc. would recommend.

Attached: Application and Narrative  
DEP permit criteria for Crematories (GP14)  
Conceptual Site Plan/ building elevations  
CEC reports, 9/2/10 and 2/24/11  
Matthews Cremation Division Power pak II brochures and information  
Letters/ correspondence from property owners  
3/8/11 Crematory visit memo  
2/18/11 Houston Harbaugh memo and Ordinance Amendment  
3/1/11 DEP letter  
Air Science Consultants Report

Cc: File  
D. Belusko  
T. Ribar, Houston Harbough  
W. Johnson, Township Solicitor