



HEARING BODY: Planning Commission

MEETING DATE: June 14, 2023

PREPARED BY: M Jones

PRESENTED BY: M Jones

## AGENDA ITEM SUMMARY REPORT

<b>APPLICATION #:</b>	ILUDC and CLUDC Amendments ZON 1-23 & 2-23
<b>APPLICANT:</b>	City of Fort Bragg
<b>PROJECT:</b>	Amend the Coastal Land Use and Development Code and the Inland Land Use and Development code to: <ol style="list-style-type: none"><li>1. Comply with recent amendments to State of California housing laws related to Accessory Dwelling Units and including making ADUs a permitted use by right in many zoning districts.</li><li>2. Adopt a tiny home ordinance for the Coastal Zone.</li><li>3. Revise zoning ordinance for compliance with State Law regarding childcare facilities and make all such facilities a permitted use by right.</li><li>4. Various other "clean up" amendments.</li></ol>
<b>LOCATION:</b>	Residential and Commercial Zoning Districts in the Coastal Zone and the Inland Area.
<b>APN:</b>	Various
<b>LOT SIZE:</b>	Various
<b>ZONING:</b>	Low Density, Medium Density, High Density and Very High Density Residential Zoning Districts and General Commercial, Highway Visitor Commercial, Neighborhood Commercial, and Commercial Office Zoning Districts, and the Central Business District
<b>ENVIRONMENTAL DETERMINATION:</b>	Coastal LUDC is Statutorily Exempt from CEQA under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs and CEQA Guidelines 15282(h). Inland LUDC is statutorily exempt under CEQA Guidelines 15282(h): The adoption of an ordinance regarding second units in a single-family 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
<b>APPROVALS:</b>	This project constitutes a change to the City of Fort Bragg Local Coastal Program and the City's Inland Land Use and Development Code. The Planning Commission will provide a recommendation to City Council who will

make the legislative decision on the amendment. The Coastal LUDC will then be submitted to the California Coastal Commission for consideration and possible Certification.

## **PROJECT BACKGROUND**

---

To increase housing production and improve housing affordability, Governor Newsom recently signed 18 bills into law. The following bills limit the City's authority to regulate Accessory Dwelling Units (ADUs): Senate Bill 13, Assembly Bill 881, Assembly Bill 68, Assembly Bill 587 and Assembly Bill 671. Additionally, the Governor signed AB345 which allows for separate conveyance of ADUs in specific circumstances for low-income housing.

In February 2020, the City Council adopted Ordinance 20-609 to amend the Inland Land Use and Development Code (ILUDC) to meet the some of the new state laws and support the City's housing goals. However, this update needs to be modified because some inconsistencies were identified between the 2020 ordinance and state law as of 2022.

ADU regulations in the Coastal Zone must also be amended for compliance with State law. Changes to the Coastal Land Use Development Code are part of the Local Coastal Plan and require Coastal Commission certification and a separate review and approval process. For the CLUDC amendment the City is the applicant and the Coastal Commission is the deciding body.

Senate Bill 234 was signed into law in 2019 and took effect January 1, 2020. This law requires jurisdictions to allow in-home family day care, regardless of size to be permitted by right. This is also addressed in this proposed code update.

## PROJECT DESCRIPTION

The table below summarizes various changes to the CLUDC and the ILUDC for the Planning Commission’s consideration. All changes are identified in the attachments to this document. The summary table indicates the status of the proposed change as follows:

1. **Required.** Many of the changes are **required** by state law and would bring the City’s land use code into compliance with the State’s ADU housing law.
2. **Consistency.** Some changes are also recommended to create consistency between the CLUDC and the ILUDC and implement previous direction regarding ADU’s from the City Council and Planning Commission.
3. **Staff Recommendation.** Additionally, staff recommends consideration two changes to allow larger ADUs.

	Proposed Change	CLUDC	ILUDC	Status
	<b>Changes to Land Use Tables</b>			
1	Allow at least one ADU and one JADU in all zoning districts with a single family residential unit	X	X	Required
2	Allow a duplex (in lieu of a single-family residence) as a permitted use by right on all residential zoned parcels including Low Density Residential.	X	X	Required
3	Allow the Multi-Family Residential properties to convert non-living space (closets, sheds, garages, etc.) to ADUs (up to 25% number of legal units).	X	X	Required
4	Allow existing structures that have the appearance of a single residential dwelling unit that are currently used for commercial uses in commercial districts to be used as a residential unit with a Minor Use Permit. This is not required by state law but would implement a change already approved by the City Council.	X	X	Consistency
5	Change residential component of a mixed-use project to permitted use by right in Commercial General and Highway Visitor Commercial Zoning Districts.	X	X	Consistency
	<b>Revise the specific land use standards in 17.42.170 Second Units</b>	X	X	
5	Define the various types of accessory dwelling units.	X	X	Required
6	Define the conditions for Coastal Development Permit exemptions and administrative review for ADUs.	X		Required
7	A 60-day deadline for permit processing or the planning permit is deemed approved.		X	Required

8	Regulations regarding the number, type and location for ADUs and JADUs, and limitations on regulations regarding density, lot size, timing, conversion of existing structure to an ADU, sale of ADUs, prohibition of short term rentals	X	X	Required
9	Development standards such as height limits, setbacks, ADU size and height limits, window placement, etc.	X	X	Required
10	Eliminate owner occupancy requirements for primary residence	X	X	Required
11	Allow the conversion of existing accessory structures (garages, sheds, etc.) on residential lots into ADU's without requiring compliance with height limits, size limits and other requirements for ADUs so long as the accessory structure is pre-existing.	X	X	Required
12	Increase the allowable square footage for an ADU from 1,000 SF to 1,200 SF. This change is not required by law but it is permissible by law. It would allow for more two-bedroom ADU's which are needed in our community. Alternatively, the City could retain the 1,000 SF limitation on size.	X	X	Recommend 1,000 SF current; 1,200 SF
13	Increase the allowable height for an ADU from 16 feet to 28 feet, which is the maximum height for a single-family home. This recommendation is also not required by law. This would allow two story ADUs and ADU's above garages. Existing regs that do not allow windows to look out on the adjacent parcels would preserve backyard privacy.	X	X	Recommend 16 ft current; 28 feet
14	Allow ADUs on the front or back of the parcel, with limitations. Allow ADUs to be larger or smaller than the primary unit with limitations.	X	X	Required
15	Prohibit parking requirement		X	Required
16	Compliance with Coastal Resources regulations	X		Required
17	Update relevant definitions	X		Required
<b>Other Changes</b>				
18	Adopt ordinance to allow (Mobile) Tiny Homes to be used as ADUs and permissible on all residential properties in compliance with the specific land use standards.	X	X	Consistency
19	Change large in-home day care from Minor Use Permit to Permitted Use to comply with state law per SB 234.	X	X	Required

The proposed revisions to the code include updates to the following sections which are illustrated in detail in the listed attachment.

**Coastal land Use & Development Code**

Article 2	Chapter 17.21	Section 17.21.030 Section 17.21.050	Attachment 1A – Land Use Tables
	Chapter 17.22	Section 17.22.030	
Article 4	Chapter 17.42	Section 17.42.170 Section 17.42.175 Section 17.42.060	Attachment 2A - ADUs Attachment 3A – Tiny Homes Attachment 4A – Childcare facilities
Article 7	Chapter 17.70	Section 17.70.030	Attachment 5A – Design Review & Definitions
	Chapter 17.71	Section 17.71.045	
Article 10	Chapter 17.100	Section 17.100.020	

**Inland Land Use & Development Code**

Article 2	Chapter 18.21	Section 18.21.030 Section 18.21.050	Attachment 1B – Land Use Tables
	Chapter 18.22	Section 18.22.030	
Article 4	Chapter 18.42	Section 18.42.170 Section 18.42.175 Section 18.42.060	Attachment 2B - ADUs Attachment 3B – Tiny Homes Attachment 4B – Childcare facilities
Article 7	Chapter 18.70	Section 18.70.030	Attachment 5B – Design Review & Definitions
	Chapter 18.71	Section 18.71.045	
Article 10	Chapter 18.100	Section 18.100.020	

**CLUDC PROJECT ANALYSIS**

---

**CLUDC Required Findings**

CLUDC 17.95.060(B) requires that the following findings be made for an update to the Coastal Land Use and Development Code:

1. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan.
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

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

## COASTAL GENERAL PLAN CONSISTENCY

The proposed ILUDC amendment must be consistent with relevant policies of the City’s Coastal General Plan. As State Law has mandated these changes, staff recommends the following amendments to the City’s General Plan.

### Land Use Element

The proposed project is consistent with the land use designations of the Land Use Element of the Coastal General Plan (CGP) because state law does not allow local jurisdictions to include ADUs and JADUs in their density calculations. Thus, while the CLUDC will allow “higher” residential densities, State law does not allow local jurisdictions to count these increases in density towards density limitations. Thus, density limitations do not need to be modified in the Land Use Element.

The proposed updates to the CLUDC are **consistent** with the CGP:

Policy	Analysis
<p><b>Policy LU-3.2 Mixed Uses:</b> Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area.</p>	<p>The update to the CLUDC will allow for a residential component of a mixed-use project as permitted by right.</p>
<p><b>Policy LU-10.2:</b> Locating New Development. New residential, commercial, or industrial development, except as otherwise provided in the LCP, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...</p>	<p>Allowing Accessory Dwelling Units by right will provide an avenue for an increase in infill development by creating housing opportunities on lots where previously only one unit was allowed. This allows for infill development and minimizes impacts on coastal resources.</p>
<p><b>Policy LU-10.4:</b> Ensure Adequate Services and Infrastructure for New Development. Development shall only be approved when it has been demonstrated that the development will be served with adequate water and wastewater treatment. Lack of adequate services to serve the proposed development</p>	<p>ADUs and JADUs can only be permitted on parcels that are already served by infrastructure and services.</p>

shall be grounds for denial of the development.	
<b>Policy LU-10.6:</b> Protect Special Communities. New Development shall, where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.	In the proposed CLUDC amendment, an ADU cannot be used for a short-term vacation rental. This will help maintain the residential neighborhoods consistent with this policy.

The following policies could potentially apply to the project but after review, it has been determined that the proposed CLUDC updates are neither consistent nor inconsistent with these policies:

<b>Policy</b>	<b>Analysis</b>
<b>Policy LU-5.7:</b> Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.	The proposed amendment requires off-street parking for ADUs in neighborhoods that provide coastal recreational access.
<b>Policy LU-10.1:</b> Preserve Neighborhoods: Preserve and enhance the character of the City’s existing residential neighborhoods.	ADUs have a long history in Fort Bragg and contribute to inclusive and affordable neighborhoods.

There are no other applicable policies in the land use element.

**Public Facilities Element**

The City’s current Coastal General Plan projected that: *“Buildout over the next 10 years would generate a projected 1,900 additional people which would require production of an additional 200,000 gallons of water per day.”*<sup>1</sup> However, as seen from the statistics provided by the CDF, at the most population has increased by 178 people or decreased by 120 people which is significantly less than the 1,900 people projected in 2008. Even if every single residential parcel in the coastal zone added an Accessory Dwelling Unit, that would only account for an additional 556 units, and, even if all of those units had two people, the City still would not have an increase in the population projected in the 2008 plan, even if the more conservative higher number of residents is used to estimate the City’s population.

The 2008 General Plan also states that, *“The City will have sufficient water supply to meet this demand, though it may not have sufficient water storage.”*<sup>2</sup>

<sup>1</sup> City of Fort Bragg, Coastal General Plan Public Facilities Element, Pg. 3-1. July, 2008.

<sup>2</sup> Ibid. pg. 3-1

The City of Fort Bragg continues to rely on three surface water sources: Waterfall Gulch (tributary to Hare Creek), Newman Gulch (tributary to Noyo River), and the Noyo River (intake is at Madsen Hole). The water treatment plant was originally constructed in the 1950's, and upgraded in the 1980's, and has a capacity of 2.2 million gallons per day (MGD). An upgrade of the water treatment plant is currently in design phase. While the water supply has not changed, the City has made significant progress in amplifying storage capacity by adding an additional 1.5 million gallon finished water storage tank and the Summers Lane Reservoir with a raw water capacity of 14.7 million gallons, creating a total water storage capacity to 22.6 million gallons.

While there is more than sufficient capacity, the City is exploring long-term sustainable water strategies that include "purple pipe" transmission of treated recycled wastewater and desalinization. The City's potable water system has sufficient capacity to support future development that could occur as a result of the proposed code revision while still accommodating other planned growth in the City.

The City's Water Treatment Plant (WWTP) provides sewage treatment and disposal through the Fort Bragg Municipal Improvement District No. 1 (MID). The MID is somewhat larger than the City as it includes some of the Local Agency Formation Commission (LaFCO) proposed Sphere of Influence. The Wastewater Treatment Plant (WWTP) was constructed in 1971 and underwent a substantial upgrade in 2020. It has a secondary treatment level capacity of 0.8 million gallons per day (MGD) for average dry weather flow (ADWF) and 4.9 MGD Peak Hydraulic Flow. The WWTF also has sufficient capacity to handle additional wastewater that may result from development of housing related to the proposed code revisions.

The proposed updates to the CLUDC are **consistent** with the following General Plan policy as State Law prohibits additional capacity fees for ADUs.

Policy	Analysis
<p><b>Policy PF-2.1 Development Pays Its Share:</b> Require that new development pay its share of capital improvements and the cost of public services to maintain adequate levels of service.</p>	<p>ADUs are exempt from capacity fees as required by State Law.</p>

There are no other policies that are applicable to the proposed CLUDC updates.

**Conservation, Open Space, Energy, and Parks Element**

The proposed amendment would be consistent with the policies of the Conservation Element as a CDP is required if the project is located in an area that has the potential to have Environmentally Sensitive Habitat, Wetlands, visual resources or on other Coastal Act resources as illustrated in the Maps of the Coastal General Plan.

**Circulation Element**

The proposed amendment to the CLUDC is **consistent** with the following General Plan policy as the changes are mandated by State law:



Policy	Analysis
<p><b>Policy C-9.2:</b> Require Sidewalks. Require a sidewalk on both sides of all collector and arterial streets and on at least one side of local streets as a condition of approval for new development.</p>	<p>All multi-family and mixed-use projects are required to construct public improvements. However, State law prohibits local jurisdictions from requiring public improvements as a condition of approval for ADUs. There are a small number of single-family residential units that do not currently have sidewalks, and they would not be required to add sidewalks as part of the ADU permitting process.</p>

There are no other applicable circulation policies that would affect the CLUDC’s consistency with the CGP.

**Community Design, Safety, and Noise Elements**

The proposed project is in conformance with any goals, policies, and programs in this element and does not conflict with anything in the element. As amended, new development would still be required to apply for a CDP. Projects would be reviewed for impacts to visual resources and any new commercial or multi-family construction would still require design review. Additionally, there are no changes to the land use code that pertain to safety, noise, or the review process for site design standards.

**Housing Element**

The City’s Housing Element was updated in 2019 and adopted by the City Council for both Inland and Coastal Fort Bragg. The consistency review for the amendments to the CLUDC is done referencing the goals, policies, and programs in the 2019 Housing Element even though it has not been certified by Coastal Commission as part of the Local Coastal Program. There are significantly more goals, policies, and programs in the 2019 Housing Element in comparison to the 2008, most of which have been added to address the housing crisis.

The proposed amendments to the CLUDC **are consistent** with the following applicable policies of the 2019 Housing Element:

Policy	Analysis
<p><b>Policy H-1.2</b> Mixed-Use Development: Encourage the development of mixed-use projects that include multi-family residential uses (upstairs and at the rear of properties) in conjunction with commercial enterprises on the street frontage in commercial zones and use Design Review to minimize conflicts between residential and commercial uses.</p>	<p>The amended CLUDC will allow the residential component of a Mixed-Use project by right.</p>

<p><b>Policy H-1.3</b> Secondary Dwelling Units: Continue to facilitate the construction of secondary dwelling units on residential properties.</p>	<p>The proposed CLUDC amendment will allow accessory dwelling units to be constructed on any parcel where there are existing residential units (single-family and multifamily).</p>
<p><b>Program H-1.3.2</b> No Development Impact Fees for Secondary Units: Continue to refrain from charging Capacity Fees for second units.</p>	<p>The proposed CLUDC amendment includes implementing State law which prohibits charging capacity fees for ADUs.</p>
<p><b>Program H-1.3.3</b> Junior Accessory Dwelling Units: Consider revising the zoning ordinance to allow junior accessory dwelling units (units no more than 500 SF and contained entirely within an existing single-family structure) in single-family residential and multifamily zoning. The Junior Accessory units would be in addition to a second unit, allowing up to 3 units per parcel by right.</p>	<p>The proposed amendment includes definitions and provisions for Junior Accessory Dwelling Units in Section 17.42.170.</p>
<p><b>Program H-1.3.5</b> Allow Tiny Homes as Second Units: Consider revising the zoning ordinance so that people can park mobile residences (residences built under the vehicle code) as a second unit, so long as the residence looks like a house (e.g. external siding that is compatible with the residential neighborhood, skirted if the wheels would otherwise be visible from the public right of way, etc.).</p>	<p>The proposed amendment includes the addition of Section 17.42.175 which provides standards for Tiny Homes to be allowed as second units.</p>
<p><b>Policy H-1.6</b> Infill Housing: Encourage housing development on existing infill sites in order to efficiently utilize existing infrastructure.</p>	<p>The proposed code will allow the development of ADUs on all parcels with sufficient space that are already developed for residential uses. By adding the ADU on the site, this is a denser and more efficient use of space to increase housing rather than building new housing on vacant sites.</p>
<p><b>Program H-5.2.2</b> Single-Family Homes: Continue to allow the reuse of existing single family residences, in commercial zones, as single-family residences. Consider allowing second units on commercially zoned parcels with existing single family homes.</p>	<p>The proposed amendment will allow houses in commercial districts that still have the appearance of a house to be converted back into a house.</p>

The proposed project does not conflict with any goals, policies, or programs of the 2019 Housing Element.

## **CONSISTENCY WITH CLUDC SITE PLANNING AND PROJECT DESIGN STANDARDS**

---

### Setbacks and Lot Coverage

Again, as mandated by state law Accessory Dwelling Units will have special exceptions to site design standards. Namely, they are exempt from lot coverage calculations, and they have a reduced set back of 4 feet on the rear and the side setbacks. In many cases in the City, houses are located at the back of a parcel. In the case of an ADU being placed in front of the existing house, the ADU shall comply with the front setback requirement.

### Parking and Traffic

Again, in compliance with State law, ADUs do not require additional parking, and in the case of a garage conversion to an ADU, the removed parking space does not have to be replaced.

### Public Improvement Requirements

Under the amended code per state law, the City would not be able to require new sidewalks or other improvements required in Section 17.30.090 for ADUs.

It is worth noting that the State mandates that a local jurisdiction cannot require the correction of any non-conforming issues as a condition of approval on an ADU or JADU. That said, the proposed code amendments would not have any other impacts on site or design standards.

## **COASTAL RESOURCES ANALYSIS**

---

The proposed updates to the Coastal Land Use and Development Code will change the planning entitlement requirements for certain projects, allowing some as permitted uses instead of requiring use permits. However, with the possible exception of the conversion of an existing structure to an ADU or a portion of an existing house to a JADU, all projects will still require a Coastal Development Permit.

For the conversion of either an existing structure or a space in an existing structure into either an ADU or JADU, each project would be evaluated to determine if the project is exempt from a Coastal Development Permit. In the case of a JADU, which has a maximum size of 500 square feet, it is relatively easy to conclude that there is no intensification of use and that the change would not qualify as development and therefore, a CDP would not be required. However, in the case of an existing structure conversion, such as a garage into an accessory dwelling unit, projects would have to be evaluated on a case-by-case basis, but it is conceivable that the project may not be considered intensification of use nor development in terms of needing a Coastal Development Permit. The construction of a new ADU is and would continue to be considered development and would require a CDP.

With the exception of those noted above, all projects would still have to be analyzed and the findings in Section 17.71.045(l) (2) would have to be made including the following:

*The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources;*

In order to make this finding, a project would need to be analyzed for potential effects to natural resources, marine resources, scenic resources, cultural resources, and recreational resources. Projects within 300 feet of a coastal bluff or between the sea and the first public road will also be analyzed for special considerations and the required findings in Section 17.56.070.

The proposed amendment to the CLUDC will not adversely affect coastal resources.

## **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 single-family 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.

## **RECOMMENDED PLANNING COMMISSION ACTION**

---

Provide direction to staff on proposed zoning amendment for recommendation to the City Council.