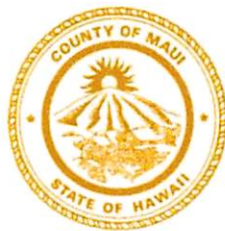


MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

July 20, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 7/20/20
Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Council Chair and Councilmembers:

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35
OF THE MAUI COUNTY CODE, RELATING TO
ACCESSORY DWELLINGS**

In coordination with the Departments of Fire and Public Safety and Public Works, the Department of Planning (Department) prepared the proposed revision to Section 19.35.090.C of the Maui County Code regarding street width for fire apparatus access roads for accessory dwellings. Currently, this section requires a "minimum paved roadway width of sixteen feet and which the director of public works determines to be adequate for the proposed construction, except that a minimum width of twenty feet shall be required for fire apparatus access roads." However, this language does not recognize the exceptions allowed in the Maui County Fire Code and is causing the Department of Fire and Public Safety to deny building permits when there may be other options available to allow the permit to be approved.

In addition, roadways and fire access roads are regulated by other parts of the Maui County Code and therefore are not necessary in the comprehensive zoning code (Title 19).

For these reasons, the Department proposes to revise Section 19.35.090.C so that it simply refers to the fire code requirements instead of a specific standard for road widths. Therefore, pursuant to Sections 8-8.3(6) and 8-8.4 of the Revised Charter of the County of Maui (1983), as

COUNTY COMMUNICATION NO. 20-421

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amended, transmitted for the Council's consideration is an attached proposed bill, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35 OF THE MAUI COUNTY CODE RELATING TO ACCESSORY DWELLINGS."

The Molokai Planning Commission, Lanai Planning Commission, and Maui Planning Commission have all recommended that the Council pass the legislation, with the Maui Planning Commission having recommended minor revisions that have been incorporated into the attached bill.

Here is a summary of the planning commissions' recommendations:

<u>Planning Commission</u>	<u>Date of Vote</u>	<u>Recommendations</u>	<u>Vote Count</u>
Maui	May 12, 2020	Pass the bill with minor revisions.	6-0
Lanai	May 20, 2020	Pass the bill as presented.	5-0
Molokai	May 27, 2020	Pass the bill as presented.	7-0

Please see the referenced minutes of the meetings on the bill:

- Maui Planning Commission, May 12, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27379>
- Lanai Planning Commission, May 20, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27387>
- Molokai Planning Commission, May 27, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27470>

Passage of this bill would further a number of General Plan policies, goals, and objectives, including the following components of the Countywide Policy Plan (Ordinance 3732):

- "Seek innovative ways to develop 'ohana cottages and accessory-dwelling units as affordable housing." (page 58)
- "Prioritize available infrastructure capacity for affordable housing." (page 58)

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- “Streamline the review process for high-quality, affordable housing developments that implement the goals, objectives, and policies of the General Plan.” (page 59)
- “Locate public facilities and emergency services in appropriate locations that support the health, safety, and welfare of each community and that minimize delivery inefficiencies.” (page 73)
- “Simplify and clarify the permitting process to provide uniformity, reliability, efficiency and transparency.” (page 80)
- “Ensure that laws, policies, and regulations are internally consistent and effectuate the intent of the General Plan.” (page 80)

Thank you for your attention and consideration. Should further clarification be necessary, please feel free to contact me.

Sincerely,



MICHELE CHOUTEAU MCLEAN, AICP
Planning Director

Attachment

xc: MCM:JMCT:atw
S:\ALL\APO\19.35 AccessoryDwellings\200720counciltransmittal19.35.docx

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY
CODE, RELATING TO ACCESSORY DWELLINGS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Findings and Purpose. The purpose of this ordinance is to correct an inconsistency with the Maui County Fire Code 16.04C.440-subsection 18.2.3.6 regarding fire apparatus access roads for accessory dwellings.

SECTION 2. Section 19.35.090, Maui County Code, is amended to read as follows:

“19.35.090 Public facilities required. The following public facilities are required to service the lot: A. Adequacy of sewage disposal system. This [shall] will be secured in writing from the department of environmental management for public sewage systems and the State of Hawaii department of health for individual wastewater systems and private wastewater treatment works.

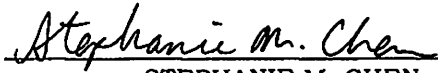
B. Adequacy of fire protection for all lots served by private streets. This [shall] will be secured in writing from the department of fire and public safety.

C. Adequacy of street. The lot must have direct access to a street [which has a minimum paved roadway width of sixteen feet and which the director of public works determines to be adequate for the proposed construction, except that a minimum width of twenty feet shall be required for fire apparatus access roads.] that meets fire code requirements for fire apparatus access roads.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

_____

STEPHANIE M. CHEN

Department of the Corporation Counsel
County of Maui

2020-0796

2020-07-06 Amend MCC 19.35.090

**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

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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.

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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

Chair Buchanan: And I also vote aye. Motion carried unanimous. Thank you very much.

It has been moved by Commissioner John Sprinzel, seconded by Commissioner John Pele, then

VOTED: to accept the Department's proposed amendments.

(Assenting - L. Buchanan; L. Espaniola; W. Moore; B. Mowat; J. Pele; L. Poepoe;
J. Sprinzel)
(Absent - J. Perez, III)
(Excused - J. Bicoy)

Chair Buchanan: Anybody need a break before we move on --

Mr. Poepoe: Aye.

Chair Buchanan: To the next agenda item? What's that? See, I get hard time hear Commissioner Poepoe.

Ms. Mowat: I think Laa -- I think Laa said yes and he left.

Chair Buchanan: Okay, so can we take a, oh, Pele is leaving too, so we're on recess.

Ms. Mowat: What time?

Chair Buchanan: We also on like a five-minute recess, okay. Thank you very much.

(A recess was called at approximately 12:12 p.m. This is the end of Part 1 of the Audio Recording. The meeting reconvened at approximately 12:38 p.m. and the start of Part 2 of the Audio Recording.)

Chair Buchanan: We resuming the Molokai Planning Commission meeting of May 27. We are moving on to item number 2, item D, number 2, Planning Director McLean submitting proposed amendments to Title 19, Chapter 19.35, relating to accessory dwellings and fire code requirements. And I will hand it over there to Planning Staff.

- 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. McLean: Thank you, Chair. I'll, in turn, hand it off to Jacky again.

Chair Buchanan: Thank you.

Ms. Takakura: Thank you. Chair and Commission Members, this is another part of the Maui County Code, this is Chapter 19.35, and it's a bill for an ordinance to fix a problem in this part of the code. This Chapter 19.35 is regarding accessory dwellings, and there's a section for required public facilities, it's 19.35.090, and we just wanna make a revision to the 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. Department of Fire, they have their own part of the code that they use to review building permits, but then we have this part in here that makes reference to street width and, based on what we have in our part of the code, they can't approve in certain situations, and so we'd like to have this removed so that they can just review building permits based on their own part of the code that they use, not Department of Planning's, not chapter -- Title 19.

The proposed change is very small, like I mentioned, it removes the minimum street requirement -- minimum street width requirement of 20 feet, and it refers to the Fire Code, which has some exceptions to allow the permit to be approved, so it's a little bit more flexible, and that's the part of the code that the Fire Department uses. I mean it makes more sense to -- for them to review building permits based on their rules and regulations, and not on the zoning code, which is our responsibility.

We also received comments from Department of Public Works, and I believe you received that as a separate email, it was a PDF, and they're requesting that the wording regarding the specific street width of 16 feet be removed because it's not necessary, and it's also addressed elsewhere in the code. Other zoning districts don't have this kinda strict requirement either, so it's inconsistent, and we are fine with the Department of Public Works' recommendation, and we do have the Deputy Director of Public Works, Jordan Molina, who is in on this BlueJeans if you have specific questions.

So this proposed bill for ordinance did go before the Maui Planning Commission, and they voted to recommend with the proposed language that meets both the Department of Fire and Public Safety's request and the Department of Public Works' request so that we take out these minimum feet requirements and just have that the lot must have direct access to a street that meets Fire Code requirements for fire apparatus access roads, and so that's what we're proposing in order to revise this part of the code so that we can get these accessory dwellings approved by these other agencies. Did everyone receive a

copy of that Public Works memo from Jordan with their recommendation? You can raise your hand if you remember seeing it. I can also put it up on the screen if you wanted to see it too. And if there's any questions, I can answer questions. Thank you.

Chair Buchanan: Commissioner Sprinzel, you have a question? You on mute.

Mr. Sprinzel: Yeah, I've seeing the memo from the -- as was referred to.

Ms. Takakura: Thank you.

Ms. Mowat: Can you put it -- can you put it up on the screen, please, so -- there's so much papers in front of me, I might have it, I just wanna see if it's familiar.

Ms. Takakura: Okay.

Ms. Mowat: Thank you.

Ms. Takakura: Yeah, I'm going to share a screen and you're just going to see the memo from Department of Public Works. Let me just -- just a minute. Okay, so what you have before you is a, excuse me, a memo from the Department of Public Works, from Jordan, and if you can see in the italics, their recommendation, in the brackets, is that reference to that 16 feet. So what they're proposing, and we agree with, is that this part of the code simply say, "Adequacy of street. The lot must have direct access to a street that meets fire code requirements for fire apparatus access roads." Are there any questions about this one? And then I can stop sharing anytime you folks are ready to go back to seeing everybody's faces.

Chair Buchanan: Jacky, what is the -- sorry, this is Chair Buchanan. What is the Fire Code? Is there a minimum in the Fire Code for width?

Ms. Takakura: Well, they do have the minimum width of 20 feet but they also have some exceptions that they can, you know, in certain situations, it makes more sense to have, you know, something other than 20 feet, and those exceptions in their part of the code allow them to approve building permits, but because we only say -- make reference to the 20 feet and don't make reference to the exceptions that they already have in their part of the code, they kinda -- they kinda get stuck here because of this language that we have in our part of the code. And we did work with the Department of Fire and Public Safety, Fire Prevention Bureau, to word this in a way that they feel comfortable with.

Chair Buchanan: I guess my concern is a liability issue that if the County doesn't set a minimum and punts the ball to Fire and Public Works, or Fire, if they have the expertise to go through all the codes, I see John holding his hand up.

Mr. Sprinzel: We had the occasion to go into this some years back when the -- when the bank, the savings bank wanted to build the back, if you remember, I think you were on the committee then, and the roads to it weren't wide enough but the Fire Department allowed us to do it. So there is a precedence for this.

Ms. Takakura: Yes, and so the Fire Department has their own part of the code that they use to review and, you know, verify for their own -- based on their own criteria.

Mr. Sprinzel: And as I recall, we had a Fire Department person on the Commission back then as well, so they were fully aware of --

Chair Buchanan: I guess because my -- my concern is, and it must just be an issue of enforcement, because you get these really tight districts where we never have building code, you know, these older communities, like Wailuku and, you know, some parts in-between where I cannot imagine, even my father-in-law has a flag lot, and I can't see how a fire engine would ever get in there let alone an ambulance into those back roads, and I know it's because those communities are older communities, so that was my only, you know, like I don't see any minimum set, which leads us to being kinda arbitrary and I was just wondering about the Fire Code and if they had -- it seems like they have a lot flexibility then in their approving their part of the total construction of new places or whatever. They just have that flexibility now.

Ms. Takakura: They had asked if we could -- I'm sorry.

Chair Buchanan: Go ahead, Jacky.

Ms. Takakura: Okay. Sorry about that.

Chair Buchanan: You can give me feedback.

Ms. Takakura: The Fire Prevention Bureau had asked if we could make this revision and it's only relating to accessory dwellings, this part of the code, 19.35, and so any permits still has to meet Fire Code requirements for that -- the apparatus access roads, but it's their -- Fire Department's requirements per their request.

Chair Buchanan: I mean, yeah, I would support the Department. I see, John Pele, you have a comment?

Mr. Pele: No, I have a question. I wanna make sure I'm --

Chair Buchanan: Question.

Mr. Pele: Understanding this. This, for the accessory dwelling, what we're doing is we're empowering the agencies that are the experts to make the calls, is that what I'm understanding, so if there's a fire access, then accessory dwelling, we want the Fire Department to tell us what is safe, what they deem safe, what they deem as a requirement, and same with Public Works or am I misunderstanding? Rather than having somebody in -- who doesn't -- you guys, the Department of Planning, who might not know or have expertise in a fire situation as a Fire Department would, so we'd rather have the Fire Department make the call. Or am I misunderstanding what you're trying to achieve here.

Ms. Takakura: Thank you. That is correct.

Mr. Pele: Okay. Yeah. Alright. It's sort of like -- it's sort of like when we don't want the County people to tell Molokai what to do 'cause we know better than to -- and let the Fire Department determine what's safe in this particular setting 'cause they're the ones who are going to go in and perform the fire duties, right, we're not going to -- so I'm just wondering if that's, I'm trying to understand, I think that's what we're trying to get at, and I'm in favor of letting the expertise and Fire tell us how to fight fires and how to be safe and what they do to be safe, unless I don't understand.

Chair Buchanan: Thank you, Commissioner Pele. I understand what he mean. It's too bad that the -- if I like build one accessory dwelling, I gotta go to the County Planning Department to get my permit and not to the -- the Fire Department, but I understand, in Kiva, everybody's including on a permit, so if I put in an SMA to build an accessory dwelling in the back of my house in Ranch Camp, I go to the Planning Department for that permit, and then that permit goes out for comment to -- through Kiva to all the rest of the departments is that how it works, Jacky or Michele?

Ms. McLean: Not exactly. The SMA permit has particular criteria so that wouldn't go necessarily to that many agencies, but if the SMA permit or SMA exemption is issued, then you would need a building permit and it's the building permit that would get routed to the Fire Department and other departments. So --

Chair Buchanan: Okay, that's the trigger. Okay.

Ms. McLean: Yeah, it's the building permit that's the main trigger, so even a property outside of the SMA would have to get their building permit that would go to Fire, Department of Health, Water, etc.

Chair Buchanan: Sewer, yeah.

Ms. McLean: Yeah.

Chair Buchanan: Okay. Thank you. Okay, so, Jacky, is that it?

Ms. Takakura: That's it.

Chair Buchanan: I don't know how come I thought was more because I was looking I guess at the memorandum of October 22nd and that was what was on the agenda too, and so I can see why I was confused. Alrighty. Okay, that's it. Commissioners, any more questions? No? Any members of the public having -- I can open up for public testimony if there's any on this agenda item. Suzie, Sybil?

Ms. Esmeralda: This is Suzie. I haven't received any.

Chair Buchanan: Hi, Planner Sybil, you still on? I think she on. Okay. I don't think the Department had anymore to share, yeah? Okay, seeing none, we're going close public testimony on this item. So, Commissioners, you guys have any proposed motions for this item.

Mr. Sprinzel: Propose to accept.

Chair Buchanan: Commissioner Sprinzel.

Mr. Sprinzel: Propose to accept.

Chair Buchanan: Okay. Leonora is putting up the peace sign. Whoa, you guys getting --

Ms. Espaniola: Second.

Chair Buchanan: Savy, yeah? Okay, so I have a second by Commissioner Nora. Any discussion? Okay. I mean --

Ms. Espaniola: Commissioner Espaniola. I get a question. Ah, maybe --

Chair Buchanan: Yes.

Ms. Espaniola: I just wondering. Is there room for any biases as far as when an application would go in?

Ms. Takakura: Are you asking regarding a building permit?

Ms. Espaniola: Jacky? Yes.

Ms. Takakura: Usually I refer those calls to the building permits group over in Public Works, but usually when you have your plans ready over to DSA and submit your building permit application, I think Michele might know better.

Ms. McLean: Are you asking about when the bill would take effect?

Ms. Espaniola: Yes. Correct.

Ms. McLean: The bill will take effect when it gets approved, and this was brought to our attention from the Fire Department's reviewing a building permit, and they said we can't sign off on this and that's why they recommended this code change, so as soon as it takes effect, it would apply to permits processed and any that had been rejected could -- could ask to have their permit reinstated and maybe could get approved this time around.

Ms. Espaniola: Okay. Thank you,

Chair Buchanan: Okay, thank you, Commissioners. Any more discussion on the motion? Okay, seeing none, I would do a roll call. Commissioner Poepoe?

Mr. Poepoe: Aye.

Chair Buchanan: Commissioner Mowat?

Ms. Mowat: Aye.

Chair Buchanan: Commissioner Espaniola?

Ms. Espaniola: Yes.

Chair Buchanan: Okay.

Ms. Espaniola: Sorry.

Chair Buchanan: Commissioner Moore? Thank you. Commissioner Moore?

Mr. Moore: Yes.

Chair Buchanan: Commissioner Pele?

Mr. Pele: Yes.

Chair Buchanan: Commissioner Sprinzel?

Mr. Sprinzel: Yes.

Chair Buchanan: And myself, yes. Unanimous. Motion carried. Yay, Title 19.

It has been moved by Commissioner John Sprinzel, seconded by Commissioner Leonora Espaniola, then

VOTED: to accept the proposed amendments.

(Assenting - L. Buchanan; L. Espaniola; W. Moore; B. Mowat; J. Pele; L. Poepoe;
J. Sprinzel)

(Absent - J. Perez, III)

(Excused - J. Bicoy)

Ms. Takakura: Thank you.

Chair Buchanan: Okay, so I going have a pause, and we are going to go back to item C, Communications, but at that point, I'm going to need to recuse myself from the rest of the meeting, and I'm going to ask the Vice-Chair, Commissioner -- Vice-Chair Poepoe to please step in and conduct item C, and that's it. Then I will -- I will resume on item D, unfinished -- no. Sorry, too much papers. Item E. He can go, you can go right into item E as well, Vice-Chair, if you want to. Okay, so, with that, if Corp Counsel wants to say something, I -- I, right now, I'm asking the Vice-Chair to take over for this meeting. Thank you.

Ms. Chen: Thank you, Lori. Vice-Chair, is it okay if I say a few things?

Mr. Poepoe: Yeah. Go ahead.

Ms. Chen: So to give a little background on this item, well, perhaps we should first read it I suppose. Vice-Chair, do you want to read the item?

Mr. Poepoe: I'll go ahead and read it out.

Ms. Chen: Sorry, what -- what did you say?

Mr. Poepoe: I'll read out the -- the agenda item --

Ms. Chen: Okay. Perfect.

Mr. Poepoe: First, and then hand them off to you.

Ms. Chen: Okay.

Ms. Preza: Okay, thank you. So, I will go -- I see that we have two people on via cell phone. Would anyone who is calling via phone like to testify on this agenda item? No? Great, so we will close public testimony for that agenda item. And Commissioners do you have any questions about this?

Ms. Preza: No questions? Great, so would anyone would like to make a motion to accept these changes?

Ms. Kaye: I so move.

Ms. Preza: Okay, is there a second?

Ms. Catiel: Second.

Ms. Preza: Great. We have a second to adopt these amendments. So any further discussion? Okay. So we'll take a vote. All those in favor, please raise your hand and say aye. Any opposed? Okay, there being none, it passes unanimously. Thank you so much for your time.

It was moved by Ms. Sally Kaye, seconded by Ms. Roxanne Catiel, then unanimously

VOTED: to adopt the amendments as presented.

(Assenting: R. Catiel, J. Delacruz, S. Kaye, S. Menze, S. Samonte)
(Excused: C. Trevino)

**2 PROPOSED AMENDMENTS TO TITLE 19, MAUI COUNTY CODE,
CHAPTER 19.35 RELATING TO ACCESSORY DWELLINGS**

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. Preza: Great. And we can move on to Item 2. Sorry, Michele, would you like to read it or should I read it?

Ms. McLean: Sure.

Ms. Preza: Okay, thank you.

Ms. McLean: Item 2, proposed amendments to Title 19, Maui County Code, Chapter 19.35, relating to Accessory Dwellings. And this is a transmittal from yours truly with proposed amendments to Chapter 19.35, relating to Accessory Dwellings and Fire Code requirements. And once again I will pass this along to Jacky Takakura.

Ms. Takakura: Okay, thank you. So this bill for ordinance is to, is to fix a problem in Chapter 19.35 of the Maui County Code. This Chapter is regarding Accessory Dwelling, and there is a section for required public facilities. But we'd like to revise the 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 very small. What we are proposing is that for fire apparatus roads we want to remove the minimum street width requirements of 20-feet. And we'd like to refer to the Fire Code which has some exception to allow a permit to be approved. It also makes more sense for the Fire Department to review building permits on their rules and regulations, and not on the Zoning Code which is the Planning Department's responsibilities.

And we also received comments from Public Works. I think you were e-mailed that. They made a request to that the wording regarding the specific street width of 16-feet be removed because it's not necessary. It's addressed elsewhere in their part of the Code, and other zoning districts do not have a requirement like this. So it's inconsistent. So we agree with their proposed amendments and so we have the proposed change based on working with the Department of Fire and Public Safety's Fire Prevention Bureau, and also with the Department of Public Works.

This matter was brought before the Maui Planning Commission last week Tuesday, and they recommended the following revised language. I'm going to just read it to you. They recommended that the lot must have direct access to a street that meets fire code requirements. So that's what we're proposing for Item. D.2. on this agenda item.

Did anybody need to see the memo from Jordan Molina, the Deputy Director? I can share my screen if you need to see it. But I think it was e-mailed to you.

Ms. Preza: I believe it was e-mailed to us. Thank you.

Ms. Takakura: Thank you.

Ms. Preza: Great. So before Commissioners, sorry, I would like to open public testimony for this. So, Leilani, did we receive any request to testify?

Ms. Ramoran-Quemado: Nothing from via chat.

Ms. Preza: Okay, nothing via chat. So would anyone via phone like to testify on this agenda item? Okay, I don't think anyone. If you are calling in via phone, could put your phone on mute unless you would like to testify right now. Okay, thank you very much. We'll close public testimony for that agenda item. And Commissioners, do you have any questions for Jacky, or is there any discussion about this?

Mr. Delacruz: So Jacky, who made your recommendation on the language?

Ms. Takakura: It was the Department of Fire and Public Safety, and the Department of Public Works. I'm sorry, the most recent?

Mr. Delacruz: I know they addressed the 16-foot thing, but who made the recommendation for meets fire code?

Ms. Takakura: The Department of Fire and Public Safety.

Mr. Delacruz: Okay, thank you.

Ms. Preza: Other questions?

Mr. Delacruz: So I move that we accept that wording.

Ms. Preza: Okay, so there's a motion to accept the changes. Would anyone like to second that?

Ms. Catiel: Second.

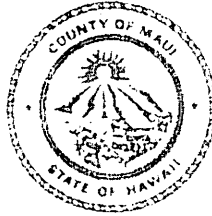
Ms. Preza: Okay, there's a second. Okay, there's a second to adopt the motion. Is there any -- or the amendments -- is there any other discussion? Okay, there being none, we'll go to a vote. So all those in favor please raise your hand and say aye. Any opposed? No one abstaining, then it passes unanimously. Thank you. Wow, we're just moving along. Great, so we'll move on to item, agenda item D.3. I'll turn it over to Michele.

It was moved by Mr. John Delacruz, seconded by Ms. Roxanne Catiel, then unanimously

VOTED: to adopt the amendments as presented.

(Assenting: R. Catiel, J. Delacruz, S. Kaye, S. Menze, S. Samonte)
(Excused: C. Trevino)

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

May 12, 2020

MEMORANDUM

TO: MAUI PLANNING COMMISSION
MOLOKAI PLANNING COMMISSION
LANAI PLANNING COMMISSION

FROM: MICHELE CHOUTEAU MCLEAN, AICP *M*
PLANNING DIRECTOR

SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35 OF THE
MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS
AND FIRE APPARATUS ACCESS ROADS

The purpose of the attached bill for ordinance is to revise Section 19.35.090.C of the Maui County Code regarding street width for fire apparatus access roads for accessory dwellings. Currently, this section requires a minimum street width of twenty feet before a building permit for an accessory dwelling can be approved; however, it does not recognize the exceptions allowed in the Maui County Fire Code. Therefore, it is causing the Department of Fire and Public Safety to deny building permits when there may be other options available to allow the permit to be approved.

For these reasons, the Planning Department proposes to revise Section 19.35.090.C so that it simply refers to fire code requirements instead of a specific number of feet for street width.

The proposed bill was reviewed by Department staff and the Department of Fire and Public Safety.

Recommendation and Options

The Department is recommending approval of the proposed bill. The commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action in order to gather specific additional information.
- 5.

Attachment
MCM:JSR:JMCT:ckk

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MAIN LINE (808) 270-7735 / FACSIMILE (808) 270-7634

CURRENT DIVISION (808) 270-8205 / LONG RANGE DIVISION (808) 270-7214 / ZONING DIVISION (808) 270-7253

30 SECTION 4. This ordinance shall take effect upon its approval.

31 APPROVED AS TO FORM AND LEGALITY:

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35 _____
Department of the Corporation Counsel

36 County of Maui

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MICHAEL P. VICTORINO
Mayor

ROWENA M. DAGDAG-ANDAYA
Director

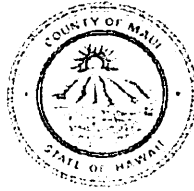
JORDAN MOLINA
Deputy Director

GLEN A. UENO, P.E., L.S.
Development Services Administration

RODRIGO "CHICO" R. RABARA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

Telephone: (808) 270-7845
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COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793



DATE: May 11, 2020

TO: MICHELE MCLEAN, PLANNING DIRECTOR

FROM: JORDAN MOLINA, DEPUTY DIRECTOR OF PUBLIC WORKS

Jordan
Molina

Digitally signed by Jordan Molina
DN: cn=Jordan Molina,
o=Department of Public Works,
ou=Deputy Director,
email=jordan.k.molina@co.maui.
hawaii.us, c=US
Date: 2020.05.11 16:24:36 -10'00'

SUBJECT: **A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35 OF THE MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS AND FIRE APPARATUS ACCESS ROAD**

The Department of Public Works is requesting the proposed bill be amended by removing from Section 19.35.090.C., Maui County Code, the requirements for a minimum paved road width of sixteen feet and the need to determine whether the road is adequate for the proposed construction. The amended language would read as follows:

"C. Adequacy of street. The lot must have direct access to a street [which has a minimum paved roadway width of sixteen feet and which the director of public works determines to be adequate for the proposed construction, except that a minimum width of twenty feet shall be required for fire apparatus access roads] that meets fire code requirements for fire apparatus access roads."

The Department finds that these requirements are not necessary because the primary purpose of this provision is to ensure adherence with fire code requirements and address the access needs of the Maui Fire Department. The requirements for street improvements that fall within the purview of the Department are already addressed the Building and Subdivision Codes and are not needed within this section of Title 19. Additionally, there are no similar requirements for any other category of structure including hotel, commercial, apartment, or second dwelling, so imposing this requirement only to accessory dwellings seem unfair and is counterproductive to any attempts to use accessory dwelling as a way to address Maui's affordable housing crisis.

Thank you for your consideration of the Department's proposed amendment. If there are any questions regarding this correspondence, please contact me at 270-7845.

JM:jm

xc: Rowena Dagdag-Andaya, Director of Public Works
Jordan Hart, Deputy Planning Director
Glen Ueno, DSA Administrator
Lance Nakamura, DSA Assistant Administrator
Jacky Takakura, Planning Department

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