



AGENCY:	City Council
MEETING DATE:	October 11, 2016
DEPARTMENT:	CDD
PRESENTED BY:	M. Jones/S. Perkins

AGENDA ITEM SUMMARY REPORT

TITLE:

RECEIVE REPORT AND PROVIDE DIRECTION TO STAFF REGARDING PROPOSED AMENDMENTS TO ARTICLE 2 AND ARTICLE 10 OF THE FORT BRAGG MUNICIPAL CODE TITLE 18, INLAND LAND USE AND DEVELOPMENT CODE (ILUDC)

ISSUE:

Every few years, the City updates the Inland Land Use and Development Code (ILUDC) to fix identified problems and to ensure that the ILUDC implements the policy goals of the City Council. On the morning and evening of June 16, 2016, the Community Development Department held two Zoning Code Update Workshops where community members were invited to contribute their ordinance update ideas and concerns. Additionally, the Council's Community Development Committee reviewed the ILUDC's "use tables" to identify uses that could potentially be allowed to provide more flexibility with regard to permitted and conditionally permitted uses within zoning districts.

RECOMMENDED ACTION:

Provide direction to staff regarding proposed amendments to Article 2 and Article 10 of Fort Bragg Municipal Code, Title 18, Inland Land Use and Development Code (ILUDC).

ALTERNATIVE ACTION(S):

1. No action. Under this alternative, no further actions would be taken to update the ILUDC.
2. Continue action on the matter and request additional information and/or analysis by staff.

ANALYSIS:

Article 2 of the ILUDC establishes the purpose of each zoning district at the beginning of each chapter, along with a use table which defines the level of permit needed for each use within that family of zoning districts (residential, commercial, industrial and special purpose). Article 2 also provides parcel standards (minimum parcel size, width and depth) and development standards (density, setback requirements, Floor Area Ratio, height limits and more).

The zoning tables of Article 2 provide four levels of permission for use types in each zoning district according to the purpose of that zone and the compatibility of the proposed use with the purpose of the zoning district. The four different levels of permission are:

- *P - Permitted* use by right, so long as the project complies with the LUDC. Review occurs over the counter concurrently with a Building Permit, if one is required. There is no fee.
- *MUP - Minor Use Permit*, permit review and approval is granted administratively by the Director of Community Development. This review process requires notification of the neighbors, analysis of the project, preparation of a staff report, consideration by the Director, and issuance of a permit. The fee for a MUP is \$700 and it typically takes four weeks to process (two weeks for notification of neighbors). A MUP can be appealed to the Planning Commission by a neighbor, as a Use Permit, with no additional fee.

- *UP - Use Permit* requires notification of neighbors, notice in the paper, analysis, preparation of a staff report, and a public hearing before the Planning Commission. The review process is typically around two months and includes an additional \$1,115 in fees.
- “-“ *Use not allowed*. The proposed use is not permitted and a variance cannot be granted to allow it.

In order to approve a Use Permit or Minor Use Permit, the review authority must make the following findings per 18.70.170F:

- F. **Findings and decision.** An application for a Use Permit or Minor Use Permit may be approved subject to conditions, or disapproved by the Review Authority. The Review Authority shall approve a Use Permit or Minor Use Permit only after first finding all of the following:
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.
 5. The proposed use complies with any findings required by Section 18.22.030 (Commercial District Land Uses and Permit Requirements).

The use tables (in Article 2) and the Definitions (Article 10) are intricately connected, as the definitions help staff determine how to categorize a specific use in the use tables, and determine the appropriate level of review for the proposed project or business. It is helpful to review them side by side as some definitions are not immediately self-explanatory. Additionally, it is helpful to review the zoning map to understand where particular zones are located.

Staff recommends a variety of changes to both Article 2 and Article 10 to achieve the following general goals:

1. Bring the ordinance into compliance with State law. State land use law often changes, and the zoning ordinance must be kept in compliance with current law. Key changes to State law which are addressed in the tables and definitions include: regulation of second units; avoiding regulating uses based on populations served; and changes to inclusionary housing.
2. Simplify and modernize the Use Tables and Definitions. The ILUDC includes a fine grain of detail for certain uses which may be unnecessary and identifies types of uses that are not likely to occur in our small town. Use types have been combined and/or eliminated where appropriate. Additionally, many of the definitions include examples of businesses that are outdated, in which case current business examples have been substituted.
3. Provide for more flexibility in allowable uses in Zoning Districts. Staff has carefully considered the suitability of each use in each zoning district and recommends revisions to the use tables to:

- a. Allow, with a Use Permit, uses that are currently not permitted, where there is no clear conflict with existing uses or the purpose of the district and when the Use Permit process can establish special conditions to make the project compatible with the district;
- b. Regulate through the Minor Use Permit process, in cases where a Use Permit is currently required, but a full hearing by the Planning Commission may not be necessary.
- c. Permit by right, in a few cases where MUPs are not necessary for the integrity of the zoning district.

Please note that these changes are probably the most significant changes in the ILUDC update, and Council will need to balance permissiveness of the zoning with the potential to create conflicts between uses and thereby result in “neighborhood” discord within a zoning district. Conflicts that typically arise due to incompatible uses include: noise, odor, aesthetics (building design, outside uses/style), time of use, deliveries, traffic, parking, and number/type of customers, users and/or employees. Special care should be taken in consideration of new uses in the Central Business District, as the overall pedestrian oriented nature of retail shopping can be harmed by allowing too many non-retail uses on the ground floor. Likewise, care should be taken when considering allowing non-industrial uses in industrial districts as such uses will often increase real estate value and rental rates in these zones and thereby displace industrial uses.

4. Implement Direction provided by Council. City Council has provided direction over the past two months on a number of changes to the ILUDC that are partially implemented through changes in the Use Tables and/or the Definitions.
5. Improve Effectiveness of Use Tables. Staff has added references to the Use Table where additional regulations apply to a use or might be considered.

All changes in both Article 2 (Attachment 1) and Article 10 (Attachment 2), are annotated using track changes to help City Councilmembers and the public track the proposed changes. Additionally, comments (bubble text) are included next to each change to explain the rationale for each proposed change. Please review these attachments to see the proposed changes and the rationale for each change. Please note that the City Attorney’s Office has not reviewed the proposed changes but will do so once Council direction is received. At that time, there may be additional refinements necessary prior to completion of the revised ILUDC update.

FISCAL IMPACT:

Most development projects and changes of use require permits, and fees are collected to recover the cost to process those permits. The City collects a General Plan Maintenance fee on most building permits and that revenue funds staff time associated with General Plan and LUDC updates. The City also collects revenue through sales and use taxes and business licenses fees. To the extent that revisions to the ILUDC either encourage more business activity or displace sales tax revenue generating businesses, the ILUDC update could affect overall revenues collected by the City.

IMPLEMENTATION/TIMEFRAMES:

Processing the ILUDC amendments, its associated environmental review and required public hearings will take a few months to complete. It is expected to be completed in early 2017.

The Coastal Land Use and Development Code (CLUDC), which regulates development within the coastal zone, will also be updated following the ILUDC update, so that the two ordinances are as

similar as possible. The CLUDC is updated at less frequent intervals than the ILUDC because the process with the Coastal Commission is time-intensive and lengthy. The last update was in 2008. Staff will come back to City Council for direction this fall/winter regarding the applicability of ILUDC changes made in 2014 and 2016 to the CLUDC and will submit one Local Coastal Program Amendment to the Coastal Commission which includes all approved changes. The CLUDC update will come forward to the City Council within the next few months and will take approximately 12 months to process with the Coastal Commission.

ATTACHMENTS:

1. Attachment 1: Article 2 - Zoning Districts and Allowable Uses
2. Attachment 2: Article 10 – Definitions
3. Attachment 3: Zoning Map
4. Attachment 4: Correspondence Received
5. Attachment 5: Disability Rights California Letter re: ADA

NOTIFICATIONS:

None.

City Clerk's Office Use Only

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		