



23-419 - Staff Report_Urban Lot Split

Proposed Amendments to the
ILUDC and the CLUDC

Legistar

PROJECT INFORMATION

APPLICATION #:	ILUDC and CLUDC Amendments ILUDC 2-23 and LCP 2-23
APPLICANT:	City of Fort Bragg
PROJECT:	Receive Report, Hold a Public Hearing, and: 1) Adopt an Ordinance Amending the Inland Land Use and Development Codes to Comply with Recent Changes in State of California Housing Law Related to Urban Lot Splits and Two Unit Development; and 2) Adopt a Resolution Submitting a Local Coastal Program Amendment to the California Coastal Commission to Amend the Coastal Land Use and Development Codes to Comply with Recent Changes in State of California Housing Law Related to Urban Lot Splits and Two Unit Development.
LOCATION:	Low-Density Residential Zoning Districts in the Coastal Zone and the Inland Area.
APN:	Various
LOT SIZE:	2,400 SF+
ZONING:	Low Density Residential Zoning Districts (RR, RS, RL zones)
ENVIRONMENTAL DETERMINATION:	<p>The ILUDC amendment is statutorily exempt as the adoption of an ordinance regarding urban lot splits in a low-density residential zone by a city or county to implement the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is exempt from CEQA.</p> <p>The proposed amendment to the Coastal Land Use and Development Code is part of the City's Local Coastal Program and will be submitted to the California Coastal Commission for certification. Therefore, the proposed project is statutorily exempt from further environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.</p>

BACKGROUND

Senate Bill 9 (SB-9) was the product of a multi-year effort to develop solutions to address the State's housing crisis. The goals of SB-9 are to:

- Provide options for homeowners to: 1) build intergenerational wealth to improve equity and create social mobility; and 2) increase the supply of affordable rental opportunities and home ownership.

- Benefit homeowners NOT institutional investors. By requiring owner occupancy, the program is not available to speculators and developers generally. The program requires a homeowner to submit an affidavit of owner occupancy for three years.
- Requires a roughly equal (no more than a 40/60 percent) lot split. Minimum resulting lot size is 1,200 SF.
- Only permissible in single family zoning districts.
- Establishes a maximum number of four (4) units, including two primary homes with two ADUs and JADUs for any lot which has not been split through an urban lot split. Allows up to two units maximum per parcel created through an urban lot split (two primary units, or one primary and one ADU).
- Requires ordinance exceptions to guarantee that at least two units of 800 sf are allowed on each subsequent lot.
- Prohibits urban lot splits in environmentally sensitive habitat areas and in historic neighborhoods.

DESCRIPTION

The attached draft Ordinance (ILUDC) and Resolution (CLUDC) have the proposed language for respective zoning amendments.

The Urban Lot Split & Two Unit Development regulations result in two potential outcomes:

1. State Law requires that each urban community allow two primary units on an existing parcel that has not undergone an Urban Lot Split and one ADU per primary unit for a total of four units on the same parcel.
2. After a parcel is subdivided through an Urban Lot Split, each subsequent parcel can have up to two units total.

While reviewing the attached ordinance language, please note that highlighted sections are open to local discretion, in that they can be modified or in some cases not included. The remainder of the text is required by State Law. More specifically, the City Council has discretion regarding the following policy considerations in the ordinance:

Code section	Discussion
17.84.045 Urban Lot Splits	
The following discussion related to the Urban Lot Split section of the proposed amendments.	
Definition of a Unit	MJC recommended that the City allow one half of a duplex as a permissible unit in an Urban Lot Split, so that someone can build either a duplex, or a primary unit with an ADU. As these parcels will be roughly half the size of existing single family parcels, a duplex would allow more efficient use of the parcel than two primary units. The Planning Commission did not support this recommendation and instead recommended that the duplex option be eliminated from the ordinance. The attached ordinance has deleted duplex as a permitted use. The Planning Commission's rationale is that duplexes result in a more intense

	development pattern that is not compatible with low density residential districts.
C. Parcel Access	The City Council must allow either a flag lot or an easement over a front parcel without alley access, in order to provide access to the back parcel. MJC recommends that the City allow both to increase flexibility in site design. The Planning Commission agreed with this recommendation.
F & L. Exceptions to Development Standards	The City Council can provide a preferred priority order for modifying development standards in order to accommodate the minimum requirement of two 800 SF units on each parcel, or leave it to the discretion of the Community Development Director. This list was recommended by the Planning Commission.
17.42.175 Urban Unit Development	
The following discussion related to the Urban Unit Development section of the proposed amendments.	
A. Density, Size & Number of Units Allowed.	<p>The State requires that at least two units of 800 SF be allowed on each lot. Some communities have limited urban lot splits by limiting all urban development units to 800 SF, this is very common in exclusive communities. This is the one aspect of the new regulations where the local jurisdiction has the most control over housing availability and urban form. The Planning Commission recommended as follows:</p> <p>A1. Unit size for parcels that have not gone through an urban lot split. The Planning Commission recommended as follows:</p> <ol style="list-style-type: none"> 1. Maximum of four units, two of which are primary units and can be any size and two of which would be detached ADUs and must be 800 SF or less. The City Council could consider a limitation on the size of the primary unit. However, a limitation on the size of the primary unit would severely constrain the effectiveness of this ordinance because a property with an existing primary unit that is larger than the maximum allowable size would either have to complete a significant remodel for the exiting unit or raze it and construct a new house that complies. An alternative would be to place a size limitation on just the additional primary unit (as two are allowed). <p>A2. Unit size for parcels that have gone through an Urban Lot Split. The Planning Commission recommended:</p> <ol style="list-style-type: none"> 1. A maximum unit size of 1,200 for two primary units 2. Deletion of the option for a duplex of 2,200 SF or less 3. A primary unit of any size when paired with an ADU <p>Further, the Planning Commission recommended that the ADU size be limited to 800 SF or less (State law requires local jurisdictions to allow 800 SF as a minimum but it does not specify</p>

	<p>the maximum permissible size for an ADU as part of Urban Unit Development).</p> <p>The ordinance also clearly states that parcels subject to urban lot splits are not eligible for a 3rd unit (ADU or JADU) under 18.42.170 (Second Units).</p>
B. Setbacks	The “Front Parcel” is required to have a mandatory 4’ setback from the new back parcel property line for new construction. However, the “front” of the back parcel must be defined, and a setback defined in the code.
C. Off-Street Parking	The City can eliminate the parking requirement for lot splits or otherwise modify parking requirements. MJC recommended and the Planning Commission concurred that the City should limit the number of curb cuts to one per the <i>original</i> parcel (shared access would be required) and also require parking access from the alley where possible.
E. Exceptions to Objective Development Standards	This ordinance includes the same objective development standards for Urban Unit development as for ADUs. If the City Council prefers additional or different objective development standards due to the increased potential density, they may be added.
M. Objective Design Review Standards	The City is permitted to establish objective design review criteria but does not have to do so. The proposed criteria were adapted from the City’s second unit and multifamily housing regulations. Additional design criteria may be added to reduce the impact of these developments on neighborhood design if City Council directs.
N. Utilities	The ordinance recommends exempting units of 750 SF or less from capacity fees and requiring pro-rated capacity fees for larger units as required by State law.

RECOMMENDED ACTION

1. Introduce by Title only an Ordinance of the Fort Bragg City Council to Amend Division 18 of the Fort Bragg Municipal Code (ILUDC 2-23) to Amend Chapter 18.21.030(B)(C) & 18.21.050 “Zoning Districts and Allowable Land Uses”, add Chapter 18.42.175 “Urban Unit Development”, add Chapter 18.84.045 “Urban Lot Split”, and Amend Chapter 18.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban-Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.
2. Adopt a Resolution of the Fort Bragg City Council Submitting an LCP Amendment (LCP 2-23) Application to the Coastal Commission to Amend Division 17 of the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B)(C) & 17.21.050 “Zoning Districts and Allowable Land Uses”, add Chapter 17.42.175 “Urban Unit Development”, add Chapter 17.84.045 “Urban Lot Split”, and Amend Chapter 17.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.

ALTERNATIVE ACTION(S)

Provide alternative direction to the consultant to pursue one of the alternative approaches described below.

Some have expressed concern that SB-9 will bring significant change to the urban form and neighborhood cohesion in Fort Bragg. However, strategies to avoid implementation of SB 9 also come with drawbacks and challenges. MJC has identified two potential approaches to limit the scope of SB-9 within the City of Fort Bragg, and each is described below. After discussion, the Planning Commission decided not to recommend any of the alternative approaches listed below.

1. The City could rezone all properties that are currently zoned Low Density Residential as Medium Density Residential zoning districts.

This approach can be used because SB-9 only applies to Low Density Residential zoning districts. With SB-9, Low Density Residential zoning districts can accommodate up to 4 units on a typical Fort Bragg parcel of 7,500 SF, or 23 units/acre, while Medium Density Residential zoning districts only allow a maximum of 12 units/acre. So theoretically many additional units would be permissible under SB-9 in Low Density Residential zoning districts than in Medium Density Residential zoning districts. By rezoning Low Density Residential to Medium Density Residential, the City would effectively side-step the implementation of SB-9 and all of the regulatory requirements of SB-9. However, it would also mean that rezoned neighborhoods would have all other regulations associated with Medium Density Residential zoning districts including: a 35 ft height limit, multi-family parking requirements, multifamily development regulations, and many additional permitted uses including: multi-family housing, co-housing, residential care facilities, art studios, medical clinics, doctors' office, hospital, personal services, etc.. SB-9 requires dispersed residential development, (two primary units and two secondary units) per lot, while Medium Density Residential allows multifamily developments of up to three stories, which combined with multifamily parking requirements results in a different urban form.

Rezoning these neighborhoods would require notifying every property owner of the potential rezone prior to Planning Commission and City Council consideration and would likely generate significant public opposition and the need for a public education effort, as residents would not understand why their property is proposed for "up zoning" to Medium Density Residential. Additionally, this action would not be exempt from CEQA (unlike the SB-9 action) and thus would require at least an MND and possibly an EIR, which would be somewhat costly. For the above reasons, up zoning is not recommended, as the urban design costs appear to outweigh the benefits.

2. The City could establish a Historic District over most of the low neighborhoods in Fort Bragg.

Per State Law, SB-9 cannot be implemented in historic districts. The City has the ability to establish historic districts in Fort Bragg through 18.74.030 - Historic Landmark Designation. Through this procedure the City could make the historic neighborhoods of Fort Bragg exempt from SB-9 by adopting a Historic District for these older neighborhoods in the community. This approach would not work for neighborhoods that are not historic. There are both advantages and disadvantages to being located within a historic district.

Some advantages include the following:

- a. Use of the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC), rather than the Uniform Building Code (UBC).
- b. Use of the Secretary of the Interior's Standards for Rehabilitation.
- c. Waiver of Development Code standards (e.g., reduced off-street parking), in compliance with § 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
- d. The approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts, in compliance with § 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
- e. The Department of Housing and Urban Development's Federal Housing Administration (FHA) has a flexible loan program that helps developers, investors, and families at all income levels to buy and restore properties in urban and rural historic districts. The program operates through FHA approved lending institutions, and the loans are insured by the FHA.
- f. Federal financial assistance for rural buildings. The U.S. Department of Agriculture's Rural Housing Service offers funds for the acquisition, construction, rehabilitation, or repair of homes and apartment-style housing for low and moderate income people in rural areas.
- g. Federal tax incentives for historic preservation for the rehabilitation of income-producing (commercial, industrial, or rental residential) structures included on the National Register of Historic Places (or those within a National Register district) through the State Historic Preservation Officer (SHPO).
- h. The National Trust Forum offers financial assistance in the form of grants and loans.
- i. California property tax abatement incentives were first enacted in 1972 and are available for use by owner-occupied residential and commercial structures (also known as the Mills Act).

Some disadvantages of designating Low Density Residential zoning districts as a Historic District include additional permitting requirements and the need for an historic resource analysis. Specifically, per our current code, changes to any historic structure located within a Historic District would require the following:

- a. Completion of a review of the proposed scope of work by a preservation architect.
- b. Approval of a permit known as a Certificate of Appropriateness for exterior remodels, reconstruction or demolitions, for which specific findings must be made including the following:
 1. The proposed work will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the historic resource and its site;
 2. The proposed work conforms to any prescriptive standards and design guidelines adopted by the City for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the historic resource; and

3. In the case of construction of a new improvement upon a historic resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing historic resources within the same historic district.
- c. Additionally, this action would not be exempt from CEQA, like the SB-9 action is, and thus would require an MND.

Finally, many people were worried that changes to the Accessory Dwelling Unit regulations would substantially change the City, and that has not been the case. The City has added from ten to 20 new ADUs/year, which is not sufficient to substantially change the City's urban form or the look and feel of individual neighborhoods. Likewise, fears about how SB-9 could reshape the City may be misplaced. So far, the City has or is processing around six SB-9 lot splits/year, and the potential impacts to neighborhoods and the community are limited. The regulations themselves limit their utility to developers as they require owner-occupancy and so cannot be used for speculative development. Additionally, smaller homes on small lots will not be as expensive as a larger home on a full-sized lot. The resultant small homes with tiny yards are primarily attractive to older people, single people and couples without families, which make up the majority of our population. Urban lot splits also provide an important mechanism for older people to remain in their home as they age while extracting some value from their primary economic asset, which would also be of value to many in our community.

ENVIRONMENTAL ANALYSIS

The proposed amendment to the Coastal Land Use and Development Code is part of the City's Local Coastal Program and will be submitted to the California Coastal Commission for certification. Therefore, the proposed project is statutorily exempt from further environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.

Additionally, the proposed amendment is statutorily exempt under CEQA Guidelines 15282(h). The adoption of an ordinance regarding second units in a low-density or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

FISCAL IMPACT

Eliminating the Capacity Fee for units of 750 SF or less, as required by state law, will result in the City investing more funds from other sources on capital improvements related to sewer and water infrastructure.

GREENHOUSE GAS EMISSIONS IMPACT

Greenhouse gas emissions are generally less when more housing is added to already developed urban areas like Fort Bragg because residents drive less to get to work, school, shopping etc.

CONSISTENCY

The consistency of the proposed ordinance with the Coastal General Plan and Inland General Plan has been analyzed in Attachment 5 of this report.

IMPLEMENTATION/TIMEFRAMES

This effort includes two amendments, which are processed differently as the CLUDC amendment will be a Local Coastal Program application to the Coastal Commission which will be approved by the Coastal Commission, while the ILUDC amendment will be approved as an ordinance by the City Council. While the two amendments are similar they are not identical, as Urban Lot Splits in the Coastal Zone would be subject to the Coastal Development Permit process.

Inland LUDC Zoning Code Amendment	Potential Timeline
Planning Commission Public Hearing and Recommendation to City Council	Oct 2023
City Council – Public Hearing and 1st Reading of Ordinance	Dec 2023
City Council – 2 nd Reading of Ordinance	Jan 2024
Ordinance become effective	Feb 2024

Coastal LUDC Zoning Code Amendment	Potential Timeline
Planning Commission Public Hearing and Recommendation to City Council	Oct 2023
City Council – Public Hearing and Adoption of Resolution Transmitting Zoning Amendment to Coastal Commission	Dec 2023
Prepare LCP Amendment Application	Dec 2023 – Jan 2024
Coastal Commission Review and “Friendly Modifications” Due to City.	June 2024
City Council acceptance of “Friendly Modifications” from the Coastal Commission.	Oct 2024

ATTACHMENTS

1. Ordinance of the Fort Bragg Council Amending Division 18 of the Fort Bragg Municipal Code (ILUDC 2-23) to Amend Chapter 18.21.030(B)(C) & 18.21.050 “Zoning Districts and Allowable Land Uses”, add Chapter 18.42.175 “Urban Unit Development”, add Chapter 18.84.045 “Urban Lot Split”, and Amend Chapter 18.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban-Unit Residential Development Projects in Low Density Residential Zoning Districts Pursuant to Senate Bill 9.
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3. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Amend Title 18 of the Fort Bragg Municipal Code to Amend Chapter 18.21.030(B) & 18.21.050 “Residential Zoning Districts,” add Chapter 18.42.200 “Urban Unit

Development,” add Chapter 18.84.045 “Urban Lot Split,” and Amend Chapter 18.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low Density Residential Zoning Districts Pursuant to Senate Bill 9.

4. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Submit an LCP Amendment Application to the Coastal Commission to Amend Title 17 of the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts”, add Chapter 17.42.200 “Urban Unit Development”, add Chapter 17.84.045 “Urban Lot Split”, and Amend Chapter 17.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.
5. General Plan Consistency Analysis

NOTIFICATION

1. “Notify Me” subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.