

**RESOLUTION NO. PC-2023-****A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 23-06 AND ZONING APPLICATION 23-09 TO MODIFY AND EXPAND EXISTING MORTUARY OPERATIONS INTO 766 W 19<sup>TH</sup> STREET FOR THE NEPTUNE SOCIETY LOCATED AT 758 W 19<sup>TH</sup> STREET**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Planning Application 23-06 and Zoning Application 23-09 was filed by Scott Momb, authorized agent for the property owner, Buck Kamphausen requesting approval of the following:

A Conditional Use Permit for the property located at 758 and 766 West 19<sup>th</sup> Street to entitle the mortuary service “Neptune Society” to expand operations into an existing adjacent 1,317-square-foot commercial building, and a Minor Conditional Use Permit to amend a previous approval to allow embalming.

WHEREAS, a duly noticed public hearing held by the Planning Commission on July 24, 2023 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 (Class 1), for Existing Facilities.

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgement of the City of Costa Mesa.

NOW, THEREFORE, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit B, the Planning Commission hereby **APPROVES** Planning Application 23-06 and Zoning Application 23-09 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Planning Application 23-06 and Zoning Application 23-09 upon applicant’s compliance with each and all of the conditions in Exhibit B, and compliance of all applicable federal, state, and local laws. Any approval granted by

this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

**PASSED AND ADOPTED this 24<sup>th</sup> day of July, 2023.**

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Adam Ereth, Chair  
Costa Mesa Planning Commission

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )ss  
CITY OF COSTA MESA )

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2022- \_\_ was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on July 24, 2023 by the following votes:

AYES: COMMISSIONERS  
NOES: COMMISSIONERS  
ABSENT: COMMISSIONERS  
ABSTAIN: COMMISSIONERS

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Scott Drapkin, Secretary  
Costa Mesa Planning Commission

Resolution No. PC-2023-\_\_

## EXHIBIT A

### FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(2) because:

**Finding:** The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

**Facts in Support of Findings:** The subject site is located within a commercial zone (C1 – Local Business District) where commercial development is allowed to include a wide range of goods and services, including mortuary services. In addition, the properties are located in one of the City’s seven commercial corridors, within the West 19<sup>th</sup> Street corridor, which is primarily intended for commercial uses. Pursuant to the CMMC, mortuary services are conditionally permitted in the City’s commercial zones and may be regulated to ensure compatibility with the surrounding area. All activities associated with the mortuary service would take place underroof, with no outdoor storage allowed, and operations would be conditioned to be compliant with all applicable local and State laws to minimize potential impacts. Staff does not anticipate that the request to allow embalming at the project location, and as conditioned, would be materially detrimental to the adjacent uses that include retail, office and residential uses.

**Finding:** Granting the conditional use permit will not be materially detrimentally to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

**Facts in Support of Finding:** The proposed project would not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood, as the project has been conditioned to maintain compliance with local and State regulations regarding the embalming process. The project site is screened from the adjacent businesses and residences and overnight deliveries would occur infrequently. In addition, all hazardous chemicals and waste would be properly handled and disposed of in a manner compliant with local and State regulations. Odors produced from the project location would be negligent, and decedents would be cared for in a period of one to two days.

**Finding:** Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

**Facts in Support of Finding:** The use is consistent with the General Plan goals and policies as discussed previously in this report. The proposal includes

an amendment to an already existing and previously approved land use type, adding a new service that would be available to the public and businesses within the same industry. The use density and intensity is allowed by the General Plan and Zoning Code, and the property already functions as a mortuary service provider.

- B. The project is categorically exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities (Class 1). This project site contains an existing commercial building that has been used for commercial activities and the application does not propose an increase in floor area. The project is consistent with the applicable General Plan land use designation and policies as well as with the applicable zoning designation and regulations. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. Specifically, the project would not result in a significant cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location; and would not impact any historic resources.
- C. The project is not subject to a traffic impact fee, pursuant to Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## **EXHIBIT B**

### **CONDITIONS OF APPROVAL**

#### **General**

1. The use shall be limited to the type of operation described in the staff report and applicant's letters, subject to conditions. Any change in the operational characteristics including, but not limited to, additional square footage or services provided, shall be subject to Planning Division review and may require an amendment to the minor/conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2. Prior to embalming operations, the applicant shall contact the City's Fire Department and obtain an inspection for all proposed chemicals types, storage and quantities to be used at the facility. Embalming operations shall not begin until the Fire Department has provided approval for chemical use, storage and quantities.
3. Prior to embalming operations, the applicant shall contact the Costa Mesa Sanitary District and the Orange County Sanitation District to obtain approval and inspection for all potential chemicals and waste that may/will enter into the local waste water (sewer) collection system. Embalming operations shall not begin until the Costa Mesa Sanitary District and the Orange County Sanitation District has provided approval as to any required/necessary sewer intercept devices, filters and/or storage devices needed to insure waste water compliance. Plans may need to be submitted to the Districts and the City's Building Department prior to inspections.
4. Prior to embalming operations, odor control devices and techniques shall be incorporated/installed to ensure that odors from all mortuary services are not detected outside the property, anywhere on adjacent property or public rights-of-way. Building and mechanical permits must be obtained from the Building Division prior to work commencing on any part of the odor control system. If odor is detected outside the building, the business owner or operator shall institute corrective measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services.
5. All previous land use conditions of approval stated in PA-89-69 are still valid and shall be complied with, except where superseded by this Resolution.
6. Customer services shall be limited and at no time shall mortuary services on-site be provided that require public assembly.
7. The applicant shall post signs within the parking lot directing the decedent transporters to limit voices, loud music, and to turn-off vehicle engines

during evening and morning business hour transports. The language of the parking lot signs shall be reviewed and approved by the Planning Division prior to installation.

8. The applicant shall defend, with attorneys of City's choosing, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, legal action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of City's approval of the project, including but not limited to any proceeding under the California Environmental Quality Act. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section.
9. If any section, division, sentence, clause, phrase or portion of this resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
10. Approval of the planning/zoning application is valid for two (2) years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and a valid building permit has been maintained by making satisfactory progress as determined by the Building Official; 2) a certificate of occupancy has been issued; or 3) the use has been established and a business license has been issued. A time extension can be requested no less than thirty (30) days or more than sixty (60) days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Director of Development Services may extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, Section 13-29(k)(6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.
11. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
12. The uses authorized by this Conditional Use Permit must be conducted in accordance with all applicable State and local laws, including, but not limited to, compliance with the most current versions of the provisions of the California Code of Regulations that regulate the uses permitted hereby. Any

violation thereof shall be a violation of the conditions of this permit and may be cause for revocation of this permit.

13. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum six (6) inches in height with not less than one-half-inch stroke and shall contrast sharply with the background.
14. The project is subject to compliance with all applicable Federal, State, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the Applicant and, where applicable, the Authorized Agent, for reference.
15. Once the use is legally established, the planning/zoning application herein approved shall be valid until revoked. The Director of Economic & Development or designee may refer the planning/zoning application to the Planning Commission for modification or revocation at any time if any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.
16. All uses shall be conducted under-roof. Outdoor uses or display is prohibited.
17. No modification(s) of the approved building elevations including, but not limited to, change of architectural type, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.
18. The project shall be limited to the type of building as described in this staff report and in the attached plans. Any change in the use, size, or design shall require review by the Planning Division and may require an amendment to the Conditional Use Permit.
19. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or it, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
20. All noise-generating construction activities shall be limited to 7 a.m. to 7 p.m. Monday through Friday and 9 a.m. to 6 p.m. Saturday. Noise-generating construction activities shall be prohibited on Sunday and the following federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.



21. Development shall comply with the requirements of the following adopted codes: 2022 California Residential Code, 2022 California Building Code, 2022 California Electrical Code, 2022 California Mechanical Code, 2022 California Plumbing Code, 2022 California Green Building Standards Code and 2022 California Energy Code (or the applicable adopted, California Residential Code, California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Requirements for accessibility to sites, facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the 2022 California Building Code.
22. Equipment shall comply with the California Building and Fire Code requirements, including, but not limited to, the requirement that equipment be approved by a recognized testing laboratory for the specific use.
23. The above conditions of approval shall supersede and replace the conditions of approval for the prior entitlements for this property.

**Prior to Issuance of Building Permits**

1. The conditions of approval of planning application PA-23-06, ZA-23-09 and PA-89-69 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
2. Plans shall be prepared by a California licensed Architect or Engineer. Plans shall be wet stamped and signed by the licensed Architect or Engineer.
3. Prior to the Building Division issuing a demolition permit. contact South Coast Air Quality Management District (AQMD) located at:  
21865 Copley Dr.  
Diamond Bar, CA 91765-4178  
Tel: 909- 396-2000  
or  
Visit their web site:  
<http://www.costamesaca.gov/modules/showdocument.aspx?documentid=23381>. The Building Div. will not issue a demolition permit until an Identification Number is provided by AQMD.
4. The plans shall comply with the requirements of the 2022 California Fire Code, including the 2022 Intervening Update and referenced standards as amended by the City of Costa Mesa.