

RESOLUTION NO. PC -2023

**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.**

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 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, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California; and

WHEREAS, on September 16, 2021, California Governor Gavin Newsom signed Senate Bill 9 (SB-9) into law as part of an effort to address the State’s housing crisis by streamlining housing production; and

WHEREAS, the new legislation became effective on January 1, 2022, and requires local agencies to ministerially approve urban lot splits and development of up to four residential units per single family residential lot provided the projects meet certain criteria; and

WHEREAS, the City wishes to balance compliance with State law with the rights still preserved under the new legislation authorizing the City to establish objective zoning, subdivision and design review standards consistent with SB-9 requirements to approve urban lot splits and urban unit residential development; and

WHEREAS, The project is exempt from CEQA, as a zoning amendment to implement the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is exempt from CEQA by those code sections; 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 Community Development Committee held a duly noticed public hearing on May 17, 2023, to discuss a memo about SB-9 implementation in Fort Bragg; and public comments were given at that time; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 11, 2023, 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 October 11, 2023 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: 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 makes 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 General Plan and any applicable specific plan; and

As noted in the General Plan Consistency Analysis, which is Attachment 2 to the staff

report and incorporated by reference under the resolution statement above, the project is consistent with the Coastal General Plan as follows:

1. 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 the four units allowed through an Urban Lot Split and subsequent development in their density calculations. Thus, while the amendments 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 amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
 2. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-10.2, Policy LU-10.4, Policy LU-10.6, Policy LU-5.7, Policy LU-10.1, Policy PF-1.1, Policy PF-2.1, Policy CD-1.1: Policy CD-2.4 and Policy CD-2.5
 3. 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 effect Environmentally Sensitive Habitats, Wetlands, visual resources or on other Coastal Act resources as illustrated in the Maps of the Coastal General Plan.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment is mandated by State Law as such it is in the public interest to permit additional opportunities for residential housing development, which will provide for better convenience and welfare for the residents of the City of Fort Bragg as it will result in additional housing units. The proposed amendment requires conformance with all applicable building codes which will ensure healthy and safe housing.

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

The Proposed Amendment is consistent with CLUDC standards with the following State mandated exception.

1. **Lot Coverage:** As mandated by state law, housing units developed as a consequence of this ordinance must be exempt from lot coverage calculations if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
2. **Set Backs:** As mandated by state law, housing units developed as a consequence of this ordinance have an exception from the code requiring only 4 feet setbacks on the rear and side property lines. Additionally, front yard setbacks must be reduced if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
3. **Parking and Traffic:** Again, in compliance with State law, City Council may require

that housing units developed as a consequence of this ordinance provide off-street parking so long as that requirement does not preclude an applicant from building at least two units of 800 SF each.

SECTION 2: 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 at the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council submit an LCP Amendment application to the Coastal Commission to amend Title 17 to the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts” add Chapter 17.42.200 “Urban Lot Split” and add Chapter 17.84.045 “Urban Unit Residential Development” 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.

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

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 11th day of October 2023, by the following vote:

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

Jeremy Logan, Chair

ATTEST:

Maria Flynn, Administrative Assistant

Resolution Appendix A

Draft Ordinance: CLUDC Urban Lot Splits & Urban Unit Development

17.21.030 & 17.21.050 Land Use Table Amendments

Revise 17.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP UP	Minor Use Permit required (see Section 17.71.060)					
	S	Use Permit required (see Section 17.71.060)					
	—	Permit requirement set by Specific Use Regulations					
		Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
RESIDENTIAL USES							
Duplex	P	P	P	P	P	P	17.42.170 17.42.200
Low Density Primary dwelling Unit	P	P	P	P	P	P	
Urban Unit Development (4 units)	p	p	p	-	-	-	17.42.200
Urban Unit Development (2 units)	P	P	P	-	-	-	17.42.200 & 17.84.045

Revise Table 2-4 to clarify that two-unit and four-unit development is allowed consistent with 17.42.200.

TABLE 2-4 - RR, RS, AND RL DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	RR Rural Residential	RS Suburban Residential	RL Low Density Residential
Density	Maximum number of dwelling units allowed on a single parcel.		
	1 dwelling unit or one duplex per parcel; or 1 dwelling unit and one second unit and one JADU where allowed by 17.42.170 ; or Two to four dwelling units, where allowed, by 17.42.170 and 17.84.045.		

17.84.045 Urban Lot Splits

Adopt an entirely new Ordinance 17.84.045 Urban Lot Splits in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires approval of the subdivision of a residential lot in RR, RS, and RL Zoning Districts into two parcels with up to two units of housing on each subsequent parcel per 17.42.200.

Coastal Development Permit required. An application for an Urban Lot Split shall be approved with an administrative Coastal Development Permit. While a public hearing shall not be held, public notice is required for both the Pending Action and the Final Action.

Definitions. These definitions are intended for the narrow purpose of implementing 17.84.045.

- **Unit.** Unit means a primary dwelling unit or one unit of a duplex an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 17.84.045.
- **Front Parcel.** A parcel, created by an Urban Lot Split, which includes at least 50% of the original parcel’s street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel’s alley-facing frontage or back parcel line.
- **Front of the Parcel.** The “front of the parcel” is defined as 1) the street side of the Front Parcel or 2) the alley side of an alley fronting Back Parcel, or 3) the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Land Use Table 2-1 Residential Uses).

A. Limitation on Location.

1. The parcel must be located in RR, RS, and RL Zoning Districts. Parcels in multifamily residential zoning districts and commercial zoning districts are not eligible for Urban Lot Splits.
2. The applicant shall undertake proper mitigation if the parcel is in a Fire, Flood, or Earthquake Hazard Zone per the appropriate section of this code.
3. Both resulting parcels shall have access to, provide access to, or adjoin the public right-of-way.
4. Urban Lot Splits are not permitted, under any of the following conditions.
 - a. On a parcel adjacent to another parcel that was split via the Urban Lot Split under ownership by the same person or a person working in concert with the property owner of the adjacent parcel.
 - b. On a parcel that was created through a previous Urban Lot Split.
 - c. On parcels under ownership of a community land trust, as defined in Section 402.1 of the Revenue and Taxation Code, or a qualified nonprofit corporation as described in 214.15 of the Revenue and Taxation Code.

- d. On a parcel located in a historic site or district, listed on the State Historic Resources Inventory or designated as a Historic Landmark.
- e. On a parcel located on prime farmland, a hazardous waste site listed pursuant to Section 65962.5, or within a 100-year flood zone.
- f. On a parcel that includes a wetland, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993) or habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act
- g. On a parcel located on lands under a conservation easement.
- h. On a parcel where the Urban Lot Split would require demolition of affordable or rental housing that: 1) is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; (2) is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) has been occupied by a tenant in the last three years.
- i. On a parcel located within areas mapped in the Coastal General Plan on any of the following Coastal General Plan maps: Map OS-1 Open Space and Environmentally Sensitive Habitat Areas; Map OS-2 Special Review and Runoff Sensitive Areas; and/or Map SF-2 Flood Hazards.

B. Lot Size, Lot Split Size, Setbacks

- 1. No parcel of less than 2,400 SF may be subdivided through the Urban Lot Split process.
- 2. The resulting lots must be near equal in size; each lot must be at least 40 percent of the existing lot size, but no smaller than 1,200 sf.
- 3. The new lot line may be approved even if the line divides pre-existing adjacent or connected structures, so long as the structures meet building code safety standards and are sufficient to allow for separate conveyance.

C. Urban Lot Split Access & Public Improvements.

- 1. Created parcels shall have access to, provide access to, or adjoin the public right-of-way. Flag Lots or easements are permissible if there is no alley access to the back parcel. In no case will more than one curb cut be permitted per original parcel, shared street access is required where street access is necessary for both parcels.
- 2. Easements shall be required for the provision of public services and facilities.
- 3. The City shall not require the dedication of rights-of-way or the construction of offsite improvements.

D. Use Limitation and Deed Restriction.

- 1. **Deed Restriction.** As part of the recordation of the Lot Split, the owner shall record a deed restriction on both resultant lots in a form approved by the City that includes all items enumerated in D2 below.
- 2. **Use Limitations.** The following restrictions apply to all lots created through an Urban Lot Split.

- a. **Owner Occupancy.** The property owner shall use one of the units as their primary residence for a minimum of three years.
- b. **Sale.** The sale of one unit separate from the sale of the other unit on the same parcel is prohibited.
- c. **Short-term Rentals.** Units shall not be rented for periods of less than 31 days.
- d. **Future Lot Splits.** Future Urban Lot Splits of either resulting parcel is prohibited.
- e. **Prohibition of non-residential uses.** Non-residential uses are not permitted. Only residential uses are permitted, (per Use Table 2-1 Residential Uses)

E. Subdivision Map Act & General Plan Conformance. This Section overrides any conflicting provisions of the Subdivision Map Act. General Plan conformance is not required if it would preclude urban lot-splits mandated by this Section.

F. Exceptions to Development Standards for Lot Splits with Existing Development.

1. **Side & Rear Yard Setbacks.** No setbacks are required for existing structures.
2. **Non-Conforming Structures and Land Uses.** All existing nonconforming zoning conditions (use, development standards, parking standards, etc.) may continue with an Urban Lot Split.

G. Urban Lot Split Application Requirements. An application for an Urban Lot Split under this Section shall include the following materials.

- a. Tentative Map.
- b. Boundary survey.
- c. Parcel Map with legal descriptions for both parcels.
- d. Deed restriction.

H. Allowable Development. Development of parcels created through an Urban Lot Split shall be regulated by Section 17.42.200.

I. Required Findings for Denial. The denial of a proposed Urban Lot Split requires the Building Official to make the following finding:

- a. Based upon a preponderance of the evidence, the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- b. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

J. Required Findings for Approval in the Coastal Zone. The approval of a proposed Urban Lot Split requires the Review Authority to make the following findings for Urban Lot Splits in the Coastal Zone:

1. New parcels will minimize risks to life and property in areas of geologic and flood hazard.
2. New parcels will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
3. New parcels are consistent with relevant LCP policies requiring that parcels be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas into the future.
4. New parcels are consistent with LCP policies protecting public access, recreational opportunities, marine habitats, water quality, and visual resources.
5. New parcels are served with adequate public services.
6. New parcels will not be directly or indirectly impacted by sea level rise under the “medium-high risk aversion” scenarios prepared by the Coastal Commission for a period of 101 years.

17.42.200 Urban Unit Development

Adopt an entirely new Ordinance 17.42.200 Urban Unit Development in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires ministerial approval up to two units of housing (see H-2) on a parcel created through an Urban Lot Split and up to four Units (see H-1) on a single parcel that was not created through an urban lot split.

Coastal Development Permit required. An application for residential development that complies with the standards of this Section shall be approved with an administrative Coastal Development Permit. While a public hearing shall not be held, public notice is required for both the Pending Action and the Final Action.

Definitions. These definitions are intended for the narrow purpose of implementing 17.42.200

- **Unit.** "Unit means a primary dwelling unit, one unit of a duplex, an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 17.84.045.
- **Front Parcel.** A parcel, created by an Urban Lot Split, which includes at least 50% of the original parcel's street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel's alley-facing frontage or back parcel line.
- **Front of the Parcel.** The front of the parcel shall be the street side of the Front Parcel, the alley side of an alley fronting Back Parcel, or the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Land Use Table 2-1 Residential Uses).

A. Density, Size & Number of Units Allowed.

1. A Maximum of four units (two units and two J/ADUs) are permissible on lots which do not go through an Urban Lot Split. There is no size limit for primary units; second units must be 800 SF or less.
2. A maximum of two units is permissible on each lot created by an Urban Lot Split as follows:
 - a. Two Primary Units of 1,200 SF or less each, or
 - b. One Duplex of 2,200 SF or less, or
 - c. One Primary Unit of 1,200 SF & One ADA of 800 SF or less, or
 - d. One Primary Unit of 1,200 SF & One Junior ADU of 500 SF or less, or
 - e. One Primary Unit of 2,200 SF or less.
 - f. Lots created through an Urban Lot Split are not eligible for the maximum of three units (primary, ADU, JADU) specified under 17.42.170
3. Units permissible under this section are exempt from the calculation of the maximum allowable density and shall be deemed to be a residential use that is consistent with the General Plan and zoning designation for the lot(s).

B. Setbacks For New Units.

1. Rear and side yard setbacks for new units shall be 4 feet.
2. The minimum front yard setback for the back parcel shall be:
 - a. 10 feet when facing the alley, and
 - b. 5 feet when facing the new property line (see definitions).
3. The minimum front yard setback for the front parcel shall comply with the development standards of Section 17.21.050.

C. Off-street parking. One off-street parking space is required for each unit unless the unit is located ½ mile from a bus stop or there is a car share on the same block. Where feasible parking access shall be provided from the alley for both parcels via an easement or parcel configuration. In no case will more than one curb cut be permitted per original parcel, shared street access is required where street access is necessary for both parcels. Parking shall be provided onsite in areas with coastal access that have constrained public parking.

D. Timing. Units may be constructed simultaneously or at different times.

E. Exceptions to Development Standards

1. **Exceptions to Accommodate at least two 800 SF Units.** The Community Development Director shall modify or eliminate objective development standards if they prevent the construction of up to two units of at least 800 square feet in size on each lot. The following objective development standards shall be modified last (and only if no other combination of modified standards permits at least two 800 SF Units): parking requirement, front setback, height limit.
2. **Non-conforming Setbacks.** The setbacks of an existing structure may be retained for a new structure that is located in the same footprint as an existing structure.

F. Objective Design Review Standards

1. **Separate entrance required.** All units shall have separate entrances.
2. **Private open space and storage space.** Each unit must include 100 SF of private outdoor open-space and 100 cubic feet of outdoor accessible storage space (as part of the unit). Private open space shall be at the same elevation as and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of 8 feet; except for upper-floor balconies where the private open space is provided as a balcony.
3. **Window & Balcony Placement.** A two-story unit or one that is located over a garage shall not have windows or balconies that directly face a neighboring yard. This limitation does not apply to windows facing alleys.
4. **Accessory structures.** Only one accessory structure (garage, craft room, shed, etc.) is permitted per lot and shall be designed and constructed with an architectural style, exterior colors and materials similar to the dwelling unit(s).
5. **Building facades adjacent to streets.** Dwelling units shall be sited and designed so that at least 75% of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall

have at least one pedestrian entry into the structure.

6. **Building code compliance.** All new units must satisfy the requirements contained in the building code and fire code as currently adopted by the City, including applicable energy efficiency standards associated with Title 24 of the California Code of Regulations.

G. Utilities

1. **Separate Connections.** The project shall include separate gas, electric and water utility connection directly between each dwelling unit and the utility.
2. **Capacity fees.** Units of less than 750 SF shall be exempt from paying capacity fees, and units of more than 750 SF shall pay a prorated share of the capacity fee.

H. Application Requirements. An application for development of allowable units under this section shall include the following materials.

- a. Site Plan – existing conditions,
- b. Site Plan – proposed project,
- c. Floor Plans, and
- d. Elevations and Finishes.

J. Required Findings for Approval in the Coastal Zone. The approval of a proposed Urban Unit Development requires the Review Authority to make the following findings in the Coastal Zone:

3. New units will minimize risks to life and property in areas of geologic and flood hazard.
4. New units will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
5. New units are consistent with relevant LCP policies requiring that units be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas into the future.
6. New units are consistent with LCP policies protecting public access, recreational opportunities, marine habitats, water quality, and visual resources.
7. New parcels/units are served with adequate public services.
8. New parcels/units will not be directly or indirectly impacted by sea level rise under the “medium-high risk aversion” scenarios prepared by the Coastal Commission for a period of 101 years.

17.100 Definitions Amendments

In order to support the required code updates, the following modifications to the definitions in CLUDC Section 17.100.020 are recommended:

Urban Lot Split. A lot split authorized through 66411.7 and regulated by Section 17.84.045.

Urban Unit Development. Development authorized and regulated by Section 17.42.200.