

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:08 PM  
**To:** 'Suzie Ward'  
**Subject:** RE: Concept Site Plan: SP-8415-2020

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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City of Gaithersburg | 31 South Summit Avenue | Gaithersburg, MD, 20877  
Direct: 240-805-1069 | Main: 301-258-6330 | [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)  
[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

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**From:** Suzie Ward <psaward@msn.com>  
**Sent:** Wednesday, September 16, 2020 12:48 PM  
**To:** Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>  
**Subject:** Concept Site Plan: SP-8415-2020

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

September 15, 2020

Dear Ms. Forbes, Planner I

This communication concerns The DeVol Funeral Home's proposed addition of a crematory to the property at 14 E. Deer Park Drive, Concept Site Plan: SP-8415-2020. Please enter this letter into the record of the above mentioned case.

My name is Suzie Ward. I reside at 437 Gaither St. less than 500 feet from the proposed crematory. I appreciate your service to Gaithersburg and her citizens.

As a "Character Counts" City with the City logo, an oak tree encircled by a green "G," reflecting the importance of the environment in our past, present, and future, I am surprised that this proposal has gotten this far! We should all be doing as much as we can to *protect* and *care for* our environment. A

crematory in a CD zone directly abutting residential zones on three sides is disrespectful to the neighbors in the vicinity. Actually, it is disrespectful to the entire citizenry. It is quite possible that emissions from the crematory stack may blow across town to Kentlands, Lakelands, Crown Point and beyond. The fact of the matter is that the finer the particulate matter, the longer it will stay aloft, the higher it will rise, and the farther it will travel, as we have seen is true with coronavirus dispersion.

A crematory is basically an incinerator. I see no zone in Gaithersburg that permits an incinerator. Montgomery County was not allowed to install an incinerator at Shady Grove Rd and Rt. 355 because it was too close to residential development. The DeVol Funeral Home is just as close, with many residences much closer, counting the apartment residents, than an incinerator would have been at the Transfer Station.

Installing a crematory in a CD zone is not in compliance with the City Code.

Chapter 24 – Zoning, Article III, Division 22. – CD Zone, Sec. 24-160G.2. (b) Prohibited uses include:

(1) Automobile, motorcycle, marine, and truck body repair shops.

(2) Landscaping and excavation contractor business involving the storage and use of heavy trucks and equipment.

(4) Production/manufacturing/assembly/processing uses set forth in section 24-136C of this Code, except those uses allowed in subsections (3), (4), and (14) of section 24-136C.

Those allowed items are: (3) Cabinet making/carpentry, (4) Cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical research and development, and (14) Medical, scientific or technical instruments, devices and equipment.

Article III, Regulations, Div. 14. – I-1 Zone, Light Industrial, Sec. 24-136C

Production/Manufacturing/Assembly/Processing allows, including:

Aircraft/satellite parts, bottling plant, such as dairy and soft drinks, electroplating and manufacturing of small parts, such as coils, condensers, transformers and crystal holders, lumber yard, including planing, milling, and other processing, machine tools...

Why is it that these uses are prohibited in the CD zone? Is it because those uses might produce noxious and/or toxic emissions?

Even the I-4 Light Industrial zone, Sec. 24-150B Development and use standards, (2), (f) stipulates: “The use shall *not* result in the emission of fumes or odors of such intensity as to be *detrimental* to the *health and welfare of the general public*.”

Bear in mind that fumes do not necessarily need to have an odor to be toxic. If the CD zone does not allow businesses that produce noxious and/or toxic emissions and the Light Industrial zone does not allow a great intensity of fumes and/or odors, then where can one install a crematory in Gaithersburg?

The EPA stated on Apr. 5, 2010, that it

Recognizes that pollution from all sources of mercury is a serious concern to human health and the environment. Mercury is well-documented as a toxic, environmentally persistent substance that demonstrates the ability to bioaccumulate and to be atmospherically transported on a local, regional, and global scale. In addition, mercury can be environmentally transformed into methylmercury which biomagnifies and is highly toxic.

Despite this admonition, the EPA wrote, “At this time, however, EPA does not plan to regulate human crematoria. In the preamble to the final OSWI rule (70 FR 74870), EPA concluded that the human body is not solid waste.” Thus, human crematories were and are not regulated under the Clean Air Act. Section 129. EPA left it up to state or other authorities to regulate crematoria.

The fact remains that crematoria produce very similar toxic and noxious emissions to those of incinerators. If we are to protect our citizens and the environment, crematoria should be regulated as such.

I am unable to discover any place in Gaithersburg's City code that suggests a suitable zone for a crematory. Furthermore, Gaithersburg's City code neither defines nor even mentions crematoria. Montgomery County's Zoning Ordinance requires that a crematory be located in a *Heavy Industrial* zone. Even then, it is a *Conditional Use*, not a given. Gaithersburg's Environmental Standards for Development Regulation states in Article I. In General, Sec. 2 Federal, State, and City Requirements:

In situations where Federal, State, or City requirements conflict with these *Environmental Standards*, the *more stringent* (i.e., *more inclusive*) requirement prevails.

The Gaithersburg City Code does not stipulate a regulation for crematoria, but Montgomery County does. The Montgomery County Code should prevail in preventing the installation of a crematory in a CD zone. This is an environmental issue and a decision regarding it should be rendered with the environment in mind, especially, given the fact that Gaithersburg has a "high regard for the environment, its care and preservation." The City should not be doing the bare minimum to protect our citizens and the environment. It should be proactive, doing all that it can to preserve, protect, and rehabilitate our environment. We are the present day stewards of our city and our earth.

Chapter 24 - Zoning, Article V. –Sec. 24-170. – General conditions states ...proposed uses will not:

(e) Be inharmonious or inconsistent with the environmental standards of the city adopted by the city council pursuant to section 20-9 of the City Code and any amendments thereto.

Gaithersburg's Environmental Standards...Article I, Sec.1: The Environmental Standards

Attempt to address the problems and opportunities encountered in watershed development and identify management strategies designed to minimize adverse impacts. Among the management strategies are:

(h) The provision of healthy forest and tree cover for the purpose of, *maintaining water quality*, preserving wildlife habitat, preventing erosion, *mitigating air pollution*, controlling temperature, and enhancing community amenities in an urbanized environment.

Installing a crematorium at DeVol will neither promote the maintenance of water quality, nor mitigate air pollution. Rather, crematory emissions will serve to degrade the air and water. It so happens that The DeVol Funeral Home sits over a "piped stream" which is "unpiped" immediately across Rt. 355 (Frederick Ave.) from DeVol Funeral Home so that it is exposed to any emissions that may blow across the road and settle on the water. We should be **minimizing** pollutants in the air, **not** increasing them.

Chapter 24, Article I., Sec. 24-10 (d) states that the use and/or plan for development will *not*:

1. Be *incompatible* or *inharmonious* with the *general character* of the neighborhood...
2. Be *detrimental* to the *use, peaceful enjoyment, economic value* and development of surrounding properties.
3. *Cause objectionable* noise, vibrations, *fumes*, odors, dust, glare, *chemical contamination*, or physical activity.
4. *Affect adversely* the *health* or *safety* of persons residing, working or traveling in the neighborhood of the proposed use.
5. Constitute a violation of *any provision* of this Code or *other applicable law or regulation*.

I contend that the crematory as proposed is incompatible with the general character of our neighborhood, and detrimental to its use, peaceful enjoyment and economic value. Additionally, it will cause objectionable fumes, and chemical contamination, and adversely affect the health and safety of persons residing, working and/or traveling in our neighborhood. Installing said crematory would be in violation of parts of the City Code as well as Montgomery County's zoning code, which, in this case, supercedes that of the City.

I am not opposed to crematoria, per se. I *am opposed* to crematoria and toxic, noxious emissions in and/or directly abutting residential zones. If DeVol Funeral Home really has its citizen neighbors' health and well being in mind, as well as their death care needs, it would be installing an eco-friendly BIO Cremation unit, which utilizes a water based process called alkaline hydrolysis. Bio-Cremation uses less energy, burns less fuel and eliminates virtually all air emissions. Matthews Environmental Solutions stocks these units as well. I saw them described on their website. There are plenty of low-density industrial areas in and around the city that would be more appropriate for a crematory.

In closing, I will share that I grew up on the outskirts of Gaithersburg and have lived in the City limits for the past 41 years. I attended all levels of Gaithersburg's schools and have always been an avid supporter and proud resident of Gaithersburg. This latest proposal of DeVol Funeral Home is very troubling, disappointing, and a bit discouraging.

However, I am encouraged by seeing on the Gaithersburg City website that Gaithersburg will be a City that:

- Lives by the Six Pillars of CHARACTER COUNTS! (trustworthiness, respect, responsibility, fairness, caring, and citizenship).
- Has safe, livable neighborhoods with a variety of housing types and styles...
- Has citizens with a strong sense of community and individual responsibility.
- Has a natural environment that is protected, respected and enhanced.
- Has a community that encourages individual health and wellness.

I am certain that you will be guided by and live out these Characteristics as you make your decision regarding this proposal. Making the right decision is not always the easiest to make, but a responsible, fair, caring decision is always the best one and the one worthy of the citizens' trust and respect. Please VOTE NO to DeVol Funeral Home's request to install a crematory as presently proposed.

Respectfully,

Suzie Ward  
437 Gaither St.  
Gaithersburg, MD 20877  
301-977-2839 home

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:19 PM  
**To:** 'ceweinberg@gmail.com'  
**Cc:** John Schlichting; Tanisha Briley  
**Subject:** RE: Lack of transparency on public record  
**Attachments:** Exhibit #97- Email Correspondence from City Deputy Attorney Frank Johnson 8-13-2020.pdf

Good Afternoon,

Thank you for your email and it will be included in the record. Staff received determination about the crematory use by the City's Deputy Attorney Frank Johnson. Mr. Johnson's email is Exhibit #97 in the record and I have included his email in the attachment.

Regards,  
Jasmine Forbes

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**From:** Carla Weinberg <[ceweinberg@gmail.com](mailto:ceweinberg@gmail.com)>  
**Sent:** Monday, September 14, 2020 7:24 PM  
**To:** Tanisha Briley <[Tanisha.Briley@gaitthersburgmd.gov](mailto:Tanisha.Briley@gaitthersburgmd.gov)>; John Schlichting <[John.Schlichting@gaitthersburgmd.gov](mailto:John.Schlichting@gaitthersburgmd.gov)>  
**Subject:** Lack of transparency on public record

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Dear Ms. Briley and Mr. Schlichting,

This issue concerns the Concept Site Plan application SP-8415-2020, expansion of DeVol Funeral Home. The public comment period closes in about 48 hours. I looked all over the city website to try to find the names of people in charge of the various city government departments and couldn't find anything showing who currently holds what positions. I had to go to Wikipedia to find out that John Schlichting was the director of Planning and Code Administration. It shouldn't be that hard to find this kind of information on your web site.

I'm writing because the attorney for DeVol, Mr. Scott Wallace, made some startling claims at the 9/9/20 Community Informational Meeting. He said "the City" had approved crematories as an accessory use of a funeral home and therefore his client's plan to build a crematorium as an attachment to a house he owns, which he will convert for funeral-type services (viewing parlors), is in keeping with Gaithersburg zoning laws. There is currently no mention of crematories in the city zoning code.

Mr. Wallace didn't say who in "the city" approved such a critical interpretation of the zoning code. He asserted several times that the city had approved the crematory as an accessory use. No public hearing, no public comment period on the change in zoning code text. Just someone in "the city government" deciding to interpret or amend the city zoning code. Jasmine Forbes was at the meeting and did not dispute Mr. Wallace's assertion about accessory uses being approved by the city.

I'm not going to debate here about the validity of this decision. I AM going to raise an objection to the decision being made in secret and not being in the public record. Every time I write to the project planner, Ms. Forbes, about the slightest thing, like a missing exhibit number, my email becomes part of the public record. Phone messages become part of the public record. Yet of all the substantive discussions between Mr. Wallace and the unnamed city official who approved the defining of a crematorium as an accessory use of a funeral home, none of their discussions is part of the public record. What other issues were discussed and substantive assistance given to Mr. Wallace regarding his application? Why do some city employees act like they work for the businesses that make applications for approval to the city? How is this ethical?

Sincerely yours,

Carla Weinberg

## Jasmine Forbes

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:31 PM  
**To:** 'Shelley Winkler'  
**Subject:** RE: DeVol application for crematorium in non-industrial area

Good Afternoon,

Thank you for your email and it will be included in the Council's record for consideration. As discussed over the phone today, the DeVol funeral home record closed today at 5pm. Yesterday, the applicant submitted a letter requesting the Council to reopen the record until October 7th. Staff had provided that date because there are agenda deadlines that need to be met for Council meetings. The Council will decide whether to open the record at their September 21st meeting at 7:30pm. This item request is usually close to the end of the meeting.

Regards,  
Jasmine Forbes

**From:** Shelley Winkler <stopwink@gmail.com>  
**Sent:** Wednesday, September 16, 2020 12:40 PM  
**To:** Jud Ashman <Jud.Ashman@gaithersburgmd.gov>; Laurie-Anne Sayles <Laurie-Anne.Sayles@gaithersburgmd.gov>; Neil Harris <Neil.Harris@gaithersburgmd.gov>; Michael Sesma <michael.sesma@gaithersburgmd.gov>; Robert Wu <robert.wu@gaithersburgmd.gov>; Ryan Spiegel <ryan.spiegel@gaithersburgmd.gov>  
**Cc:** Dennis Enslinger <Dennis.Enslinger@gaithersburgmd.gov>; Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>; Planning External Mailing <Planning@gaithersburgmd.gov>  
**Subject:** DeVol application for crematorium in non-industrial area

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Dear Mayor Ashman and Council Members,

I just saw that the lawyer for DeVol submitted a letter on September 15, 2020 to you, requesting that the public record on the crematorium application stay open longer, until October 7, 2020. The lawyer stated that "These dates have been coordinated with City staff."

Would City staff work unilaterally with one party's lawyer to set dates and extend a comment period that Gaithersburg set to close today?

If the comment period is extended, then I request that the public record be kept open another 3 weeks after DeVol's representative submits another response, so that the community may respond to the updated submission.

The point of the comment period is, I thought, to allow the public to respond to the applicant's submissions. If it is extended for further comment by the applicant's lawyer, the public deserves equal treatment.

Thank you for your attention to the need to keep this process fair.

Sincerely,

Shelley Winkler  
Located .8 mile from DeVol  
Washington Grove, MD

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:38 PM  
**To:** 'NAN AITEL-THOMPSON'  
**Subject:** RE: [washingtongrove] DeVol application for crematorium in non-industrial area

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

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**From:** NAN AITEL-THOMPSON <nan8lt@verizon.net>  
**Sent:** Wednesday, September 16, 2020 1:25 PM  
**To:** Jud Ashman <Jud.Ashman@gaithersburgmd.gov>; Laurie-Anne Sayles <Laurie-Anne.Sayles@gaithersburgmd.gov>; Neil Harris <Neil.Harris@gaithersburgmd.gov>; Michael Sesma <michael.sesma@gaithersburgmd.gov>; Robert Wu <robert.wu@gaithersburgmd.gov>; Ryan Spiegel <ryan.spiegel@gaithersburgmd.gov>  
**Cc:** Dennis Enslinger <Dennis.Enslinger@gaithersburgmd.gov>; Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>; Planning External Mailing <Planning@gaithersburgmd.gov>  
**Subject:** Re: [washingtongrove] DeVol application for crematorium in non-industrial area

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Dear Mayor Ashman and Council Members,

I just saw that the lawyer for DeVol submitted a letter on September 15, 2020 to you, requesting that the public record on the crematorium application stay open longer, until October 7, 2020. The lawyer stated that "These dates have been coordinated with City staff."

Would City staff work unilaterally with one party's lawyer to set dates and extend a comment period that Gaithersburg set to close today?

If the comment period is extended, then I request that the public record be kept open another 3 weeks after DeVol's representative submits another response, so that the community may respond to the updated submission.

The point of the comment period is, I thought, to allow the public to respond to the applicant's submissions. If it is extended for further comment by the applicant's lawyer, the public deserves equal treatment.

Thank you for your attention to the need to keep this process fair.

Sincerely,

Nan Aitel-Thompson  
416 5th Avenue #1189  
Washington Grove, MD 20880  
Less than .8 miles from proposed crematorium.

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**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:41 PM  
**To:** 'Melanie Kreidich'  
**Subject:** RE: Stop the DeVol Crematorium Application (Application# SP-8415-2020)!

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

**From:** Melanie Kreidich <melanie.kreidich@gmail.com>  
**Sent:** Wednesday, September 16, 2020 1:33 PM  
**To:** Jud Ashman <Jud.Ashman@gaithersburgmd.gov>  
**Cc:** Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>  
**Subject:** Stop the DeVol Crematorium Application (Application# SP-8415-2020)!

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Dear Jud and Jasmine,

RE: Stop the DeVol Crematorium Application (Application# SP-8415-2020)!

I wanted to request that you stop the DeVol Crematorium Application. I am a resident that will be directly impacted and own a single family home at 302 Woodland Road, Gaithersburg, MD 20877. I have owned my home for 8 years, and purchased the home in Gaithersburg because of the wonderful environment and tree canopies.

The DeVol Crematorium Application should be burned itself for even being attempted. I do not want a smoke stack of any size near my house nor want to be thinking of people's bodies being burned just a few blocks away. A crematorium is an industrial use and has no legal place in a residential neighborhood. My understanding is that the site is a commercial zone (commercial zones are to enhance a neighborhood), this does nothing but destroy my wonderful neighborhood that I walk my dog in everyday.

Please stop this application.

-Melanie Kreidich

*Pronouns: She/Her/Hers*

*Email: [Melanie.Kreidich@gmail.com](mailto:Melanie.Kreidich@gmail.com)*

*Cell Phone: (301) 221-0373*

Are you registered to vote and have you registered to vote absentee? Check here:

[Iwillvote.com](http://Iwillvote.com)

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:46 PM  
**To:** 'Maggie Hou'  
**Subject:** RE: No extension of DeVol public comment extension

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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Direct: 240-805-1069 | Main: 301-258-6330 | [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)  
[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

**From:** Maggie Hou <maggiealwaysshines@gmail.com>  
**Sent:** Wednesday, September 16, 2020 1:56 PM  
**To:** Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>  
**Subject:** No extension of DeVol public comment extension

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Hi Jasmine,

I'm writing to request NO extension of public comment on DeVol crematorium plan. Our community gained more momentum in opposing DeVol's plan during the past few weeks, and we won't give DeVol more time to further justify their plan, because this toxic plan should not have come into light in the first place. Thanks !

Maggie Hou  
Summit Hall Reserve resident

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Sent from Gmail Mobile

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:50 PM  
**To:** 'Rob Bindeman'  
**Subject:** RE: Opposition to Devol/Wallace request for extension of public comment period

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

**From:** Rob Bindeman <rob@bindeman.com>  
**Sent:** Wednesday, September 16, 2020 2:11 PM  
**To:** Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>; Jud Ashman <Jud.Ashman@gaithersburgmd.gov>; Laurie-Anne Sayles <Laurie-Anne.Sayles@gaithersburgmd.gov>; Neil Harris <Neil.Harris@gaithersburgmd.gov>; Michael Sesma <michael.sesma@gaithersburgmd.gov>; Ryan Spiegel <ryan.spiegel@gaithersburgmd.gov>; Robert Wu <robert.wu@gaithersburgmd.gov>  
**Subject:** Opposition to Devol/Wallace request for extension of public comment period

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Dear Mr. Mayor, Members of the Council, & Ms. Forbes

As many of you are aware, my family and I are longtime affordable housing providers in Gaithersburg. We own and manage two properties directly across the street from DeVol Funeral Homes, Montgomery Park and Montgomery House Apartments.

My attorney has filed a letter on my behalf against the Devol application to build a crematorium.

Please see the attached letter opposing the request today from Mr. Devol's attorney, Scott Wallace, to extend the public comment period for another month. The request from Mr. Wallace has no merit.

Thank You,

**Rob Bindeman**

Landmark Realty, Inc.  
4827 Rugby Ave. Ste. 201  
Bethesda MD 20814  
Ofc. (301) 652-7077  
Cell (301) 529-1772  
Fax (301) 652-9484





VIA EMAIL  
September 16, 2020

Mayor Jud Ashman  
Members of the City Council  
Ms. Jasmine Forbes, Planner  
City of Gaithersburg  
31 Summit Avenue  
Gaithersburg, MD 20877

Dear Mayor Ashman, Members of the Council, & Ms Forbes

I am writing to you in response to Devol Attorney Scott Wallace's letter made public today where Mr. Wallace requests an extension for time to review comments from a September 9 virtual meeting regarding his client's application to build a crematorium on E Deer Park Drive.

This request has no merit and should be denied.

The Devol Application was filed February 7, 2020 (see Exhibit 4, application cover letter). Between February 7 and August 3, 2020 (the date of the City's public hearing), the applicant engaged in no community outreach to engage the community.

As an example, I own one multifamily building directly across the street from Devol Funeral Home and another half a block away – over 90 apartments. When I called Mr Devol as to why he never contacted me, he said "*I didn't know your number*". My business number is on the monument sign 25 yards from his business of 30 years. He clearly had no intention of communicating with me.

Following the August 3 hearing, on August 11 the applicant requested that the record be held open until to allow for community outreach (see Exhibit 96), which the Council granted by holding the record open until September 16.

The applicant did not hold its community outreach meeting until almost a month later, *i.e.*, September 9, one week before the record is scheduled to close. On that call, Mr. Wallace and his team carefully selected which questions to answer, cut off participant's questions, and never said that he would respond to community concerns raised on the call.

The community has been diligent in its efforts to provide its comments before the record closes, even in light of the extremely short window of time between the applicant's meeting of September 9 and the record closing date of September 16. Any hardship that the applicant now claims with respect to a lack of time to respond to community comments is self-imposed.

The applicant has had seven months to engage in community dialogue and to supplement and/or clarify its application materials accordingly. Not once since the February application has Mr Devol personally reached out to nearby businesses, churches, elementary school principals, or concerned residents. This letter is simply a stall tactic due to unprecedented community outrage and extensive media coverage (Bethesda Beat, Fox5DC) regarding this outlandish application.

September 16, 2020  
City of Gaithersburg

The community, which has generated over 500 emails against the Application, opposes any further delay. The applicant was on notice, as was the community, as to the significant additional time to supplement the record following the public hearing. This is a matter of great concern to the community, and there does not appear to be any meritorious basis to allow the applicant more time to add to the record.

If the applicant's request for more time is granted, the community requests a minimum of seven days following any new applicant submissions to respond to any supplemental materials provided.

This request from Mr Wallace on Mr Devol's behalf should be roundly rejected by the Council as should the Application itself. The character of the City and its fair process hangs in the balance.

Sincerely,



Robert Bindeman, President  
Landmark Realty Inc.

*Provider of affordable housing in Gaithersburg since 1980 @  
519-521 S Frederick Avenue  
531 S. Frederick Avenue  
9 E Deer Park Drive*

## Jasmine Forbes

---

**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:54 PM  
**To:** 'Claire Luton'  
**Subject:** RE: Application Number SP-8415-2020

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes

Jasmine Forbes, Planner I  
Planning and Code Administration

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[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

-----Original Message-----

From: Claire Luton <[csluton@yahoo.com](mailto:csluton@yahoo.com)>  
Sent: Wednesday, September 16, 2020 2:47 PM  
To: Planning External Mailing <[Planning@gaithersburgmd.gov](mailto:Planning@gaithersburgmd.gov)>; Jud Ashman <[Jud.Ashman@gaithersburgmd.gov](mailto:Jud.Ashman@gaithersburgmd.gov)>;  
Jasmine Forbes <[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)>  
Cc: Laurie-Anne Sayles <[Laurie-Anne.Sayles@gaithersburgmd.gov](mailto:Laurie-Anne.Sayles@gaithersburgmd.gov)>; Michael Sesma  
<[michael.sesma@gaithersburgmd.gov](mailto:michael.sesma@gaithersburgmd.gov)>; Ryan Spiegel <[ryan.spiegel@gaithersburgmd.gov](mailto:ryan.spiegel@gaithersburgmd.gov)>; Robert Wu  
<[robert.wu@gaithersburgmd.gov](mailto:robert.wu@gaithersburgmd.gov)>; Neil Harris <[Neil.Harris@gaithersburgmd.gov](mailto:Neil.Harris@gaithersburgmd.gov)>  
Subject: Application Number SP-8415-2020

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Dear Mayor, Council, and Planner;

I have just read the letter from Miles & Stockbridge in the public comments for SP-8415-2020 requesting an additional extension for commentary for the proposed crematorium at DeVol Funeral Home. The extension should not be granted because DeVol has already been granted an extension from September 2 to September 16. The original two-week extension was at their request because they knew they were getting noticed by the community in a negative light. The DeVol attorney should have known that there would be questions from the community outreach and should have requested their original time needed in the original request.

Please do not grant the extension.

Sincerely,

Claire S. Luton  
104 Harmony Hall Rd  
Gaithersburg, MD 20877

**Jasmine Forbes**

---

**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 5:57 PM  
**To:** 'Pamela Lindstrom'  
**Subject:** RE: Contacts for the record on Preliminary Site Plan SP-8415-2020

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

---

City of Gaithersburg | 31 South Summit Avenue | Gaithersburg, MD, 20877  
Direct: 240-805-1069 | Main: 301-258-6330 | [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)  
[Jasmine.Forbes@gaitersburgmd.gov](mailto:Jasmine.Forbes@gaitersburgmd.gov)

**From:** Pamela Lindstrom <pamela.lindstrom@gmail.com>  
**Sent:** Wednesday, September 16, 2020 2:52 PM  
**To:** Jud Ashman - External <jud.ashman@gmail.com>; Michael Sesma <michael.sesma@gaitersburgmd.gov>; Laurie-Anne Sayles <Laurie-Anne.Sayles@gaitersburgmd.gov>; Neil Harris <Neil.Harris@gaitersburgmd.gov>; Robert Wu <robert.wu@gaitersburgmd.gov>; Ryan Spiegel <ryan.spiegel@gaitersburgmd.gov>  
**Cc:** Jasmine Forbes <Jasmine.Forbes@gaitersburgmd.gov>  
**Subject:** Contacts for the record on Preliminary Site Plan SP-8415-2020

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Der Council members and Mayor Ashman:

Attached are two related commentaries on the DeVol Funeral Home application to build a funeral home on their Deer Park Drive property.  
Thank you for your attention  
Pamela Lindstrom

Pamela Lindstrom  
421 Gaither Street  
Gaithersburg 20877

## To the Gaithersburg City Council

### Comments for the Record On the Proposed Crematorium at DeVol Funeral Home

Below are my comments on the application by DeVol Funeral Home to build a crematorium on their property 14 E. Deer Park Drive. These comments will fall into two categories:

1. The faulty and corrupted process of reviewing the application,
2. The bad location for a heavy industrial use like a crematorium. Comparative study of Gaithersburg's regulation of the location of crematorium compared to other municipalities.

**1. Process** The process of reviewing the application is not only inadequate, it is also biased in favor of the applicant.

The City planning staff is interpreting the City's zoning code in a way that is biased, unprecedented and possibly illegal. This interpretation is aimed directly at allowing the City to approve the crematorium without going through the time consuming and controversial process of amending the zoning code to allow crematoria.

In response to my questioning how the City could approve a crematorium when it crematorium is not a permitted use in the property's CD zone, planner Jasmine Forbes replied "A crematory is not referenced in the City Code. Pursuant to the City Code, a funeral home is defined as a place for dead human bodies pending final disposition thereof. Such building may also include the following: Space and facilities for the preparation of such bodies for burial or other final disposition; a chapel for the purpose of conducting religious or memorial services or ceremonies (and in which no emergency ambulance service is provided); rooms or space for administrative offices for conducting the business of the home; rooms or space for the housing of equipment, including motor vehicles; living quarters for not more than one family unit who are employees or owners of such funeral home or children of such employees or owners. Emergency ambulance service shall not be provided from the building".

In the funeral home definition it mentions "other final disposition". Staff and City's Deputy City Attorney concluded that as long as the crematorium use was included as part of the funeral home which also has viewing parlor rooms as temporary resting places, the definition of funeral home would allow it. A standalone crematorium as a single use would not be permitted. The property at 14 East Deer Park Drive is zoned CD (Corridor Development). The CD zone permits all uses which are listed as permitted and not solely as special exceptions or conditional uses in all zoning districts unless otherwise prohibited. A funeral home is a by-right use in the C-2 (General Commercial) Zone. Regards, Jasmine Forbes.

Note that this means a crematorium can be built by right with any funeral home that is built in any CD or C-2 zoned property. That includes the entire Frederick Avenue corridor and potentially land along other major corridors such as Great Seneca Highway and Midcounty Highway.

The Project Page for the crematorium is also incomplete and lagging in ways that favor DeVol and suppress public outcry.

When the yard signs first appeared on Deer Park Drive and Frederick Avenue, they did not mention the crematorium proposed. The application was identified by a file number, SP-8415-2020, but for several days there was no such file on the City's web site. Also, the sign blew down in a thunderstorm and was not re-erected until residents complained.

When the project page did contain a Preliminary Staff Analysis (PSA), it contained drawings of the new building at 14 E. Deer Park Drive that were submitted by DeVol consultants.

These drawings did not disclose that the new building would contain a crematorium. It used words like "crematorium services" and "crematory services"

**Exhibit 16 from the PSA "Concept Plan submitted by DeVol**

In the first phase, the Applicant proposes to convert the existing house on the Property to a funeral home use, including an approximately 600-SF addition at the rear of the existing house to be used for a viewing parlor and *crematory services*. The addition will be *approximately one story in height.*"

In the invitation from attorney Scott Wallace to the public meeting sponsored by DeVol, he wrote, "the Applicant proposes to convert the existing house on the Property to a funeral home use, including an approximately 600-SF addition at the rear of the existing house to be used for a viewing parlor and *crematory services*. The addition will be *approximately one story in height.*"

The terms used by other funeral homes in the area, including The Beltway Cremation Center (which has no crematorium) and DeVol itself, to describe *services they currently provide*.

The pictures are further inaccurate and biased in that they do not show a smokestack. A crematorium smokestack is usually much bigger and taller than the residential chimney in the picture. Later DeVol submitted updated drawings that do show a smokestack; the drawings were added to the Project Page, but the Project Page did not identify them. They just appear as Exhibit 265 in the list that now contains 303 Exhibits. The revised drawings do show a smokestack but it is smaller than recently approved smokestacks. After that the misleading drawings disappeared to be replaced by nothing.

The Project Page still contained the misleading drawings until the September 9 DeVol public meeting, when I complained to Jasmine.

Further, the City received the application for the crematorium months before the City gave any public notice of it; not until exactly two week before the record closed, the legal minimum for public notice.

Further, the City responded to applicant's requests to extend the public comment period but they had ignored the same request from citizens. Citizens' request that the comment deadline be moved later got no response, but the later request by applicants was granted immediately.

Further, the City did not respond or ask the applicant to respond to some obviously questionable statements by the applicant at the public hearing. When asked, Jasmine Forbes said that she had received no responses to questions, and the applicant's response was due, and expected, on September 16, when the record closes. The planning department's response to the DeVol response would be done after that; at the same time their recommendation to approve or deny would be released. Note this is *after* the public record closes.

That is, *the public would have no opportunity to comment on the DeVol response, or the City's recommendation, before the City Council's record closes.*

Here is my memo concerning the DeVol public meeting, written before the meeting:

### Jasmine's role in the Sept 9 meeting convened by DeVol

The letter from Scott Wallace announcing the meeting does not have an agenda at all. I have asked him to send the agenda, if there is such. Jasmine is not making a presentation. What she is doing is if anything more disturbing. (Though somewhat harder to understand and appreciate the implications.)

I looked back over my e-mail exchange with Jasmine on August 24-25, in which I tried to pin down her role in the DeVol public meeting on Sept. 9.

In the Wawa process, we learned that following the public hearing, the applicants (Wawa) and their lawyer and consultants were required to respond to the public hearing statements and written communications for the record. The responses had to be received before the Mayor and Council had their meeting to make the decision to approve or deny.

The Wawa material was submitted, of course, just before the final discussion. It was just bland assurance that of course the consultants first statements were correct – there would be no serious traffic problems, the high school students and everybody else could cross Route 355 in 30 seconds, etc., they couldn't possibly close or turn down the music late at night. There was no staff response or final recommendation except to approve the Wawa application. There was no formal public input except the usual snatches, sharply cut off after 3 minutes.

Then Council members asked questions. They asked plenty of questions of the Wawa team, even in preference to asking their own staff. Including friendly banter. Giving the Wawa team plenty of opportunity to expand on their reassurances. Not a soul asked a question or showed any interest in what we said. When we (I) started to argue, Jud threatened to call the police. It was an evening not easily forgotten.

DeVol also has an obligation to respond to comments about the crematorium that are on the record. I asked when DeVol response was expected and when it was due. All she would say was she did not know when to expect it. It was due before the record closed, in other words she was setting up the same scenario as when reviewing Wawa. I pressed on, telling her we had to have time to review and critique the responses well before the City Council meeting and the final decision. We had to have the staff's analysis of the application, and be able to ask questions of applicants and staff without being limited to 3 minute sound bites.

She responded that we would have that opportunity *at the public meeting that DeVol was planning and she would attend*. (The meeting had not been announced then.) Following is a copy of the exchange.

Jasmine: Once we receive the applicant's response to the public and council's comments, we will start writing the final analysis. The analysis will be completed before the October 5 Mayor and Council final action meeting.

Me: Thanks, Jasmine. When is the applicant's response due? Will it be released to the public as soon as it's sent to you?

Jasmine: As of right now, I do not have a date of when they will submit their response. Please note that the Council's record has been extended until September 16th to allow the Applicant to do outreach to the community. When we receive the response, it will be placed on the City's Project page.

Me: Thanks, Jasmine, but that's not actually what I asked. My previous questions are pasted below. The applicant must have a deadline which is well before the record closes which I believe is September 16. Otherwise there is no way for the public to respond to the changed application and the staff's response before the mayor and Council consideration on October 5.

Jasmine: I do not know when the applicant is going to submit their response. To be part of the record, their response must be submitted by the September 16th deadline. Once we received that letter, I will send it to you and it will be posted on the City's project page. The Applicant has let staff know that they are organizing a meeting with the surrounding community to discuss this application. This is an opportunity to ask any questions that you may have about the application. Please note that this meeting is not organized by the City.

Me: Are you saying that planning staff will respond to citizens' questions at the meeting scheduled by DeVol? What is DeVol's deadline for conducting this meeting and submitting their responses, so that citizens have the opportunity to respond to them before the record closes on Sept. 16?

Jasmine: Staff will be attending the meeting to answer any questions about the application process. The Applicant is planning to have the virtual meeting on September 9th at 6:30pm. I do not have the meeting link yet, but it will be posted on the project page. The Applicant will also mail out notices about the meeting.

As of Friday September 4, there is no further information, analysis or decisions on the City's Project Page. No written responses to the comments on the record by DeVol. There is no final analysis by Jasmine of the application, or opportunity for us to question Jasmine's comments.

Interaction between Jasmine Forbes and Scott Wallace at the DeVol public meeting: There was no announcement that Jasmine was present. When I wanted her to clarify a City position, she started to respond but was interrupted by Scott who gave the answer. When others asked her a question, the pattern continued, Scott would either answer for her, or let her give part of the answer and then complete it. Even when an attendee said specifically he wanted Jasmine's answer, Scott completed it.

When I tried to ask Jasmine a follow up question to my original question, Scott interrupted *me*.

Talking to a neighbor who watched the DeVol meeting, but wasn't a devoted participant and didn't know the actors, she was surprised to hear that Jasmine was a city planner. She thought Jasmine was a "disrespected" employee of the DeVol team.

The applicant, their attorney Scott Wallace and others on their team also made false statements on the record.

Most dramatic was Wallace's statement at the DeVol meeting completely misstating how Montgomery County's Zoning code regulates crematoria and funeral homes.

Copied from a recording of the DeVol sponsored public meeting, September 9:

Michelle Rosenfeld, attorney for Rob asked Scott Wallace – Is crematorium as an accessory use to a funeral home a written part of the zoning code?

Scott – It is not that uncommon for accessory uses not to all be listed. Crematorium as an accessory use is commonly considered as part of normal operation of a funeral home. Michelle asked, What is final disposition?

Scott - Gaithersburg chose to define final disposition as *not* including cremation. Final disposition was what is done with the ashes.

Michelle – a number of state codes refer to cremation as final disposition. Surely the writers of the Gaithersburg Zoning code were familiar with the State code.

Scott – A number of jurisdictions including Montgomery County, Frederick City, Frederick County allow crematory as an accessory use with a funeral home.

Wallace's statement is untrue - see the section below citing the Montgomery County Zoning Code.

False and misleading statements from Jeffrey Barron, Senior Sales Representative for the crematorium manufacturer (oddly, the letter for the record does not tell the name of the company).

"Most funeral establishments are located in residential communities and/or light commercial areas..." implying the DeVol site is normal for crematoria. Note linking of residential with commercial areas. Commercial areas are not the problem.

"The cremation equipment is installed within the funeral home and is generally considered by most zoning regulations to be an extension of existing business and/or services." That is not true of any zoning regulations in the Washington area. See the listing above.

"The equipment operates without smoke or noise" People who had lived near crematoria, related their experiences on social media..

"All machinery that performs combustion, whether automobiles or furnaces of any type (fireplaces or crematories), gives off byproducts referred to as particulate matter. Because of our equipment's high quality standards, these byproducts are not visible, nor is there an odor of the material being combusted. "

Numerous scholarly articles report instances of air pollution, both visible, i.e. particulates of smoke, and invisible from carbon dioxide, nitrogen oxides etc., and toxic chemicals like Mercury. There are other letters and social media messages relating instances they have experienced of offensive smoke, odors and noise from a nearby crematorium; also letters to the record that report poor monitoring of crematoria by USEPA.

These major flaws and irregularities in the application and the process of reviewing it should surely alarm the City Council, invalidate the process, and be cause for the City Council to deny the DeVol application to build a crematorium.

Pamela Lindstrom  
421 Gaither Street  
Gaithersburg 20877

## To the Gaithersburg City Council

### Comments for the Record On the Proposed Crematorium at DeVol Funeral Home, Section 2

As noted in section 1. of my comments, Section 2 details the regulation of crematoria and funeral homes in other jurisdictions in the vicinity. Besides Gaithersburg, these jurisdictions are Montgomery County, Rockville, Alexandria, Arlington, District of Columbia, Frederick County and Prince George's County. These comparisons show that Gaithersburg is by far the most permissive and negligent of the public interest. Several municipalities specifically forbid crematoria in zones that allow funeral homes.

It is also unique in blurring the distinction between a funeral home and a crematorium, and the distinction between final disposition and cremation. All but Gaithersburg give separate definitions and zones in which a crematorium is permitted, or, in the few that do not separately define crematorium, funeral homes are limited to industrial zones. Several municipalities specifically forbid crematoria in zones that allow funeral homes.

Gaithersburg is also unique in trying to define crematorium as final disposition of a body. All others, including numerous items in the Maryland Code Regulations (COMAR), which are cited by other respondents.

In particular, Gaithersburg is unique in trying to change the definition of a funeral home to including a crematorium, without ever mentioning the (fraught) word crematorium!

#### City of Gaithersburg

*“Funeral home. Any building in which one or more parlors or rooms are maintained for the **temporary** resting place of dead human bodies **pending** final disposition thereof. Such building may also include the following: Space and facilities for the **preparation of** such bodies for burial or other final disposition; a chapel for the purpose of conducting religious or memorial services or ceremonies (and in which no emergency ambulance service is provided); rooms or space for administrative offices for conducting the business of the home; rooms or space for the housing of equipment, including motor vehicles; living quarters for not more than one family unit who are employees or owners of such funeral home or children of such employees or owners. Emergency ambulance service shall not be provided from the building.”*

This definition does *not* say "facilities for other final disposition". It says "facilities for the preparation of such bodies for burial or other final disposition. There is no comma after the word "burial".

It does not use the word crematorium – one is supposed to assume that crematorium as an accessory activity is commonly done without question, as asserted by Jasmine Forbes and Scott Wallace.

#### Montgomery County

From the Zoning Code:

Section 1.4.2. Specific Terms and Phrases Defined

....

## B. Crematory

Crematory as a Conditional Use: See Section 3.5.4B.1

### 1. Defined

Crematory means a structure in which cremation occurs.

### 2. Use Standards

Where a Crematory is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use

## C. Funeral Home, Undertaker

....

### 1. Defined

Funeral Home, Undertaker means a facility that holds and transports human remains to and from the premises; embalms and caskets remains; allows visits to view the remains and conduct business with the establishment; and conducts funeral and memorial services, including organization of funeral processions.

### 2. Use Standards

a. Where a Funeral Home, Undertaker is allowed as a limited use, it must satisfy the following standards:

i. *The cremation of remains is prohibited.*

...

In the Use Table,

Crematory is a conditional use only in the IH, heavy industrial zone. Funeral Home is a permitted use, only in one employment zone – GR. As a conditional use in various residential and CR zones.

Note the distinct definitions of crematory and funeral home, and statement that Cremation is *prohibited* in a funeral home.

## City of Rockville

The Use Table has the following note: “Cremations are permitted only where existing as of March 16, 2009.”

## City of Alexandria

The Zoning Code lists Funeral Home as a Special Use, i.e. special exception, in various Commercial, Office and Industrial Zones Permitted with a special use permit. Not in any residential or urban area mixed use zone.

Crematorium is not mentioned in the Code at all. What does that mean? Planner Ray Roakes responded. that the only crematorium is the one that’s used by DeVol and other Montgomery County funeral homes.

“Alexandria has one approved crematorium, Everly-Wheatley’s at 1500 W Braddock Road. Currently, the funeral home use required SUP approval in all zones except the industrial zone

The City is moving forward amendments to the Zoning Code, which should be resolved in October to be approved or not, to only allow crematorium in the industrial zones with a SUP approval. If these changes are approved, crematorium would not be allowed in other zones.”

From the web site of Northern Virginia and Alexandria Burial and Crematory:

“Cremation Frequently Asked Questions

What is cremation?

To begin with, it is probably easier to describe what cremation isn't. Cremation is not final disposition of the remains, nor is some type of funeral service. Rather, it is a process of reducing the human body to bone fragments using high heat and flame”

Arlington

Arlington defines crematoria and funeral homes in different sections of the Zoning Code. Crematoria are included in Light Industrial Service zones. Funeral homes are listed in Retail Personal zones.

Frederick County

Funeral homes are only permitted as special exceptions in commercial zones. Crematoria are not listed as permitted in any zone.

**Use Table - Commercial and Personal Services**

	Mixed Use	General Commercial
Funeral home	PS	PS

[PS is permitted with special conditions, i.e. special exception]

The only *mention of crematoria in the zoning code* is a Zoning Text Amendment to permit an animal incinerator or crematorium.

There are a lot of funeral homes and crematoria in Frederick County. Either the crematoria are grandfathered, or they were approved as special cases that are similar enough to a permitted use. Two funeral homes have on site crematoria: Western Maryland Cremation Service, on a cemetery property seven miles north of the City; and Stauffer Funeral Homes, which has several sites. The one pictured in Frederick County is on a large property with nothing else in the picture around it.

See the misleading statement by Scott Wallace to the DeVol public meeting.

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 6:09 PM  
**To:** 'Michele Rosenfeld'  
**Subject:** RE: DeVol Crematorium: SP-8415-2020

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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Direct: 240-805-1069 | Main: 301-258-6330 | [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)  
[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

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**From:** Michele Rosenfeld <[rosenfeldlaw@mail.com](mailto:rosenfeldlaw@mail.com)>  
**Sent:** Wednesday, September 16, 2020 3:05 PM  
**To:** Jud Ashman <[Jud.Ashman@gaithersburgmd.gov](mailto:Jud.Ashman@gaithersburgmd.gov)>; Laurie-Anne Sayles <[Laurie-Anne.Sayles@gaithersburgmd.gov](mailto:Laurie-Anne.Sayles@gaithersburgmd.gov)>; Neil Harris <[Neil.Harris@gaithersburgmd.gov](mailto:Neil.Harris@gaithersburgmd.gov)>; Michael Sesma <[michael.sesma@gaithersburgmd.gov](mailto:michael.sesma@gaithersburgmd.gov)>; Ryan Spiegel <[ryan.spiegel@gaithersburgmd.gov](mailto:ryan.spiegel@gaithersburgmd.gov)>; Robert Wu <[robert.wu@gaithersburgmd.gov](mailto:robert.wu@gaithersburgmd.gov)>  
**Cc:** Jasmine Forbes <[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)>; Rob Bindeman <[rob@bindeman.com](mailto:rob@bindeman.com)>  
**Subject:** Fw: DeVol Crematorium: SP-8415-2020

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Dear Mayor Ashman: Please accept this supplemental letter for the record in opposition to the above-referenced application.

Respectfully Submitted,

Michele Rosenfeld  
The Law Office of Michele Rosenfeld LLC  
1 Research Court  
Suite 450  
Rockville MD 20850  
301-204-0913 (direct)  
[rosenfeldlaw@mail.com](mailto:rosenfeldlaw@mail.com) (email)  
[michelerosenfeldllc.com](http://michelerosenfeldllc.com) (website)



THE LAW OFFICE OF  
Michele  
Rosenfeld LLC

September 16, 2020

Mayor Jud Ashman  
City of Gaithersburg  
31 S. Summit Ave.  
Gaithersburg MD 20877

RE: Concept Site Plan Application SP-8415-2020 (10 and 14 East Deer Park Drive)  
DeVol Funeral Home: "Crematorium"

Dear Mayor Ashman and Council Members:

Please enter this letter into the record of the above-referenced proceedings as additional support in opposition to the proposed DeVol Funeral Home Crematory, filed on behalf of Landmark Realty and the approximately 300 City residents that live in the apartments located at 519 and 521 S. Frederick Avenue, and 531 S. Frederick Avenue and 9 E. Deer Park Road (Montgomery House and Montgomery Park, respectively).

**A. Montgomery County Zoning Only Allows Crematoria In The Heavy Industrial Zone, If Conditional Use Is Granted**

Applicant representatives said during its September 9, 2020 community meeting that Montgomery County allows crematoria in a number of zones. This argument simply is not supported by the County's Zoning Code. Crematoria are not permitted "by right" on any land subject to Montgomery County's Zoning laws. Montgomery County allows crematoria:

1. Only in the County's Heavy Industrial Zone; and
2. Only after receiving "conditional use" (formerly "special exception") approval.

A crematory also is not a permissible "accessory use" to a funeral home under Montgomery County Zoning laws. Montgomery County Code § 3.5.4. (Funeral and Interment Services) expressly prohibits a funeral home from carrying out cremations. Rather, a crematorium must be considered as its own use under the criteria applicable to conditional uses, and again, only in the County's Heavy Industrial zone.

**B. Pumphrey's Funeral Home in Bethesda Could Not Build A New Crematorium Now**

Pumphrey's Funeral Home, located in Bethesda has been held out as a precedent for the DeVol application. Pumphrey's, however, would not be allowed to build a crematorium under the zoning standards now in effect. The Pumphrey property is subject to Montgomery County's zoning code, and is zoned CR (Commercial Residential), not Heavy Industrial. As a result, the existing crematorium would not be eligible for consideration at that location, even as a conditional use.

**C. The City's Corridor Development (CD) Zone Highly Restricts Manufacturing And Processing Uses: Any Ambiguity In The Code Argues Against A Crematorium.<sup>1</sup>**

The CD zone prohibits almost all of the "Production/manufacturing/assembly/processing" uses allowed in the City's Light Industrial zone. These prohibited uses include (but are not limited to) the "manufacture, compounding, processing or packaging of food and food products, other than vinegar and yeast, but not including the rendering or refining of fat or oil, or the production of cosmetics, toiletries or pharmaceuticals or the operation of abattoirs;" "manufacturing, compounding or assembling articles using the prepared materials including "bone or shell;" the "[m]anufacture of ceramic products . . . using only previously pulverized clay and kilns fired by electricity or gas;" and the production of "[y]east, mold and other natural products necessary for medical and biotechnical research and development. See generally City Code § 24-160G.2(b) and § 24-136(c).

At its essence, a crematorium is a processing facility that converts human bodies to ash. While that process is not specifically defined as a prohibited use, the activity itself falls within the sphere of processing activities prohibited by the Code. In light of any ambiguity that may exist in the Code with respect to whether this use is allowed in the CD zone, the Code should be narrowly construed and the use should be denied.

**D. Request To Hold The Record Open For Five Following Publication of Staff Recommendation.**

We request that the record be held open for 5 (five) business days following staff's publication of its recommendation on this application to allow for comment on the staff report. If this request is denied, we note an objection for the record.

Respectfully Submitted,



Michele McDaniel Rosenfeld

Cc: Council Vice-President Laurie-Anne Sayles  
Council Member Neil Harris  
Council Member Michael A. Sems  
Council Member Ryan Spiegel  
Council Member Robert T. Wu

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<sup>1</sup> As explained in our letter of September 15 (Exhibit 304), under the definition of Funeral Home, we do not believe that there is any ambiguity in the Code and that a funeral home cannot carry out the final disposition (i.e.) cremation of a body.

## Jasmine Forbes

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 6:18 PM  
**To:** 'Lynn Nash'  
**Subject:** RE: Request you deny DeVol requested application extension

Good Afternoon,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

---

City of Gaithersburg | 31 South Summit Avenue | Gaithersburg, MD, 20877  
Direct: 240-805-1069 | Main: 301-258-6330 | [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)  
[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

---

**From:** Lynn Nash <lynn.slepski@outlook.com>  
**Sent:** Wednesday, September 16, 2020 3:26 PM  
**To:** Jud Ashman <Jud.Ashman@gaithersburgmd.gov>; Michael Sesma <michael.sesma@gaithersburgmd.gov>; Laurie-Anne Sayles <Laurie-Anne.Sayles@gaithersburgmd.gov>; Ryan Spiegel <ryan.spiegel@gaithersburgmd.gov>; Neil Harris <Neil.Harris@gaithersburgmd.gov>; Robert Wu <robert.wu@gaithersburgmd.gov>; Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>; Carla Weinberg <ceweinberg@gmail.com>; Rob Bindeman <rob@bindeman.com>; J. Jackson <jestellj@gmail.com>  
**Cc:** Beth Junium HOA <bjunium@gmail.com>; Dave Anderson <davander@erols.com>; Stephan Kaufman <olympusom2002@yahoo.com>; Dena Saunder <cuddlebeardee@hotmail.com>; Christine Rumney <crumney@hotmail.com>; Rhonda Thiessen <rrthiessen@gmail.com>  
**Subject:** Request you deny DeVol requested application extension

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Mayor and Council

As you may have now realized, the East Side is not a one-issue group. We are concerned, taxpaying citizens who also vote.

DeVol has asked for the opportunity to rebut concerns raised by nearby residents who live on or nearby the 355 Corridor. We do not want the industry-based application for a crematory allowed to go in next to homes and schools. The City has appropriate areas already zone for industry, where DeVol could construct viewing parlors and the crematory. Our current CD zoning does not allow for industry-based operations.

Asking residents to potentially be exposed to additional airborne pollutants is wrong.

Allowing applicants to withhold seminal pieces of information from the public is wrong.

Extending the comment period so that DeVol can respond to real and as up-to-today unanswered concerns is wrong.

DeVol had their chance. They intentionally controlled the conversation about the application and did so without relating any scientific evidence. They have attempted to keep voters unaware of what they plan to do.

We don't want the crematory....and we don't want you to extend the comment period.

Deny both their extension request as well as their entire application.

Lynn

Lynn Nash  
102 Bristol Downs Drive

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 6:24 PM  
**To:** 'Carol Johnson'  
**Subject:** RE: SP-8415-2020 applicant request

Good Afternoon,

Thank you. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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City of Gaithersburg | 31 South Summit Avenue | Gaithersburg, MD, 20877  
Direct: 240-805-1069 | Main: 301-258-6330 | [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)  
[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

**From:** Carol Johnson <carolsimsjohnson@gmail.com>  
**Sent:** Wednesday, September 16, 2020 3:47 PM  
**To:** Planning External Mailing <Planning@gaithersburgmd.gov>; CityHall External Mail <cityhall@gaithersburgmd.gov>  
**Subject:** SP-8415-2020 applicant request

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Hello, I ask that you do not grant this additional request for a reopening of the public record, submitted Sept 15, until October 7.

The public record has already been extended once at the applicants request. They set the timeline for the length of the request and the date of their public Q&A period. They should have planned accordingly at that time to respond to public comments. They should not be allowed additional time.

I request you deny their request.

Regards,  
Carol Johnson  
405 Gaither St

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 6:28 PM  
**To:** 'patricia littlefield'  
**Subject:** RE: Objections to DeVol crematorium

Good Evening,

Thank you for your correspondence related to Concept Site Plan application SP-8415-2020. Your correspondence will be included in the Council's record for their consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

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**From:** patricia littlefield <gail.littlefield@yahoo.com>  
**Sent:** Wednesday, September 16, 2020 4:12 PM  
**To:** Laurie-Anne Sayles <Laurie-Anne.Sayles@gaithersburgmd.gov>; Neil Harris <Neil.Harris@gaithersburgmd.gov>; Michael Sesma <michael.sesma@gaithersburgmd.gov>; Robert Wu <robert.wu@gaithersburgmd.gov>; Planning External Mailing <Planning@gaithersburgmd.gov>; Jud Ashman <Jud.Ashman@gaithersburgmd.gov>  
**Subject:** Objections to DeVol crematorium

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Dear Gaithersburg Mayor and Council,

I strongly object to the DeVol efforts to open a crematorium in this shockingly inappropriate site---a lovely neighborhood within a mile of Washington Grove, where I live.

I object based on the noxious and harmful smoke and odors that will be emitted by the proposed industry. In addition, this proposal raises obvious racial and environmental justice issues.

Would YOU want live next to a crematorium? Why should a resident of East Deer Park have to?

East Deer Park has a long historic association with the Washington Grove National Register Historic District. East Deer Park has always led from the historic Frederick Road, now Rt. 355, to Laytonsville, passing over the historic Humpback Bridge and descending at Washington Grove and its historic Commercial Corner.

Historic houses line East Deer Park. The introduction of an industrial use such as a crematorium would compromise the integrity of East Deer Park's historic character.

Please do not be bullied into granting this use.

Patricia Gail Littlefield  
111 Grove Rd.  
Washington Grove, MD 20880  
301 990 6567

**Jasmine Forbes**

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**From:** Jasmine Forbes  
**Sent:** Wednesday, September 16, 2020 6:38 PM  
**To:** 'ialiciav@aol.com'  
**Subject:** RE: Help Stop the Crematorium

Good Evening,

The "Help Stop the Crematorium" Signs are not provided by the City. We will include your comments in the record for Council's consideration.

Regards,  
Jasmine Forbes



**Jasmine Forbes, Planner I**  
**Planning and Code Administration**

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[Jasmine.Forbes@gaithersburgmd.gov](mailto:Jasmine.Forbes@gaithersburgmd.gov)

**From:** ialiciav@aol.com <ialiciav@aol.com>  
**Sent:** Wednesday, September 16, 2020 4:20 PM  
**To:** Jasmine Forbes <Jasmine.Forbes@gaithersburgmd.gov>  
**Subject:** Help Stop the Crematorium

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Ms Jasmine Forbes:

Please let me know where could I get a sign to put in the front yard of my house on 206 East Deer Park Dr., Gaithersburg, MD. and how much it costs, I would like to have one.

Thank you in advance for your assistance.

Irma Alicia Villatoro and family.  
[ialiciav@aol.com](mailto:ialiciav@aol.com)

2222 Wisconsin Avenue, N.W.  
Washington, DC 20007  
(202)333-6680

*De Vol*  
FUNERAL HOME

10 East Deer Park Drive  
Gaithersburg, MD 20877  
(301)948-6800

September 16, 2020

The Honorable Jud Ashman, Mayor  
And Members of the Gaithersburg City Council  
City of Gaithersburg  
31 S. Summit Avenue  
Gaithersburg, MD 20877

Re: DeVol Funeral Home House Addition -- Concept Plan No. 8415-2020 (the "Concept Plan")

Dear Mayor and City Councilmembers:

I would like to thank the Mayor and Council and City staff for their consideration of the Concept Plan, which proposes the conversion of an existing house on our property to a funeral home with viewing parlors and cremation equipment. Enclosed for submission into the record of the Concept Plan, which is set to close on September 16, 2020, are memoranda prepared by Scott Wallace, land use counsel for the project, and Carol Lynn Green, environmental counsel, addressing questions raised by the Mayor and Council and community at the August 3<sup>rd</sup> Mayor and Council public hearing and thereafter.<sup>1</sup> In addition, I would like to offer the following comments as to why I am proposing this project for your consideration.

As you know, the DeVol Funeral Home and my family have been members of the community for over thirty years. We have a lot of pride in the fact that we can say our funeral home is located in Gaithersburg, Maryland. We have strived since opening our doors to have the City equally proud to have the DeVol Family as a corporate citizen. We have been involved in many community events over the years, including the Golden Shovel Awards, police events, and the July 4<sup>th</sup> celebration.

DeVol Funeral Home serves a very diverse community that celebrates many cultural and religious practices. As our families' plans and expectations for funeral services have changed over the years, the services we offer have had to adapt to meet our families' needs. Most notably, requests for cremation services have increased dramatically. The customs of many of these diverse cultures and faiths require that the families participate in the cremation ceremony.

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<sup>1</sup> Subsequent to the public hearing, on September 9, 2020 I held a virtual community informational meeting on the Concept Plan. By letter dated September 15, 2020, Mr. Wallace requested the record be reopened until October 7, 2020 to allow for our team to thoroughly respond to questions presented at the September 9<sup>th</sup> community meeting. I understand that request will be considered at the September 21, 2020 Mayor and Council meeting.

2222 Wisconsin Avenue, N.W.  
Washington, DC 20007  
(202)333-6680

*De Vol*  
FUNERAL HOME

10 East Deer Park Drive  
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Currently I use an off-site, third-party crematory that has many restrictions, such as restricting the times these ceremonies can occur and the number of people that can participate. Not only can't I fully meet our families' service needs, but very often we are losing their business. DeVol Funeral Home prides itself on caring for the loved ones of the families it serves throughout the entire death care process. It is consistent with this approach to funeral service that we wish to offer our own cremation services and not entrust the decedent to a third party. In summary, providing cremation services on-site would allow DeVol Funeral Home to accommodate the physical, religious, and logistical needs of our community.

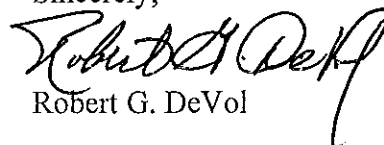
Community trust is of the utmost importance to the DeVol Family. We have earned a solid reputation over the last thirty years in Gaithersburg, and would never jeopardize this reputation by requesting approval of any aspect of my business that would be considered unsafe. I have obtained a Certified Crematory Operators Certification through the National Funeral Directors Association (NFDA). I am committed to operating the proposed crematory to meet the highest standards of excellence of my profession and in the same safe, lawful, and discrete manner as we have always conducted our business.

I was asked during the August 3<sup>rd</sup> public hearing about what the impact of not receiving approval of the Concept Plan would have on my business. While this would not shut the business down in the short term, it would certainly threaten its long term viability given the move towards cremation and the needs of the families I am serving. I wish to sustain my relationship with the City, to remain a loyal business partner, and to represent our diverse community through inclusion.

I have certainly heard the community's concerns about the cremation process. I also understand their broader concerns about development in the vicinity of their homes. While I, of course, share their interest in maintaining a healthy living environment for their families and I for my employees, families, and self, the fact-based and science-based information my consultants have presented to you and the community clearly shows that the cremation equipment will be designed, maintained and operated to meet rigorous safety standards to which I am committed and will not pose any public health, safety or environmental harm to the community. I ask that the City Council review the Concept Plan application based solely on this information about the project and on its own merit and not based on the broader concerns over development expressed by the community about other projects recently considered by the City. If you do this, I believe you will clearly conclude that the project is in the public interest.

Thank you for your interest and continued consideration in this matter.

Sincerely,

  
Robert G. DeVol