

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM C.1
MAY 12, 2020**

Ms. McLean: Yes, Chair, we have three public hearing items this morning. The first is a transmittal from myself with proposed amendments to Title 19 of the Maui County Code, Chapter 19.69 relating to the Urban Reserve District regarding permitted uses, minimum development standards and height regulations. With us on that item and on the next two items is our Administrative Planning Officer, Jacky Takakura and so we can...we have Jacky who is going to give a brief overview. Jacky are you on?

C. PUBLIC HEARINGS (Action to be taken after each public hearing.)

1. **MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting proposed amendments to Title 19 of the Maui County Code, Chapter 19.69 relating to Urban Reserve District regarding permitted uses, minimum development standards and height regulations. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed>

SUMMARY:

1. **Section 19.69.020.B: Permitted uses.**
 - **Amends language regarding uses and structures that are accessory to a single-family dwelling and language regarding accessory dwellings**
 - **Removes short-term rental homes and adds bed and breakfast rental homes as a permitted use**
 - **Adds buildings or premises used by federal, state, or county governments for public purposes.**
 - **Moved language from 19.69.020.C regarding structures used for public purposes and on land which the community plan designates as open space or park.**
2. **Section 19.69.020.D.1: Minimum development standards.**
 - **Amends language regarding subdivisions**
3. **Section 19.69.020D.2: Height regulations.**
 - **Removes language regarding two stories.**

Ms. Jacky Takakura: Good morning everyone. So, the first public hearing item is regarding Urban Reserve District and that's Chapter 19.69 in the Maui County Code and we don't see it very often. It's intended to be used for lands that are in the State Urban District and are set aside for future development. Urban Reserve is purposely restrictive and is used when land is not ready to be developed in a manner consistent with its community plan designation. We have found however

that it is a little overly restrictive so we would like to make some amendments and that's what we have before you today.

Just to give a little bit background about Urban Reserve District. On the Island of Maui, we have about 40,000 parcels of that 84 parcels are zoned Urban Reserve so as I mentioned it's a very small number and the zoning is usually only on part of a parcel. Of those 84, 61 of them, three-fourths of them have less than one-acre of Urban Reserve and the remaining 23 parcels have Urban Reserve zoning. They range from about one acre to about 36 acres of the parcel and they're located in Hana, Upcountry and along the North Shore. And I'm gonna share screen right now and so you can see on a map where these parcels located. Just FYI there's no Urban Reserve zoning on the Islands of Molokai and Lanai.

So, if you don't mind bearing with me for just a moment, I'm gonna share screen and show you the map. Can you see a map of the North Shore? Can you give me a thumbs up and I can see? So, can you see the red dots, we have them in Hana, there's a few, and then kind of along the highway Upcountry, and then some in Haiku and Paia. So that's the areas that we are looking at this zoning. So, I'm gonna stop sharing this screen if everybody's okay with looking at that map. I think this map might have also been sent to you. You might have a PDF of it so if you wanted to take a look, but I can also share it again if any questions come up about this map.

So, the bill for ordinance simplifies the existing language regarding single family dwellings and accessory dwellings. It removes short-term rentals as a permitted use, but it does allow bed and breakfast homes and it allows government buildings or premises and assures that structures on land designated as Open Space or Park are only for public purposes. We checked with Public Works and they gave us some recommendations about subdividing for developable versus non-developable lots. We did include their recommendations so that a utility or park or road widening or other non-developable lot may be created if need. So that's the bill for ordinance in a nutshell. Do you have any questions about this one?

Mr. Carnicelli: Jacky I think what we're gonna do is before we go to Q&A we'll go ahead and take public testimony on this.

Ms. McLean: Chair, may I make a comment first?

Mr. Carnicelli: Of course, sure.

Ms. McLean: Thank you. I wanted to add looking at the map that Jacky just showed, I believe a lot of the parcels received their Urban Interim Zoning in the late 90's. At that time the Planning Department initiated an effort to get rid of Interim Zoning and that effort resulted in a lot of parcels being zoned whether it be Residential or Park or Business when the existing use of the parcel matched its community plan designation then those parcels were zoned. And the Urban Reserve was used when either the parcels were large and the Department didn't want to give zoning that would enable extensive development or when the use didn't match the community plan designation and therefore it would be inappropriate to zone the parcel. So that's when a lot of this Urban Reserve Zoning was established and at the time I...I was...I worked for Council Services at the time and I don't believe there was clear understanding of exactly how restrictive it

is, and this came to the Department's attention because of a parcel on Old Kula Highway near Morihara Store, Calasa Gas Station, it's a large parcel that had split community plan designations, business along the old lower road and I believe single-family along the highway and there's one dwelling on the parcel right now on like eight acres and the current Urban Reserve Zoning allows them to do nothing else so we wanted to at least allow them to be able to have the two accessory dwellings that the County Code now allows. And so that's why this came to light and we reviewed the whole chapter and said you know, at least we want to allow housing opportunities wherever we can, and also the few other uses that Jacky described so that's how this came about, just wanted you to know that background. Thank you, Chair.

Mr. Carnicelli: Got ya. Thank you, Director. Also, Jacky just one quick question before we take public testimony is the draft that I have has a Public Work's...whoever's typing that's really loud, please mute yourself...it has—

Mr. Tackett: Yeah, the typing I can't hear anything with the typing.

Mr. Carnicelli: Yeah, whoever's typing, please mute yourself.

Ms. McLean: Tara, Tara, can you please mute your mic.

Mr. Carnicelli: Ah, there we go, thank you. So anyways Jacky, I have the letter from Public Works attached that makes one recommendation but it's not actually in the draft so I'm just assuming that you said you were going to include that is that correct?

Ms. Takakura: Yes, sorry about that. Back when we were originally intending to schedule this I think it was in March or April before the meetings kinda got cancelled I didn't have those comments in there and so you might have received an older version that didn't have it. But the one I have on the proposed legislation website does have the revisions incorporated about subdivisions. I can share that screen if you want. Okay, so I'm gonna, bear with me while I—

Mr. Carnicelli: No, no I don't think we need to.

Ms. Takakura: Okay.

Mr. Carnicelli: Cause I think we understand but we're nothing but recommendation anyways, you know, we're just gonna recommend to the Council, so I mean I think all it is, is to add the word, developable to additional lots, right. I mean that's essentially what they asked for. So okay, I just want to be clear that that was included in. So okay, thank you.

Ms. Takakura: Thank you.

Mr. Carnicelli: So, Director, did anybody direct message you to testify on this particular item?

Ms. McLean: No, Chair I have not received any direct chats for people who wished to testify.

Mr. Carnicelli: Okay, so then if there is someone that would like to testify please state so now. Unmute yourself and state that you would like to testify on this item. Going once, going twice. Okay, so if there are no objections we'll go ahead and close public testimony and go to questions from the Commission. Does anybody have any questions or comments that they would like to add, and remember this is nothing more than just Title 19, changes come to us for review and recommendation ultimately this is Council's kuleana. Jacky, I do have just one other thing, it's minor, is I notice that we erased all of C and we didn't change the letter D to C, I mean it's minor, but if C goes away, then D becomes C.

Ms. Takakura: Thank you, Chair, I'll make that correction before I send it further. Thank you.

Mr. Carnicelli: Okay. Anything else Commissioners? Commissioner Freitas.

Mr. Freitas: On B.2, looks like they're simplifying the sentence and it eliminates, customary, incidental, usual and necessary uses of a dwelling, but when I look at the original Chapter 19 it does mention a little bit about laundry rooms, laundry facilities, utility equipment, like water heaters. So by the change that they put in that eliminates those possible uses or am I reading that whole B.2 wrong?

Ms. Takakura: Those types of uses are typically accessory to the single-family dwellings so those would be included as, you know, just like the garages and carports and storage sheds. Michele, do you have anything to add to that?

Ms. McLean: No. The listing garages, carports and storage sheds as examples of larger structures but the water heaters and laundry rooms certainly would be also accessory to dwellings and would be allowed.

Mr. Freitas: It would be allowed even though it's no listed in there. Okay, and then one more thing I just a little bit confused when you said to allow more than one single dwelling. Oh, you know what I read that wrong, the accessory dwelling is one but now you're saying living dwellings that's where you said you want to go to more than one for like the example of Calasa?

Ms. Takakura: That's right. And like Michele had mentioned this is from the 90's and since then we updated Chapter 19.35 regarding accessory dwellings and so we're making reference to that Chapter consistent with the other zoning districts how they refer to Chapter 19.35 for accessory dwellings.

Mr. Freitas: Okay, so when I started I got a very thick book and you're saying that the 19.35 in that book is different has been updated.

Ms. Takakura: Yes, in 2018 it was updated.

Mr. Freitas: Oh, hello. Okay, I'm good, sorry.

Ms. McLean: Right, and just to clarify for everybody, districts, you know many of our districts allow single-family dwellings and those are allowed by square footage, and so on most lots that

are subdivided you can have one main dwelling and used to be that you could also have one ohana and the change that Jacky mentioned that took effect in 2018 was that on larger lots you can have two ohanas and they're limited in size but that was the change to recognize that a lot of this happening in places around the County already, but also to give a lawful opportunity for people who have a lot that can add a second ohana, and so that's what's referenced here and the most you'd be allowed is two, it doesn't go any more than that.

Mr. Carnicelli: Commissioner La Costa.

Ms. La Costa: Thank you, Chair. I might suggest that in addition to what Kawika said on B.2 that the after shortage shed, you put a comma and put, etc., otherwise it appears that those are the only three things that are allowed even though it says such as. If you don't put et cetera people will think, gee those are the only three things I can do and perhaps that will help some confusion.

Ms. Takakura: Thank you.

Mr. Carnicelli: Maybe instead of just, et cetera, it could be including, but not limited to, something like that. You know I don't know if that's more legally, legalese that something to that effect I think yeah, makes sense, thank you Commissioners. Anybody else? Questions, comments? So, we need to formally adopt this, yes? Or I guess Jacky why don't you kinda just reiterate what we are recommending and then we can encapsulate it, memorialize it, whatever we gotta do here.

Ms. Takakura: So, you have some options. You can recommend approval of the proposed bill which still will also go before the Molokai and Lanai Planning Commissions and then you could recommend approval of the proposed bill with amendments or you could recommend denial or you could defer.

Mr. Carnicelli: No, I think we're gonna recommend with amendments, I just wanted you to go over just kinda, we talked about a couple things just go over what the amendments are that we gave you and then we can move on that.

Ms. Takakura: The first amendment is to correct the lettering on the bill for ordinance and then second one is on B.2 to extend the sentence, uses and structures that are accessory to the single-family dwelling including but not limited to garages, carports, and storage sheds.

Mr. Carnicelli: And then also to include the word, developable from Public Works.

Ms. Takakura: That is correct, thank you.

Mr. Carnicelli: Okay. So all those in favor of recommending passage as amended, but I guess maybe, I'm sorry Director I'm taking your, your job here. Director.

Ms. McLean: You're doing great, go with it. I did want to comment on that last point about the term, developable. On what's listed as D which should be C.1 when it says, no subdivision may create additional lots other than restricted use lots or lots for park purposes, restricted use lots have a specific definition in the County Code and restricted use lots are not developable. They

can be for water tanks, roadways, utility lots, so it's redundant to put developable in there because restricted use lots and lots for park purposes wouldn't be considered developable lots. There's certainly no harm in putting it in, but on Public Works' comments that how we addressed Public Works' comments by saying that only restricted use lots and park lots could be created just so you're aware of that. We will certainly send the comment back to the Council that you recommended that being clarified by saying, developable lots, but I think the language in there covers it already, but we will send that comment up and then Council can decide how they want to address it.

Mr. Carnicelli: Director, I don't see where you're using...where is it say restricted use lots, my draft doesn't say restricted use lots.

Ms. McLean: So, the underlined language in C or excuse me in 1, no subdivision may create additional lots other than restricted use lots.

Mr. Carnicelli: Restricted use lots, there we go, restricted use, got it, okay.

Ms. McLean: Yeah, yeah.

Mr. Carnicelli: Got it, got it. I get the redundancy.

Ms. McLean: I do think it's valuable to keep that language in there so that the Council is clear on that's what it means so—

Mr. Carnicelli: Well 'cause, I guess the question is, if the definition of restricted use lot changes you know, and I don't know if we're splitting hairs here but anyways...that's why the eighth floor gets paid the big dollars to make decisions like that so...

Ms. Takakura: Excuse me?

Mr. Carnicelli: Yes, Jacky.

Ms. Takakura: I just want to, Jordan Molina, the Deputy Director of Public Works is attending and I don't know if he has any comments but he's available if you have specific questions for Public Works.

Mr. Carnicelli: Okay. Jordan, you have anything for us?

Mr. Molina: Hi, good morning, Commissioners.

Mr. Carnicelli: Good morning.

Mr. Molina: Yeah, we can agree with the Planning Department's utilizing the restricted use lots and park lots to cover the attention of developable lots. The idea was that we didn't want to prohibit creation of things such as like she mentioned road widening lots or utility lots, and so if that's covered in the definitions as presented we can make that work. Thank you.

Mr. Carnicelli: Thanks, Jordan. So I'm not sure if we're including developable...are we taking developable out then, we'll just leave it at restricted lots?

Ms. McLean: Well, we will send your...the process is after we go to you folks and Lanai and Molokai then we do a transmittal back to the Council and we'll make language changes in the bill based on the comments we received and our transmittal letter will indicate other comments that the commissions gave. So after we hear from Lanai and Molokai, we'll make changes to the bill and if we don't make a change based on that comment, our transmittal letter will still say you wanted to make sure that this meant no developable lots. And so with that information, Council can decide if they want to further clarify the language if we don't actually make that change to the bill.

Mr. Carnicelli: Sounds great, thank you. Commissioner La Costa.

Ms. La Costa: Thank you, Chair. What I'm thinking about is when the public pulls up 19.69.02 they don't know what restricted lots are, restricted use lots, so then they'll have to go someplace else to look and will their interpretation be the same as what the County's is. So I think that if we're going to change this then we should be inclusive and perhaps it should say which are not developable after the restricted use lots even if it's redundant when common people read it they won't be confused.

Mr. Carnicelli: Got it. I like that comment.

Ms. La Costa: Because there are a lots that people do buy that have that restriction. Thanks.

Mr. Carnicelli: Right. No, that's great, yeah okay. Then any other questions or comments at this time from the Commission? Director.

Ms. McLean: I—

Mr. Carnicelli: Do we have to vote that we're recommending with changes?

Ms. McLean: Yeah, I don't know if a motion has been made--

Ms. La Costa: It hasn't.

Ms. McLean: --yet.

Mr. Carnicelli: No, it hasn't.

Ms. McLean: So it seems to me that—

Mr. Carnicelli: Here I'll just...is I'll entertain a motion to recommend approval with the amendments discussed. Anybody like to make that motion? Moved by Commissioner La Costa.

Do you I have a second? Seconded by Commissioner Pali. Discussion on the motion? Seeing none, Director.

Ms. McLean: Thank you, Chair. The motion is to recommend approval of the bill to the Council with three amendments. One is to clarify what accessory structures are allowed, one is to correct the lettering, and then the third, to make it clearer that subdivision does not include developable lots.

Mr. Carnicelli: All those in favor please raise your hand? That's unanimous. So, thank you everyone.

It was moved by Ms. La Costa, seconded by Ms. Pali, then

VOTED: To Recommend Approval of the Proposed Amendments to the County Council, as Recommended by the Department with Amendments as Discussed.
(Assenting – P. D. La Costa, K. Pali, K. Freitas, D. Thompson, C. Tackett, S. Castro)
(Absent – T. Gomes)

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II