

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT TO ESTABLISH A MORTUARY WITH EMBALMING SERVICES IN AN EXISTING STRUCTURE AT 425 EAST HARDING WAY (P16-0100)

The applicant, Joe Cunningham, submitted a Use Permit application to establish a mortuary with embalming services in an existing structure on the subject site; and

The subject mortuary would provide embalming services and limited funeral services, but no cremation services, in an existing structure on the subject site. The facility would prepare and store human remains for funerals and arrange for transportation of remains for local burials, as well as for burials outside of the area and country; and

Because the subject site has been determined to be legally nonconforming with respect to off-street parking and the number of spaces required for the mortuary is the same as or less than would have been required for previous office, retail, and service uses in the structure, no additional off-street parking is required by the Development Code for the subject mortuary; now, therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF STOCKTON , AS FOLLOWS:

1. The Planning Commission hereby approves the request for a Use Permit to establish a mortuary with embalming services in an existing structure at 425 East Harding Way, based on the following Findings for Approval:

- a. The subject use is allowed in the CG (Commercial, General) zoning district with the approval of a Use Permit by the Planning Commission, per Stockton Municipal Code (SMC; the "Development Code") Section 16.20.020/Table 2-2, because the use complies with all applicable provisions of the Development Code that are relevant to the operation of a mortuary and the subject site is legally nonconforming with respect to the required number of off-street parking spaces, in accordance with the provisions of SMC Section 16.64.050.F.1.a.
- b. The subject use, as conditioned, would maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located, because the project will result in the re-use of an existing vacant commercial structure. In addition, the subject use is not expected to be incompatible with existing and planned uses in the vicinity of the subject site, because the use is permitted in the CG zone and the property is surrounded by offices and accompanying parking lots, rather than by residential uses.

- c. The proposed use is consistent with applicable general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan related to the subject use, because it is a commercial use on a site designated for commercial land uses and is consistent with the following General Plan policies:

LU-3.7 – The City shall protect existing residential neighborhoods from the encroachment of incompatible activities and land uses (i.e., traffic, noise) and environmental hazards (i.e., flood, soil instability). There are no residentially zoned parcels or developed residential uses in the immediate vicinity of the subject site.

LU-4.10 – The City shall encourage the clustering of commercial uses and discourage the splitting of commercial clusters or centers by arterial roadways. The subject use is located in an existing vacant commercial building in a commercially-designated and developed area that is provided with access on an existing arterial roadway: Harding Way.

- d. The subject site is expected to be physically suitable for the type and density/intensity of use being proposed, including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.), because the subject mortuary will be located within an existing commercial building that is provided with adequate access and public services and is not hindered by any known physical constraints.
- e. The establishment, maintenance, or operation of the subject use at the location proposed and for the time period(s) identified is not expected to endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use, because the use will operate during similar hours of operation to those of other nearby businesses.
- f. The design, location, size, and operating characteristics of the subject use are expected to be compatible with existing and future land uses on-site and in the vicinity of the subject property, because the subject mortuary is considered a commercial use in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Development Code and is compatible with existing commercial and office uses in the vicinity of the subject site.
- g. Approval of the subject use is in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, because the project is categorically exempt, pursuant to Section 15301, Class 1, of the CEQA Guidelines for the re-use of an existing commercial building.

2. In accordance with Stockton Municipal Code (SMC) Section 16.168.070, the following Conditions of Approval are imposed in ensure compliance with the above Finding for Approval of the Use Permit:

Standard

- a. The business operator shall comply with all applicable Federal, State, County, and City codes, regulations, laws, and other applicable standards and pay all applicable fees.
- b. Compliance with these Conditions of Approval is mandatory. Failure to comply with these Conditions of Approval is unlawful and may constitute a public nuisance subject to the remedies and penalties identified in the SMC, including but not limited to, monetary fines and revocation.
- c. This approval shall become effective ten (10) days after approval, unless the action is appealed.
- d. This Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.

Specific

- e. Any future signage shall be subject to approval by the Community Development Director or Planning Commission.

PASSED, APPROVED, and ADOPTED May 26, 2016.

AYES:

NAYS:

ABSENT:

KEVIN HERNANDEZ, CHAIR
City of Stockton Planning Commission

ATTEST:

DAVID KWONG, SECRETARY
City of Stockton Planning Commission