

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT
BRAGG**

**AN ORDINANCE AMENDING 18.71.090 -
PLANNED DEVELOPMENT PERMIT OF
DIVISION 18 OF THE FORT BRAGG
MUNICIPAL CODE TO ALLOW PLANNED
DEVELOPMENT PERMITS ON PARCELS OF
1 ACRE OR MORE SUBJECT TO
PREVIOUSLY APPROVED MITIGATED
NEGATIVE DECLARATION**

ORDINANCE NO. 989-2024

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 its sphere of influence; and

WHEREAS, the City adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new State planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) pursuant to Section 15074 of the CEQA Guidelines, a Mitigated Native Declaration (MND) was prepared and circulated for public comment for the zoning code amendment; and

WHEREAS, a Notice of Intent to Adopt an MND was published on December 7, 2023, and the twenty-day review period was from December 7 through December 27, 2023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024 to consider the Zoning Code Amendment, accept public testimony and adopted a resolution recommending that City Council adopt a zoning amendment to modify the City’s PUD regulations; and

WHEREAS, the City Council held a duly noticed public hearing on April 8, 2024 to consider the Zoning Code Amendment, and accept public testimony regarding a zoning amendment to modify the City’s Planned Development (18.71.090) regulations; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg City Council, 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 Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the City Council meeting of April 8, 2024 and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council does hereby make the following findings and determinations:

SECTION 1: LEGISLATIVE FINDINGS

1. The foregoing recitals are true and correct and made a part of this Ordinance.
2. On January 10, 2024, the Planning Commission held a properly noticed public hearing to consider recommending the proposed minor amendment to the Inland Land Use and Development Code to the Fort Bragg City Council for adoption and adopted a resolution in support of the City Council's adoption of the amendment to the ILUDC pursuant to Gov. Code Section 65355; and
3. On April 8, 2024, the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Inland Land Use and Development Code; and

SECTION 2: INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 18.94.060, the City Council makes the following findings for adoption of the proposed amendments to the Fort Bragg Inland Land Use and Development Code:

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

The proposed amendment is consistent with the General Plan, as the amendments would result only in a change in the minimum parcel size for a Planned Development and the existing ordinance complies with the General Plan. There are no policies in the General Plan that only apply to parcels of 5 acres or more, and all policies in the General Plan apply equally to all parcels regardless of size. Additionally, all Planned Development permit approvals must make the following finding: *"The project is consistent with the 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 Planned Development 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.”

4. The project is subject to CEQA, and a properly noticed MND was prepared for the project, circulated for public review, and adopted on April 8, 2024 immediately prior to the consideration of this Ordinance. This project is a necessarily included element of the project considered as part of Resolution 989-2024 approved as part of Agenda Item 24-537. The Mitigated Negative Declaration adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the Mitigated Negative Declaration was adopted; therefore no further environmental review is required.
5. The documents and other material constituting the record for these proceedings are located at the Community Development Department, and

SECTION 3. *Based on the foregoing, the City Council does hereby Amend chapter 18.71.090 Planned Development as follows:*

18.71.090 - Planned Unit Development Permit (PUD)

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:

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 5 of one~~ acre 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](#).

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [18.31](#) (Density Bonuses and Affordable Housing Incentives).

C. Application filing and processing. An application shall be filed in compliance with Chapter [18.70](#) (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) of this Section (Commission action).

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 [18.96](#) (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 General Plan and any applicable specific plan, and allowed within the applicable zoning district;
- 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) of this Section.

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 2 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 Subsection (H)(3) of this Section 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.

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.

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 § [18.76.080](#) (Changes to an Approved Project).

I. Post approval procedures. The procedures and requirements in Chapter [18.76](#) (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article [9](#) (Land Use and Development Code Administration), shall apply following a decision on an application for Planned **Unit** Development Permit approval.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or

more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 5. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember Peters at a regular meeting of the City Council of the City of Fort Bragg held on April 8, 2024, and adopted at a regular meeting of the City of Fort Bragg held on May 13, 2024 by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:**

**Bernie Norvell
Mayor**

ATTEST:

**Diana Sanchez
City Clerk**

**PUBLISH: May 2, 2024 and May 23, 2024 (by summary).
EFFECTIVE DATE: June 13, 2024.**