

RESOLUTION NO. PC 02-2024

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN LCP AMENDMENT TO THE COASTAL COMMISSION TO AMEND 17.71.090 - PLANNED DEVELOPMENT PERMIT OF DIVISION 17 OF THE FORT BRAGG MUNICIPAL CODE TO ALLOW PLANNED DEVELOPMENT PERMITS ON PARCELS OF 1 ACRE OR MORE.

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the "City") to enact local planning and land use regulations; and

WHEREAS the authority to adopt and enforce zoning regulations is an exercise of the City's police power to protect the public health, safety, and welfare; and

WHEREAS the City of Fort Bragg ("City") adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits; and

WHEREAS, the City adopted a Coastal General Plan ("Coastal GP") as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City's Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, the City Council adopted Resolution 3162-2008 on May 12, 2008 adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) Advance the orderly growth and development of the City's Coastal Zone; (2) Protect coastal resources; (3) Incorporate sustainability into the development process so that Fort Bragg's coastal resources and amenities are preserved for future generations; (4) Respond to current environmental and infrastructure constraints; (5) Protect the public health, safety and welfare; and (6) Promote fiscally responsible development; and

WHEREAS, CEQA compliance responsibilities are assigned to the California Coastal Commission's Local Coastal Plan review and approval process, which has been found by the Secretary of the Resources Agency to be functionally equivalent to the Environmental Impact Report process; and

WHEREAS, the "activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long range development plan" pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption "shifts the burden of CEQA compliance from the local agency to the California Coastal Commission (CEQA Guidelines § 15265 (c)); and

WHEREAS the Planning Commission held a duly noticed public hearing on January 10, 2024, to consider the zoning amendment, accept public testimony; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of January 10, 2024 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: RECITALS INCORPORATED

All of the Recitals set forth herein are true and correct and incorporated herein as findings and determinations.

SECTION 2: COASTAL LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 17.94.060, the Planning Commission recommends that the City Council make the following findings for adoption of the proposed amendments to the Fort Bragg Coastal Land Use and Development Code:

- a. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan; and

The proposed amendment is consistent with the Coastal General Plan, as the amendments would result only in a change in the minimum parcel size for a PUD and the existing ordinance complies with the Coastal General Plan. There are no policies in the Coastal General Plan that only apply to parcels of 5 acres or more, and all policies in the Coastal General Plan apply equally to all parcels regardless of size. Additionally, all PUD permit approvals must make the following finding: *“The project is consistent with the Coastal General Plan and any applicable specific plan, and allowed within the applicable zoning district.”*

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment would retain permit requirements that: *“The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.”*

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The proposed amendment would not change the ordinance's existing consistency with the Development Code, indeed the goal of the PUD permitting process is to allow the City to carve out exceptions to the code so long as all permit findings can be made. All PUD permit approvals would be required to make the following finding: "The project complies with all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit."

SECTION 3: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council amend Chapter 17.71.090 - Planned Unit Development Permit, of Division 17 of the Fort Bragg Municipal Code, to allow Planned Unit Development Permits on parcels of 1 acre or more.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by Commissioner Stavely seconded by Commissioner Neils and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 10th day of January 2024, by the following vote:

AYES: Neils, Jensen, Stavely, Deitz
NOES: None
ABSENT: Logan
ABSTAIN: None
RECUSE: None

Scott Deitz, Chair Pro Tem

ATTEST:

Maria Flynn

**Maria Flynn, Administrative Assistant
Community Development Department**

CLUDC Amendment

17.71.090 - Planned **Unit** Development Permit

A. Purpose. The Planned **Unit** Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned **Unit** Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned **Unit** Development Permit application may be filed and processed only under the following circumstances. A Coastal Development Permit shall also be required.

1. Minimum site area. A Planned **Unit** Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site **larger than five of one acres or more, with the exception that all PUDs on the former Georgia Pacific Mill Site must be at least 5 acres or more.**

2. Timing of permit. No Building or Grading Permit shall be issued on a site for which a Planned **Unit** Development Permit is proposed until the Planned **Unit** Development Permit has been approved in compliance with this Section.

3. Scope of approval.

a. Planned **Unit** Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.), provided that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article [2](#) and provided that the City makes all of the required findings consistent with Section [17.71.090\(F\)\(1\)](#).

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [17.31](#) (Density Bonuses and Affordable Housing Incentives).

4. Coastal Development Permit required. A Coastal Development Permit shall be required for all Planned **Unit** Developments. Procedures for obtaining a Coastal Permit identified in Section [17.71.045](#) (Coastal Development Permits).

C. Application filing and processing. An application shall be filed in compliance with Chapter [17.70](#) (Permit Application Filing and Processing). The application shall be

accompanied by the information identified in the Department handout for Planned **Unit** Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Commission action), below.

D. Review authority. A Planned **Unit** Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

1. Application review. Each Planned **Unit** Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned **Unit** Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter [17.96](#) (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned **Unit** Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned **Unit** Development Permit only after first finding that:

a. The project is consistent with the **Coastal** General Plan and any applicable specific plan, and allowed within the applicable zoning district. In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Planned **Unit** Development Permit if the City determines that the means of accommodating the Planned **Unit** Development Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Planned **Unit** Development Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Planned **Unit** Development Permit.

b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned **Unit** Development Permit;

c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the

superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;

d. The development authorized by the Planned **Unit** Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment.

e. The project complies with all applicable provisions of the City's Design Guidelines;

f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;

g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;

h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;

i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and

j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned **Unit** Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection F.1.

G. Time limit and expiration.

1. A Planned **Unit** Development Permit may specify a development completion period acceptable to the review authority.

2. If a time limit is not specified in the permit, the completion period shall not exceed two years.

3. If project construction has not commenced within the required time limit, the Planned **Unit** Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned **Unit Development Permit amendment.**

1. Commission action on requested changes. Any requested change in the Planned **Unit** Development Permit, other than those allowed by Subparagraph 3., below, shall be submitted to the review authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval. However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

2. Added conditions. The review authority may, as a condition of approval, impose added changes or conditions on the Planned **Unit** Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned **Unit** Development Permit and this Section. However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

3. Minor changes by Director. Minor changes in the Planned **Unit** Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Subparagraph 17.76.080 (Changes to an Approved Project). However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

I. Post approval procedures. The procedures and requirements in Chapter [17.76](#) (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article [9](#) (Coastal Land Use and Development Code Administration), shall apply following a decision on an application for Planned **Unit** Development Permit approval. However, the procedures contained in Chapter [17.98](#) of Article [9](#) are not part of the certified LCP and shall not govern the review and approval of coastal development permits.