



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Brian Foote, Associate Planner

DATE: October 15, 2009

SUBJECT: Planning and Zoning Permit No. 09-550-03 (Major Modification to Special Use Permit), at the Santa Clara Cemetery located at 2370 North H Street.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 09-550-03 for a Major Modification to Special Use Permit No. 02-500-23, subject to certain findings and conditions.

- 2) **Project Description and Applicant:** A request to modify a condition of the approved project to allow the chapel/mortuary to provide services for those to be buried, interred or inurned off-site without processions of attendees, for the Santa Clara Cemetery located at 2370 North H Street (see Attachment A). No new development or changes to the existing operation is proposed as part of this request. Filed by designated Attorney, Kenneth M. High, Jr., Nordman Cormany Hair & Compton LLP, 1000 Town Center Drive, 6th Floor, Oxnard CA 93036 on behalf of the Roman Catholic Archbishop of Los Angeles, 3424 Wilshire Boulevard, Los Angeles CA 90010.

- 3) **Existing & Surrounding Land Uses:** The subject site is presently occupied by the Santa Clara Cemetery and Mortuary.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	Community Reserve (CR)	Public/Semi-Public (PSP)	Santa Clara Mortuary and Cemetery
North	Single-Family Residential (R1-PD)	Residential Low (RL)	Single-Family Detached Neighborhood
South	Garden Apartment (R3-PD)	Residential High (RH)	Multiple-Family Attached Units, "Terrace Lake" Apartments
East	Manufactured Home (MH-PD)	Factory Built (FB)	Single-Family Manufactured Houses, "Meadow Lake" Country Club
West	Single-Family Residential (R1-7PD)	Residential Low (RL)	Single-Family Detached Neighborhood

- 4) Background Information:** The subject property is approximately 30 acres in size, and the cemetery has been in service since the year 1885. The approved special use permit provides the cemetery with up to 17,000 burial sites, multiple mausoleums with a total of 18,005 square-feet, a 1,904 square-foot chapel, a two-story 8,804 square-foot building for the business offices and mortuary, and 70 parking spaces (see Attachment B – Site Plan and Floor Plans). Stewart Enterprises, Inc., is a lessee of the Santa Clara Mortuary and provides the administrative and technical personnel needed to offer mortuary services.

The Planning Commission approved Resolution No. 2003-82 on October 2, 2003, allowing a major expansion and improvements at the Santa Clara Cemetery including mortuary services. An appeal was filed challenging the commission's approval. On December 16, 2003, the City Council unanimously adopted Resolution No. 12,545 upholding the Planning Commission's approval and attaching several conditions including the requirement to "...only provide services for those to be interned, entombed and inurned on site."

On October 21, 2008, the Code Enforcement Division received a complaint that the Santa Clara Mortuary was operating in violation of its special use permit (i.e. the condition requiring the mortuary to provide services only for those to be interned, entombed and inurned on-site). The same complainant also contacted the City Attorney's Office and the California Department of Consumer Affairs. Until this time, no complaints or contacts had been documented concerning the mortuary's operations. In April 2009, Santa Clara Mortuary filed an application to address the complaint, and to clarify the services offered at this facility.

- 5) Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects within Existing Facilities that involve "no expansion of use beyond that existing at the time of the Lead Agency's determination" may be found to be exempt from the requirements of CEQA. This proposal involves a modification of the Conditions of Approval, with no expansion or intensification of the existing use or facilities. Staff has determined that there is no substantial evidence that the project may have a significant effect on the environment. Therefore, staff recommends that the Planning Commission accept the Notice of Exemption (Attachment C).
- 6) Analysis:** In 2003, at the Planning Commission and City Council hearings, considerable discussion occurred regarding the potential for environmental impacts to the surrounding neighborhoods, including traffic impacts. In fact, the City Council appeal hearing was continued to address the traffic and parking concerns (specifically processions from the mortuary). As a result, new conditions were included in the final City Council resolution.

The applicant requests approval to modify Condition No. 1 of City Council Resolution No. 12,545, which currently states, "The mortuary shall only provide services to those to be interned, entombed and inurned on site." The applicant believes that the wording is unclear and may be misconstrued to prohibit the mortuary from providing any services (e.g. mortuary, chapel, transport, etc.) in situations when the decedent has a burial at another cemetery. The applicant states that the condition can be applied to several scenarios that were not envisioned when the

City Council originally approved the project (see Attachments D and E). The applicant proposes modifying the conditions to read as follows:

1. The mortuary services and operations shall include the following provisions:
 - a) The chapel/mortuary may provide services for burials, internments and inurnments off-site provided no Processions of attendees to the place thereof occur. ‘Processions’ means the simultaneous departure and travel by attendees from the site to the place of burial, internment or inurnment.
 - b) No organizational assistance, such as announcements, signage or motor escort services, shall be provided to assist with processions of guests from funeral services on-site to committal services off-site.
 - c) At any funeral service at the Oratory at Santa Clara Mortuary to be followed by a committal service at Ivy Lawn Cemetery or Conejo Mountain Cemetery, the following public announcements shall be made:
 - i) There shall be no procession to the cemetery, all guests shall travel independently and without motor escort; and,
 - ii) No motor escorts will be provided, so all guests are responsible to obey all applicable traffic laws.

The condition was written to avoid and reduce potential traffic impacts as a result of processions from the mortuary through the adjacent residential neighborhoods. Each of the five conditions in Resolution No. 12,545 pertain to traffic, although the word “traffic” or “vehicle” is not explicit in each condition. During the Council’s deliberations on the motion to approve, one Councilmember acknowledged they needed “better-defined conditions to address concerns” although clarification was not provided as to which conditions should be better defined.

The applicant’s proposed language will be consistent with the original intent and purpose of the conditions as originally approved. The applicant concurs with the City Council’s objective of prohibiting processions from the mortuary to Ivy Lawn Cemetery or Conejo Mountain Cemetery, in order to avoid potential traffic impacts to local neighborhoods. Therefore, staff recommends approving the Major Modification request.

- 7) **Development Advisory Committee:** As no development is proposed as part of this request, there was no need for the Development Advisory Committee (DAC) to review this application.
- 8) **Community Workshop:** On June 2, 2009, the applicant mailed notices of the Community Workshop meeting to all property owners within the South Bank neighborhood. The applicant also arranged for posting two notices on the project site 10 days prior to the meeting. No residents from the South Bank neighborhood attended the meeting on June 15, 2009.

A total of eight persons attended the Community Workshop meeting. Seven persons were affiliated with the Archdiocese and/or employees of Santa Clara Mortuary. Mr. Otto Schimmel, from a competing mortuary, spoke in opposition. Two employees of the Santa Clara Mortuary discussed their personal experiences with mortuary and chapel services, and explained how the modification will allow parishioners to obtain future services more conveniently at one location (e.g. body preparation and chapel services on-site, and burial at an off-site cemetery). Mr. Schimmel cited several reasons for his opposition, and stated that the proposal should be denied because potential customers could patronize other local businesses to obtain the same services.

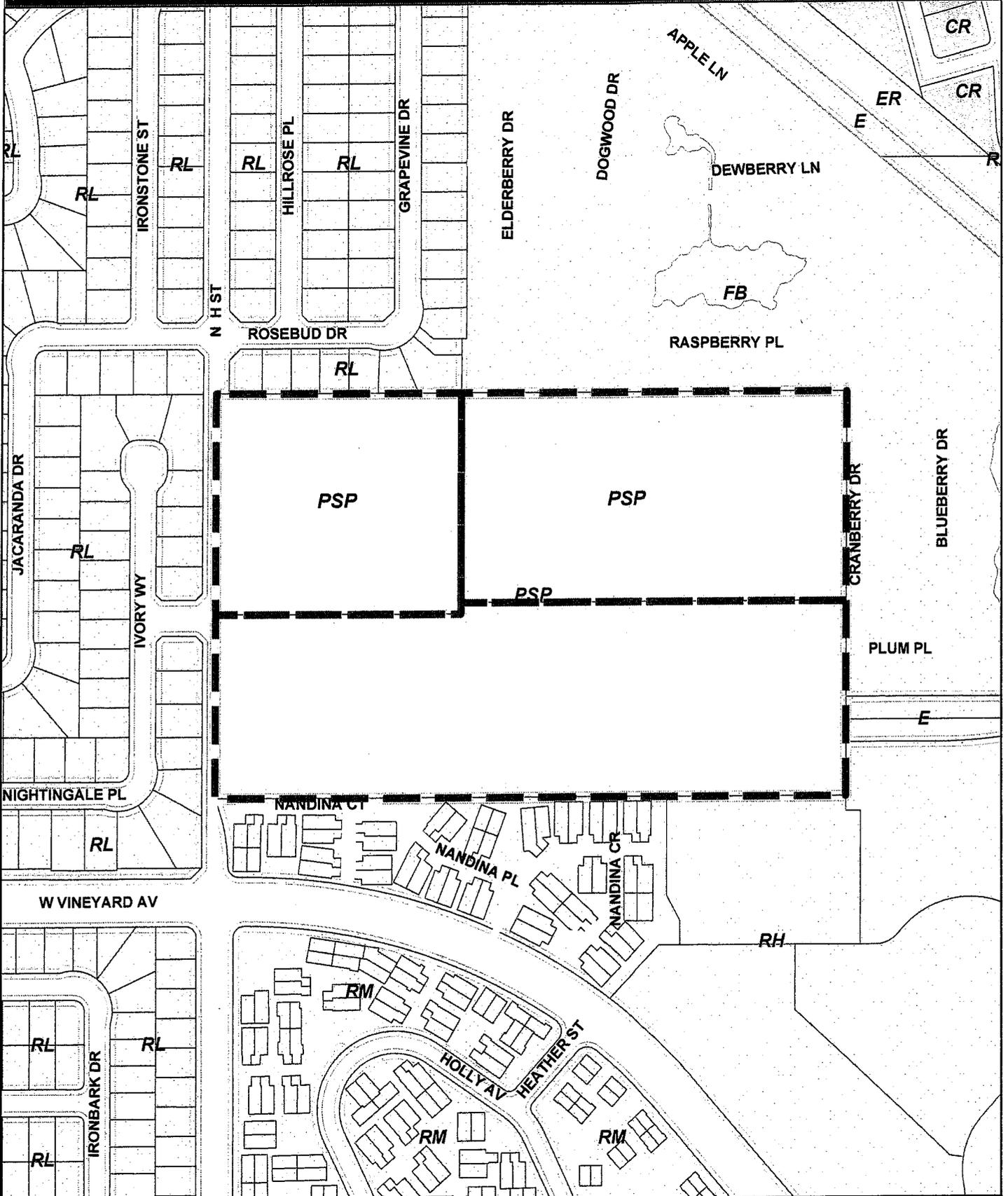
Appeal Procedure: In accordance with Section 16-545 of the City Code, the Planning Commission’s action may be appealed to the City Council within 18 days after the decision date. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period.

Attachments:

- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Applicant’s Letter dated June 18, 2009
- E. Applicant’s Letter dated July 2, 2009
- F. Resolution

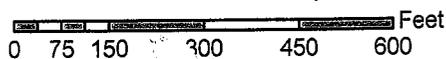
Prepared by: <u></u> BF
Approved by: <u></u> SM

General Plan Map



Oxnard Planning
April 30, 2009

PZ 09-550-03
Location: 22370 N H St
APN: 139005014, 139005018, 139005022
Santa Clara Cemetery

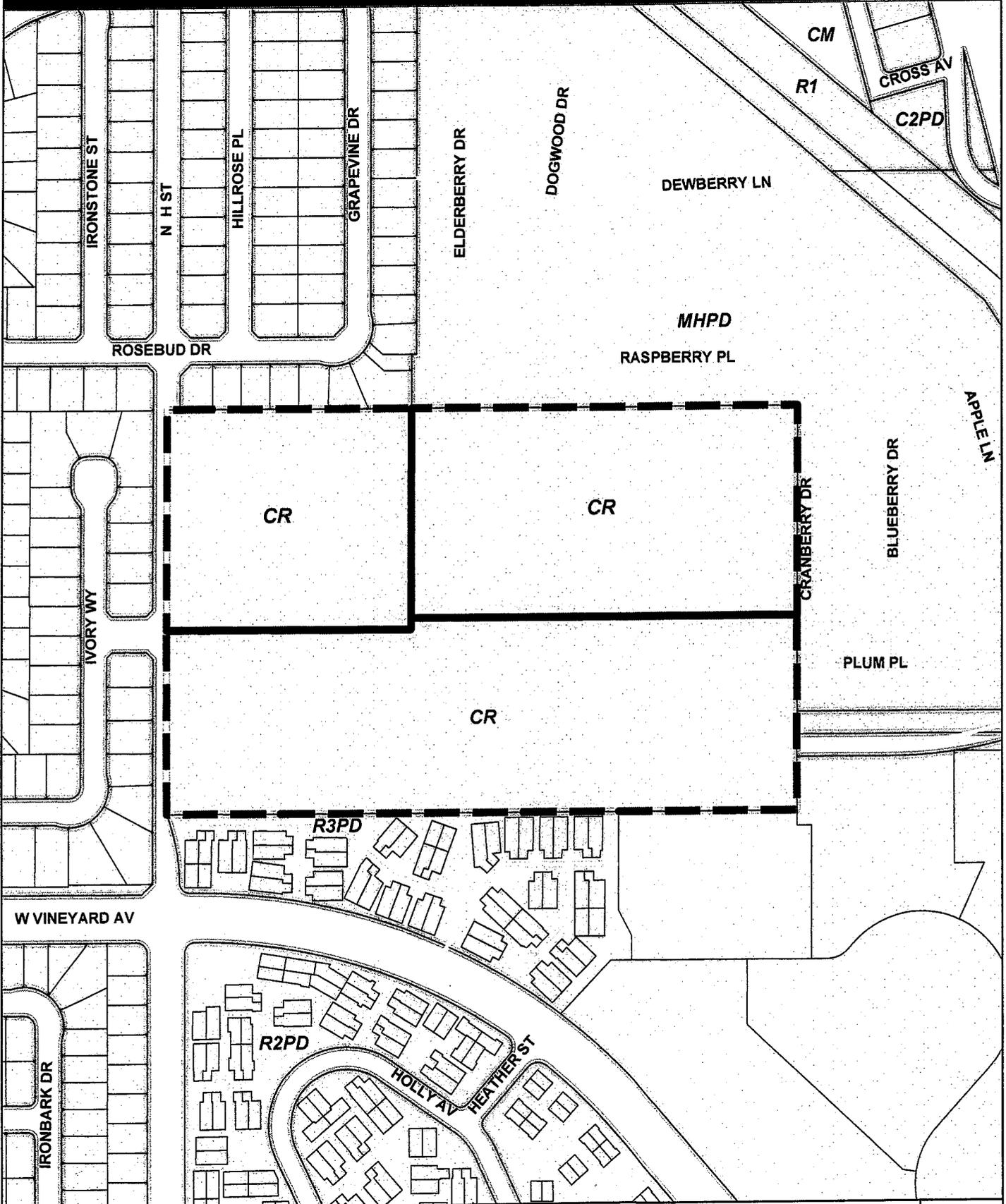


General Plan Map



1:3,613

Zone Map



Oxnard Planning
April 30, 2009

PZ 09-550-03
Location: 22370 N H St
APN: 139005014, 139005018, 139005022
Santa Clara Cemetery



Zone Map



1:3,635



NOTICE OF EXEMPTION

Project Description:

Planning & Zoning Permit No. 09-550-03 (Major Modification to Special Use Permit), a request to modify a condition of the approved project to allow the chapel/mortuary to provide services for those to be buried, interned or inurned off-site without processions of attendees. The subject property is Santa Clara Mortuary and Cemetery located at 2370 North H Street. The proposal is exempt from environmental review under Section §15061(b)(3) of the CEQA Guidelines. Filed by Attorney Kenneth M. High, Jr., Nordman Cormany Hair & Compton LLP, 1000 Town Center Drive, 6th Floor, Oxnard CA 93036 on behalf of the Roman Catholic Archbishop of Los Angeles, 3424 Wilshire Boulevard, Los Angeles CA 90010.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- Ministerial Project
- Categorical Exemption, §15301 – Existing Facilities
- Statutory Exemption
- Emergency Project
- Quick Disapproval [CEQA Guidelines §15270]
- No Possibility of Significant Effect [CEQA Guidelines §15061(b)(3)]

Supporting Reasons: In accordance with Section §15061(b)(3) of the CEQA Guidelines, a project is exempt from environmental review where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The application proposes a text amendment to one Condition of Approval, and there is no substantial evidence that the project may have a potentially significant effect on the environment. Therefore, staff has determined that the project qualifies for exemption.

(Date)

Susan L. Martin, AICP
Planning Division Manager

JUN 19 2009

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June 18, 2009

Brian Foote
 Associate Planner
 City of Oxnard
 214 South C Street
 Oxnard, CA 93030

Re: CUP Modification Santa Clara Cemetery/Mortuary

Dear Brian:

This is a follow up to our conversations at the Workshop on June 15, 2009. As I mentioned, only after the statements were made by the competitor and after talking with the man who works at the facility and whose wife's death prompted the complaint by the ever vigilant competitor, did I realize that the current condition could be so broadly construed that it could apply to many situations which were not previously known to be prohibited. And, that probably explained why the competitor was claiming there were 23 violations, when I only knew of one. Obviously, having the condition apply even more broadly than we had anticipated adversely affects operations even more than anyone had previously realized.

Specifically, I learned for the first time at the meeting that the complaint made by the competitor, which resulted in Zoning Enforcement contacting the mortuary manager, actually involved an employee's wife whose body was transported to the Santa Clara Mortuary and dealt with there, but whose funeral service was elsewhere, and whose burial was at Ivy Lawn. Thus, that complaint did not even involve a chapel service which was the core of the issue before the City Council because of the number of visitors which simultaneously visit the site. From that example of the overreaching effect of the condition, it became apparent that a whole variety of combinations of services performed at the request of patrons cannot be performed because of this condition for absolutely no legitimate reason. That would include the extremely common situation mentioned by the Archdiocese representative, where a deceased is transported to the facility, perhaps long before

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the family decides what to do about funeral services or disposal of the remains. Then the family decides to have the body cremated (which is always done elsewhere, by the way) and the cremated remains are then given to the family or sent someplace else for inurnment. In those cases, the mortuary must then decline to further handle the body and the arrangements and send the family elsewhere. Think about what that must do to the family and think what must be done over the phone by this mortuary, as opposed to every other mortuary in the county, to comply with this condition. That would be to tell the family at the first call for help right after the death, and regardless of whether there is even to be a chapel service: "Either bury, intern, or inurn the remains at this site, or find another mortuary". Of course that is exactly what the competitors want to require so they have a substantial competitive advantage.

Keep in mind that the only competitor which is complaining does not have a business at a cemetery, unlike Santa Clara, Conejo Mountain Cemetery in Camarillo, and Ivy Lawn in Ventura, which all have chapels and a cemetery at one location. Note that Conejo Mountain operates exactly like this one would if it were not for this overbroad condition, and the only variation for Ivy Lawn is that it does not have body handling services on site. I think it is that locational disadvantage, which all but the cemetery located mortuaries have, that is motivating this plea for protective conditions. Yet, except for the Santa Clara Mortuary, all other mortuaries are free to provide all their available services to customers in any combination they choose, without limitation. Only this mortuary is burdened with operational restrictions on services, which restrictions have no purpose except to benefit competitors.

Those services are in three categories: 1) body handling (transportation, storage, embalming, cremation arrangement, and/or documentation); 2) chapel service; 3) disposition of remains (burial/internment/inurnment/cremated remains disposal). Unless the Santa Clara Mortuary conducts the body disposal function ON SITE, it cannot perform either a chapel service or any one of the body handling services, no matter that doing so would have absolutely no impact on traffic or any other legitimate interest of the city, so long as there is no procession creating a traffic concern. Note that whether the burial is held on site or some place else, traffic from the on site chapel service is still the same when everything is over. All the attendees leave unescorted. Therefore, this prohibition on providing a host of services is strictly a competitor protection device that has been aggressively monitored by the competitor, not a traffic mitigation measure benefitting the community.

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Enclosed is a Summary of Effect of Condition on Operations. It shows very precisely the various combinations of services which are allowed under the current condition, and which are prohibited, and the only possible rationale for such prohibitions. As you will see, all prohibited activities have no conceivable affect on the community, except the one involving having chapel services on site and a burial service someplace else with a simultaneous procession of attendees which would be prohibited under the modified condition and the city codes¹. And, as can be seen from the competitor survey in the Summary, all the competitors can conduct any combination of these services that they offer without limitation, except for the Santa Clara Mortuary. That is why the competitor so vehemently seeks to keep these prohibitions in effect.

Unfortunately, none of these prohibitions were focused upon with any time for reflection at the time this condition was suggested by a Council member at the end of a long Council meeting. Thus, the applicant accepted the condition. At the time, all we were thinking about was the issue of traffic from the chapel service attendees leaving at one time and proceeding to an offsite burial service. I did not then know that processions were prohibited by code or I would have brought that up and suggested that the condition was not needed. Thus, all involved with the Santa Clara Mortuary, assumed that all the condition dealt with was that situation. I did not realize, until the conclusion of the work shop, that the mortuary could not even transport and prepare the body, and allow the family to then decide either to cremate and dispose of the cremated remains elsewhere, or hold a chapel service and burial in other places, without violating the condition.

After the meeting I requested that the Mortuary Manager search all files on services provided since opening. When I did that, I learned that he had already done so in late 2008 at the request of the California Department of Consumer Affairs Cemetery and Funeral Bureau as a result of multiple complaints by the competitor who is objecting to this application. I then had him update the list, and a copy is enclosed. As you can see, there have actually been 27 situations which could be construed as violating the current condition, but only 2 mistakes occurred where there was a chapel service and a burial in Ventura County following that service as to which the condition was intended to apply. All the others merely involve providing body services for families who later decided to either take the cremated remains home or elsewhere, or decided to have the funeral service and

¹ Note that in Ventura County, unlike Los Angeles and others, processions where it is regulated by code, organized processions between the chapel and burial sites are prohibited in all the cities. Therefore, the modified condition has the effect of making a violation of that law also constitute a permit condition violation.

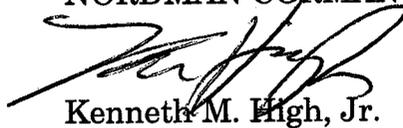
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burial at other locations. None of these situations, including those where the chapel service was on site, the burial was elsewhere and there were that no processions, affected traffic or any other legitimate interest of the City.

Therefore, we respectfully request that the condition be modified as proposed in the application or removed entirely. The limitations of the current condition only benefits the competitor while causing hardship, inconvenience, and hard feelings to the people in this community at their time of need, as well as unjustified escalating and perpetual financial loss to Santa Clara Mortuary operations.

Very truly yours,

NORDMAN CORMANY HAIR & COMPTON LLP



Kenneth M. High, Jr.

KMH:bjf
enclosure

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SUMMARY OF EFFECT OF CONDITION ON OPERATIONS

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 CITY OF OXNARD

Body Services (Transportation, Storage, Embalming and/or Cremation)	Chapel Services	Interment/Burial/Inurnment/Cremation Services	Allowed/Prohibited	Impact to City	Rationale for Prohibition	Competitor's Ability To Perform Same Services
On-Site	On-Site	On-site any method of disposal	Allowed	No	N/A	Conejo Mtn - Yes Ivy Lawn - No body services Santa Clara - Yes All others - No (not at cemetery)
Off-Site	On-Site	On-site any method of disposal	Allowed	No	N/A	Conejo Mtn - Yes Ivy Lawn - Yes Santa Clara - Yes All others - No (not at cemetery)
Off-Site	Off-Site	On-site any method of disposal	Allowed	No	N/A	Conejo Mtn - Yes Ivy Lawn - Yes Santa Clara - Yes All others - No (not at cemetery)
On-Site (subject of the competitor complaint and citation)	Off-Site	Off-site any method of disposal	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes, except Ivy Lawn has no body services
On-Site	On-Site	Cremation with ashes sent off-site	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes, except Ivy Lawn has no body services
On-Site	On-Site	Off-site disposal in V.C. with procession.	Prohibited	Yes	Traffic	Santa Clara - No All others - No, all processions prohibited in VC
On-Site	On-Site	Off-site disposal in V.C. without procession	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes except Ivy Lawn has no body services
On-Site	On-Site	Off-site disposal outside V.C.	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes, except Ivy Lawn has no body services
Off-Site	On-Site	Off-site disposal in V.C. without Procession	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes,
Off-Site	On-Site	Off-site disposal outside V.C.	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes
Off-Site	On-Site	Cremation with ashes sent off-site	Prohibited	No	Competitor Protection	Santa Clara - No All others - Yes

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CITY OF OXNARD

List of Santa Clara Mortuary cases that are not interred in Santa Clara Cemetery as of June 17, 2009

Name	Date of Death:	Location of Funeral:	Interment outside of Santa Clara Cemetery:	Notes:
Steven Botten	2/18/2007	Santa Buenaventura Mission, Ventura	Cremated Remains to Residence	Services were prior to completion of construction of Mortuary building. Preparation of Remains at Mission Hills. Close friends of mortuary manager (at the time, Richard Munoz).
Linda Botten	2/18/2007	Santa Buenaventura Mission, Ventura	Cremated Remains to Residence	(see line above)
Adele Wojciechowski	3/14/2007	Eastminster Presbyterian Church, Ventura 09/21/2007	Cremated Remains to Ivy Lawn Memorial Park	Services were prior to completion of construction of Mortuary building. Grandmother of Eric Ortega's wife. Preparation of Remains at Mission Hills. <i>this case was accidentally not placed on list given to DCA inspector in 9/2008 regarding outside interments.</i>
Charles M. Zakrajsek	10/16/2007	St. Anthony, Oxnard	Cremated Remains shipped to Florida	Uncle to Eric Ortega's wife.
James Joseph Lachaine	11/17/2007	none	Cremated Remains to Residence	Preparation of Remains at Mission Hills <i>this case was accidentally not placed on list given to DCA inspector in 9/2008 regarding outside interments.</i>
Sabrina Danae Hernandez	11/21/2007	St. Anthony, Oxnard	Cremated Remains to Residence	<i>this case was accidentally not placed on list given to DCA inspector in 9/2008 regarding outside interments.</i>
Melecio Magana-Magana	2/23/2008	Santa Clara Mortuary	Ship-Out to Mexico	<i>this case was accidentally not placed on list given to DCA inspector in 9/2008 regarding outside interments.</i>
John R. Allen	9/20/2008	none	Cremated Remains scattered at sea of the coast of Ventura, CA	friend of Eric Ortega.
Marie M. Greene	3/16/2008	none	Cremated Remains to Residence	
Robert Charles Meuse	4/4/2008	Santa Clara Mortuary	Cremated Remains to Residence	Preparation of Remains at Mission Hills
Francis A. Dougan	4/4/2008	Santa Clara Church, Oxnard (downtown)	Ivy Lawn Memorial Park	Competitor called cemetery after interment for confirmation.

List of Santa Clara Mortuary cases that are not interred in Santa Clara Cemetery as of June 17, 2009

Grace Skillingstad	4/26/2008	none		Cremated Remains to Ivy Lawn Memorial Park	
Ernesto R. Luevano	5/10/2008	Santa Clara Mortuary		Santa Paula Cemetery	Preparation of Remains at Mission Hills
Irene B. Matter	5/13/2008	Santa Clara Mortuary		Cremated Remains to Residence	
Pauline S. Moyle	5/15/2008	Padre Serra Catholic Church, Camarillo		Holy Cross Cemetery, Culver City CA	Preparation of Remains at Mission Hills
June A. Greiving	7/10/2008	St. Thomas Aquinas Catholic Church, Ojai CA		Calvary Catholic Cemetery, Santa Barbara CA	(aunt of a Stewart Enterprises V.P.)
Hector R. Garcia	7/17/2008	none		Cremated Remains to Residence	
Laura Ortega	8/23/2008	Assumption Catholic Church, Ventura CA		Ivy Lawn Memorial Park	wife of mortuary employee, Eric Ortega. All preparation of human remains done at Santa Clara Mortuary. Family had private viewing in mortuary the night before the public funeral in Ventura.
Xuan Metts	12/21/2008	Santa Clara Mortuary		Ivy Lawn Memorial Park	
Marjorie A. Castro	12/28/2008	O.L.G. Catholic Church, Santa Paula CA		Cremated Remains to Santa Paula Cemetery, Santa Paula CA	mother of cemetery Ish Gonzales. Pre-Need contract.
Larry R. Blair	1/6/2009	none		Cremated Remains to Residence	
Jacklyn B. McNeil	1/15/2009	Santa Clara Mortuary (service before cremation)		Cremated Remains released to family to take to Ivy Lawn Memorial Park.	
Elvira Ponce Arceo	1/24/2009	Santa Clara Chapel, in "El Rio" (NOT mortuary)		Cremated Remains to Residence	
Elena G. Flores	2/24/2009	St. Anthony, Oxnard		Cremated Remains to Residence	
Robert Glen Lewis	3/4/2009	graveside		Santa Paula Cemetery	father in law of mortuary employee, Cheryl Lewis.
Pablo J. Canales	4/5/2009	graveside		Ivy Lawn Memorial Park	(infant)

List of Santa Clara Mortuary cases that are not interred in Santa Clara Cemetery as of June 17, 2009

Dewey Philip Schwab	5/2/2009	in Texas	intercompany ship-out to Pearland, TX	
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July 2, 2009

Brian Foote
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214 South C Street
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Re: Modified Conditions to Discourage Private Processions

Dear Brian:

At our last meeting, we pointed out at length that the city has no legitimate basis to prohibit citizens of the City from choosing to use the Santa Clara Mortuary for any or all of the services it offers (body handling services, chapel services, and cemetery services) in any combination, with any of those services provided elsewhere, in order to best serve the needs and preferences of the families involved, except to the extent that making a particular choice of how and where those services are rendered causes an adverse impact to the neighborhood or the City from traffic. There is only one situation which could conceivably cause a traffic impact, and that involves processions from the Oratory at Santa Clara Mortuary to the two other local cemeteries to which guests could proceed together causing a traffic impact. If funeral services are held off site, or the remains are disposed of anywhere else in the world, there is absolutely no impact. Thus, it is only the impact from that one situation which the city should even consider mitigating with special conditions.

Clearly, if the mortuary provides body handling services only, or body handling and chapel services together, but the remains are disposed of anywhere else in the world other than one of the two local cemeteries at a burial service immediately following the funeral, there is absolutely no possible way the family's choice to handle things that way could affect the city. For that reason, I believe it is

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clear that the current condition which used the word "service" was intended to apply, and can be read as only actually applying to the situation where a funeral service at the Santa Clara Mortuary Oratory is followed by a committal service in the immediate Oxnard area. The word "service" in the current condition meant funeral service in the Oratory, and not other services (like body handling) which do not create a traffic issue and which are absolutely no concern to the City. This interpretation of the word "service" is also consistent with the other conditions which use the same word. For example, one condition refers to "services attended by 30+ guests". Obviously, body handling services are not attended by guests, so services had to mean "funeral services" to make any sense at all. And there is no logical reason why that word would have had a certain meaning in one condition and another much more expansive meaning in another condition.

Therefore, we submit that the narrow issue of concern to the City is solely whether a blanket prohibition on citizens choice of using the Oratory at Santa Clara Mortuary, which is sanctified ground suitable for the performance of the Catholic Rights of Christian Burial, followed by a committal at Ivy Lawn or Conejo Mountain is necessary to avoid a traffic problem resulting from attendees proceeding from the first to the second service.

On that issue, we submit that no traffic problem is likely to occur in any case. But, to allay any concern we suggested with the application that a new condition be substituted which would allow on site funeral services and off site burial services, provided no processions occurred. However, after discussing the subject at our meeting, we all thought it would be best to re-write the conditions to make clear exactly what will not be done to encourage organized processions, and what will be done to discourage unorganized processions. Therefore, the following new conditions are proposed:

1. No organizational assistance, such as announcements, signage or motor escort services, shall be provided to assist with processions of guests from funeral services on-site to committal services off-site.

2. At any funeral service at the Oratory at Santa Clara Mortuary to be followed by a committal service at Ivy Lawn or Conejo Mountain Cemetery the following public announcements shall be made:

- a. There will be no procession to the cemetery. All guests should travel independently.

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b. No motor escorts are being provided, so all guests are responsible to obey the traffic laws.

I hope this clarifies the conditions and provides a proactive solution. If you have any concerns or suggestions, please contact me at any time.

Very truly yours,

NORDMAN CORMANY HAIR & COMPTON LLP



Kenneth M. High, Jr.

KMH:bjf

cc: Steve Fisher
Phillip Wilson
Michael Miller

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RESOLUTION NO. 2009-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 09-550-03 (MAJOR MODIFICATION TO SPECIAL USE PERMIT) MAKING TEXT AMENDMENTS TO CONDITION NO. 1 OF ADOPTED CITY COUNCIL RESOLUTION NO. 12,545 FOR THE SANTA CLARA MORTUARY AND CEMETERY LOCATED AT 2370 NORTH 'H' STREET. FILED BY ATTORNEY KENNETH M. HIGH, JR., NORDMAN CORMANY HAIR & COMPTON LLP, 1000 TOWN CENTER DRIVE, 6TH FLOOR, OXNARD CA 93036 ON BEHALF OF THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES, 3424 WILSHIRE BOULEVARD, LOS ANGELES, CA 90010.

WHEREAS, the Planning Commission of the City of Oxnard has considered the proposed text amendments to Condition No. 1 ("Condition") of adopted City Council Resolution No. 12,545 that upheld the Planning Commission's approval of PZ No. 03-500-23 (Special Use Permit) for the Santa Clara Mortuary and Cemetery; and

WHEREAS, the Planning Commission has held a public hearing concerning this application for the proposed text amendment to the Condition; and

WHEREAS, the Planning Division has determined that the proposed project is not subject to environmental review pursuant to Section 15301 of Title 14 of the California Code of Regulations. A project within Existing Facilities that involve no expansion of use beyond that existing at the time of the Lead Agency's determination may be found to be exempt from the requirements of CEQA. This proposal involves a modification of the Conditions of Approval, with no expansion or intensification of the existing use or facilities. Based on the definition and in accordance with CEQA, the Planning Manager has determined that the proposed text amendment is not subject to CEQA and that a notice of exemption may be filed; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the following circumstances exist:

1. The proposed amendment clarifies the language in the Condition without modifying its intent and purpose of avoiding and reducing traffic impacts to adjacent residential neighborhoods.
2. The proposed amendment does not change the type or intensity of land use permitted by the previously approved Special Use Permit (PZ No. 03-500-23).
3. The proposed amendment is in conformance with the Findings of Fact previously adopted by City Council Resolution No. 12,545 and Planning Commission Resolution No. 2003-82.
4. The Santa Clara Mortuary has operated and continues to operate in conformance with the Conditions of Approval imposed by City Council Resolution No. 12,545 and Planning Commission Resolution No. 2003-82.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work or visit this development in particular;

NOW, THEREFORE, BE IT RESOLVED that the decision of the Planning Commission of the City of Oxnard is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code, and hereby amends Condition No. 1 of City Council Resolution No. 12,545 to read as follows:

1. The mortuary services and operations shall include the following provisions:
 - a. The chapel/mortuary may provide services for burials, internments and inurnments off-site provided no Processions of attendees to the place thereof occur. 'Processions' means the simultaneous departure and travel by attendees from the site to the place of burial, internment or inurnment.
 - b. No organizational assistance, such as announcements, signage or motor escort services, shall be provided to assist with processions of guests from funeral services on-site to committal services off-site.
 - c. At any funeral service at the Oratory at Santa Clara Mortuary to be followed by a committal service at Ivy Lawn Cemetery, Conejo Mountain Cemetery or other cemetery, the following public announcements shall be made:
 - i. There shall be no procession to the cemetery, all guests shall travel independently and without motor escort; and,
 - ii. No motor escorts will be provided, so all guests are responsible to obey all applicable traffic laws.

PASSED and ADOPTED by the Planning Commission of the City of Oxnard on this 15th day of October 2009 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Deirdre Frank, Chair

ATTEST: _____
Susan L. Martin, Secretary