

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

RECONSIDERATION OF APPEAL (NO. 2008-004) OF THE PLANNING COMMISSION'S AUGUST 20, 2008 DENIAL OF CONDITIONAL USE PERMIT NO. 2008-004, THAT WOULD PERMIT THE OPERATION OF TWO (2) CREMATORIES THAT WOULD PROVIDE CREMATION SERVICES FOR BOTH HUMAN AND ANIMAL REMAINS. THE PROPOSAL WOULD OCCUPY TWO (2) SUITES, TOTALING APPROXIMATELY 4,500 SQUARE FEET OF LEASED SPACE, INSIDE AN EXISTING INDUSTRIAL BUILDING. THE PROJECT SITE IS APPROXIMATELY TWO (2) ACRES IN SIZE AND IS LOCATED WITHIN THE SERVICE COMMERCIAL (C-S) ZONING DESIGNATION.

Appeal Applicant:

Mr. Stephen D. Atmore of Affordable Cremations of the High Desert

Location:

The project site is located at 13558 Nomwaket Road, Suite Nos. A-B and C (APN 3087-381-05).

Summary Statement:

At the October 28, 2008 Town Council meeting, a motion was approved to reconsider Appeal No. 2008-004, which was previously denied at the October 14, 2008 Town Council meeting.

(continued on next page)

Recommended Action:

Open the public hearing and take public testimony.

Close the public hearing. Then:

1. Find that Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270 (a), that a project which is denied is Exempt from CEQA.
2. Find the Facts presented within the staff report for the Council hearing of October 14, 2008, including the comments of the public and the Planning Commissioners as reflected in the Minutes of the Planning Commission Meeting of July 16 and August 20, 2008, and the record as a whole as discussed and considered by the Council, including the negative findings, as identified within Planning Commission Resolution No. 2008-006 (attached), that the proposed crematories may adversely affect or be materially detrimental to adjacent uses and residents and is not compatible with such adjacent uses.
3. Approve Town Council Resolution No. 2008-059 and Deny Conditional Use Permit No. 2008-004

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____ **Budget Item** Yes No N/A

Summary Statement (continued from page 1):

The information presented for the Town Council's decision is that which was previously provided on October 14, 2008. Should the Town Council uphold its previous decision to deny this Appeal, it would be appropriate for the Council to also approve the attached Resolution No. 2008-59. The Resolution was drafted by the Town Attorney and staff's recommendation is to adopt Resolution No. 2008-59. A reversal of the Council's previous decision for denial of Appeal No. 2008-004 will require the Council to adopt the Negative Declaration for Conditional Use Permit No. 2008-004 (attached herewith) and direct staff to file the Notice of Determination.

The Planning Commission conducted two (2) public hearings (7/16/2008 and 8/20/2008) to review and take testimony to Conditional Use Permit No. 2008-004. Staff recommended approval of the Conditional Use Permit and provided Findings for approval. At the July 16, 2008 public hearing, two (2) members of the public spoke. One speaker was in favor of the proposal and one spoke in opposition to the proposal. As indicated in the attached minute excerpt for the meeting of July 16, 2008, the Commission's discussion focused upon the noticing radius of the proposal. The Planning Commission requested staff to increase the noticing radius to 1,000 feet and continued the proposal to the August 20th Planning Commission meeting. Upon receiving legal advice from the Town Attorney, the decision to increase the noticing radius was rescinded.

At the August 20, 2008 Planning Commission meeting, the Commission again considered the information within the staff report (attached) and comments from the applicant and the general public. An article relating to the crematory appeared July 21, 2008 in the Victorville Daily Press, which provided notice of the continued public hearing to the entire Victor Valley. As indicated in the attached minute excerpt for the meeting of August 20th, seven (7) individuals spoke in opposition to the proposal. In addition, a petition was presented to the Planning Commission that contained an additional 160 signatures of those in opposition to the project.

The applicant for Conditional Use Permit No. 2008-004 is appealing the Planning Commission's August 20, 2008 denial of its proposal to install equipment to provide cremation services. The Commission's decision to deny Conditional Use Permit No. 2008-004 was based upon the proposal's incompatibility with existing uses in the immediate vicinity and the possibility that emissions may be released from the crematory should a malfunction occur. Based upon comments received from the applicant, comments from the general public and subsequent Commission discussion, the Planning Commission denied Conditional Use Permit No. 2008-004 and adopted Planning Commission Resolution No. 2008-006 (attached), which provides the Findings for denial.

Within the Appeal application, the applicant states that the proposal is in compliance with the Development Code and General Plan. The applicant further contends that the Planning Commission's denial was based upon emotion and personal opinion due to the sensitive nature of the business. The applicant is requesting that the Town Council either approve his proposal as presented, or refund the application fee because it appears that Conditional Use Permit No. 2008-004 was used as a "test case". The application fee of \$6,086 has been expended by staff time and resources processing the CUP request, including the legal noticing in the Apple Valley News and postage to mail out the notices for the project.

Should the Town Council uphold its previous decision to deny this Appeal, it would be appropriate for the Council to also approve attached Resolution No. 2008-59. The Resolution was drafted by the Town Attorney and staff's recommendation is to adopt Resolution No. 2008-

59. A reversal of the Council's previous decision for denial will require the Council to adopt the Negative Declaration and direct staff to file the Notice of Determination.

Attachments:

1. Town Council Resolution 2008-59
2. Appeal Application
3. Planning Commission Resolution No. 2008-006
4. Minute excerpt from the Planning Commission meeting of August 20, 2008
5. Planning Commission Report of August 20, 2008
6. Minute excerpts from the Planning Commission meeting of July 16, 2008
7. Planning Commission Report of July 16, 2008

TOWN COUNCIL RESOLUTION NO. 2008 - 59

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DENYING AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF TWO (2) CREMATORIES FOR HUMAN AND ANIMAL REMAINS CREMATION SERVICES WITHIN THE SERVICE COMMERCIAL (C-S) ZONING DESIGNATION; FOR PROPERTY LOCATED AT 13558 NOMWAKET ROAD, SUITE NOS. A-B AND C; APN 3087-381-05

WHEREAS, Affordable Cremations of the High Desert (the "Applicant") filed an application (Conditional Use Permit No. 2008-004) requesting approval of a Conditional Use Permit ("CUP") to allow operation of two (2) crematories for human and animal remains cremation services within three (3) suites, totaling approximately 4,500 square feet of leased space, of an existing industrial building located within the Service Commercial (C-S) zoning designation (the "Application" or the "Project"). The proposed site location is 13558 Nomwaket Road, Suite Nos. A-B and C; Assessor Parcel Number 3087-381-05 (the "Subject Site"); and

WHEREAS, on July 16, 2008 and August 20, 2008 the Planning Commission of the Town of Apple ("Planning Commission") conducted a duly noticed public hearing on the Application at which time all persons wishing to testify in connection with the proposed Application were heard, and the Application was comprehensively reviewed; and

WHEREAS, on August 20, 2008 the Planning Commission found that the Application did not comply with the zoning regulations set forth in Section 9.16.090 of Chapter 9.16 of Title 9 of the Town of Apple Valley Municipal Code (the "Development Code") and denied the Application; and

WHEREAS, the Applicant timely filed an appeal of the Planning Commission's August 20, 2008 denial of the Application with the Town Council (the "Appeal"); and

WHEREAS, on December 9, 2008 the Town Council of the Town of Apple ("Town Council") conducted a duly noticed public hearing on the Appeal at which time all persons wishing to testify in connection with the Appeal were heard, and the Appeal was comprehensively reviewed; and

WHEREAS, during the public hearing the Town Council received and considered testimony regarding public concerns with the location of the proposed Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS:

Section 1. Incorporation of Recitals. The Recitals set forth above are true and correct and are incorporated herein by reference.

Section 2. Denial of Appeal. Based on the entire record before the Town Council and all written and oral evidence presented and/or on file with the Town, including but not limited to the oral testimony received at the Town Council hearing on the Appeal and at the Planning Commission hearing on the Application, and the findings made in this Resolution and by the

Planning Commission in Resolution No. 2008-006, the Town Council hereby denies the Appeal and confirms and upholds the denial of the Application by the Planning Commission.

Section 3. Development Code Findings. Based on the entire record before the Town Council and all written and oral evidence presented and/or on file with the Town, including but not limited to the oral testimony received at the Town Council hearing on the Appeal and at the Planning Commission hearing on the Application, and the findings made in this Resolution and by the Planning Commission in Resolution No. 2008-006, the Town Council hereby finds that the Application does not comply with the zoning regulations set forth in Section 9.16.090 of Chapter 9.16 of Title 9 of the Development Code.

A. Section 9.16.090(2) of the Development Code provides that in order to overturn the Appeal and to grant a CUP, the Town Council must find that: *the location, size, design and operating characteristics of the proposed Project will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.*

1. Public comment received at the hearing on the Appeal and at the Planning Commission hearing on the Application from residents, business owners and patrons that frequent the neighborhood, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project, a crematorium which includes smokestacks, the transport of human remains to the Subject Site and the cremation of human and animal remains, may adversely affect or be materially detrimental to adjacent uses and residents and is not compatible with such adjacent uses.

a. Uses in immediate vicinity of the Subject Site include a church, restaurants, three (3) mobile home communities, a post office, a karate studio and a Little League.

b. The nearest mobile home community is located within 528 feet of the Subject Site, and the United Baptist Church is located directly adjacent to the Subject Site.

c. There is insufficient buffer between the Subject Site and the adjacent residential, service, community and business uses.

B. Section 9.16.090(5) of the Development Code provides that in order to overturn the Appeal and grant a CUP, the Town Council must find that: *there will not be a harmful effect upon desirable neighborhood characteristics.*

1. Public comment received at the hearing on the Appeal and at the Planning Commission hearing on the Application from residents, business owners and patrons that frequent the neighborhood, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project may have a detrimental effect on the characteristics of the neighborhood in which the Subject Site is located.

a. The Subject Site is located in a mixed-use area, commonly referred to as "the Village", which has been the focus of continuing revitalization efforts. Uses in the vicinity of the Project include restaurants, a post office, a karate studio, a Little League and three (3) mobile home communities. The proposed Project is not consistent with the adjacent uses or the efforts to revitalize the neighborhood as a mixed-use area.

b. The proposed use may have a negative impact on the desirable characteristics of the neighborhood in which the Subject Site is located based on the awareness of the existence of the crematory.

C. Section 9.16.090(9) of the Development Code provides that in order to overturn the Appeal and grant a CUP, the Town Council must find that: *there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated.*

1. Public comment received at the hearing on the Appeal and at the Planning Commission hearing on the Application from residents, business owners and patrons that frequent the neighborhood, including the church located adjacent to the Subject Site, indicate

that the proposed Project has other relevant negative impacts that cannot be reasonably mitigated.

a. The Subject Site and the proposed use is too visible to the public, including to nearby residences, businesses and business patrons.

b. The psychological distress to surrounding businesses and residences arising from the transport, handling and cremation of human remains cannot be reasonably mitigated because of the close proximity of such existing residences and businesses to the Subject Site.

c. Odors, smoke and particulate matter could emanate from the use if the operation fails, or from cremation of excessively large persons. A Daily Press article submitted into the record dated Sunday, June 11, 2006 by Leroy Standish titled "Crematorium emits thick smoke into town" reported that cremation of obese persons can result in heavy emissions of black smoke.

Approved and adopted by the Town Council of the Town of Apple Valley this 9th day of December, 2008.

Mayor

ATTEST:

I, La Vonda Pearson, Town Clerk of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Town Council at a regular meeting thereof, held on the 9th day of December, 2008, by the following vote, to-wit:

AYES:

NOTES:

ABSENT:

ABSTAIN:

La Vonda Pearson, Town Clerk



APPEAL

This request must be filed with the Planning Division within ten (10) calendar days following the date of action. An Appeal request received after this time *will not be accepted*. Appeals requiring Town Council consideration will be forwarded to the Town Clerk by the Director.

FOR TOWN USE ONLY

Date Submitted: 9-2-08 Case No.: Ap1 2008-004 Received By: [Signature]
Planning Fee: 224⁰⁰ Other Fees: _____ Case Planner: [Signature]

Type or print legibly in ink only

PROPERTY ADDRESS 13558 NORNWALKER ROAD

FEE

	Initial Deposit	Actual Cost not to exceed
<input type="checkbox"/> Appeal Fee – To Planning Commission	\$224.00	\$224.00
<input checked="" type="checkbox"/> Appeal Fee – To Town Council	\$224.00	\$224.00

The Appeal Fee does not apply to permits the Planning Commission acted to revoke or amend.

APPELLANT INFORMATION

Name STEPHEN D. ATMORE Telephone 760 987-0015
Fax _____ Email _____
Address 19275 MONTEREY ST
City APPLE VALLEY State CA Zip 92308

PROJECT INFORMATION

Project Number Being Appealed CUP No. 2008-004
Project Description CEMATORY
Assessor's Parcel No. (s) 3087-381-05 Tract 5372 Lot 5

APPEAL STATEMENT

1. I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:
Valley:
(Check one)
 Planning Commission _____ Planning Director
_____ Public Works Director _____ Building Official
_____ Town Engineer _____ Fire Chief

2. I/We appeal to the Town of Apple Valley:
(check one)
_____ Planning Commission Town Council

3. I/We am/are appealing the project action taken to:
(Check those which apply)
_____ Deny the project _____ Adopt a Negative Declaration
 Approve the project
_____ *Approve the project condition of (specify):

Other: _____

4. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measures and/or policies with which you disagree. Also state exactly what action/changes you would seek.

SEE ATTACHED

I/We understand that as appellant I/We have the burden of proof in this matter:

[Signature]
Signature

Signature

Date 9-2-2008

To the Town of APPLE VALLEY TOWN COUNCIL
September 2, 2008

Subject: CUP No. 2008-004. Denial to operate Crematory at 13558 Nomwaket Road.

A strong case can be made, that at the July 16, and August 20th 2008 public hearing, the APPLE VALLEY PLANNING COMMISSION decided, for whatever reasons, to turn my application into a "NOTICING ISSUE".

I believe the Planning Commission's ruling misinterpreted existing policy and was based on emotion and personal opinion due the sensitive nature of this business and being the first of its kind in the Town Of Apple Valley.

The location of this facility is in compliance with the Development Code of the Town Of Apple Valley and adopted General Plan. My application meets all the required parameters that are set forth in the General Application. The Town Of Apple Valley Staff Report recommended approval based on facts outlined in their study. I am also in compliance with all the requirements from the Mojave Desert AQMD with approval to construct.

In my opinion, the Town Of Apple Valley is regarded as the premier City in the High Desert. This facility will be finest of its kind in California and would compliment the Town nicely. I believe this business will have a tremendous positive economic impact and will also allow The Town of Apple Valley to be viewed as a City of innovative ideas.

RECOMMENDATIONS:

1. The Town Council to approve my General Application as submitted based on its own merit.
2. Refund my application fee. MY APPLICATION FEE WAS NOT INTENDED AS A TEST CASE, A LICENSE FOR THE TOWN OF APPLE VALLEY PLANNING COMMISSIONERS TO TEST THEIR PERSONAL THEORY OF LAW AT MY EXPENSE.

Regards:

Stephen D. Atmore

PLANNING COMMISSION RESOLUTION NO. 2008 – 006

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DENYING AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF TWO (2) CREMATORIES FOR HUMAN AND ANIMAL REMAINS CREMATION SERVICES WITHIN THE SERVICE COMMERCIAL (C-S) ZONING DESIGNATION; FOR PROPERTY LOCATED AT 13558 NOMWAKET ROAD, SUITE NOS. A-B AND C; APN 3087-381-05

WHEREAS, Affordable Cremations of the High Desert (the "Applicant") filed an application (Conditional Use Permit No. 2008-004) requesting approval of a Conditional Use Permit ("CUP") to allow operation of two (2) crematories for human and animal remains cremation services within three (3) suites, totaling approximately 4,500 square feet of leased space, of an existing industrial building located within the Service Commercial (C-S) zoning designation (the "Application" or the "Project"). The proposed site location is 13558 Nomwaket Road, Suite Nos. A-B and C; Assessor Parcel Number 3087-381-05 (the "Subject Site"); and

WHEREAS, on July 16, 2008 and August 20, 2008 the Planning Commission of the Town of Apple ("Planning Commission") conducted a duly noticed public hearing on the Application at which time all persons wishing to testify in connection with the proposed Application were heard, and the Application was comprehensively reviewed; and

WHEREAS, during the public hearing the Planning Commission received and considered extensive testimony regarding public concerns with the location of the proposed Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, THAT IN CONSIDERATION OF THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, AND FOR THE REASONS DISCUSSED BY THE COMMISSIONERS AT SAID HEARING, THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and are incorporated herein by reference.

Section 2. In consideration of the evidence received at the public hearing on the Application, and for the reasons discussed by the Commissioners at said hearing and the findings made in this Resolution, the Planning Commission hereby denies the Application.

Section 3. In consideration of the evidence received at the public hearing on the Application, and for the reasons discussed by the Commissioners at said hearing and the findings made in this Resolution, the Planning Commission hereby finds that the Application does not comply with the zoning regulations set forth in Section 9.16.090 of

Chapter 9.16 of Title 9 of the Town of Apple Valley Municipal Code (the "Development Code").

A. Section 9.16.090(2) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *the location, size, design and operating characteristics of the proposed Project will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.*

1. Public comment from residents, business owners and patrons that frequent the neighborhood, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project, a crematorium which includes smokestacks, the transport of human remains to the Subject Site and the cremation of human and animal remains, may adversely affect or be materially detrimental to adjacent uses and residents and is not compatible with such adjacent uses.

a. Uses in immediate vicinity of the Subject Site include a church, restaurants, three mobilehome communities, a post office, a karate studio and Little League.

b. The nearest mobilehome community is located within 528 feet of the Subject Site, and the United Baptist Church is located directly adjacent to the Subject Site.

c. There is insufficient buffer between the Subject Site and the adjacent residential, service, community and business uses.

B. Section 9.16.090(5) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *there will not be a harmful effect upon desirable neighborhood characteristics.*

1. Public comment from residents, business owners and patrons that frequent the neighborhood, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project may have a detrimental effect on the characteristics of the neighborhood in which the Subject Site is located.

a. The Subject Site is located in a mixed-use area, commonly referred to as "the Village", which has been the focus of continuing revitalization efforts. Uses in the vicinity of the Project include restaurants, a post office, a karate studio, a Little League and mobilehome communities. The proposed Project is not consistent with the adjacent uses or the efforts to revitalize the neighborhood as a mixed-use area.

b. The proposed use may have a negative impact on the desirable characteristics of the neighborhood in which the Subject Site is located based on the awareness of the existence of the crematory.

C. Section 9.16.090(9) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated.*

1. Public comment from residents, business owners and patrons that frequent the neighborhood, including the church located adjacent to the Subject Site, indicate that the proposed Project has other relevant negative impacts that cannot be reasonably mitigated.

a. The Subject Site and the proposed use is too visible to the public, including to nearby residences, businesses and business patrons.

b. The psychological distress to surrounding businesses and residences arising from the transport, handling and cremation of human remains cannot reasonably be mitigated because of the close proximity of such existing residences and businesses to the Subject Site.

c. Odors, smoke and particulate matter could emanate from the use if the operation fails, or from cremation of excessively large persons. A Daily Press article submitted into the record dated Sunday, June 11, 2006 by Leroy Standish titled "Crematorium emits thick smoke into town" reported that cremation of obese persons can result in heavy emissions of black smoke.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 20th day of August, 2008

David Hernandez, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 20th day of August, 2008, by the following vote, to-wit:

AYES:

NOTES:

ABSENT:

ABSTAIN:

Patty Hevle, Planning Commission Secretary

MINUTES

**TOWN OF APPLE VALLEY
PLANNING COMMISSION
Regular Meeting
EXCERPT
Wednesday, August 20, 2008**

CALL TO ORDER

At 6:06 p.m., the regular meeting of the Planning Commission of the Town of Apple Valley for August 20, 2008, was called to order by Chairman Hernandez.

ROLL CALL

Roll call was taken with the following members present: Commissioner Richard "Dick" Allen, Commissioner Bruce Kallen, Commissioner John Putko, Vice-Chairman B.R. "Bob" Tinsley, and Chairman David Hernandez.

STAFF PRESENT

Lori Lamson, Assistant Director of Community Development; Becky Reynolds, Principal Planner; Douglas Fenn, Senior Planner; Brad Miller, Town Engineer; Pam Cupp, Associate Planner, and Patty Hevle, Planning Commission Secretary.

PUBLIC HEARING ITEMS

2. Conditional Use Permit No. 2008-004. (Continued from July 16, 2008 Planning Commission Meeting).

Applicant: Affordable Cremations of the High Desert

Location: The site is located at 13558 Nomwaket Road, Suite Nos. A-B and C.

Chairman Hernandez re-opened the open, continued public hearing at 6:10 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division. Ms. Cupp stated the business would be open regular business hours.

The applicant and owner, Mr. Steve Atmore, commented that, per the Mojave Desert Air Quality Management District (MDAQMD), he was restricted to conducting three (3) cremations daily.

Chairman Hernandez asked about the noise involved in the operation.

Mr. John Raggert, with American Crematorium, commented that the machine used for cremation has a five (5)-horsepower blower and that the noise cannot be heard from outside of the building. He further stated that the machine is equipped with an automatic shut-off mechanism in case of overheating which could cause a problem with smoke.

Mr. Raggert provided the Commission with brochures of the equipment and stated they had been in the business since 1965. He further commented there would be no ash coming from the chamber.

Chairman Hernandez requested to know what type of vehicles would deliver the bodies.

Mr. Atmore stated the bodies would be delivered in an unmarked cargo van which will drive into the facility through roll-up doors.

Mr. Rich Sparks, Apple Valley, the owner of Mollie's Kountry Kitchen, stated that this type of project was not appropriate for the area, especially with the mobile home park being only five-hundred (500) feet away from the project. He commented on visual impacts as well as safety issues concerning smoke and/or fumes. Mr. Sparks felt the project would be better served in an industrial area, not a mixed-use area.

Ms. Star Mesa, representing the Apple Valley Mobile Home Park, stated she was the manager of the park and the residents did not wish to have this project only 528 feet from their residences. She stated the residents are concerned about the odors, smoke and noise that may come from the project. Ms. Mesa presented a petition to the Commission with 160 signatures of those in opposition to the project.

Ms Valita Wren, Apple Valley, stated she was concerned about the crematorium causing air pollution and the possible long-term effects.

Ms. Sandra Munson, of Apple Valley, stated she does not live near the project but worships at the church next door. She stated the church has many activities and was concerned about pollutants from the crematorium being drawn into the church by swamp coolers .

Three (3) more speakers from the audience spoke in opposition to the project.

Mr. Atmore stated there is a need for this type of service and that his facility will be one (1) of the most lavish in California. He stated the operation is monitored by the MDAQMD and the Funeral Board and has passed the MDAQMD test on air quality, In addition, he responded that he had introduced the project to property owners and residents within 1000 feet of the project, as requested to do so by the MDAQMD.

Mr. Atmore further commented that he walked through the Apple Valley Mobile Home Park and spoke to people who were outside and also spoke with fifty-nine (59) businesses in the area. He stated he had a list that he was required to provide to the MDAQMD of the business, location and address of the persons he spoke with. Mr. Atmore stated he obtained this list over a period of three (3) days.

Commissioner Kallen requested to know if he spoke to anyone at the post office, since their project is directly behind that building.

Mr. Atmore responded that he did go into the post office and advised them of the project. He further stated that he agreed with all of the Conditions of Approval.

Chairman Hernandez requested to know what would come out of the stacks.

Mr. Raggert stated there were no odors coming from the stack and that a fireplace puts out more emissions and chemicals than the crematorium. He stated that, in the event of a malfunction, such as a power outage or the handling of an obese case, visible smoke would arise; however, it would not be harmful to the public. These problems could be corrected within 3-5 minutes by making an adjustment to the machine.

Commissioner Allen asked about other facilities within the vicinity of residential areas.

Mr. Raggert responded that approximately fifty (50) percent of crematories are located within rural areas and fifty (50) percent are near residential and there have been no complaints or malfunctions. He stated that the building is not noticeable from the street.

Since there was no one else in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 6:50 p.m.

Commissioner Allen stated that he could not agree with Finding No. Five (5), due to tonight's audience participation.

Commissioner Kallen requested that Mr. John Brown, Town Attorney, explain why the Town could not expand the noticing requirement for this project, as requested by the Planning Commission.

Mr. Brown explained that, given the requirements of the Development Code, the Planning Commission could not create new rules as it may create a precedent and some legal difficulties for the Town with future Conditional Use Permit applications. He stated the Commission could ask the applicant to provide additional noticing; however, the applicant would have to consent to that request.

Mr. Brown further commented that the Planning Commission could work with staff to possibly propose a Development Code Amendment to the Town Council that would expand noticing requirements for certain, or all uses.

Commissioner Kallen stated he did not believe the project was compatible to the area because of mobile home parks, restaurants, the post office and the Little League fields being within close proximity of the project. He felt the project would be better served in an industrial or manufacturing area and not within a mixed-use zoning.

Commissioner Putko stated he agreed with Commissioner Allen and could not make Finding No. Five (5).

Vice-Chairman Tinsley clarified a comment made by an audience speaker concerning a PBID meeting he had attended. He stated this project was not on their agenda and was not discussed.

Vice-Chairman Tinsley further stated that, although he was not present at the July 16th meeting when this item was first heard, he had familiarized himself with the item by watching the webcast several times. He stated he knew the applicant and developer would build a quality, clean project; however, after listening to the audience participation, he did not feel this was the correct location for this type of project.

Chairman Hernandez agreed with the Commission and stated the project was not compatible with the area.

Mr. John Brown, Town Attorney, stated that, due to the negative findings cited by the Commission, and the testimony presented by the public, the item could be denied per Resolution of the Planning Commission for the reasons stated below at tonight's meeting. The Resolution would come back to the Commission at the next regular meeting to receive and file. The Findings cited for denial include:

- The location of the proposed use is not compatible with, will adversely affect and be detrimental to surrounding properties.
- The proposed use may result in distress to surrounding residences and businesses due to the transporting of remains.
- The proposed use has insufficient buffering from adjacent commercial and residential uses.
- The proposed use is too visible to the public, business and patrons.
- There could be psychological distress to surrounding businesses and residences arising from the transport, handling and cremation of human remains.
- There is a possibility of odors, smoke and particulate matter emanating from the use if the operation should fail, or from the cremation of excessively large persons.

MOTION:

Motion by Commissioner Allen, seconded by Vice-Chairman Tinsley, that due to the facts presented by the Town Attorney, that the the Planning Commission move to deny Conditional Use Permit No. 2008-004 by adopting Planning Commission Resolution No 2008-006 by title only.

ROLL CALL VOTE:

Ayes: Commissioner Allen
 Commissioner Kallen
 Commissioner Putko
 Vice-Chairman Tinsley
 Chairman Hernandez

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** August 20, 2008 (*Continued from July 16, 2008*)
- CASE NUMBER:** Conditional Use Permit No. 2008-004
- APPLICANT:** Affordable Cremations of the High Desert
- PROPOSAL:** A request for approval of a Conditional Use Permit to allow the operation of two (2) crematories that would provide cremation services for both human and animal remains. The project will occupy three (3) suites, totaling approximately 4,500 square feet of leased space within an existing industrial building. The project site is approximately two (2) acres in size and located within the Service Commercial (C-S) zoning designation.
- LOCATION:** The site is located at 13558 Nomwaket Road, Suite Nos. A-B and C; APN 3087-381-05.
- ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared.
- CASE PLANNER:** Ms. Pam Cupp, Associate Planner
- RECOMMENDATION:** Approval

BACKGROUND

At the July 16, 2008 Planning Commission meeting, the Commission reviewed Conditional Use Permit No. 2008-004. Staff's analysis was presented and comments were received from the applicant and the public. Upon subsequent Commission discussion, Conditional Use Permit No. 2008-004 was continued to the August 20, 2008 Planning Commission meeting for further consideration.

PROJECT SITE AND DESCRIPTION

A. Project Size:

The project will be located within an existing industrial building located on a 2.2 acre site.

B. General Plan Designations:

Project Site - Service Commercial (C-S)
North - Service Commercial (C-S)
South - Service Commercial (C-S)
East - Service Commercial (C-S)
West - Service Commercial (C-S)

C. Surrounding Zoning and Land Use:

Project Site- Service Commercial (C-S), Industrial Complex Under Construction
North - Service Commercial (C-S), Church
South - Service Commercial (C-S), Industrial Building
East - Service Commercial (C-S), Vacant, Industrial Building and a legal, non-conforming residential structure
West - Service Commercial (C-S), Vacant

ANALYSIS

A. General:

The applicant is requesting Planning Commission review and approval of a Conditional Use Permit to allow the installation and operation of two (2) crematories within an existing industrial building. The project will occupy three (3) suites, totaling 4,500 square feet in floor area. Pursuant to the Development Code, a Conditional Use Permit is required for any crematory operating within the Service Commercial (C-S) zoning designation. The Conditional Use Permit process allows the public and Planning Commission the opportunity to consider certain uses which may have potential adverse impacts upon surrounding property or the general public.

B. Site Analysis:

The proposed site is located at the northwest corner of Powhatan and Nomwaket Roads. The site is currently under development with three (3) industrial buildings previously approved under Development Permit No. 2007-014. The project site contains a total of 24,710 square feet of leasable industrial and office space in addition to paved parking, lighting and landscaping. Aside from the proposed crematories, which will be located in Suite Nos. A-B and C of Building No. C, the remaining suites within the industrial complex are not currently leased. The suites to be occupied by the crematory operation are located at the northwestern corner of the project site with no direct street frontage.

The project site and all surrounding properties are within the Service Commercial (C-S) General Plan Land Use and zoning designations. To the north is an industrial building with tenants that include a church, machine shop, Judo studio and private storage units. There is an industrial use building located to the south that houses a powder coating business and a machine shop. To the east of the site is a vehicle impound yard, a legal, non-conforming residential unit and vacant property. The property to the west is vacant.

1. Traffic and Circulation

Access to the industrial center is available from Powhatan and Nomwaket Roads, both of which are improved to Town standard with curb, gutter and sidewalk.

C. Use Analysis

The applicant proposes to operate two crematories within Building No. C at the Nomwaket Business Center. Suite No. A-B is 3,000 square feet in size and will be used for the cremation of human remains only. Suite No. C is 1,500 square feet in size and will be used for the cremation of animals. Staff is recommending Condition Nos. P13 and P14 requiring that the crematory only be used to cremate human or animal remains and the container used to transport the remains. Besides the actual cremation process, this facility will not be permitted to perform any body preparation involving the release of any bodily fluids into the Town's sewer system (Condition No. P15).

The applicant indicates that the units will contain the crematory, refrigeration unit, washer/dryer and office space. The installation of the crematory will require the addition of a smokestack. The smokestacks will extend approximately six (6) feet above the roofline. Staff is recommending Condition No. P7 requiring architecturally compatible screen walls to be constructed to conceal the smokestack from public view. Staff is further recommending Condition No. P20 prohibiting any visual discharge from the smokestack.

The applicant will be utilizing new cremation equipment that is completely smokeless and odorless when operated correctly. Based upon the manufacturer's instructions, and to avoid the accidental discharge of any smoke or odors, the maximum amount of throughput for any one cremation may not exceed 600 pounds, including the weight of the container (Condition No. P17).

Staff conducted research into three existing facilities in California utilizing the identical equipment. The three facilities include Fairhaven Cemetery in Santa Ana, Greenwood Memorial Park in San Diego and Holy Angels Funeral and Cremation Center in Hayward. There have been no complaints filed against any of these three (3) facilities using the equipment proposed under this Conditional Use Permit.

The Mojave Desert Air Quality Management District (MDAQMD) has completed its review and has issued its permit to commence installation of the crematory. The MDAQMD requires the facility to obtain an air quality permit on an annual basis. To ensure conformance with all conditions and monitoring as deemed necessary by the MDAQMD, staff has included Condition No. P18 requiring that the applicant provide all conditional approvals and initial operating permits for inclusion into the permanent record. The MDAQMD requires, and staff has Conditioned, the owner/operator of the facility to maintain a log that contains the following information:

- a) Date, weight incinerated, and hours operated on that day;
- b) Cumulative monthly and annual hours operated;
- c) Volume of natural gas and/or LPG used on a calendar month basis;
- d) Date and time of all upsets and/or malfunctions; and,
- e) A description of all repairs or maintenance performed with date performed.

Crematories in California are governed by the California Department of Consumer Affairs Cemetery and Funeral Bureau. Annual inspections include but are not limited to, ownership and management practices, facility, licenses, contracts and disclosures, identification

requirements and cremation records. The applicant may not obtain a license from the Cemetery and Funeral Bureau until land entitlements have been received. Staff has included Condition No. P19 requiring the applicant to obtain the required permits from the Cemetery and Funeral Bureau, providing copies of all condition approvals and permits for inclusion into the permanent record prior to issuance of a Certificate of Occupancy.

In conducting the project review, staff considered the issue of noise and emissions. Noise generated from this type of facility will be minimal and is required to conform to the Town's Noise Ordinance. In addition, project emissions must be in strict compliance with MDAQMD. Based upon the information provided within the analysis, including completed research and comments received from outside agencies, permitting a crematory to operate within the Service Commercial (C-S) zoning designation will not be detrimental to the public's health, safety or welfare. Therefore, staff has provided the positive Findings for the Commission's review.

The facility will be open Monday through Friday from 9:30 a.m. to 5:00 p.m. However, staff will remain on-call twenty-four (24) hours per day. The applicant has indicated that, initially, there will be two (2) to three (3) employees on duty at any given time. Services and product line will be available for review and purchase at the facility. However, the intent of the business plan is to encourage all individuals or families requesting services to allow the crematory's own counselors to visit within the family home or other familiar environment.

Human remains shall be delivered to the crematory by duly licensed personnel. All transportation vehicles will be unmarked with remains delivery occurring through existing receiving doors with no public exposure. Staff is recommending Condition No. P16, requiring all deliveries to, and shipments from, the facility be conducted with no public exposure. This would include, but not limited to, any human or animal remains.

D. Development Review Committee:

The proposal was distributed to all concerned agencies and departments. The recommended conditions of approval are attached for the Commission's consideration.

E. Environmental Assessment:

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared.

F. Noticing:

This item was advertised as a public hearing in the Apple Valley News newspaper and notices were mailed to all property owners within a 300-foot radius on June 20, 2008. There have been no verbal or written comments received as of the date of this writing.

G. Conditional Use Permit Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make specific Findings. The Findings, and a suggested comment to address each, are presented below:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed crematory is in compliance with the Development Code of the Town of Apple Valley and adopted General Plan, upon the review and approval of a Conditional Use Permit by the Planning Commission.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The proposed crematory is compatible with the surrounding area which is developed with industrial uses. The suites are located to the rear of an existing industrial complex with no direct street frontage and are visually buffered. The proposal, with adherence to the recommended Conditions of Approval, will be compatible with the surrounding area.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The proposed crematory will be located within an existing industrial center, which was approved for construction under Development Permit No. 2007-014. The center is compatible in scale, bulk, lot coverage and density with adjacent uses.

4. That there are public facilities, services and utilities available at the appropriate levels or that these will be installed at the appropriate time to serve the project as they are needed;

Comment: The proposed crematory will be located within an existing industrial building. There are existing facilities and utilities available to serve the site.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The location, size, design and operating characteristics of the proposed crematory will not be detrimental to the public health, safety or welfare, nor will it be materially injurious to properties or improvements in the vicinity. When operated in conformance with the manufacturer's and MDAQMD guidelines, there will be no smoke or odors released from the facility; therefore, there will be no harmful effects upon neighborhood characteristics.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: Traffic generated from the crematory will be consistent with the existing industrial uses within the vicinity and will not adversely impact the surrounding area. The proposal will be located within an existing industrial complex located at the northwest corner of Powhatan and Nomwaket Roads, which are both improved to the Town's local

industrial road standards, and can accommodate traffic generated from the proposed use.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: Traffic generated from the crematory will be consistent with the existing industrial uses within the vicinity and will not adversely impact the surrounding area. The proposal will be located within an existing industrial complex located at the northwest corner of Powhatan and Nomwaket Road, which are both improved to the Town's local industrial road standards, and can accommodate traffic generated from the proposed use.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: When operated in conformance to the Conditions of Approval and the manufacturer's operating guidelines, MDAQMD Conditions of Approval and the rules and regulations of the Department of Consumer Affairs, the proposed crematory will not produce adverse impacts upon the sites nor the surrounding properties with adherence to the Conditions of Approval.

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: The proposed crematory must obtain permits from the appropriate agencies prior to operation. The equipment shall be maintained to meet air quality and noise standards. Therefore, the project will not produce adverse impacts upon the site, nor the surrounding properties.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The location, size, design and operating characteristics of the proposed crematory will not be detrimental to the public health, safety or welfare, nor will it be materially injurious to properties or improvements in the vicinity.

11. That the proposed conditional use will comply with all of the applicable provisions of this title.

Comment: The operations of the crematory will be in conformance to the Development Code, subject to approval of a Conditional Use Permit and adherence to the recommended Conditions of Approval.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The proposed crematory will be located within an existing industrial complex, which has been designed with materials, textures and details compatible with the adjacent neighboring structures.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The industrial complex, previously approved under Development Permit No. 2007-014, has appropriate setbacks, meets height requirements, does not block public views and is a compatible use that is consistent in scale to other commercial structures in the area. The crematory will be located within three (3) suites that are located to the rear of the industrial complex and will not be readily visible from public views.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

Comment: The proposed crematory will be located within an existing industrial complex, which has been designed with materials, textures and details compatible with the adjacent neighboring structures.

15. That access to the site and circulation on- and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed crematory will be located within an existing industrial complex and has been designed to allow traffic flows on- and off-site to be safe and convenient for pedestrians and motorists.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Determine that the proposed Conditional Use Permit will not have a significant effect on the environment, with adherence to the Conditions of Approval recommended in this report.
2. Adopt the Negative Declaration for Conditional Use Permit No. 2008-004, finding that, on the basis of the whole record before the Planning Commission (including the Initial Study and any comments received), there is no substantial evidence that the project will have a significant effect on the environment and that the Negative Declaration reflects the Town's independent judgment and analysis. The Negative Declaration is available at

the Town's Economic and Community Development Department which constitutes the record of proceedings upon which its decision is based.

3. Find that the facts presented in the staff report support the required Findings for approval and adopt those Findings.
4. Approve Conditional Use Permit No. 2008-004, subject to the attached Conditions of Approval.
5. Direct staff to file a Notice of Determination.

Prepared By:

Reviewed By:

Pam Cupp
Associate Planner

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Site Plan
3. Building Elevations
4. Zoning Map
5. Initial Study and Negative Declaration Conditional Use Permit No. 2008-004

RECOMMENDED CONDITIONS OF APPROVAL
Conditional Use Permit No. 2008-004

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve or alleviate the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

Planning Division Conditions of Approval:

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Conditional Use Permit becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. The applicant shall agree to defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P4. The filing fee for a Notice of Determination (NOD) requires the County Clerk to collect a handling fee of \$50.00. Additionally, as of January 1, 2008, a fee of \$1,876.75 is required to be collected by the County for the processing of a NOD for the State Fish & Game fees. The fees must be paid within five (5) days of the approval of this application in order to reduce the Statute of Limitations to thirty (30) days. All fees must be submitted prior to the issuance of any permits. All checks shall be made payable to the Clerk of the Board of Supervisors.
- P5. The approval of Conditional Use Permit No. 2008-004 by the Planning Commission is recognized as acknowledgment of Conditions of Approval by the applicant, unless an

appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.

- P6. Prior to issuance of a building permit, the applicant shall provide the Building Division with a copy of the building plans in an electronic format compatible with the Town's current technology.
- P7. All outdoor mechanical and electrical equipment, including smokestack, whether rooftop, side of structure, or on the ground, shall be screen from view from the public street by architectural elements designed to be an integral part of the building.
- P8. Access to roofs shall be from the interior of the building. If roof access is on the exterior of the building, the roof access ladder shall be screened from view from any public street or public parking area and security shall be provided to prevent unauthorized access.
- P9. All lighting used in parking lots for security purposes or safety-related uses shall be scheduled so light rays emitted by the fixture are projected below the imaginary horizontal plane passing through the lowest point of the fixture and in such a manner that the light is directed away from streets and adjoining properties. Light poles in parking lot shall not exceed twenty (20) feet in height.
- P10. Trash Enclosure shall be in accordance with Town Standards and is recommended to reflect the architectural design of approved project subject to the review and approval of the Planning Division. Trash enclosures shall be located at convenient distances from the building they serve.
- P11. All identification signs shall have a separate permit and are subject to final approval by the Town Planning Division.
- P12. Conditional Use Permit No. 2008-004 may be reviewed annually or more often, if deemed necessary by the Economic and Community Development Department, to ensure compliance with the conditions contained herein. Additional conditions may be recommended to and imposed by the Planning Commission to mitigate any negative impacts resulting from the business operations not contained within the scope of this permit.
- P13. The crematory in Suite A-B may only be utilized to incinerate human remains and containers used to transport the remains.
- P14. The crematory in Suite C may only be utilized to incinerate animal remains. Animals used for clinical testing may not be incinerated at this location.
- P15. Body or animal preparations causing the release of any bodily fluids into the sewer system is prohibited.
- P16. Any shipments from, or deliveries to the facility must be completely screened from public view.
- P17. The maximum weight limit for any one (1) cremation shall be 600 pounds, including the weight of the container.

- P18. The applicant shall provide the Planning Division with copies of all conditional approvals and initial operating permits from the Mojave Desert Air Quality Management District prior to issuance of any occupancy permit.
- P19. The applicant shall provide the Planning Division with copies of all conditional approvals and operating permits from the California Department of Consumer Affairs Cemetery and Funeral Bureau prior to issuance of any occupancy permit.
- P20. Visible heat waves will be apparent; however, any smoke or obnoxious odor discharge is prohibited. Failure to comply may result in revocation of Conditional Use Permit No. 2008-004.

Public Works Division Conditions of Approval

Prior to Map Recordation:

- PW1. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

Mojave Desert Air Quality Management District Conditions of Approval

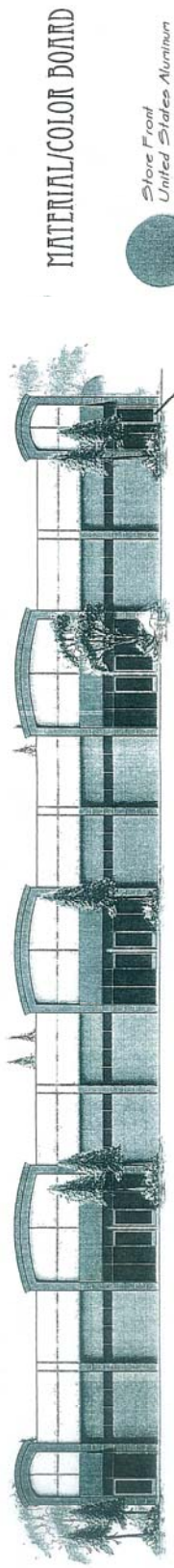
- AQ1. The owner/operator (o/o) shall install, operate and maintain this equipment in strict accord with the recommendations of the manufacturer/supplier and/or sound engineering principles.
- AQ2. This equipment shall be operated by personnel properly trained in its operation.
- AQ3. A temperature of not less than 1,500 degrees Fahrenheit shall be maintained in the afterburner (or secondary chamber) when the equipment it serves is in operation.
- AQ4. The o/o shall use regulated pipeline natural gas in this equipment. When natural gas service is interrupted, the o/o may use LPG.
- AQ5. The total quantity of material introduced into this equipment for incineration shall not exceed 600 pounds in any hour, and this device shall not be operated for more than 2,912 hours in any calendar year.
- AQ6. The o/o shall maintain an operational log for this equipment. This log shall be maintained current, on-site for a minimum of two (2) years and provided to District, State or Federal personnel on request. The log shall contain the following at a minimum:
- a. Date, weight incinerated, and hours operated on that day;
 - b. Cumulative monthly and annual hours operated;
 - c. Volume of natural gas and/or LPG used on a calendar month basis;
 - d. Date and time of all upsets and/or malfunctions; and,
 - e. A description of all repairs or maintenance performed with date performed.

Apple Valley Fire Protection District Conditions of Approval

- FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

FD2. Tenant Improvement plans shall be submitted to the Fire District for approval prior to construction.

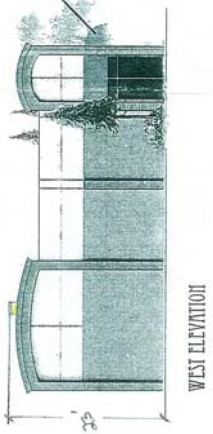
END OF CONDITIONS



SOUTH ELEVATION

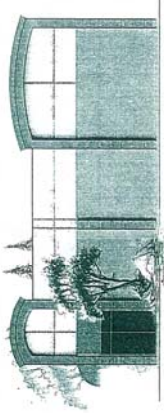
MATERIAL/COLOR BOARD

- Store Front
United States Aluminum
Asst 399CB00
- Canopy
Match Fall Foliage
DE5257



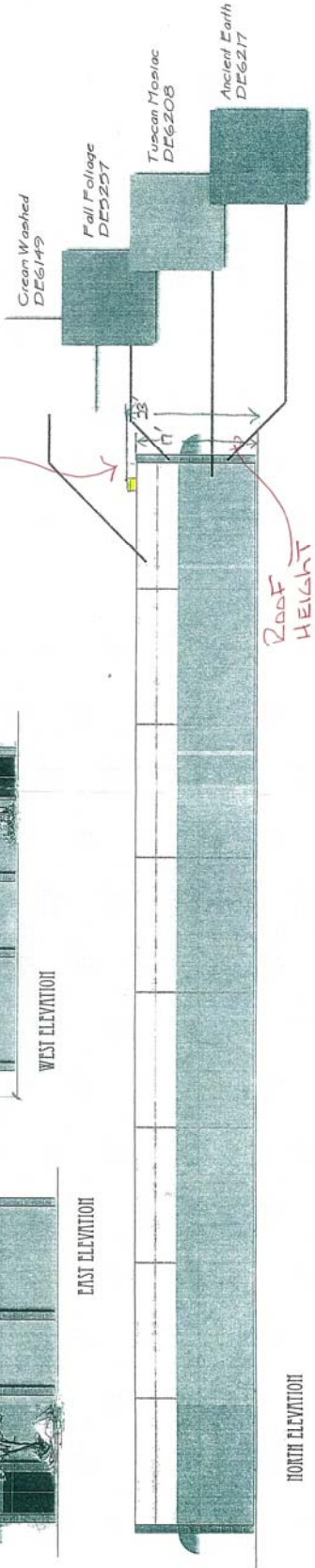
WEST ELEVATION

CHIMNEY
HEIGHT



EAST ELEVATION

Exterior Dunn Edwards Paint Colors



NORTH ELEVATION

Green Washed
DE6149

Fall Foliage
DE5257

Tuscan Mosaic
DE6208

Ancient Earth
DE6217

ROOF
HEIGHT

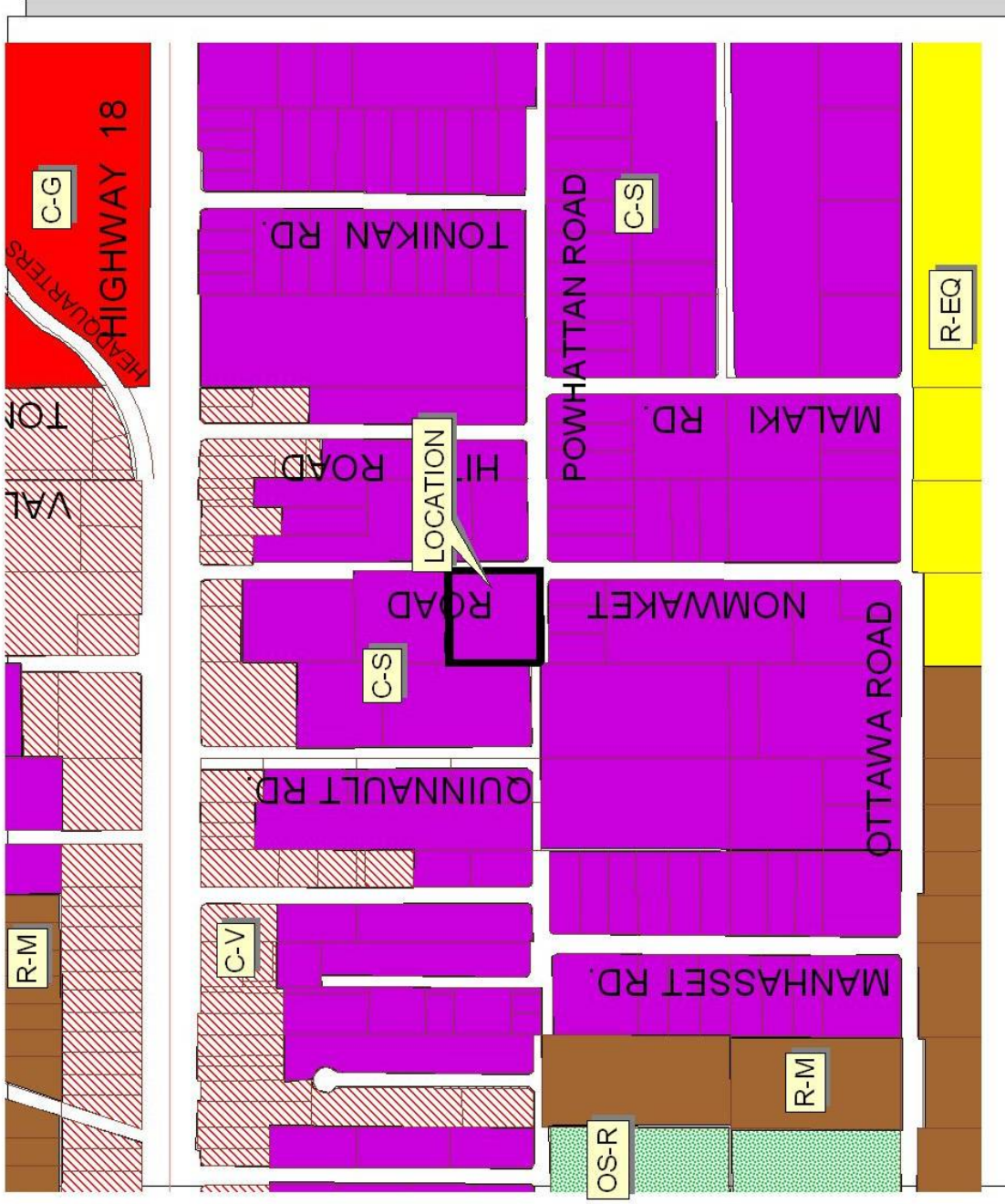
NONWAKET BUSINESS CENTER

DL06.C



ZONING MAP

CONDITIONAL USE PERMIT NO. 2008-004



Located at
13558 Nomwaket Road
APN 3087-381-05



Zoning Designations

	(R-1) Residential Single-Family (100 per 0.4 to 0.9 net acres)
	(R-2) Residential Single-Family (2 to 15' DU per acre)
	(R-3) Residential Single-Family (2 to 15' DU per acre)
	(C-V) Village Commercial
	(C-S) Special Commercial
	(OS-R) Office/Professional
	(R-EQ) Residential Estate



**ENVIRONMENTAL CHECKLIST FORM
(INITIAL STUDY)
FOR**

PROPOSED
Conditional Use Permit No. 2008-004

Prepared by :
Pam Cupp
Associate Planner

Town of Apple Valley
Planning Division
June 30, 2008

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**TOWN OF APPLE VALLEY
INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM**

This form and the descriptive information in the application package constitute the contents of Initial Study pursuant to Town of Apple Valley Development Code and Section 15063 of the State CEQA Guidelines.

PROJECT INFORMATION

1. Project title: **Conditional Use Permit No. 2008-001** USGS Quad: Apple Valley South
 Quadrangle
 T,R,Section: T5N, R3W, Section 27
2. Lead agency name and address: **Town of Apple Valley
 Planning Division
 14955 Dale Evans Parkway
 Apple Valley, CA 92307** Thomas Bros: 4388/A-2
 Location: Town of Apple Valley
 Town Zoning: Service Commercial (C-S)
3. Contact person and phone number: **Pam Cupp, (760) 240-7000 ext. 7203
 Associate Planner** APN: 3087-381-05
4. Project location:
13558 Nomwaket Road, Suite Nos. A-B and C, within the Town of Apple Valley (See Vicinity Map).
5. Description of project:
The applicant is requesting approval of a Conditional Use Permit to allow the operation of two (2) crematories that would provide cremation services for both human and animal remains. The project will occupy two (2) suites, totaling approximately 4,500 square feet of leased space, within an existing industrial complex. The project site is approximately two (2) acres in size and is located within the Service Commercial (C-S) zoning designation.

ENVIRONMENTAL/EXISTING SITE CONDITIONS

The proposed site is currently under development with three (3) industrial buildings, with a total of 24,710 square feet in floor area, previously approved under Development Permit No. 2008-07. The project site will contain paved parking, lighting and landscaping. Adjacent tenants to the proposed crematory are unknown at this time. The project site and all surrounding properties are within the Service Commercial (C-S) General Plan Land Use and zoning designations. To the north is an industrial building with tenants that include a church, machine shop, Judo studio and private storage units. There is an industrial use building located to the south that houses a powder coating business and a machine shop. To the east of the site is a vehicle impound yard, a legal, non-conforming residential unit and vacant property. The property to the west is vacant.

	EXISTING LAND USE	TOWN OF APPLE VALLEY ZONING AND GENERAL PLAN DESIGNATION
North	Industrial Building	Service Commercial (C-S) Service Commercial (C-S)
South	Industrial Building	Service Commercial (C-S) Service Commercial (C-S)

East	Vehicle Impound Yard and a legal non-conforming residential unit.	Service Commercial (C-S) Service Commercial (C-S)
West	Vacant	Service Commercial (C-S) Service Commercial (C-S)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural/Paleontological | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation / Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation, the following finding is made:

- The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Pam Cupp

June 30, 2008
Date

Associate Planner

Lori Lamson
Assistant Director of Community Development

Date

Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
--------------------------------------	---	------------------------------------	--------------

I. AESTHETICS

Would the project:

- | | | |
|--|---|---|
| a) Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/>
<input checked="" type="checkbox"/> | <input type="checkbox"/>
<input type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> |

SUBSTANTIATION (check ___ if project is located within the viewshed of any Scenic Route listed in the General Plan):

- a-b: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building. The site is not located along, nor within the viewshed of, a Scenic Route listed in the County General Plan, Town General Plan or designated by the State of California. No impact is anticipated.
- c: The project will require the installation of an exhaust pipe that will be completely screened from public view. The equipment approved for use by the Mojave Desert Air Quality Management District (MDAQMD) is smokeless and odorless when operated correctly by trained personnel. Heatwaves will be visible and together with exterior signage denoting the existence of a crematory will have a less than significant impact.
- d: The project will not create any new light sources; therefore, no impact is anticipated.

II. AGRICULTURE RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping

and Monitoring Program of the California Resources Agency, to non-agricultural use?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if project is located in the Important Farmlands Overlay):

a-c: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The site is not located in an area that has been designated by the California Department of Conservation as an Important Farmland, and it is not being used for agricultural purposes. No Williamson Act Contracts exist for the subject parcel and use of the site as a commercial retail center will not result in the conversion of farmland to a non-agricultural use. No impact is anticipated.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
d) Expose sensitive receptors to substantial pollutant				

concentrations?

e) Create objectionable odors affecting a substantial number of people?

SUBSTANTIATION:

a-e: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project area is located within the Mojave Desert Air Quality Management District (MDAQMD) which lies in the San Bernardino County portion of the Mojave Desert Air Basin (MDAB). This portion of the basin has been designated as a 'non-attainment' area with respect to violating National Air Quality Standards for particulate matter classified as equal to, or smaller than, 10 microns in diameter (PM₁₀). MDAQMD has completed its review of the proposal and has issued a permit for construction. The equipment proposed for use is smokeless and odorless when operated correctly by trained personnel. The same equipment is currently in use in San Diego, Hayward and Santa Ana with no complaints on file. Any future development shall meet and/or exceed all of the Town's adopted development standards to minimize any potential impacts. Crematories are a permitted use within the Service Commercial (C-S) zoning designation with the approval of a Conditional Use Permit. The Conditional Use Permit will not permit emissions of any air contaminants in excess of those allowed by law, including Division 26 of the Health and Safety Code of the State of California and the Rules and Regulations of the Mojave Desert Air Quality Management District. No impact is anticipated.

IV. BIOLOGICAL RESOURCES

Would the project:

Potentially Significant Impact Less than Significant with Mitigation Incorp. Less than Significant Impact No Impact

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the

Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if project is located in the Biological Resources Overlay ___ or contains habitat for any species listed in the California Natural Diversity Database ___):

a-f. This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. No new construction will occur that may interfere with any biological resources; therefore, no impact is anticipated.

V. CULTURAL RESOURCES

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	

d) Disturb any human remains, including those interred outside of formal cemeteries?

SUBSTANTIATION (check if the project is located in the Cultural _____ or Paleontologic Resources overlays or cite results of cultural resource review):

- a-c. This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project will not include any exterior construction; therefore, no impacts to a historical resource would occur as a result of the project as defined in § 15064.5.
- d. The project includes the cremation of human and animal remains under the authority of designated individuals. The Department of Consumer Affairs Cemetery and Funeral Bureau will be the agency responsible for annual inspections to insure that the business is operating in accordance with statute.

VI. GEOLOGY AND SOILS

Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

ii) Strong seismic ground shaking?

iii) Seismic-related ground failure, including liquefaction?

iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral

spreading, subsidence, liquefaction or collapse?

d) Be located on expansive soil, as defined in Table 18 1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

SUBSTANTIATION (check if project is located in the Geologic Hazards Overlay District):

a (i-iv). The General Plan indicates that the project site is not located within a special studies (Alquist-Priolo) zone and, therefore, does not require a geologic study. Future commercial development would subject customers to geologic hazards such as earthquakes that occur from time to time in the Southern California area. The closest mapped fault is the Helendale Fault, which lies approximately seven (7) miles northeast of the project site. The Mojave Desert is a seismically active region; however, safety provisions identified in the Uniform Building Code shall be required when development occurs which would reduce potential ground shaking hazards to a less than significant level. The project site is not within a known area which may be susceptible to the effects of liquefaction, and no hills or mountains surround the site that would subject future development to landslides or rock falls. Safety provisions identified in the Uniform Building Code shall be required when development occurs which will reduce potential ground shaking hazards to a level below significance. Apple Valley, like most cities in California, is located in a seismically active region. It can be expected, therefore, that the project site could experience strong seismic ground shaking at some point in time. Any future construction on-site shall be seismically designed to mitigate anticipated ground shaking. The project site is a flat developed site and landslides are not expected to impact areas of this type. A less than significant impact is anticipated.

b-e. The project does not include any construction activities that would contribute to soil erosion or top soil loss.

The project site is relatively flat. The potential of unstable soil condition, landslide, lateral spreading, subsidence, liquefaction or collapse is present because of the geographical make up of the area and the frequency of earthquake occurrences in Southern California. The General Plan indicates that the project site is not located within a special studies zone or an earthquake fault zone. Any project within the area of Southern California shall meet the latest UBC standards to minimize the potential impact caused by an earthquake. However, the project will meet and/or exceed the development standards set by the Town of Apple Valley. Therefore, there is a less than significant impact of soil erosion or instability occurring at this project site with proper construction methods and development standards as defined in the Town of Apple Valley Development Code and the latest UBC regulations. There is existing sewer available to serve the site. No impact is anticipated.

VII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	

SUBSTANTIATION:

a-h: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project does not include the storage or transportation of any hazardous materials. There are no schools or other sensitive receptors within one-quarter (1/4) mile of the site. No impact is anticipated.

VIII. HYDROLOGY AND WATER QUALITY

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
f) Otherwise substantially degrade water quality?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>	
g) Place housing within a 100-year flood hazard area as				

mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

j) Inundation by seiche, tsunami, or mudflow?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

a-j: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project will not have any impact upon drainage courses or water quality. The anticipated water usage is minimal; therefore, no impact is anticipated.

IX. LAND USE AND PLANNING

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Physically divide an established community?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	

SUBSTANTIATION:

a-c: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation and will not create any physical obstruction which would divide the community. No habitat conservation plan or natural community conservation plan exists over this site at this time. The proposed use is consistent with other uses in the vicinity and no land use conflicts are

anticipated. The proposed crematory is a permitted use with the approval of a Conditional Use Permit. No impact is anticipated.

X. MINERAL RESOURCES

Would the project:

- | | | |
|---|--|---|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> |

SUBSTANTIATION (check ___ if project is located within the Mineral Resource Zone Overlay):

a-b: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. No mineral resources will be impacted; therefore, no impact is anticipated.

XI. NOISE

Would the project result in:

- | | Potentially Significant Impact | Less than Significant with Mitigation Incorp. | Less than Significant Impact | No Impact |
|---|--|---|---|-----------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | <input type="checkbox"/>
<input checked="" type="checkbox"/> | |

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if the project is located in the Noise Hazard Overlay District ____ or is subject to severe noise levels according to the General Plan Noise Element __):

a-f: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The noise generated by the machinery will be typical to that of a "Shop-Vac" and will not expose persons to or generate noise levels in excess of standards established in the General Plan. No impact is anticipated.

XII. POPULATION AND HOUSING

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	

SUBSTANTIATION:

a-c. This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project will not induce population growth or displace housing units or people. No impact is anticipated.

XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

a. This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project will not increase the need for additional public services. No impact is anticipated.

XIV. RECREATION

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on				

the environment?

SUBSTANTIATION:

a-b: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. The project will have no impact upon recreational facilities; therefore, no impact is anticipated.

XV. TRANSPORTATION/TRAFFIC

Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) Result in inadequate parking capacity?

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

SUBSTANTIATION:

a-e: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located in Service Commercial (C-S) zoning designation. Traffic generated by the proposal will not exceed the anticipated traffic levels identified within the General Plan for the Service Commercial (C-S) zoning designation. A less than significant impact is anticipated.

XVI. UTILITIES AND SERVICE SYSTEMS

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
f) Be served by a landfill(s) with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	

SUBSTANTIATION:

a-g: Sewage disposal shall be by connection to the Apple Valley Sewer System. Financial arrangements This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located within the Service Commercial (C-S) zoning designation. No impact is anticipated.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? <input type="checkbox"/> <input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. <input type="checkbox"/>		<input type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/>	
c) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? <input type="checkbox"/> <input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
d) Does the project have environmental effects which will cause Substantial adverse effects on human beings, either directly Or indirectly? <input type="checkbox"/> <input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	

SUBSTANTIATION:

a-d: This is a request to operate a crematory that will occupy approximately 4,500 square feet within an existing industrial building located within the Service Commercial (C-S) zoning designation. No impact is anticipated.

REFERENCES

(List author or agency, date, title)

Alquist-Priolo Special Studies Zone Act Map Series (PRC 27500)

California Department of Water Resources, Bulletin #118 (Critical Regional Aquifers), 1975.

County Museum Archaeological Information Center, Historical Resources Review, August 10, 1999

County of San Bernardino, Countywide Integrated Waste Management Plan, March 1995

County of San Bernardino Hazard Overlay Maps

County of San Bernardino Identified Hazardous Materials Waste Sites List, April 1998

Environmental Impact Report, San Bernardino County General Plan, 1989

Federal Emergency Management Agency Flood Insurance Rate Map and Flood Boundary Map (Map # 06071C5840F dated 3/18/96).

Mojave Desert Air Quality Management District, Mojave Desert Planning Area – Federal Particulate Matter (PM10) Attainment Plan, July 1995

Mojave Desert Air Quality Management District, Rule 403.2: Fugitive Dust Control Planning Area, July 1996

Mojave Desert Air Quality Management District Authority to Construct Permit No. I010258, June 19, 2008

Town of Apple Valley, General Plan

**MINUTES
EXCERPT
TOWN OF APPLE VALLEY
PLANNING COMMISSION
Regular Meeting
Wednesday, July 16, 2008**

CALL TO ORDER

At 6:03 p.m., the regular meeting of the Planning Commission of the Town of Apple Valley for July 16, 2008, was called to order by Chairman Hernandez.

ROLL CALL

Roll call was taken with the following members present: Commissioner Richard “Dick” Allen; Commissioner Bruce Kallen; Commissioner John Putko; Chairman David Hernandez. Excused Absence: Vice-Chairman B.R. “Bob” Tinsley

STAFF PRESENT

Ken Henderson, Director of Economic and Community Development; Becky Reynolds, Principal Planner; Carol Miller, Senior Planner; Richard Pedersen, Deputy Town Engineer; Pam Cupp, Associate Planner; Conrad Olmedo, Assistant Planner, and Patty Hevle, Planning Commission Secretary.

PUBLIC HEARING ITEMS

3. Conditional Use Permit No. 2008-004.

Applicant: Affordable Cremations of the High Desert

Location: The site is located at 13558 Nomwaket Road, Suite Nos. A-B and C.

Chairman Hernandez opened the public hearing at 6:09 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division.

Commissioner Kallen had questions concerning staff's research on this project.

Ms. Cupp responded that she contacted other cities regarding complaints on these types of facilities and also spoke with the manufacturer of the equipment. She stated that notices were sent out to the property owners within a three-hundred (300) foot radius of the project.

Chairman Hernandez requested to know if any tenants in the surrounding buildings had been notified.

Ms. Becky Reynolds, Principal Planner, stated that the Development Code only requires that property owners be notified, so no tenants had been notified.

Commissioner Kallen expressed concerns about equipment malfunctions for the crematorium.

Mr. Steve Atmore, the applicant, stated he agreed with all of the Conditions of Approval.

Commissioner Allen requested to know if the applicant had talked to the potential tenants surrounding the project.

Mr. Atmore responded that the Air Quality Management District (AQMD) requires that they contact properties within a one thousand (1000) foot radius. He stated he had contacted fifty-nine (59) businesses and advised them of his project, none of which had any objections.

Commissioner Putko requested to know the capacity of the facility and the intended signage.

Mr. Atmore responded that the facility will hold twenty-five (25) remains and there will be a sign on the kiosk in front of the property as well as his name on the window; however, he was unsure of the wording at this time.

Commissioner Kallen requested to know if he had a list of the businesses that he contacted and he also had questions concerning the equipment to be used in the facility.

Mr. Atmore stated he provided a list to the Town as well as AQMD. He explained the equipment that would be used in the crematorium and stated he would have a backup generator in case of a power failure.

Commissioner Allen requested to know if the residents of the nearby mobile home park had been notified of the hearing.

Ms. Cupp stated they were not within the three hundred (300) foot radius requirement for notification.

Mr. Jeremy Klaers, Apple Valley, stated he was a tenant with a shop on Powhatan and was not notified of the project. He stated he spoke to other tenants and they were also opposed.

Mr. Carl Jones, Apple Valley, stated the crematorium will be a tenant in his complex. He stated the service will be a benefit to the Town, and spoke in favor of the project.

Since there was no one else in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 6:35 p.m.

Commissioner Kallen commented on wanting a noticing of a larger area requirement because of the nature of the business and it being the first of its kind in Apple Valley. He also stated that the Village area property owners should all be aware of this type of project.

Commissioner Putko agreed due to the nature of the business.

MOTION:

Motion by Commissioner Allen to approve the project.

Motion died for lack of a second.

Commission Discussion:

Chairman Hernandez felt that the noticing requirements on these types of projects should be extended to a one thousand (1000) foot minimum, as well as a notice in the newspaper.

Ms. Reynolds requested to know if the Commission was considering a continuance, with a requirement for more extensive noticing, of the project.

Commissioner Kallen responded he would like the Village Property Owner's Association be notified, as well as all tenants within one thousand (1000) feet of the proposed project.

MOTION:

Motion by Commissioner Putko, seconded by Commissioner Kallen, that the Planning Commission move to continue this item to the August 20, 2008 meeting, directing staff to notice the Village Property Owner's Association, as well as tenants and owners within a one thousand (1000) foot radius of the project.

ROLL CALL VOTE:

Ayes: Commissioner Allen

Commissioner Kallen
Commissioner Putko
Chairman Hernandez
Noes:

Abstain: None
Absent: Vice-Chairman Tinsley
The motion carried by a 4-0-0-1 vote

Commissioner Allen stated he was yielding his favorable vote based on common sense.



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** July 16, 2008
- CASE NUMBER:** Conditional Use Permit No. 2008-004
- APPLICANT:** Affordable Cremations of the High Desert
- PROPOSAL:** A request for approval of a Conditional Use Permit to allow the operation of two (2) crematories that would provide cremation services for both human and animal remains. The project will occupy three (3) suites, totaling approximately 4,500 square feet of leased space within an existing industrial building. The project site is approximately two (2) acres in size and located within the Service Commercial (C-S) zoning designation.
- LOCATION:** The site is located at 13558 Nomwaket Road, Suite Nos. A-B and C; APN 3087-381-05.
- ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared.
- CASE PLANNER:** Ms. Pam Cupp, Associate Planner
- RECOMMENDATION:** Approval

PROJECT SITE AND DESCRIPTION

- D. Project Size:
The project will be located within an existing industrial building located on a 2.2 acre site.
- E. General Plan Designations:
Project Site - Service Commercial (C-S)
North - Service Commercial (C-S)
South - Service Commercial (C-S)
East - Service Commercial (C-S)
West - Service Commercial (C-S)

F. Surrounding Zoning and Land Use:

Project Site-	Service Commercial (C-S), Industrial Complex Under Construction
North -	Service Commercial (C-S), Church
South -	Service Commercial (C-S), Industrial Building
East -	Service Commercial (C-S), Vacant, Industrial Building and a legal, non-conforming residential structure
West -	Service Commercial (C-S), Vacant

ANALYSIS

H. General:

The applicant is requesting Planning Commission review and approval of a Conditional Use Permit to allow the installation and operation of two (2) crematories within an existing industrial building. The project will occupy three (3) suites, totaling 4,500 square feet in floor area. Pursuant to the Development Code, a Conditional Use Permit is required for any crematory operating within the Service Commercial (C-S) zoning designation. The Conditional Use Permit process allows the public and Planning Commission the opportunity to consider certain uses which may have potential adverse impacts upon surrounding property or the general public.

I. Site Analysis:

The proposed site is located at the northwest corner of Powhatan and Nomwaket Roads. The site is currently under development with three (3) industrial buildings previously approved under Development Permit No. 2007-014. The project site contains a total of 24,710 square feet of leasable industrial and office space in addition to paved parking, lighting and landscaping. Aside from the proposed crematories, which will be located in Suite Nos. A-B and C of Building No. C, the remaining suites within the industrial complex are not currently leased. The suites to be occupied by the crematory operation are located at the northwestern corner of the project site with no direct street frontage.

The project site and all surrounding properties are within the Service Commercial (C-S) General Plan Land Use and zoning designations. To the north is an industrial building with tenants that include a church, machine shop, Judo studio and private storage units. There is an industrial use building located to the south that houses a powder coating business and a machine shop. To the east of the site is a vehicle impound yard, a legal, non-conforming residential unit and vacant property. The property to the west is vacant.

1. Traffic and Circulation

Access to the industrial center is available from Powhatan and Nomwaket Roads, both of which are improved to Town standard with curb, gutter and sidewalk.

J. Use Analysis

The applicant proposes to operate two crematories within Building No. C at the Nomwaket Business Center. Suite No. A-B is 3,000 square feet in size and will be used for the cremation of human remains only. Suite No. C is 1,500 square feet in size and will be used for the cremation of animals. Staff is recommending Condition Nos. P13 and P14 requiring that the crematory only be used to cremate human or animal remains and the container used to transport the remains. Besides the actual cremation process, this facility will not be permitted to perform any body preparation involving the release of any bodily fluids into the Town's sewer system (Condition No. P15).

The applicant indicates that the units will contain the crematory, refrigeration unit, washer/dryer and office space. The installation of the crematory will require the addition of

a smokestack. The smokestacks will extend approximately six (6) feet above the roofline. Staff is recommending Condition No. P7 requiring architecturally compatible screen walls to be constructed to conceal the smokestack from public view. Staff is further recommending Condition No. P20 prohibiting any visual discharge from the smokestack.

The applicant will be utilizing new cremation equipment that is completely smokeless and odorless when operated correctly. Based upon the manufacturer's instructions, and to avoid the accidental discharge of any smoke or odors, the maximum amount of throughput for any one cremation may not exceed 600 pounds, including the weight of the container (Condition No. P17).

Staff conducted research into three existing facilities in California utilizing the identical equipment. The three facilities include Fairhaven Cemetery in Santa Ana, Greenwood Memorial Park in San Diego and Holy Angels Funeral and Cremation Center in Hayward. There have been no complaints filed against any of these three (3) facilities using the equipment proposed under this Conditional Use Permit.

The Mojave Desert Air Quality Management District (MDAQMD) has completed its review and has issued its permit to commence installation of the crematory. The MDAQMD requires the facility to obtain an air quality permit on an annual basis. To ensure conformance with all conditions and monitoring as deemed necessary by the MDAQMD, staff has included Condition No. P18 requiring that the applicant provide all conditional approvals and initial operating permits for inclusion into the permanent record. The MDAQMD requires, and staff has Conditioned, the owner/operator of the facility to maintain a log that contains the following information:

- f) Date, weight incinerated, and hours operated on that day;
- g) Cumulative monthly and annual hours operated;
- h) Volume of natural gas and/or LPG used on a calendar month basis;
- i) Date and time of all upsets and/or malfunctions; and,
- j) A description of all repairs or maintenance performed with date performed.

Crematories in California are governed by the California Department of Consumer Affairs Cemetery and Funeral Bureau. Annual inspections include but are not limited to, ownership and management practices, facility, licenses, contracts and disclosures, identification requirements and cremation records. The applicant may not obtain a license from the Cemetery and Funeral Bureau until land entitlements have been received. Staff has included Condition No. P19 requiring the applicant to obtain the required permits from the Cemetery and Funeral Bureau, providing copies of all condition approvals and permits for inclusion into the permanent record prior to issuance of a Certificate of Occupancy.

In conducting the project review, staff considered the issue of noise and emissions. Noise generated from this type of facility will be minimal and is required to conform to the Town's Noise Ordinance. In addition, project emissions must be in strict compliance with MDAQMD. Based upon the information provided within the analysis, including completed research and comments received from outside agencies, permitting a crematory to operate within the Service Commercial (C-S) zoning designation will not be detrimental to the public's health, safety or welfare. Therefore, staff has provided the positive Findings for the Commission's review.

The facility will be open Monday through Friday from 9:30 a.m. to 5:00 p.m. However, staff will remain on-call twenty-four (24) hours per day. The applicant has indicated that, initially,

there will be two (2) to three (3) employees on duty at any given time. Services and product line will be available for review and purchase at the facility. However, the intent of the business plan is to encourage all individuals or families requesting services to allow the crematory's own counselors to visit within the family home or other familiar environment.

Human remains shall be delivered to the crematory by duly licensed personnel. All transportation vehicles will be unmarked with remains delivery occurring through existing receiving doors with no public exposure. Staff is recommending Condition No. P16, requiring all deliveries to, and shipments from, the facility be conducted with no public exposure. This would include, but not limited to, any human or animal remains.

K. Development Review Committee:

The proposal was distributed to all concerned agencies and departments. The recommended conditions of approval are attached for the Commission's consideration.

L. Environmental Assessment:

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared.

M. Noticing:

This item was advertised as a public hearing in the Apple Valley News newspaper and notices were mailed to all property owners within a 300-foot radius on June 20, 2008. There have been no verbal or written comments received as of the date of this writing.

N. Conditional Use Permit Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make specific Findings. The Findings, and a suggested comment to address each, are presented below:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed crematory is in compliance with the Development Code of the Town of Apple Valley and adopted General Plan, upon the review and approval of a Conditional Use Permit by the Planning Commission.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The proposed crematory is compatible with the surrounding area which is developed with industrial uses. The suites are located to the rear of an existing industrial complex with no direct street frontage and are visually buffered. The proposal, with adherence to the recommended Conditions of Approval, will be compatible with the surrounding area.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The proposed crematory will be located within an existing industrial center, which was approved for construction under Development Permit No. 2007-014. The center is compatible in scale, bulk, lot coverage and density with adjacent uses.

4. That there are public facilities, services and utilities available at the appropriate levels or that these will be installed at the appropriate time to serve the project as they are needed;

Comment: The proposed crematory will be located within an existing industrial building. There are existing facilities and utilities available to serve the site.

11. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The location, size, design and operating characteristics of the proposed crematory will not be detrimental to the public health, safety or welfare, nor will it be materially injurious to properties or improvements in the vicinity. When operated in conformance with the manufacturer's and MDAQMD guidelines, there will be no smoke or odors released from the facility; therefore, there will be no harmful effects upon neighborhood characteristics.

12. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: Traffic generated from the crematory will be consistent with the existing industrial uses within the vicinity and will not adversely impact the surrounding area. The proposal will be located within an existing industrial complex located at the northwest corner of Powhatan and Nomwaket Roads, which are both improved to the Town's local industrial road standards, and can accommodate traffic generated from the proposed use.

13. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: Traffic generated from the crematory will be consistent with the existing industrial uses within the vicinity and will not adversely impact the surrounding area. The proposal will be located within an existing industrial complex located at the northwest corner of Powhatan and Nomwaket Road, which are both improved to the Town's local industrial road standards, and can accommodate traffic generated from the proposed use.

14. That there will not be significant harmful effects upon environmental quality and natural resources;
- Comment: When operated in conformance to the Conditions of Approval and the manufacturer's operating guidelines, MDAQMD Conditions of Approval and the rules and regulations of the Department of Consumer Affairs, the proposed crematory will not produce adverse impacts upon the sites nor the surrounding properties with adherence to the Conditions of Approval.
15. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;
- Comment: The proposed crematory must obtain permits from the appropriate agencies prior to operation. The equipment shall be maintained to meet air quality and noise standards. Therefore, the project will not produce adverse impacts upon the site, nor the surrounding properties.
16. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;
- Comment: The location, size, design and operating characteristics of the proposed crematory will not be detrimental to the public health, safety or welfare, nor will it be materially injurious to properties or improvements in the vicinity.
11. That the proposed conditional use will comply with all of the applicable provisions of this title.
- Comment: The operations of the crematory will be in conformance to the Development Code, subject to approval of a Conditional Use Permit and adherence to the recommended Conditions of Approval.
12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;
- Comment: The proposed crematory will be located within an existing industrial complex, which has been designed with materials, textures and details compatible with the adjacent neighboring structures.
13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
- Comment: The industrial complex, previously approved under Development Permit No. 2007-014, has appropriate setbacks, meets height requirements, does not block public views and is a compatible use that is consistent in scale to other commercial structures in the area.

The crematory will be located within three (3) suites that are located to the rear of the industrial complex and will not be readily visible from public views.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

Comment: The proposed crematory will be located within an existing industrial complex, which has been designed with materials, textures and details compatible with the adjacent neighboring structures.

15. That access to the site and circulation on- and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed crematory will be located within an existing industrial complex and has been designed to allow traffic flows on- and off-site to be safe and convenient for pedestrians and motorists.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

Determine that the proposed Conditional Use Permit will not have a significant effect on the environment, with adherence to the Conditions of Approval recommended in this report.

Adopt the Negative Declaration for Conditional Use Permit No. 2008-004, finding that, on the basis of the whole record before the Planning Commission (including the Initial Study and any comments received), there is no substantial evidence that the project will have a significant effect on the environment and that the Negative Declaration reflects the Town's independent judgment and analysis. The Negative Declaration is available at the Town's Economic and Community Development Department which constitutes the record of proceedings upon which its decision is based.

Find that the facts presented in the staff report support the required Findings for approval and adopt those Findings.

Approve Conditional Use Permit No. 2008-004, subject to the attached Conditions of Approval.

Direct staff to file a Notice of Determination.

Prepared By:

Reviewed By:

Pam Cupp
Associate Planner

Lori Lamson
Assistant Director of Community Development

RECOMMENDED CONDITIONS OF APPROVAL
Conditional Use Permit No. 2008-004

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve or alleviate the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

Planning Division Conditions of Approval:

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Conditional Use Permit becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. The applicant shall agree to defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P4. The filing fee for a Notice of Determination (NOD) requires the County Clerk to collect a handling fee of \$50.00. Additionally, as of January 1, 2008, a fee of \$1,876.75 is required to be collected by the County for the processing of a NOD for the State Fish & Game fees. The fees must be paid within five (5) days of the approval of this application in order to reduce the Statute of Limitations to thirty (30) days. All fees must be submitted prior to the issuance of any permits. All checks shall be made payable to the Clerk of the Board of Supervisors.

- P5. The approval of Conditional Use Permit No. 2008-004 by the Planning Commission is recognized as acknowledgment of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P6. Prior to issuance of a building permit, the applicant shall provide the Building Division with a copy of the building plans in an electronic format compatible with the Town's current technology.
- P7. All outdoor mechanical and electrical equipment, including smokestack, whether rooftop, side of structure, or on the ground, shall be screen from view from the public street by architectural elements designed to be an integral part of the building.
- P8. Access to roofs shall be from the interior of the building. If roof access is on the exterior of the building, the roof access ladder shall be screened from view from any public street or public parking area and security shall be provided to prevent unauthorized access.
- P9. All lighting used in parking lots for security purposes or safety-related uses shall be scheduled so light rays emitted by the fixture are projected below the imaginary horizontal plane passing through the lowest point of the fixture and in such a manner that the light is directed away from streets and adjoining properties. Light poles in parking lot shall not exceed twenty (20) feet in height.
- P10. Trash Enclosure shall be in accordance with Town Standards and is recommended to reflect the architectural design of approved project subject to the review and approval of the Planning Division. Trash enclosures shall be located at convenient distances from the building they serve.
- P11. All identification signs shall have a separate permit and are subject to final approval by the Town Planning Division.
- P12. Conditional Use Permit No. 2008-004 may be reviewed annually or more often, if deemed necessary by the Economic and Community Development Department, to ensure compliance with the conditions contained herein. Additional conditions may be recommended to and imposed by the Planning Commission to mitigate any negative impacts resulting from the business operations not contained within the scope of this permit.
- P13. The crematory in Suite A-B may only be utilized to incinerate human remains and containers used to transport the remains.
- P14. The crematory in Suite C may only be utilized to incinerate animal remains. Animals used for clinical testing may not be incinerated at this location.
- P15. Body or animal preparations causing the release of any bodily fluids into the sewer system is prohibited.
- P16. Any shipments from, or deliveries to the facility must be completely screened from public view.

- P17. The maximum weight limit for any one (1) cremation shall be 600 pounds, including the weight of the container.
- P18. The applicant shall provide the Planning Division with copies of all conditional approvals and initial operating permits from the Mojave Desert Air Quality Management District prior to issuance of any occupancy permit.
- P19. The applicant shall provide the Planning Division with copies of all conditional approvals and operating permits from the California Department of Consumer Affairs Cemetery and Funeral Bureau prior to issuance of any occupancy permit.
- P20. Visible heat waves will be apparent; however, any smoke or obnoxious odor discharge is prohibited. Failure to comply may result in revocation of Conditional Use Permit No. 2008-004.

Public Works Division Conditions of Approval

Prior to Map Recordation:

- PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

Mojave Desert Air Quality Management District Conditions of Approval

- AQ7. The owner/operator (o/o) shall install, operate and maintain this equipment in strict accord with the recommendations of the manufacturer/supplier and/or sound engineering principles.
- AQ8. This equipment shall be operated by personnel properly trained in its operation.
- AQ9. A temperature of not less than 1,500 degrees Fahrenheit shall be maintained in the afterburner (or secondary chamber) when the equipment it serves is in operation.
- AQ10. The o/o shall use regulated pipeline natural gas in this equipment. When natural gas service is interrupted, the o/o may use LPG.
- AQ11. The total quantity of material introduced into this equipment for incineration shall not exceed 600 pounds in any hour, and this device shall not be operated for more than 2,912 hours in any calendar year.
- AQ12. The o/o shall maintain an operational log for this equipment. This log shall be maintained current, on-site for a minimum of two (2) years and provided to District, State or Federal personnel on request. The log shall contain the following at a minimum:
- Date, weight incinerated, and hours operated on that day;
 - Cumulative monthly and annual hours operated;
 - Volume of natural gas and/or LPG used on a calendar month basis;
 - Date and time of all upsets and/or malfunctions; and,
 - A description of all repairs or maintenance performed with date performed.

Apple Valley Fire Protection District Conditions of Approval

- FD3. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.
- FD4. Tenant Improvement plans shall be submitted to the Fire District for approval prior to construction.

END OF CONDITIONS