

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 12, 2020**

Ms. McLean: Moving onto the next public hearing item is another one initiated by the Department for amendments to Chapter 19.35 related to accessory dwellings that we just discussed and this relates only to Fire Code requirements and once again, Jacky is leading this effort.

C. PUBLIC HEARINGS

- 2. MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting proposed amendments to Title 19 of the Maui County Code, Chapter 19.35 relating to Accessory Dwellings and Fire Code requirements. (J. Takakura)**

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

Section 19.35.090.C is proposed to be amended regarding fire code requirements for fire apparatus access roads to require that lots meet fire code requirements for fire apparatus access roads instead of requiring a minimum road width of 20 feet.

Ms. Jacky Takakura: Okay, thank you Chair. So as mentioned this is regarding Chapter 19.35 in the Maui County Code and this is regarding accessory dwelling and there's a section for required public facilities that is...I have the Maui County Code open and that's Part, Section 19.35.090, public facilities required. And we'd like to revise this part about adequacy of street because the current language limits the Department of Fire and Public Safety's ability to approve building permits for accessory dwellings.

The proposed change is minor. For fire apparatus roads, fire apparatus access roads it removes the minimum street width requirement of 20 feet and it refers to the Fire Code which has some exceptions to allow for them to approve permits. It also makes more sense for the Fire Department to review the building permits when they review it based on their rules and regulations not on a Zoning Code which is Planning Department's responsibility.

We also received some comments from Public Works and they're requesting that the wording regarding the specific street width of 16 feet be removed because it's not necessary, it's also addressed elsewhere and other zoning districts do not have a requirement like this so it's inconsistent and we're fine with this proposed amendment and I'm going to do another share screen cause this was sent to you but it was I don't know if you received in time so bear with me while I pull up the memo from Public Works.

Mr. Carnicelli: That's the one we got this morning Jacky?

Ms. Takakura: Yes. So it's a memo relating to the accessory dwellings and fire apparatus access road and this is from Jordan Molina who is present at the meeting and so they're just...you can see the part in italics, they want to delete that, the details about the width of 16 feet because that's already addressed in the Building and Subdivision Codes and so it's not needed to be in Title 19, and in other zoning districts we don't have this kind of requirement. It's not really necessary for

this here. So I'm going to...does anybody need to look at this any longer. I think this was also emailed to you. I'm gonna stop sharing the screen if that's okay.

Mr. Carnicelli: Yes.

Ms. Takakura: ... had prior, we've worked closely with the Fire Department, Fire Safety Division on this. I had asked them to come in case there were any specific questions, but I'm not sure if they are here. They might be here participating.

Capt. Paul Haake: Hi, Jacky and Commission, we're listening in.

Ms. Takakura: Okay, thank you so much. So we worked with Fire Captain Paul Haake and Lieutenants Oliver Vaas and Michael Gormley and then as you know Deputy Director Jordan Molina from Public Works is also present.

So, in summary, this is a very small part of this Chapter 19.35 regarding public facilities and it's issues that are covered elsewhere in the Maui County Code that we feel are not needed here. You have any questions either I can answer or Fire or Public Works.

Mr. Carnicelli: Great. Is I think what we'll do is I'll the Director add anything if she wants to, we'll go to the public testimony and then we'll come back for Q&A, so Director do you have anything else to add?

Ms. McLean: I don't. Thank you, Chair.

Mr. Carnicelli: Okay, did anybody direct message you or chat with you to testify on this item?

Ms. McLean: No, nobody has.

Mr. Carnicelli: Okay, so if there's anybody that would like to testify on this particular item please state so now, come forward. Going once, going twice. Okay, so if there are no objections we'll go ahead and close public testimony and go to questions, anyone? Questions, comments either for...Kawika, Commissioner Freitas.

Mr. Freitas: I have a question about the 16 feet. Is the Fire Department okay with removing that 16 feet from the, from the wording, Mr. Haake?

Capt. Haake: Thank you, Commissioner Freitas. We're okay with the removal of the 16 feet, in fact we're almost okay with not being even being mentioned in the bill because just like Public Works we have our codes in place that already address construction of buildings. So in regards to your question we're okay with the removal of the 16 feet. Initially we were trapped with the minimum requirement of 20 feet so we wanted those words to be taken out also, but like Public Works we feel that maybe there's no need to mention us in this bill because we already have codes in place that address construction of buildings.

Mr. Freitas: Good, that's pretty much what I wanted to hear. Thank you, Mr. Haake.

Mr. Carnicelli: You know, I'm gonna jump on that line of questioning. So would you be okay if it just says, okay, C. Adequacy of Street. The lot must have direct access to the street. Done. I mean the, shall meet the Fire Code requirements, I mean that's...isn't...is that a given? Director or Chief?

Ms. McLean: I'll go ahead and comment, thank you, Chair. In a similar mindset to Commissioner La Costa's earlier comment that I think that might be a little bit misleading for property owners if it says the lot must have direct access to a street. They might think, oh I'm good and not realize that the street may not be adequate so perhaps C could come out altogether or we could go with the amendment proposed by Public Works where it just says the street has to meet Fire Code requirements. I think keeping some of it in is better than dripping it down too much or just taking it out altogether as Captain Haake said because it gets covered through the building permit process.

Mr. Carnicelli: Got it. Thank you, Director. Commissioner Freitas.

Mr. Freitas: The reason I asked that question is our current property that I live on the house was built in the 1930s we were surrounded by ditches and there's a bridge that has to come into our property, the bridge was probably made for a Model-T cars so a fire, emergency, ambulance and fire truck could not come into our property. So I'm worried that there may be properties similar to ours that need to have...I have access to the street, but it's not wide enough for a emergency vehicle to come in. It has been changed since the ditches were...pipes were put in and now it's widened but there may be owners out there that have the same problem that I do, and let's just remember those properties. I don't know if there's many like that, but that's the only reason I had the question about I think 16 feet or giving a little bit more clear, but of course, according to Captain Haake's response the Fire Department will come out and look and say...take a look at our, what would have been prior to putting in the pipes that they don't have access and the permit will not be allowed. So I'm okay with that. Thank you.

Mr. Carnicelli: Great. Thank you very much. Commissioners, any other questions, comments at this time? Commissioner La Costa?

Ms. La Costa: Thank you, Chair. My suggestion would be that C say, adequacy of street, the lot must have direct access to a street which has a minimum paved roadway width and shall meet Fire Code requirements for fire apparatus access roads. So basically take out from the word, of down to and, and put that...(inaudible)...confusing. So that here are some standards that people look at and then they can find out the rest when they submit their application and it goes through Fire.

Mr. Carnicelli: Okay. Any other questions, comments?

Capt. Haake: Chair, Captain Haake.

Mr. Carnicelli: Yes, yes, Captain.

Capt. Haake: If we're going to include the wording then maybe we should take out the words, for fire apparatus access roads, just put, that meets Fire Code requirements. That's our suggestion on that last portion of the sentence and then that would allow applicants to utilize the various options in the Fire Code where fire apparatus access roads that the minimum specs are not met. So just for the last sentence, that meets Fire Code requirements, period.

Mr. Carnicelli: Period. Got it.

Capt. Haake: I think if we put the other portion, fire apparatus access roads that might you know bring the specs in for the minimum requirements for the road, and so if we take that last portion out I think that's something that the Fire Department can work with.

Mr. Carnicelli: Okay, great. Captain while you're here what are your thoughts on Commissioner La Costa starting the deletion of the first sentence...or leaving in, which has a minimum paved roadway width and then going, you know, is rather than deleting from which, we're deleting from of, if you follow me. What do you think about leaving the wording in, minimum paved roadway width?

Capt. Haake: Could the Commissioner repeat the suggestion again, please?

Mr. Carnicelli: So yeah, it's is the brackets are what's being deleted and the Public Works suggested that we start deleting at, which has a minimum paved roadway width, right. So that's where you would delete all the way to, and shall meet Fire Code requirements so it would read, the lot must have a direct access to a street and shall meet Fire Code requirements. That's what Public Works suggested. The new, the additional proposal would be to delete from, of 16 feet, rather than deleting from, which has a, so it would read, the lot must have a direct access to a street...I'm sorry, the lot must have direct access to a street which has a minimum paved roadway width and shall meet Fire Code requirements that's the second one that I just read that how do you feel about that.

Capt. Haake: Thanks, Chair. In talking with our plan reviewers, you know having the wording, minimum paved road width but not being specific about it, it doesn't help with you know enforcement or the applicant. I think if you just stick with the lot must have direct access to a street that meets Fire Code requirements that would probably be the best and then that keeps open the options for applicants when they don't meet the minimum requirements of the Fire Code for access.

Mr. Carnicelli: Got it. Got it, okay. Are you okay with that P. D.? Commissioner La Costa, thumbs up, okay. Any other questions or comments? Jacky?

Ms. Takakura: Can we check with Jordan Molina that that's okay too from Public Works please?

Mr. Carnicelli: Jordan, Mr. Molina.

Mr. Molina: Yeah, Public Works has no objections to the changes proposed by Fire. Thank you.

Mr. Carnicelli: Great. Thank you, Mr. Molina. Any other questions or comments?
Commissioner Freitas.

Mr. Freitas: I'm just wondering if when we change some of these wordings are we trying to benefit the residents from making things simpler and clearer than having them look through this rules and then have to go and look at the Fire rules. I'm not sure how hard that is, I don't think I've gone through this process, but if you leave some of the wording that was in there as recommended prior to us even making these discussions it made things kinda clear so a initial applicant would go okay, 16 feet is 16 feet not have to go and think oh, yeah I got enough room only for the Fire Department to come in and say, no cannot. That's just a question. I don't know. Is our goal to make things one time you look at it and things are more clear or to put these people through all of these you gotta look here, and you gotta look there, you gotta look there and try to interpret what this, and try to second guess what the fire inspector, person that's gonna approve this is gonna say.

Mr. Carnicelli: Good question. Jacky, Director?

Ms. Takakura: This will actually make things easier because when a building permit goes through its...the different departments for review, right now we've got certain Fire Code things in two places with the Fire Code and here. By getting rid of it here, the Fire Department only has their own code to look at likewise for the parts about the street and the minimum paved roadway, you know right now we have it in Title 19, but then Public Works has it too. So by having it in only one place that that department reviews as part of the process anyway it should be simpler by being in...within the purview of that department that reviews that building permit at that step in the process does that make sense?

Mr. Freitas: Yes, thank you, Jacky.

Ms. McLean: Chair if I can add? This was initiated because the Fire Department contacted us and said that they were having to deny a building permit application because it didn't have the 20 feet, but they felt there were alternatives in the Fire Code that would have allowed them to approve that building permit otherwise and so Commissioner Freitas is correct that if they want to know upfront specifically what Fire requirements they will have to go find that, but it does open up opportunities for applicants to comply with Fire Code but directly with Fire because those codes change too and there may be more options at some point in the future so we don't want to be too specific now to allow those opportunities.

Mr. Carnicelli: Thank you, Director. Any other questions, comments? Director. You gotta unmute yourself.

Ms. McLean: Thank you. I believe the commission left that sentence to read, adequacy of street, the lot must have direct access to a street and shall meet Fire Code requirements. I believe that was the latest evolution.

Mr. Carnicelli: Yes, I will entertain a motion to accept or to recommend approval of this bill as amended. Moved by Commissioner Freitas. Do I have a second? Seconded by

Commissioner Thompson. Discussion on the motion? Seeing none, I don't have everybody in...on my screen so if I could have a voice or I just, I guess maybe I'll...should I walk through them? Okay, Commissioner Freitas do you vote on the motion?

Mr. Freitas: Yes, because of the responses received from Jacky and Captain Haake I feel that the changes that we made would be perfect.

Mr. Carnicelli: And also Deputy Director Molina, so thank you. So affirmative by Commissioner Freitas. Commissioner La Costa? Commissioner La Costa? Yes, okay. Commissioner Pali, aye.

Ms. Pali: Aye.

Mr. Carnicelli: Commissioner Thompson? Aye. Commissioner Tackett?

Mr. Tackett: Yes, aye.

Mr. Carnicelli: Aye. And then Commissioner Castro?

Mr. Castro: Yes.

Mr. Carnicelli: Aye. Okay, so unanimous. So okay, thank you very much everyone.

It was moved by Mr. Freitas, seconded by Mr. Thompson, then

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

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II