

<b>DECISION DATE:</b>	June 10, 2020
<b>PREPARED BY:</b>	S. Perkins
<b>DECISION BY:</b>	Planning Commission

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Design Review 1-20 (DR 1-20)  
Minor Use Permit 4-20 (MUP 4-20)

**APPLICANT:** Dilip Khatri

**OWNER:** 4x4 Investments, LLC

**REQUEST:** Design Review Permit and Minor Use Permit to 1) reconstruct a mortuary that was destroyed by fire at 445 East Fir Street; 2) expand a non-conforming land use (mortuary); and 3) request a reduction in off-street parking requirements.

**LOCATION:** 445 East Fir Street

**ASSESSOR'S PARCEL NO.:** 008-086-069

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt from CEQA pursuant to Section 15302 – replacement or reconstruction of a commercial structure with a new structure of substantially the same size, purpose and capacity.

**SURROUNDING LAND USES:** NORTH: Residential  
EAST: Residential  
SOUTH: Residential  
WEST: Residential

**APPEALABLE PROJECT:**  Can be appealed to City Council

## BACKGROUND

The land use “Mortuary, funeral home” is defined in the Inland Land Use and Development Code (ILUDC) as “funeral homes and parlors, where deceased are prepared for burial or cremation, funeral services may be conducted, and cremation may occur.” This land use is presumed to include the “accessory uses” customarily associated with mortuaries, such as offices, retail displays or gathering areas.

“Mortuary, funeral home” is a land use that is permitted only in the Office Commercial (CO), General Commercial (CG), and in the Very High Density Residential (RVH) zoning districts with an approved Use Permit. 445 East Fir Street is in the Low Density Residential (RL) zoning district, where the “Mortuary, funeral home” land use is not permitted. As a result, the Chapel by the Sea formerly operated as a legally nonconforming land use, meaning that it was legally established and maintained before the adoption of the ILUDC, but does not conform to the current code requirements.

Additionally, Water Department records indicate that there was one residential unit on the property with a separate water meter and water bill. The ILUDC defines this unit as a “residential component of a mixed use project” since it is present in association with a primary commercial use. Residential components of mixed use projects are also not permitted in the RL zoning district; therefore, the residential unit is also a legally nonconforming land use.

Chapter 18.90 of the ILUDC regulates nonconforming land uses, and how they may be reestablished or expanded. There are different requirements for nonconforming land uses (a land use established in a zoning district where it presently would not be allowed) and nonconforming structures (structures located or built in a way inconsistent with the current code, such as within areas of required setbacks or beyond the lot coverage maximums). The mortuary is a nonconforming land use, as discussed in the paragraphs above. The structures that burned at 445 East Fir Street were also nonconforming with respect to setbacks. The structures along the north and west property boundaries are required to maintain 5-foot setbacks from the property line, per the ILUDC. The original site plans associated with the construction permits for the facility depict a setback along the north property line of 3.6 feet. The plans depict the garage as 1.8 feet from the north property line. As a result, the both the garage and main mortuary building are nonconforming uses (mortuaries are not permitted in the RL zoning district) and nonconforming structures (the buildings do not meet the setback requirements).

Section 18.90.050(B) states the following, with key points highlighted:

**B. Termination by destruction.** Nonconforming status shall terminate if a nonconforming structure, or a conforming structure occupied by a nonconforming use, is involuntarily damaged or destroyed, except as provided by Section 18.90.040 for dwellings, and except as follows.

1. If the cost of repairing or replacing the damaged portion of the structure is 75 percent or less of the assessed value of the structure immediately before damage, the structure may be restored to no more than the same size and use, and the use continued, if the restoration is started within 12 months of the date of damage and is diligently pursued to completion.

2. **Minor Use Permit approval shall be required** if the cost of repairing or replacing the damaged portion of the structure is more than 75 percent of the assessed value of the structure immediately before the damage, except that fair market value shall be used where a current licensed appraisal is available to the City. Minor Use Permit approval shall require a finding, in addition to those contained in 18.71.060.F. (Findings and decision), **that the benefit to the public health, safety, or welfare exceeds the detriment inherent in the restoration and continuance of a nonconformity.**

This states that the nonconforming use in the nonconforming structure at 445 East Fir Street may only be continued with Minor Use Permit approval, on the grounds that its continuance benefits the public.

In addition to the ILUDC policy on discontinuance by destruction, Section 18.90.050(A) states the following, with key points highlighted:

**A. Termination by discontinuance.**

1. **If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of 12 months or more, all rights to legal nonconforming status shall terminate.**
2. The Director shall base a determination of discontinuance on evidence including the removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, disconnected or discontinued utilities, or no business records to document continued operation.
3. **The Director may grant a Minor Use Permit to allow an extension of that 12-month period for a period not to exceed an additional 12 months if the Director finds that circumstances of a significant or unusual nature prevent or have prevented the timely reestablishment of the use.**
4. Once the rights to a legal nonconforming status have terminated, any further use of the site or structure shall comply with the regulations of the applicable zoning district and all other applicable provisions of this Development Code.

The fire that destroyed the facility occurred in January 2019. The nonconforming mortuary use would be considered discontinued at the time of the fire, and the nonconforming use could be terminated by discontinuance in January 2020, 12 months following the fire. A Minor Use Permit would be required to extend this timeline for an additional 12 months. Additionally, the City has considered an active building permit or business license to be evidence of the continuation of a nonconforming use. For example, if a building permit were applied for reconstruction of the nonconforming use, or a business license is maintained for the nonconforming use, staff would be able to determine that the nonconforming use is continuing. Records indicate an open and active building permit (BF 2019-0267) to “convert storage/laundry to offices, laundry, storage, half bath, large freezer.” The Chapel by the Sea also maintains an active business license for 445 East Fir Street. At present, the nonconforming use is not in jeopardy of being terminated by discontinuance.

In summary, the mortuary with the associated office, retail display area, gathering space and residential unit could be replaced with a Minor Use Permit finding that the continuance of the

nonconforming use is for the public welfare and would not be detrimental to the surrounding neighborhood.

Minor Use Permits are reviewed and approved by the Community Development Director, and on December 3, 2019, the property owner submitted an application for a Minor Use Permit to continue the nonconforming mortuary land use. This application was approved by the Acting Community Development Director on February 12, 2020, and granted a twelve-month extension on the reestablishment of the non-conforming land use (mortuary) due to circumstances that have prevented it being rebuilt in the twelve months following its destruction (MUP 5-19).

With the recent approval of the continuation of the nonconforming land use, the property owner is now seeking to reconstruct the building. Per the ILUDC, a Design Review Permit is required for nonresidential development projects of more than 250 square feet. Additionally, the property owner seeks to expand the nonconforming use by constructing an approximately 800 SF addition to the mortuary. Per the ILUDC, a nonconforming land use (mortuary) may be expanded within a conforming structure with an approved Minor Use Permit. The applicant proposes to reconstruct the building 10 feet from the northern/rear property boundary, thus making the replacement structure and area of the proposed expansion conforming to this setback requirement, and allowing an expansion of the mortuary use within the expanded structure. Adding to the structure triggers parking requirements, which the applicant seeks to reduce. The ILUDC also requires a Minor Use Permit for a reduction in parking requirements. In addition to the Design Review Permit, a Minor Use Permit is requested to expand the mortuary use within the proposed conforming structure, and to reduce the parking requirements. This report analyzes the project’s consistency with the findings necessary to approve the Design Review Permit and the Minor Use Permit.

The following summarizes the permit review process for this application:

<b>Application Processing Step</b>	<b>Notes</b>
1. Review application for completeness	After receiving the application for a Design Review Permit on March 17, 2020, CDD staff reviewed the application to ensure all materials required by 18.71.050(D) were submitted. The City sent the applicant a correction letter requesting additional information in order to process the application. The applicant submitted supplemental information on April 19, 2020. The application was deemed complete on April 20, 2020.
2. Refer application to outside agencies for review	On April 20, 2020, CDD staff referred the project to Public Works, the Fire Department and the Mendocino County Building Department and the Police Department for review and comment. The City received responses from Public Works and the Police

	Department on April 28, 2020 and April 23, 2021, respectively. Staff received a verbal response from the Fire Department on April 29.
3. Review consistency with ILUDC policies	After receiving comments from outside agencies, CDD staff reviewed the project for consistency with ILUDC policies. This staff report analyzes the project's consistency with the ILUDC and other local requirements.
4. Provide public notice regarding pending decision	On May 14, 2020, the City published notice of pending action in the Fort Bragg Advocate, website, and kiosk, and notified surrounding property owners of a pending decision. The Notice invited public comment on the project, and indicated that a public hearing would held on May 27, 2020.
5. Revision to project scope submitted by applicant.	On May 8, 2020, the applicant requested to expand the proposed structure and add to the floor area of the non-conforming use. This change also triggered parking requirements. Minor Use Permits were added to the project scope to accommodate these changes. A new site plan was submitted on May 17, 2020 showing the changed footprint and revised building location to meet setbacks.
6. Provide public notice regarding pending decision	On May 21, 2020, the City republished notice of pending action in the Fort Bragg Advocate, website, and kiosk, and notified surrounding property owners of a pending decision. The Notice invited public comment on the project, and indicated that a public hearing would held on June 10, 2020.
7. Review authority (Planning Commission) takes action (approves or denies) the application	The Planning Commission will review the application materials and staff report, receive public comment and take action on DR 1-20 and MUP 4-20 on June 10, 2020.

## PROJECT DESCRIPTION

The applicant proposes to rebuild the formerly-burned Chapel-by-the-Sea mortuary at 445 East Fir Street. The project would construct an approximately 7,058 SF mortuary, which includes an approximately 800 SF addition to the footprint of the former mortuary. The replacement structure would be relocated approximately 10 feet to the south, thereby meeting the required setback along the north property line. The garage would be rebuilt where it stood, legally nonconforming to the rear setback, and the apartment unit would remain (it was not destroyed in the fire). Two off-street loading spaces would be removed as part of the reconstruction. The building's design

is proposed to match the layout and appearance of the former structure, and the applicant proposes to retain the existing mature landscaping.

The project requires Design Review since it is a commercial structure greater than 250 SF in size, and a Minor Use Permit to modify parking requirements and expand the nonconforming mortuary land use.

## DESIGN REVIEW ANALYSIS

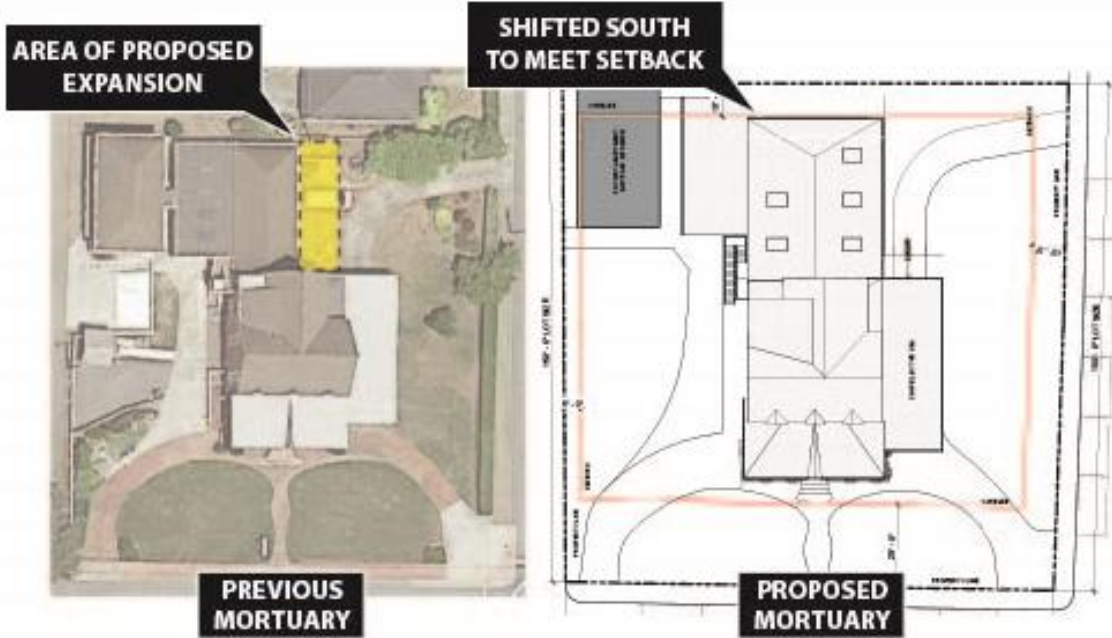
1. The project shall comply with the purpose and requirements of this Section.

The purpose of the relevant section of the ILUDC is "...to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community." Being as the structure proposed would replace a structure of substantially the same design and scale, this project would reestablish and maintain the character of the neighborhood as it has been historically. Provided the application is found consistent with the subsequently-listed approval findings in this report, it would comply with the requirements of this section of the ILUDC. Staff recommends the Planning Commission find the project consistent with this finding.

2. The project shall provide architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community.

The proposed structure would occupy a substantially similar footprint and be architecturally designed to match to formerly-burned building. The replacement structure would be shifted to the south to meet the zoning district's setback requirements, making the project more consistent with surrounding development.

The images below depict the proposed building footprint beside an aerial image of the property prior to the fire, and a comparison of the proposed elevations and the former elevations. See **Attachment 1** for complete project plans with views of all elevations. Aside from an approximately 800 SF expansion on the northeast side of the building, the proposed massing and scale would be equal to the former building, which was an established part of the community. The design would similarly mimic the previously-established structure.



Besides matching the former building, the design employs sharply pitched roof elements, windows with embellishments, and porches. These design elements are appropriate and compatible with the residential character of surrounding development.

3. The project shall provide attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.

As stated above, the proposed replacement structure would be largely consistent with the previously-existing mortuary. However, the replacement structure would be shifted to the south in order to meet the Low-Density Residential zoning district’s setback requirements, making the structure in conformance with the requirements of surrounding development.

The previous structure was painted red with white trim. The applicant is proposing a revised color palette for the replacement structure. The table below illustrates the proposed color scheme:

<b>Building Body</b>	Nomadic Desert SW 6107	<b>Trim</b>	Sherwin-Williams Creamy SW 7012
<b>Shingles</b>	Kilim Beige SW 6106	<b>Shutters</b>	SW 7069 Iron Ore

The revised colors are more subdued, and should allow the large, commercial structure to more cohesively blend with the character of the surrounding residential neighborhood.



Other components of the project (landscaping, signage, drainage, etc.) would remain as these features were not affected by the fire and are not proposed to be altered as part of the building's reconstruction. Staff recommends that the Planning Commission can make this finding.

4. The project shall provide efficient and safe public access, circulation, and parking.

The walkways and access to the site would remain as they were previous to the fire, and are not proposed to be changed. However, the 800 SF addition to the structure would require three new off-street parking spaces, and the addition would eliminate two previously-existing off-street loading spaces. The parking reduction is discussed in the analysis for the Minor Use Permit below. Provided the Planning Commission approves the Minor Use Permit authorizing a reduction in the off-street parking space requirements, staff recommends the Planning Commission find the project consistent with this finding.

5. The project shall provide appropriate open space and landscaping, including the use of water efficient landscaping.

The applicant does not propose to alter the landscaping that is currently existing on the property. The existing landscaping includes an approximately four-foot wide hedgerow along Perkins Way with a mature shrub and ornamental tree. Decorative brick posts are present at the access along Perkins Way, as well as decorative brick trim for the first several feet of the driveway.

Pedestrian access is currently provided at the intersection of Fir Street and Perkins Way. A brick planter with a mature shrub is present aside this access, and the pedestrian walkway is mostly a burnt-red shade that matches the sidewalk along Fir Street. A similar planter box is located at the pedestrian access at the southwest corner of the property, with a matching burnt-red pedestrian walkway. An existing business sign in a brick planter box with decorative landscaping is at the primary entrance to the site along Fir Street, which leads to the primary pedestrian access to the front of the building. Photographs of existing landscaping are included as **Attachment 2**.

The project would not be fully consistent with the ILUDC requirements for landscaping. ILUDC Section 18.34 outlines the landscaping requirements for development projects. Policy 18.34.020(C) states the following with regards to the Planning Commission's authority to modify these standards:

**C. Alternatives to requirements.** The review authority may modify the standards of this Chapter to accommodate alternatives to required landscape materials or methods, where the review authority first determines that the proposed alternative will be equally or more effective in achieving the purposes of this Chapter.

The project is inconsistent with many of the specific requirements in this Section; however, the applicant requests a modification to these requirements and instead proposes to maintain the existing landscaping on site that was present before the fire. Many of the landscape requirements in the ILUDC are better suited for new development on vacant sites. The following list includes many of the landscaping requirements that would need to be waived:

- A parking area for a nonresidential use adjoining a public street where allowed by § 18.36.090(A) (Parking Design and Development Standards - Location of parking) shall be designed to provide a landscaped planting strip between the street right-of-way and parking area equal in depth to the setback required by the applicable zoning district or 15 feet, whichever is more.
- Shade trees shall be provided at a minimum rate of 1 for every 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.
- Parking areas for nonresidential uses shall provide a perimeter landscape strip at least 5 feet wide (inside dimension) where the parking area adjoins a side or rear property line. Trees shall be provided at the rate of 1 for each 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.
- When a parking area is located adjacent to a nonresidential structure, a minimum 8-foot-wide (inside dimension) landscape strip shall be provided adjacent to the structure, exclusive of any building entries, or areas immediately adjacent to the wall of the structure that serve as pedestrian accessways. The required width of the landscape strip may be reduced by the review authority where it determines that overall site area is insufficient to accommodate allowable structures and required parking.
- A parking area for a nonresidential use adjoining a residential use shall provide a landscaped buffer setback with a minimum 10-foot width between the parking area and the common property line bordering the residential use.
- Trees shall be provided at the rate of 1 for each 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.
- Each area of landscaping shall have a minimum interior width of 8 feet within the residential and commercial zoning districts, and 5 feet in the industrial zoning districts. These dimensions may be reduced where the review authority determines they are infeasible because of limited site area. Wherever this Development Code requires a landscaped area of a specified width, the width shall be measured within any curb or wall bordering the landscaping area.

Staff recommends the planning commission modify the standards of the landscaping chapter of the ILUDC to allow the applicant to maintain the existing and historical landscaping of the site for the following reasons:

- a. Accommodating the landscape standards of the ILUDC would require substantial site adjustments, including the re-alignment of existing access points and pedestrian walkways.
- b. Existing and mature vegetation would have to be removed or supplemented with new, non-mature landscaping to accommodate the ILUDC standards. For example, the hedgerow along Perkins Way would have to be expanded to cover the entire setback area to meet ILUDC standards. This would create an inharmonious mix of mature and new landscaping, or require the removal of mature vegetation to be replaced with new vegetation.
- c. The fire that demolished the mortuary did not affect the existing landscaping on site, including the brick-trimmed and/or burnt-red shaded walkways, brick planters, and brick entry features. These features may need to be removed to meet the ILUDC standards.
- d. The existing landscaping is visually attractive, mature and worthy of preservation. Many replacement structure projects would benefit from an increased focus on landscaping where strict application of ILUDC Section 18.34 would greatly improve the character of

the neighborhood. However, the landscaping existing on site has been well-maintained and exceeds the quality of landscaping found at many commercial developments in town.

If the Planning Commission seeks to allow the applicant to maintain the existing landscaping on site and waive the additional landscape requirements of the ILUDC, staff recommends the Planning Commission make the following finding if approving the project:

**Proposed Finding:** The existing landscaping on site is an acceptable alternative to the required landscape materials and methods provided in ILUDC and will be equally or more effective in achieving the purposes of that Chapter 18.34.

**6. The project shall be consistent with the General Plan, any applicable specific plan.**

The land use is legally nonconforming, as mortuaries are not permitted in the Low Density Residential zoning district. However, the project is consistent with the following goals, policies and programs in the Inland General Plan:

Policy LU-4.3 Standards for Commercial Uses in Residential Areas: Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.

The proposed commercial structure in a residential area has detailed architectural design that is consistent with the surrounding neighborhood.

Goal CD-1 Ensure that new development demonstrates excellence of design and sensitivity to the character of the surrounding neighborhood.

Policy CD-1.1 Citywide Design Guidelines: Ensure that new development and remodels are constructed in a manner consistent with the Citywide Design Guidelines.

Program CD-1.1.2 Commercial and Multi-Family Development: Continue to complete Design Review of commercial and multi-family development to ensure that they fit harmoniously with the scale and design of existing buildings and streetscape of the City.

Approval of this Design Review application would ensure consistency with this goal, policy and program.

Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community:

Policy CD-6.2 Discourage Demolitions: Discourage the demolition of historic buildings.

While the fire-damaged structure was not listed as historic on any register, the applicant is proposing to rebuild it to match the destroyed structure, maintaining the historical continuity of the neighborhood.

Staff recommends that the Planning Commission find the project consistent with this finding.

**7. The project shall comply and be consistent with the City's Design Guidelines.**

The City's Design Guidelines are not particularly conducive for reviewing commercial projects in residential neighborhoods. The Design Guidelines specifically apply to either new residential development or commercial development in commercial districts. It is not necessarily practical to apply residential standards to this project, nor commercial district standards to a project in a residential neighborhood. However, the project is relatively consistent with the following excerpts from the Design Guidelines:

- 1.35 “Architectural Design” for single-family residential projects
  - The design of houses should be varied within new neighborhoods to create diversity and interest. A significant difference in the massing, composition, and architectural style, as well as finish materials and colors of each adjacent house should be accomplished. One design should not be repeated more frequently than every fourth house and individual dwelling units should be easily distinguishable from one another.
  - Avoid residential development that includes architectural detailing only on the front façade. All elevations should be designed with the same care and attention to detail, and preferably using the same materials, as the front elevation. Materials should turn corners and avoid exposed edges which otherwise cause an artificial appearance.
  - Front doors should always be oriented toward the sidewalk, not at the side of the unit.
  - Buildings with greater height should consider setbacks at the second story to reduce impacts on adjacent single story residences. The use of balconies on two story units is also encouraged.
  - The integration of varied textures, openings, recesses, and design accents on building walls is strongly encouraged to soften the architecture. Incorporating verandas and porches on new residential structures are also encouraged.
- 1.36 “Landscaping and Fences” for single-family residential projects
  - Encourage landscaping at perimeter of yards, rather than only foundation plantings, to help create a natural edge.
- 1.44 “Architecture” for infill residential projects
  - Builders should be familiar with the various architectural styles in the community and particularly with those in the immediate vicinity of their property. While it is not necessary, nor desirable, to achieve an exact replication of an existing style, infill development should be respectful and compatible with surrounding styles.
  - All building elevations should be architecturally detailed. Elevations that do not directly face a street should not be ignored, nor should they receive only minimal architectural treatment.
  - Front porches are common architectural features on many Fort Bragg homes. The incorporation of porches on new infill residential is encouraged for both practical and aesthetic value. These elements should be integrated to break up large front facades and add human scale.
- 1.45 “Landscaping and Fencing” for infill residential projects
  - Balance the landscape using mass, color, or form to create equal visual weight on either side of a center of interest (e.g. creating mirror images of shrubs on each side of a stairway or balancing a large tree on one side of the house with a grouping of smaller trees on the other side).
- 2.43 “Site Planning” for Neighborhood Commercial zoning district
  - The organization of buildings should encourage and facilitate pedestrian activity.
  - Incorporate small scale planters, planter boxes and landscaping to enhance the pedestrian nature of neighborhood commercial.
- 2.44 “Architectural Form and Detail” for Neighborhood Commercial zoning district

- Storefront entries should promote a sense of entry into the structure, as well as provide a sense of shelter by incorporating elements such as overhangs, canopies, recesses, and awnings.
- Flat roofs, mansard roofs, and veneer parapets are strongly discouraged in favor of full, pitched roofs. If flat roofs will be used, they should include decorative cornices and parapets.

Although the standards listed above are not intended to specifically apply to commercial development in the Low Density Residential zoning district, the project shows an overall consistency with the purposes and intent of the Design Guidelines. Staff recommends the Planning Commission can make this finding.

## MINOR USE PERMIT ANALYSIS

The applicant is requesting to 1) expand the nonconforming use (mortuary) and 2) request a reduction in the off-street parking requirements. Both requests require approval of a Minor Use Permit. The following analysis reviews each of these requests.

### Expansion of Nonconforming Use

As described above, the mortuary land use is unpermitted in the Low Density Residential zoning district, which makes the historic use of the property as a mortuary legally nonconforming. This project requests to rebuild the former structure and reestablish the nonconforming use, with an expansion of the structure (and therefore an expansion of the mortuary land use) of approximately 800 SF. ILUDC Section 18.90.030 discusses the expansion of nonconforming uses:

#### A. Nonconforming use of land.

**1. General rule.** A nonconforming use of land may be continued, provided the use shall not be intensified, enlarged or increased, nor be extended to occupy a greater area of land than it lawfully occupied before becoming nonconforming, with the exception noted in Subsection (A)(2) of this Section.

**2. Nonconforming use in a conforming structure.** A nonconforming land use within a conforming structure may be expanded or replaced with Minor Use Permit approval, in the following manner:

**a. Expansion of use.** The nonconforming use of a portion of a structure may be expanded throughout the structure; and

Nonconforming uses may be expanded within a conforming structure with Minor Use Permit approval. The previous structure failed to meet the rear setback requirements, and the applicant proposes to rebuild the facility meeting this setback requirement. This would make the new structure conforming to the setback requirement, allowing the expansion of the nonconforming use with Minor Use Permit approval.

Staff recommends the Planning Commission allow the expansion of the nonconforming use within the replacement structure, which will conform to the setback requirement.

### Reduction in Parking

The ILUDC prescribes the required amount of off-street parking based on land use. A mortuary land use requires a minimum of one off-street parking space for every 300 SF of floor area. The former structure was approximately 6,250 square feet, and would have required 21 parking spaces. The replacement structure would be expanded by approximately 800 SF, which would bring the total parking spaces required to 24 spaces.

There is also a residence located on the parcel which has two dedicated off-street spaces. The residence and its parking meets the code requirements, was not burned in the fire and will not be modified as part of this application. For the purposes of the parking discussion that follows, the residence and its dedicated parking spaces are not considered.

The former mortuary had two off-street spaces located at the northeast corner of the property. Another car or two could potentially be “stacked” behind these in the driveway. Regarding the existing spaces, the applicant submits the following statement:

There never was a designated parking on-site within this property. Where the car is shown in an aerial photograph is where they pull in to loaded/unloaded caskets during a service. A hearse would pull in through driveway under the canopy to pick up caskets and few family members.

Since the mortuary would have required 21 spaces and only two are provided (which were utilized for loading), the previous parking arrangement was nonconforming. ILUDC Section 18.36.040(C) address nonconforming parking as follows:

**C. Nonconforming parking.** A use or structure with nonconforming off-street parking may be physically changed or undergo a change in use in compliance with the following provisions:

...

**2. Nonresidential uses.**

- a. The number of existing parking spaces shall be maintained on the site and additional parking shall be provided in compliance with this Chapter for any additional floor area.
- b. If the use of the structure is changed to one that requires more parking than the previous use, only the difference between the number of parking spaces required for the previous use and those required for the new use shall be added.
- c. The change shall not eliminate the only portion of the site that can be used for the required or existing parking or access.

The requirements listed above state that an expansion of the mortuary use would require additional parking spaces for the square footage of the addition. Since the addition proposed is 800 SF, three additional off-street parking spaces would be required. The application does not propose to add any off-street spaces. The policies above also state that the expansion cannot eliminate existing off-street spaces; however, the proposed project would eliminate the two existing loading spaces that previously served the mortuary.

The ILUDC has the following provisions that grant the Planning Commission the authority to approve the project without requiring the three additional spaces, and allowing the removal of the two existing loading spaces.

**18.36.040(C)(3). Waiver by Director.** The Director may waive parking requirements when a nonconforming structure is proposed for rehabilitation if the Director determines that the existing structure location, parcel size, or topography renders the requirement unreasonable.

**18.36.080(B). Reduction of required parking.** The Director may reduce the number of parking spaces required by § 18.36.040 (Number of Parking Spaces Required), through the granting of a Minor Use Permit in compliance with § 18.71.060, based on quantitative information provided by the applicant that documents the need for fewer spaces (e.g., sales receipts, documentation of customer frequency, information on parking standards required for the proposed land use by other cities, etc.). Parking requirements may be reduced, by the review authority, where the project facilitates bicycle use by providing bicycle storage, lockers, changing rooms and showers and/or bicycles for employee use.

**18.36.040(B) Use of on-street parking - Exception.** Available on-street parking spaces cannot be used to meet the parking requirements identified in this Chapter. An exception to this provision may be granted according to the following procedure:

1. **Criteria for approval.** The Minor Use Permit may be issued if it meets all of the following criteria, in addition to the findings identified in § 18.71.060:
  - a. The maximum amount of parking which is feasible shall be provided on site.
  - b. The exception shall only be granted in situations where the Director, Public Works has determined that the exception will not result in potentially unsafe conditions for vehicles or pedestrians.
  - c. The Director of Community Development has determined that the project is located in an area of abundant on-street parking.

The first policy quoted above allows the Director (or the Planning Commission when they are the review authority, as is this case) to waive parking requirements for rehabilitation projects. The proposed project would reconstruct the burned Chapel-by-the-Sea, and while a relatively minor addition is proposed, the project could still qualify as a rehabilitation project for the purposes of this waiver. If additional parking spaces were to be required, substantial changes to the site planning would be necessary since the landscaping, access, and pedestrian walkways are already established and were not burned in the fire. It would be difficult and maybe not possible to provide the required parking and still maintain the historic layout and appearance of the parcel. The Planning Commission could waive the parking requirements by invoking the waiver allowed by ILUDC Section 18.36.040(C)(3).

The second policy quoted above allows the Director (or the Planning Commission when they are the review authority, as is this case) to reduce the parking requirement if information is provided by the applicant showing the need for fewer spaces. The applicant provided the following statement in their request for this reduction:

Chapel by the Sea will conduct only ONE Single Event [one person's funeral] at a time to utilize the Chapel Room OR the Celebration of Life Room at one time, not simultaneously. Not for two events, but only single events for privacy and maintain the dignity of the funeral. Based on this

occupancy, there is no need to add parking because the onsite and street parking will suffice since this is not a retail/industrial business. This is a funeral home made for the sensitive and respectful passing of a single person at one time with their friends and family.

For the 3 parking spaces required by 1 per 300 SqFt., we have confirmed that this addition won't increase actual number of occupancy of the building, because same guest attending the service at the chapel would use the "Celebration of Life" room. There will only be one service at a time.

Finally, the third policy quoted above allows the Director (or the Planning Commission when they are the review authority, as is this case) consider on-street parking when reducing parking requirements. In support of a reduction due to the prevalence of on-street parking, the applicant provided the following statement in addition to **Sheet 2 of Attachment 1** illustrating the availability of on-street parking for Chapel guests:

The owners have confirmed that all visitors that visited the chapel all parked along E. Fir Street and Perkins Way. The two streets that are adjacent to the chapel have an abundance of street parking with ease of access to the site. In the attached site diagram we can demonstrate that 24 cars can easily be parked adjacent to the site without interfering with the access to the adjacent properties.

The City code enforcement records do not include any documented complaints or issues in the surrounding neighborhood regarding parking at the Chapel. Additionally, notice of this application stating the request to reduce the parking requirements was mailed to property owners within 300 feet of the project and occupants within 100 feet of the project, and no comment was submitted stating concerns with the parking reduction.

The previous mortuary facility provided two off-street loading spaces, five would be required to meet the code requirements, and none are proposed. When services are held at the mortuary, numerous cars arrive at the facility to participate. The impact to the surrounding neighborhood during services are likely to be similar whether zero, two or five spaces are provided. The Planning Commission could grant the requested Minor Use Permit for a reduction in the parking requirements based on this conclusion, and staff recommends the Planning Commission make the following additional Minor Use Permit findings to allow the reduction in parking:

**Proposed Finding:** A reduction/waiver of parking requirements allowing the project to provide no off-street parking spaces is granted based on the following considerations, pursuant to ILUDC Sections 18.36.040(C)(3), 18.36.040 (C)(2), and 18.36.080(B):

- a. The land use has historically functioned on the property with less than 10% of the required parking (2 spaces were provided when 21 were required) without evidence of a negative impact on the surrounding neighborhood;
- b. An additional three spaces, as would be required for the expansion without a waiver or reduction, would not reasonably affect the parking impacts in the neighborhood when services are held;
- c. Rehabilitation of the former mortuary land use and structure make providing additional spaces unreasonable due to the replacement structure's location, parcel size, and existence of established landscaping and pedestrian improvements located on the parcel, pursuant to ILUDC Section 18.36.040(C)(3);
- d. The maximum amount of parking which is feasible is provided on site.
- e. The exception will not result in potentially unsafe conditions for vehicles or pedestrians; and



- f. The project is located in an area of abundant on-street parking.

## **RECOMMENDATION**

Staff recommends approval of Design Review Permit 1-20 and Minor Use Permit 4-20 based on the analysis, findings and conditions contained herein.

## **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Inland Land Use and Development Code (ILUDC) and the Fort Bragg Municipal Code in general;
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located;
4. The project complies with Specific Use Regulations established for the project;
5. For the purposes of the California Environmental Quality Act (CEQA), this project was found to be exempt under Section 15302 –reconstruction of a commercial structure with a new structure of substantially the same size, purpose and capacity.

## **DESIGN REVIEW FINDINGS**

Pursuant to ILUDC Section 18.71.050(F), The Planning Commission finds that the project:

1. Complies with the purpose and requirements of this Section;
2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;
3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;
4. Provides efficient and safe public access, circulation, and parking;
5. Provides appropriate open space and landscaping, including the use of water efficient landscaping;
6. Is consistent with the General Plan, any applicable specific plan; and
7. Complies and is consistent with the City's Design Guidelines.

Pursuant to ILUDC Section 18.34.020(C), the Planning Commission modifies the landscaping requirements of ILUDC Section 18.34, and makes the following finding:

1. The existing landscaping on site is an acceptable alternative to the required landscape materials and methods provided in ILUDC and will be equally or more effective in achieving the purposes of that Chapter 18.34.

## **MINOR USE PERMIT FINDINGS**

Pursuant to ILUDC Section 18.71.060(F), the Planning Commission makes the following findings:

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

Pursuant to ILUDC Section 18.36.040(C)(3), 18.36.040(C)(2) and 18.36.080(B), the Planning Commission modifies the off-street parking requirements and makes the following supplemental Minor Use Permit findings:

1. The land use has historically functioned on the property with less than 10% of the required parking (2 spaces were provided when 21 were required) without evidence of a negative impact on the surrounding neighborhood;
2. An additional three spaces, as would be required for the expansion without a waiver or reduction, would not reasonably affect the parking impacts in the neighborhood when services are held;
3. Rehabilitation of the former mortuary land use and structure make providing additional spaces unreasonable due to the replacement structure's location, parcel size, and existence of established landscaping and pedestrian improvements located on the parcel, pursuant to ILUDC Section 18.36.040(C)(3);
4. The maximum amount of parking which is feasible is provided on site;
5. The exception will not result in potentially unsafe conditions for vehicles or pedestrians; and
6. The project is located in an area of abundant on-street parking.

## **STANDARD CONDITIONS**

1. This action shall become final on the 11th day following the decision unless an appeal to the Planning Commission is filed pursuant to ILUDC Chapter 18.92 - Appeals.

2. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City. Any condition directly addressing an element incorporated into the application exhibits shall be controlling and shall modify the application. All other plans, specifications, details, and information contained within application shall be specifically applicable to the project and shall be construed as if directly stated within the condition for approval. Unless expressly stated otherwise, the applicant is solely responsible for satisfying each condition prior to issuance of the building permit.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - (a) That such permit was obtained or extended by fraud.
  - (b) That one or more of the conditions upon which such permit was granted have been violated.
  - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
  - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
8. Unless a condition of approval or other provision of the Inland Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with ILUDC Subsection 18.76.070 (B).