



Community Development Department
PLANNING COMMISSION STAFF REPORT

REGULAR ACTION (Public Hearing): *Proposed amendments to Chapter 25.59 (Accessory Dwelling Units), Chapter 25.60 (Accessory Structures in R-1 and R-2 Districts), Chapter 25.26 (R-1 District Regulations), and Chapter 25.70 (Off-Street Parking) of the Burlingame Municipal Code related to Accessory Dwelling Units and Junior Accessory Dwelling Units to be consistent with recently adopted amendments to California Government Code Sections 65852.2 and 65852.22.*

MEETING DATE: February 24, 2020
AGENDA ITEM: 8d

ENVIRONMENTAL STATUS: Amendment of Title 25 – Accessory Dwelling Unit regulations of the Burlingame Municipal Code are proposed for changes for consistency with amendments to State Law (California Government Code Sections 65852.2 and 65852.22). The proposed amendments to the City Code are Statutory Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15282 (h) which exempts the adoption of an ordinance regarding accessory dwelling units and junior accessory dwelling units in a single family or multifamily residential zone by a City to implement the provisions of Sections 65852.2 and 65852.22 of the Government Code as set forth in Section 21080.17 of the Public Resources.

ACTION REQUESTED

The Planning Commission shall conduct a public hearing regarding the following ordinance, consider all public testimony (both oral and written) and, following conclusion of the public hearing, consider recommending adoption of the ordinance by the City Council:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLINGAME, AMENDING
TITLE 25 – CHAPTERS 25.59, 25.60, 25.26 AND 25.70 TO AMEND EXISTING ACCESSORY
DWELLING UNIT REGULATIONS TO BE CONSISTENT WITH RECENTLY ADOPTED
AMENDMENTS TO CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22

BACKGROUND

In response to both California's statewide housing shortages and the Bay Area's regional housing shortages, the State of California signed into law a number of bills (AB 881, AB 68 and SB 13) to encourage the construction of accessory dwelling units (ADU) and junior accessory dwelling units (JADU) by reducing the regulatory barriers commonly found in local zoning ordinances. The recently adopted legislation defines the standards local jurisdictions can apply to ADUs and JADUs. Details of this legislation are contained in amended Government Code Sections 65852.2 and 65852.22 (see attached for reference). This legislation was signed into law in late 2019 and took effect on January 1, 2020.

This State legislation supersedes the City's regulations for ADUs as currently outlined in Municipal Code Chapter 25.59 - Accessory Dwelling Units. The proposed changes are to bring the City of Burlingame's Accessory Dwelling Unit regulations into conformity with new State law.

Staff is bringing forward these changes to the Planning Commission for recommendation to the City Council for adoption of the attached Draft Ordinance, which makes changes to Chapter 25.59 (Zoning Regulations) of the Municipal Code and other related Municipal Code sections pertaining to Accessory Dwelling Units. The City Council is scheduled to review the Draft Ordinance at a first reading on March 2nd, and a subsequent second reading on March 16th.

The key areas of change mandated by the State legislation include the following:

1. There is no minimum lot size requirement, whether it is a conversion of existing space, an addition or a new detached structure;
2. In addition to an ADU, a JADU (up to 500 SF in size and located within an existing or proposed single family dwelling) may be created on a single family zoned property;
3. The maximum allowed size for an ADU is 850 SF, or 1,000 SF for two or more bedrooms;
4. ADUs up to 800 SF in size are exempt from lot coverage and floor area regulations. For simplicity and to avoid confusion, staff is proposing that the lot coverage and floor area ratio exemption be applied to 850 SF ADUs to be consistent with the maximum allowed size;
5. Required side and rear setbacks can be no greater than 4'-0". This does not affect detached ADUs since they are exempt from side and rear setbacks if located within the rear 30% of the lot. However, this does reduce the rear setback requirement for an attached ADU from 15'-0" to 4'-0";
6. No replacement parking for the primary dwelling can be required if an existing detached or attached garage is converted to an ADU or JADU;
7. No parking is required for a JADU; and
8. ADUs are now permitted in all districts zoned to allow multifamily dwelling residential uses (allowed on properties where a multifamily dwelling structure exists). Up to 25 percent of the existing dwelling units within a multifamily dwelling structure, but at least one ADU, may be created within existing non-livable space(s). In addition, up to two new detached ADUs may allowed.

DISCUSSION

The attached Draft Ordinance sets forth text amendments to the City's existing Accessory Dwelling Unit regulations (Chapter 25.59) to ensure that the Burlingame Municipal Code is consistent with the new recently adopted State regulations and to help clarify and improve various provisions of the accessory dwelling unit law to promote the development of accessory dwelling units and junior accessory dwelling units; as reflected in the edits to Title 25, Chapters 25.59, 25.60, 25.26 and 25.70.

The Draft Ordinance is provided as an attachment to this report. Regulations to be added are underlined and in blue color and text to be deleted is indicated in strikeout and in red color. Both a redlined version and a clean version of the proposed amendments are provided.

In addition to amending Chapter 25.59 (Accessory Dwelling Units), there are several other Municipal Code sections that address accessory dwelling units that require updating for consistency including:

- Chapter 25.26 - R-1 District Regulations
- Chapter 25.60 - Accessory Structure Regulations
- Chapter 25.70 - Off-Street Parking Regulations

In order to work toward the spirit of having more ADUs approved to add to Burlingame's housing stock, there are several changes suggested by staff that are not required for compliance with State law. In particular, Sections 25.60.010 (Conditional Use Permit Requirements for Accessory Structures) and 25.26.035 (Uses Allowed with a Special Permit) currently include a number of provisions that may serve to discourage ADUs. Therefore, staff is recommending the following changes to these sections:

- a) Removal of C.S. 25.60.010 (i) which requires a Conditional Use Permit for glazed openings in an accessory structure within 10 feet of the property line or any portion of a glazed opening higher than 10 feet above grade. This section limits the locations of windows and skylights in accessory structures.

Discussion: Would apply to ADUs, a detached garage, or any other permitted accessory structure. It has been the experience of staff that most properties contain existing fencing or vegetation that screen the view of and reduce any impacts from windows and skylights in accessory structures. Windows and skylights are standard features typically found in living areas, are required to comply with egress requirements (windows), and provide necessary natural light and ventilation, and therefore should not be restricted in terms of placement. Windows and skylights would still be required to comply with applicable building and fire codes, which means that in most cases no openings would be allowed within 5'-0" of property line.

The Planning and Code Enforcement Divisions have not received any complaints regarding placement of windows and skylights in accessory structures. In the past, requests for Conditional Use Permits for windows and skylights have generally been granted.

Alternatively, the Commission could consider requiring a conditional use permit for any skylight that does not face an interior yard.

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- b) Removal of C.S. 25.26.035 (f) which requires a Special Permit for a direct exit from a basement to the exterior of the structure that is anything other than a light or window well.

Discussion: Would apply to ADUs, JADUs and for all single family dwellings. This change is necessary in order to be consistent with State law, which requires a separate exterior entrance for an ADU or JADU. This would encourage ADUs and JADUs in basements, which would reduce the visible mass and bulk above ground if a detached ADU were to be built as an alternative.

This change would also apply to all single family dwellings in the R-1 zoning district, regardless if an ADU was being created. In the case of a single family dwelling, the exit would presumably be used less than if it were for an ADU or JADU, so for consistency it is recommended that this restriction also be removed altogether.

- c) Removal of C.S. 25.26.037 which prohibits bedrooms, bathtubs and shower stalls in basements. This amendment was approved by the Planning Commission and City Council with adoption of ADU amendments in 2018, as a way to encourage ADUs in basements. However, due to an oversight, this section was not removed from the Municipal Code. There is no new language or revision being introduced; this is a code cleanup from a previous action.

The proposed amendments to Sections 25.59, 25.60, 25.26 and 25.70 are included in the proposed resolution as a recommendation to the City Council, in the interest of removing constraints to ADUs and JADUs. However, if the Planning Commission wishes to retain some or all of the provisions not specifically required by State law, the Commission may choose to alter this recommendation by modifying the proposed resolution.

Prepared by:

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Attachments:

- Revised Chapter - Redlined Version
- Revised Chapter - Clean Version
- Government Code Sections 65852.2 and 65852.22
- Planning Commission Resolution
- Newspaper Notice