

STAFF REPORT

City Council Business item

DATE: December 4, 2023

TO: Honorable Mayor and Council Members

FROM: Merritt Perry, City Manager

SUBJECT: **Public Hearing: Second Reading and Adoption of *Ordinance No. 2023-764* Amending Chapters 17.03, 17.06, and 17.08 of the Fortuna Municipal Code for Consistency with the Adopted Multifamily Design Standards**

STAFF RECOMMENDATION:

Adopt the proposed amendments to the Zoning Code to be consistent with the Multifamily Design Standards and to allow agricultural employee housing consistent with state law by adopting *Ordinance 2023-764*.

EXECUTIVE SUMMARY:

In 2019 the City of Fortuna received a grant from the California Department of Housing and Community Development (HCD) SB2 Planning Grant Program to streamline planning and permitting processes, update ordinances, and implement other activities that facilitate housing production. As part of this grant-funded work, the City has adopted an updated accessory dwelling unit ordinance and new Multifamily Design Standards. The City now needs to amend the Zoning Code to be consistent with the Multifamily Design Standards and to allow agricultural employee housing consistent with state law.

Zoning Code Amendments for Multifamily Design Standards

On September 5, 2023 the Fortuna City Council adopted, by resolution, the Multifamily Design Standards, which established new objective standards for multifamily and mixed-use residential development. The Multifamily Design Standards allow by-right approval (without a Design Review or a Conditional Use Permit) for multifamily and mixed-use residential projects that comply with the standards.

Currently, the Zoning Code requires a Design Review for all multifamily development. The Zoning Code also requires a Conditional Use Permit for multifamily projects with six or more units in the Multifamily Residential (R-M) zoning district and for all multifamily projects in the Neighborhood Commercial (N-C) and Retail Commercial (R-C) zoning districts.

To resolve this conflict between the Multifamily Design Standards and Zoning Code, the following Zoning Code Amendments are proposed:

- **17.03.012 (Multifamily Residential Zoning District):** Removes Conditional Use Permit requirement for multifamily projects with six or more units and removes Design Review requirement for multifamily projects that are consistent with the adopted Multifamily Design Standards.

- **17.03.020 (Neighborhood Commercial Zoning District):** Adds multifamily dwelling units consistent with the Multifamily Design Standard as a permitted use, removes Conditional Use Permit requirement for all residential uses, adds Conditional Use Permit requirement for single-family dwellings.
- **17.03.021 (Retail Commercial Zoning District):** Adds multifamily dwelling units consistent with the Multifamily Design Standard as a permitted use, removes Conditional Use Permit requirement for all residential uses, adds Conditional Use Permit requirement for single-family dwellings.
- **17.06.130 (Multifamily Dwellings):** Creates new section for multifamily dwellings that requires compliance with the Multifamily Design Standards, allows projects by-right if consistent with standards, and allows deviations from standards with Design Review.

Agricultural Employee Housing

Program H-24 of the Fortuna General Plan Housing Element is as follows:

“To comply with Health and Safety Code Sections 17021.5 and 17021.6 the City will review and revise the zoning code. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in an agricultural zone shall include agricultural employees who do not work on the property where the employee housing is located.”

This program is based on requirements in the California Employee Housing Act (California Health and Safety Code 17000 – 17062.5), which prohibits cities and counties from requiring a Conditional Use Permit or other discretionary approval for agricultural employee housing when such a requirement is not required of other agricultural activity in the same zone.

Zoning Code Section 17.03.040.D currently requires a Use Permit for all labor camps and labor supply camps in the Agriculture Exclusive (AE) zoning district. Other agricultural uses in the AE zoning district are permitted use, allowed without a Use Permit. To resolve this conflict between the Zoning Code and the California Employee Housing Act, the following Zoning Code Amendments are proposed:

- **17.03.040 (Agriculture Exclusive Zoning District):** Adds agricultural employee housing as a permitted use. Adds requirement for evidence of valid HCD permit, deed restriction for permanent or seasonal employee housing, and affidavit for temporary employee housing.
- **17.08.050 (Agricultural Employee Housing):** Adds new definition of agricultural employee housing.

Agricultural employee housing allowed by right would be limited to housing with no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household, or that is approved pursuant to Section 17021.8 of the Health and Safety Code. Section 17021.8 requires ministerial approval of agricultural employee housing with 36 units or less that meets specified eligibility criteria and is operated by an affordable housing organization.

With the proposed Zoning Code Amendments, other types of employee housing that are not regulated under the Employee Housing Act would be classified as Labor Camps and Labor Supply Camps. These uses would continue to be allowed in the AE zoning district with a Use Permit

ENVIRONMENTAL ASSESSMENT:

The proposal is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment.

RECOMMENDED COUNCIL ACTION:

1. Receive staff presentation and review questions with staff
2. Open public comment
3. Close public comment
4. Motion to hold the second reading and adopt *Ordinance 2023-764*, read by title only. Roll Call vote.

ATTACHMENTS:

- *Ordinance No. 2023-764, An Ordinance Of The City Council Of The City Of Fortuna Amending Chapters 17.03, 17.06, and 17.08 Of The Fortuna Municipal Code To Comply With The Multifamily Design Standards And To Allow Agricultural Employee Housing Consistent With State Law and Determining The Ordinance To Be Exempt From CEQA*