

- b. **ADOPTION OF A RESOLUTION APPROVING THE TENTATIVE AND FINAL PARCEL MAP (PM 20-02), LOT SPLIT OF BURLINGAME MAP NO. 1 SUBDIVISION, LOT 17, BLOCK 7, POLO FIELD SUBDIVISION, AND LOTS 14, 15, 16, AND A PORTION OF LOT 8, BLOCK 7, TOWN OF BURLINGAME SUBDIVISION AT 135 LORTON AVENUE**

DPW Murtuza requested Council adopt Resolution Number 058-2020.

9. **PUBLIC HEARINGS**

- a. **PUBLIC HEARING TO RENEW THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE DOWNTOWN BURLINGAME AVENUE STREETScape IMPROVEMENTS PROJECT FOR FISCAL YEAR 2020-21**

DPW Murtuza stated that this is a procedural public hearing for the renewal and collection of assessments for the Downtown Burlingame Avenue streetscape improvements that the Council approved in 2012. He noted that the Council is required to approve the assessments every year. He added that there have been no changes in the assessments.

Mayor Beach opened the public hearing. No one spoke.

Vice Mayor O'Brien Keighran made a motion to adopt Resolution Number 059-2020; seconded by Councilmember Colson. The motion passed unanimously by roll call vote, 5-0.

- b. **PUBLIC HEARING TO CONSIDER 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 TO BE CONSISTENT WITH RECENTLY ADOPTED AMENDMENTS TO CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22 AND ADDITIONAL CHANGES TO REMOVE CONSTRAINTS TO CREATING ACCESSORY DWELLING UNITS**

Planning Manager Ruben Hurin stated that in response to California's statewide and the Bay Area's regional housing shortages, the Governor signed into law a number of bills to encourage the construction of accessory dwelling units ("ADU") and junior accessory dwelling units ("JADU"). The State laws reduce the regulatory barriers commonly found in local zoning ordinances. Additionally, the State legislation supersedes the City's regulations for ADUs.

Planning Manager Hurin explained that on March 2, 2020, the Council reviewed a proposed ordinance to amend Chapter 25.59 of the Municipal Code and other related Municipal Code sections pertaining to ADUs. After further discussion, the Council continued action on the item, and requested that staff provide additional information and clarifications on: (1) roof configuration and height of detached ADU, (2) windows and skylights, (3) permeable surface and trees, (4) solar panels, (5) ADUs, JADUs, and the Regional Housing Needs Allocation ("RHNA").

Planning Manager Hurin reviewed the different types of ADUs including detached, attached, converted garages, or conversions/interior. He noted that a maximum of two detached ADUs may be added to a lot containing a multi-family structure. He added that JADUs are only permitted within the walls of a single-family dwelling.

Planning Manager Hurin stated that in addition to allowing double pitched roofs, the Council expressed a desire to allow shed roof and flat roof designs on detached ADUs. He explained that some members of the Council felt that these types of roofs could be more sensitive to neighbors in some situations and that flat roofs offer additional benefits such as allowing for green roofs and solar panels. He stated that the language was revised to clarify that green roofs are permitted.

Planning Manager Hurin stated that because there is an eclectic mix of architecture throughout Burlingame, shed and flat roofs would allow ADUs to be compatible with mid-century, new modern/contemporary, and Spanish style homes. He added that many homeowners prefer the simplicity of an ADU with a flat or shed roof, even though it may differ from the design of their existing home. He stated that the revisions to the proposed ordinance would permit detached ADUs to have double-pitched, hip, shed (single slope), or flat roofs and would not require that the same roof configuration or pitch be used to match the main dwelling.

Planning Manager Hurin reviewed ADU plate height. He stated that in most cases, the maximum plate height would not be allowed to exceed nine feet. However, the exception would be ADUs with shed roofs, which would specify that the plate height on the lower side of the structure cannot exceed nine feet above adjacent grade, while the taller side of the structure can be up to 16 feet tall. He explained that to avoid a 16-foot wall along the side or rear property line, the maximum plate height allowed on walls parallel with side and rear property lines is nine feet.

Planning Manager Hurin reviewed staff's recommendations for windows and skylights for ADUs and JADUs. He explained that Council noted concerns about skylights on sloping roofs facing a neighbor's property and windows abutting side and rear property lines. He stated that windows and skylights are standard features typically found in living areas, are necessary to comply with egress requirements, and provide natural light and ventilation. He noted that windows and skylights would be required to comply with the applicable Building and Fire codes, which means that in most cases, no openings would be allowed within four to five feet of the property line.

Planning Manager Hurin stated that to address the Council's concerns and allow for the ability to provide flexibility in the design of living spaces, staff suggests the following changes to the proposed ordinance:

- Require a CUP for skylights on sloped roofs facing side yards that are located within ten feet of the property line and on roofs facing rear property lines
- Require a CUP for windows located within four feet of the property line on walls that are parallel with side and rear property lines

Planning Manager Hurin noted that staff received a letter from Matthew Gelfand of Californians for Homeownership expressing concerns with certain sections of the draft ordinance. He stated that staff hasn't had the opportunity to review the letter in detail but would before the proposed ordinance comes back for adoption.

Councilmember Ortiz asked if he was correct that a skylight wouldn't be allowed on the slope of a roof that goes towards the neighbor's property line. Planning Manager Hurin stated that the applicant would have to apply for a conditional use permit.

Vice Mayor O'Brien Keighran asked if it is 800 or 850 square feet that is exempt from FAR. Planning Manager Hurin stated that staff is proposing that 850 square feet be exempt.

Vice Mayor O'Brien Keighran asked if it exceeds 850 square feet, is it just what exceeds that is added to the FAR, or is it the whole ADU. Planning Manager Hurin stated that the whole ADU would be added to FAR.

Vice Mayor O'Brien Keighran asked if it is possible to incorporate that if you have a window that is facing someone's rear yard, the window must be obscure. Planning Manager Hurin stated that this would be difficult to do.

Vice Mayor O'Brien Keighran stated that the purpose of ADUs is to create affordable housing. She asked how the City will ensure that an ADU is used for housing and not as a way around the FAR limits. Planning Manager Hurin stated that State law doesn't provide any safeguards for this issue. He noted that staff sees the ADU as a flex space and will encourage owners to use it as affordable housing. However, it is hard to monitor this situation.

Vice Mayor O'Brien Keighran asked if the City could require that the ADU be registered so that the City can monitor the space. She noted that she didn't want people to take advantage of the ordinance in order to get around the FAR limits. Planning Manager Hurin stated that at the final inspection, staff makes sure that there is a kitchen facility and that it is properly built as an ADU. City Attorney Kane stated that staff would look into this concern.

Mayor Beach asked the City Clerk to read the title of the ordinance. City Clerk Hassel-Shearer read the title of the ordinance.

Councilmember Brownrigg made a motion to waive further reading and introduce the proposed ordinance; seconded by Councilmember Ortiz. The motion passed unanimously by roll call vote, 5-0.

Mayor Beach opened the public hearing.

Jennifer Pfaff voiced her concern about permeable surfaces and trees in relation to ADU projects. She asked that the proposed ordinance state that the Urban Reforestation and Tree Protection ordinance applies. (comment submitted via publiccomment@burlingame.org).

Planning Manager Hurin stated that staff has a set of ADU guidelines that they have put out for the public. He explained that the City will include the requirement that it needs to comply with the Urban Reforestation and Tree Protection ordinance. He added that as the ADU goes through the building process, the City's Parks Division will review the plan.

City Attorney Kane stated that she would recommend against specifically calling out the Urban Reforestation and Tree Protection ordinance in the proposed ADU ordinance. She explained that all of the

City's ordinances apply, and therefore if the City singles out one ordinance, it might look as if the others don't apply.

Mayor Beach closed the public hearing.

Councilmember Brownrigg thanked staff for incorporating Council's concerns into the proposed ordinance. He stated that Ms. Pfaff's point is well made, and that the City doesn't currently regulate subterranean excavation. He explained that the City should consider banning excavation within the side and potentially rear setback.

Councilmember Brownrigg stated that the State is determined to take away any of the City's ability to create an urban forest and open space on lots. He noted that the State assigns low value to yards and space. The City has been playing catch up on State regulations, and therefore he thought the City should rethink how it wants to consider its single-family neighborhoods. He suggested potentially allowing duplexes and triplexes that allow for space and thereby get ahead of the State's regulations.

Councilmember Ortiz thanked staff for the proposed ordinance and believed it was workable.

Councilmember Colson voiced her appreciation to the Mehtas for their concerns about how the original ADU ordinance wouldn't work for their Eichler house. (email attached to staff report). She noted that she was thankful for their perspective.

Mayor Beach asked the City Clerk to publish notice of the proposed ordinance and for it to be brought back at the next Council meeting on June 1, 2020.

c. CONSIDERATION OF AN URGENCY ORDINANCE SUSPENDING CURRENT PENALTIES AND ASSESSMENTS FOR THE TOURISM BUSINESS IMPROVEMENT DISTRICT AND ADOPTION OF A RESOLUTION SETTING A PUBLIC HEARING TO MODIFY THE 2020 DISTRICT ASSESSMENTS IN RESPONSE TO THE COVID-19 PUBLIC HEALTH EMERGENCY

City Manager Goldman stated that staff has been talking to the San Mateo County/Silicon Valley Convention and Visitors Bureau President John Hutar about the challenges that the hotels are facing as a result of COVID-19. She explained that the hotels have asked for a change in the way that the assessments are collected. She stated that the City serves as the agent for the Tourism Business Improvement District ("TBID") and brings to Council the proposed assessments each year.

City Manager Goldman stated that TBID has asked that the assessment process be changed. She explained that TBID proposes the following:

- Quarter One – No changes
- Quarter Two – Assessment suspended for all hotel partners
- Quarter Three – Assessment reduced by 50%
- Quarter Four – Assessment reduced by 50%