



# ***PLANNING COMMISSION AGENDA REPORT***

MEETING DATE: July 24, 2023

ITEM NUMBER: PH-1

**SUBJECT: PLANNING APPLICATION 23-06 AND ZONING APPLICATION 23-09 TO MODIFY AND EXPAND EXISTING MORTUARY OPERATIONS INTO 766 W 19<sup>TH</sup> ST FOR THE NEPTUNE SOCIETY LOCATED AT 758 W 19<sup>TH</sup> ST**

**FROM: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/  
PLANNING DIVISION**

**PRESENTATION BY: GABRIEL VILLALOBOS, ASSISTANT PLANNER**

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## **RECOMMENDATION**

Staff recommends the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Existing Facilities); and
2. Approve Planning Application 23-06 and Zoning Application 23-09, subject to conditions of approval.

## **APPLICANT OR AUTHORIZED AGENT**

The authorized agent is Scott Momb, on behalf of the property owner Buck Kamphausen.

## **PLANNING APPLICATION SUMMARY**

Location:	758 & 766 W. 19 <sup>th</sup> St.	Application Numbers:	PA-23-06 & ZA-23-09
Request:	Planning Application 23-06 for a Conditional Use Permit for the establishment of a mortuary service provider (without crematories) located at 766 W 19 <sup>th</sup> St. and Zoning Application 23-09 for a Minor Conditional Use Permit to amend an existing entitlement (PA-89-69) to allow embalming services.		

### **SUBJECT PROPERTY:**

### **SURROUNDING PROPERTY:**

Zone:	C1 (Local Business District)	North:	R2-HD (Multi-Family Residential, High Density)
General Plan:	General Commercial	South:	C1 (Local Business District); R2-HD (Multi-Family Residential, High Density)
Lot Dimensions:	758 – 50 feet x 104 feet 766 – 50 feet x 104 feet	East:	C1 (Local Business District)
Lot Area:	758 – 5,200 SF 766 – 5,200 SF	West:	C1 (Local Business District)
Existing Development:	One existing 1,836-square-foot, two-story commercial building located at 758 W 19 <sup>th</sup> St and one existing 1,317-square-foot, one-story commercial building located at 766 W 19 <sup>th</sup> St both occupied by the Neptune Society.		

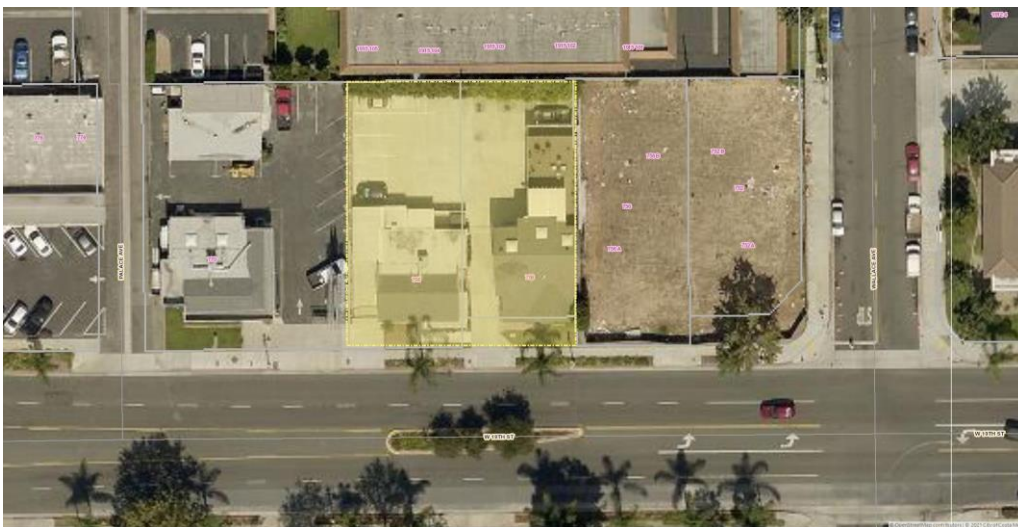
## **DEVELOPMENT STANDARDS COMPARISON**

Development Standard		Required/Allowed C1 Dev. Standard	Proposed/Provided
Building Height		2 stories/30 feet	758 W. 19 <sup>th</sup> St. – 27 ft. 6 in. 766 W. 19 <sup>th</sup> St. – 15 ft.
Setbacks:			
Front		20 ft.	758 W. 19 <sup>th</sup> St. – 14 ft. 766 W. 19 <sup>th</sup> St. – 14 ft.
Side (left/ right)		15 ft. / 0 ft.	758 W. 19 <sup>th</sup> St. – 15 ft. / 2 ft. 766 W. 19 <sup>th</sup> St. – 12 ft. 6 in. / 0 ft.
Rear		0 ft.	758 W. 19 <sup>th</sup> St. – 19 ft. 766 W. 19 <sup>th</sup> St. – 64 ft.
Landscape Setback – front		20 ft.	758 W. 19 <sup>th</sup> St. – 14 ft. 766 W. 19 <sup>th</sup> St. – 14 ft.
Parking		13 spaces	12 spaces
Floor area ratio (FAR)		0.30	758 W. 19 <sup>th</sup> St. – 0.32 766 W. 19 <sup>th</sup> St. – 0.23
CEQA Status	Exempt per CEQA Guidelines Section 15301 (Existing Facilities)		
Final Action	Planning Commission		

## **BACKGROUND**

The project site is located at 758 and 766 West 19<sup>th</sup> Street, between Wallace Avenue and Placentia Avenue. The applicant (“The Neptune Society”), is an existing mortuary service that operates an office use that facilitates cremations and the disposition of human remains and provides temporary storage of decedents (persons that are deceased). The Neptune Society is currently approved to operate at 758 West 19<sup>th</sup> Street. The project site is zoned C1 (Local Business District) and is surrounded by properties zoned C1 to the east and west, and R2-HD (Multiple-Family Residential District, High Density) to the north and south. The site has a General Plan land use designation of General Commercial and is surrounded by General Commercial designated parcels to the east, west and south, and High Density Residential designated parcels located to the north and south. Surrounding uses include multi-family residential to the rear of the property (to the north), residential and retail uses located across West 19<sup>th</sup> Street (to the south), and a mix of residential, retail and offices located to the east and west of the property (located along West 19<sup>th</sup> Street).

The property located at 758 West 19<sup>th</sup> Street (existing approved Neptune Society operations) is developed with a 1,836-square-foot, two-story building. The parcel also contains a driveway approach used as the main point of ingress and egress to the rear parking lot, four existing parking spaces located under a carport, and a vehicular gate to limit access to the site. The property located at 766 West 19<sup>th</sup> Street contains a 1,317-square-foot, one-story commercial building as well as additional uncovered parking in the rear, and a vehicular gate. The building located at 758 West 19<sup>th</sup> Street was built in 1948 as a single-family residence and in 1982 was converted into a commercial building through Zone Exception Permit 82-41 (ZE-82-41). The building located at 766 West 19<sup>th</sup> Street was built in 1950, and in 2014 was subsequently renovated to serve as a commercial office. Although located on divided parcels with individual ingress/egress, the property has operated as a single development with common access and parking for many years. The Neptune Society currently operates on both properties.



**Figure 1. Project Location**

On July 24, 1989, the Planning Commission approved a conditional use permit (PA-89-69) to allow temporary storage of deceased persons, with no embalming or cremation, at 758 West 19<sup>th</sup> Street (see the attached 1989 Planning Commission staff report and Resolution). The approved CUP allowed the Neptune Society to operate at this location as an office use with a cold storage for the temporary holding of decedents until transferred to a crematorium, and for the temporary holding of cremated remains until such time that the remains could be scattered. The building located at 766 West 19<sup>th</sup> Street was not a component of the original Planning Commission approval (PA-89-69).

## **DESCRIPTION**

The project includes a request for approval to allow embalming at an existing approved mortuary use located at 758 West 19<sup>th</sup> Street (a service that was not permitted through the original entitlement - PA-89-69), and to expand the operations to an adjacent building located at 766 West 19<sup>th</sup> Street. As proposed, the cold storage and an embalming room would be located at 766 West 19<sup>th</sup> Street, and the adjacent two-story building located at 758 West 19<sup>th</sup> Street (original approved location) would be used for the Neptune Society office/administration.

Operational hours were not conditioned under PA-89-69; however, the Neptune Society has indicated that business operations occur from 8 a.m. to 8 p.m. Transportation of decedents to the project site will generally take place during normal business hours, however, may occasionally occur during non-business hours. Such transportations are scheduled on an as needed basis, and will occur at the rear of the property located at 766 West 19<sup>th</sup> Street, and screened from public view. For decedent transports that occur during non-business hours, no staff would need to be onsite as the mortuary transport staff would have access to the facility gates and cold storage facility via electric access locks.

The equipment required for the embalming process includes an embalming table and tools used to inject chemical preservatives. Mortuary operations and inspections are regulated by the State of California under various laws that include the California Business and Professions Code – Cemetery and Funeral Law, the State Government Code, the Health and Safety Code, the Welfare and Institutions Code and the Federal Trade Commission Funeral Rule. The State Cemetery and Funeral Bureau annually inspects the use for regulatory compliance.

During business hours, there may be up to six employees onsite. There is no chapel located at the project site and no wake or funeral services are offered at this location. As described by the applicant, customers will generally not use the facility and the primary purpose of the facility is “to assist the mortuary trade in meeting their embalming needs”. Other than very limited viewings for identification purposes, the traffic to and from the site is limited to employees, identification viewings occurring approximately once or twice a month, and transports. As originally approved, customers may also occasionally use the facility to pick-up cremations that occurred offsite.

## **ANALYSIS**

### ***Conditional Use Permit (CUP)***

Pursuant to the Costa Mesa Municipal Code (CMMC) Section 13-32(b) and Table 13-30, all mortuary services without crematories are subject to approval of a conditional use permit and specific CUP findings, which are described further below under “Findings”. In addition, Mortuary services are conditionally permitted in the commercial and manufacturing zones, and are prohibited in all residential and planned development zones.

### ***Embalming Use***

The application includes adding embalming as a service to the existing mortuary operations. According to the applicant, the requirements for the embalming use include the ability to hold decedents over a period of 24 hours in cold storage, and a preparation room equipped with sanitary flooring, proper ventilation, and the necessary equipment required for the preparation, sanitation, and embalming of decedents for burial and/or transportation. The project site includes a 104 square-foot cold storage located at the rear of the existing commercial building located at 766 West 19<sup>th</sup> Street. The cold storage has the capability to hold up to nine decedents.

### ***Odor***

The proposed use of embalming has a potential to produce nuisance odors. As such, there is a potential for nuisance odors that may linger onsite and/or potentially off-site. The applicants have indicated that odors produced from the project site would not be noticeable off-site as the decedents brought to the facility remain for a period of one to two days and stored in cold refrigeration for the duration. To prevent potential off-site odor, staff has also conditioned the project to ensure that no off-site odors will occur.

### ***Parking and Circulation***

Per Section 13-89 of the CMMC, mortuaries are required to provide one space for every three fixed seats or one space for every 35 square feet of seating area, if there are no fixed seats. This CMMC parking requirement is intended specifically for land uses with assembly areas such as churches, theaters, and auditoriums. However, the applicant indicates that the proposed mortuary service is classified by the State as a “storefront mortuary” which does not include a public assembly area. Therefore, the aforementioned parking standards related to assembly are not applicable, as there is no seating area or assembly area associated with the use. As such, the City’s commercial office/retail parking ratio of four spaces per 1,000 square feet is applicable to the proposed use, and has been applied to the project.

The parking lot is currently legal non-conforming as the City's commercial office/retail parking ratio of four spaces per 1,000 square feet for both structures onsite is 13 parking spaces and only 11 spaces are provided. Pursuant to the nonconforming provisions of the Costa Mesa Municipal Code (CMMC) Section 13-204, a new use can replace an existing use without compliance with parking requirements at a nonconforming site, as long as the parking demand from the proposed use does not exceed the parking demand of the previous use. Since the proposed use parking demand is comparable with the previous parking demand for a commercial office space, the use is allowed pursuant to the CMMC nonconforming provisions. In addition, staff believes that the 11 existing parking spaces is adequate to serve the anticipated parking demand of six employees, decedent transports and the limited customer demand of the site.

### **GENERAL PLAN CONFORMANCE**

The Costa Mesa General Plan establishes the long-range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa's diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and providing cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan. The following analysis evaluates the proposed project's consistency with applicable policies and objectives of the 2015-2035 General Plan.

**Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services and employment opportunities in consideration of the need of the business and residential segments of the community.*

**Consistency:** The business provides a unique and necessary service for the community and to other local funeral homes. The business has existed for many years in the City and has provided and continues to provide local employment opportunities.

**Policy LU-6.7:** *Encourage new and retain existing businesses that provide local shopping and services.*

**Consistency:** The proposal would allow an existing business to remain at their current location and provide additional services that serve the public and other mortuaries without embalming services.

**Policy S-2.17:** *Encourage best practices in hazardous waste management, and ensure consistency with City, County, and federal guidelines, standards, and requirements.*

**Consistency:** The proposal is conditioned to comply with local and State regulations regarding waste management, including prior to embalming operations obtaining review and approval by the City's Fire Department, Costa Mesa Sanitation District, and the Orange County Sanitation District. The facility has and will continue to be annually inspected by the California Cemetery and funeral Bureau to ensure compliance with all local and State laws.

## **FINDINGS**

Pursuant to Title 13, Section 13-29(g), findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record substantially meet specified findings as follows:

- *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.*

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 on 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.

- *Granting the conditional use permit will 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.*

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 and as

conditioned, all chemicals and waste would be properly used and disposed of in a manner compliant with local and State regulations. Lastly, odors produced from the project are conditioned to be controlled and not occur off-site.

- *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.*

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.

## **ENVIRONMENTAL DETERMINATION**

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.

## **ALTERNATIVES**

The Planning Commission can consider the following decision alternatives:

1. *Approve the project.* The Planning Commission may approve the project as proposed, subject to the conditions outlined in the attached Resolution.
2. *Approve the project with modifications.* The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any of the additional requested changes are substantial, the hearing should be continued to a future meeting to allow a redesign or additional analysis. In the event of significant modifications to the proposal, staff will return with a revised Resolution incorporating new findings and/or conditions.
3. *Deny the project.* If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support or denial, and direct staff to incorporate the



findings into a Resolution for denial. If the project is denied, the applicant could not submit substantially the same type of application for six months.

## **LEGAL REVIEW**

The draft Resolution and this report have been approved as to form by the City Attorney's Office.

## **PUBLIC NOTICE**

Pursuant to Title 13, Section 13-29(d) of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

As of the date this report was circulated, no written public comments have been received. Any public comments received prior to the July 24, 2023 Planning Commission meeting will be provided separately.

## **CONCLUSION**

The proposed project is an amendment to an existing conditional use permit (PA-89-69) and an application for a new conditional use permit to permit the Neptune Society to perform embalming at 766 W. 19<sup>th</sup> Street. The use, as conditioned, is consistent with the Costa Mesa Municipal Code provisions and findings, and the City's General Plan goals and policies.