Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

August 25, 2016

TO: Laura Shell, Chair
Doug Smith, Vice Chair
David W. Louie, Commissioner
Curt Pedersen, Commissioner
Pat Modugno, Commissioner

FROM: Mitch Glaser, Assistant Administrator
Current Planning Division

PUBLIC HEARING MATERIALS - ACCESS REQUIREMENTS ORDINANCE - PROJECT NO. 2016-000921-(1-5) - ADVANCE PLANNING CASE NO. RPPL2016001716 - HEARING DATE: SEPTEMBER 7, 2016 - ITEM NO. 8

Please find attached documents for the above referenced case and public hearing.

For questions or additional information regard this matter, please contact Dean Edwards at (213) 974-6435 or dedwards@planning.lacounty.gov, Monday through Friday, 9:30 a.m. to 5:30 p.m.

MG: de

Attachments
A. Staff Report
B. Draft Resolution
C. Draft Ordinance
D. April 21, 2016 Memo

ATTACHMENT A – STAFF REPORT

STAFF REPORT
ACCESS REQUIREMENTS ORDINANCE
PROJECT NO. 2016-000921
ADVANCE PLANNING CASE NO. RPPL2016001716

PROPOSAL
An ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code (County Code) to ensure safe and orderly development through the provision of adequate physical access and legal access to each lot or parcel of land. The ordinance would add definitions to Section 22.08.010 and would add a new Part 31 to Chapter 22.52 to establish physical and legal access requirements for each existing lot or parcel of land.

LOCATION: Unincorporated areas of Los Angeles County.

ISSUE
Neither Title 22 nor Title 26 (Building) of the County Code currently require proof of physical or legal access prior to the issuance of zoning approvals and building permits. This limits the County's ability to respond to constituent concerns about new development on "landlocked" parcels that do not directly adjoin, and take access from, a publicly dedicated right-of-way.

BACKGROUND
In December 2014, the Department of Public Works (DPW) initiated collaborative discussions with the Department of Regional Planning (DRP) and the Office of County Counsel regarding "landlocked" parcels and access requirements. These discussions led to a consensus position that it would be preferable for the County Code to require proof of physical and legal access prior to the issuance of zoning approvals and building permits in a manner similar to provisions in the San Bernardino County Code.

DRP conducted a Geographic Information System analysis that determined that 53,264 parcels may be landlocked. Most of these parcels are located in rural unincorporated areas, such as portions of the Santa Monica Mountains, Santa Clarita Valley, and Antelope Valley Planning Areas. However, some of these parcels are located in urban unincorporated areas. A map of landlocked parcels is available through the Landlocked Parcel Look-up application located at http://planning.lacounty.gov/aro. The following is a breakdown of potentially landlocked parcels by Supervisorial District:

District	Number of Landlocked Parcels
1	420
2	200
3	2,386
4	440
5	49,818
Total	*53,264*

On March 28, 2016, DRP and DPW staff briefed the Board of Supervisors' (BOS) Planning Deputies on issues related to landlocked parcels that lack physical and/or legal access to a publicly dedicated right-of-way. The Planning Deputies were informed that DRP and DPW staff intended to bring ordinances that amend Title 22 and Title 26 to address access issues to the BOS for consideration at separate public hearings on the same day in the autumn of 2016.

On May 4, 2016, DRP staff requested that your Commission take action to initiate the preparation of this ordinance. After discussion, your Commission instructed DRP to:

- Prepare an ordinance amending Title 22, and Title 21 if necessary, to establish access requirements;

- Conduct an appropriate environmental analysis for such an ordnance;
- Continue to coordinate with other County departments, including but not limited to the Department of Public Works, the Fire Department, and the Office of County Counsel, with regard to this effort; and
- Notify all individuals and organizations identified on its courtesy mailing lists when the ordinance is scheduled for a public hearing before the Commission.

On May 9, 2016, DRP staff provided an update regarding the ordinance to the BOS Planning Deputies and reported that public outreach would include publishing the hearing notice ("notice") in the Antelope Valley Press and the Santa Clarita Valley Signal newspapers and mailing the notice to the recipients on all of the Zoned Districts Courtesy Lists.

On July 12, 2016, staff presented the draft ordinance to DPW's Land Development Advisory Committee which is comprised of members of the development community that discuss issues facing Los Angeles County's development process. The committee had no comments on the ordinance.

On August 24, 2016, staff attended a meeting of the Association of Rural Town Councils to answer questions about the ordinance.

DPW and the Fire Department were consulted on the ordinance. These departments provided comments on the ordinance, which was revised accordingly.

OVERVIEW

The ordinance includes the following key components:

- Definitions for "legal access" and "physical access";
- Requirements for proof of legal and physical access for most land use and development approvals;
- Descriptions of acceptable proof of legal and physical access; and
- Provisions that require the Director to waive proof of legal access for certain types of developments under limited circumstances as a ministerial action.

GENERAL PLAN ANALYSIS

The ordinance is consistent with Los Angeles County's General Plan 2035 because it supports General Plan Policy PS/F 1.2 which states, "Ensure that adequate services and facilities are provided in conjunction with development through phasing or other mechanisms." The ordinance will ensure that new land uses and development on landlocked lots or parcels have adequate access.

ENVIRONMENTAL

This project has been determined to be exempt from California Environmental Quality Act (CEQA) reporting requirements pursuant to CEQA Guidelines Section 15061(b) (3) which states, "A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

Adoption of the ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the CEQA Guidelines because there is no possibility that adoption of the ordinance may have a significant effect on the environment. Adoption of the proposed ordinance will not result in any

direct physical change in the environment and will not result in any indirect physical change in the environment that is reasonably foreseeable at this time. This determination is supported by the following analysis.

The ordinance will not authorize any development resulting in direct or indirect changes to the physical environment. The ordinance requires that applicants provide proof of physical and legal access for land development or land use projects located on an existing lots or parcels of land. Discretionary actions authorizing the construction of physical access or establishment of a new use, building, structure; addition or alteration to building or structure; repair or reconstruction of an existing building; or permit issuance of an existing building structure would be subject to CEQA.

NOTICE AND PUBLIC COMMENTS

The notice was published in Antelope Valley Press and Santa Clarita Valley Signal newspapers on July 29, 2016. Additionally, on August 1, 2016, the notice was mailed to the recipients on all of DRP's Zoned Districts Courtesy Lists. The draft ordinance was made available review at six public libraries located throughout the County.

The notice mentioned amendments to both Title 21 and Title 22 because your Commission instructed DRP to include Title 21 amendments if necessary. However, DRP ultimately decided that Title 21 amendments are not necessary because DRP already requires proof of physical and legal access for all subdivision cases. Therefore the Title 22 amendments will ensure consistent handling of single-lot development cases and subdivision cases with regard to access requirements. Although it may be desirable to amend Title 21 to ensure consistent language, DRP recommends that such amendments be deferred until such time that a comprehensive update to Title 21 can be prepared.

To date, no comments have been received from the public. However, to date, there were five phone inquiries regarding the ordinance.

RECOMMENDATION

Staff recommends that the Regional Planning Commission recommend that the Board of Supervisors adopt the proposed ordinance because:

- The ordinance will ensure safe and orderly development of existing lots or parcels of land;
- The ordinance is consistent with the General Plan; and
- There is no possibility that adoption of the ordinance may have a significant effect on the environment.

SUGGESTED MOTION

I move that the Regional Planning Commission close the public hearing and recommend that the Board of Supervisors find that the project is exempt from CEQA reporting requirements and adopt the Access Requirements Ordinance.

ATTACHMENT B – DRAFT RESOLUTION

DRAFT RESOLUTION OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES
ACCESS REQUIREMENTS ORDINANCE
PROJECT NO. 2016-000921
ADVANCE PLANNING CASE NO. RPPL2016001716

WHEREAS, the Regional Planning Commission (Commission) of the County of Los Angeles (County) has reviewed the matter of amendments to Title 22 (Planning and Zoning) of the Los Angeles County Code (County Code) to ensure safe and orderly development through the provision of adequate physical access and legal access to each lot or parcel of land. The ordinance would add definitions to Section 22.08.010 and would add a new Part 31 to Chapter 22.52 to establish physical and legal access requirements for each existing lot or parcel of land.

WHEREAS, the Commission finds as follows:

1. Neither Title 22 nor Title 26 (Building) of the County Code currently require proof of physical or legal access prior to the issuance of zoning approvals and building permits. This limits the County's ability to respond to constituent concerns about new development on "landlocked" parcels that do not directly adjoin, and take access from, a publicly dedicated right-of-way.
2. In December 2014, the Department of Public Works (DPW) initiated collaborative discussions with the Department of Regional Planning (DRP) and the Office of County Counsel regarding "landlocked" parcels and access requirements. These discussions led to a consensus position that it would be preferable for the County Code to require proof of physical and legal access prior to the issuance of zoning approvals and building permits.
3. DRP conducted a Geographic Information System analysis that determined that 53,264 parcels may be landlocked. Most of these parcels are located in rural unincorporated areas, such as portions of the Santa Monica Mountains, Santa Clarita Valley, and Antelope Valley Planning Areas. However, some of these parcels are located in urban unincorporated areas. The following is a breakdown of potentially landlocked parcels by Supervisorial District:

District	Number of Landlocked Parcels
1	420
2	200
3	2,386
4	440
5	49,818
Total	*53,264*

4. On May 4, 2016, staff requested that the Commission take action to initiate the preparation of the Access Requirements Ordinance (Ordinance). After discussion, the Commission instructed DRP to:

   - Prepare an ordinance amending Title 22, and Title 21 if necessary, to establish access requirements;
   - Conduct an appropriate environmental analysis for such an ordnance;
   - Continue to coordinate with other County departments, including but not limited to the Department of Public Works, the Fire Department, and the Office of County Counsel, with regard to this effort; and
   - Notify all individuals and organizations identified on its courtesy mailing lists when the ordinance is scheduled for a public hearing before the Commission.

5. The Ordinance includes the following key components:
    - Definitions for "legal access" and "physical access";
    - Requirements for proof of legal and physical access for most land use and development approvals;
    - Descriptions of acceptable proof of legal and physical access; and
    - Provisions that require the Director to waive proof of legal access for certain types of developments under limited circumstances as a ministerial action.
6. On July 12, 2016, staff presented the draft Ordinance to DPW's Land Development Advisory Committee which is comprised of members of the development community that discuss issues facing the County's development process. The committee had no comments on the ordinance.
7. On August 24, 2016, staff attended a meeting of the Association of Rural Town Councils to answer questions about the Ordinance.
8. The Ordinance is consistent with Los Angeles County's General Plan 2035 because it supports General Plan Policy PS/F 1.2 which states, "Ensure that adequate services and facilities are provided in conjunction with development through phasing or other mechanisms." The ordinance will ensure that new land uses and development on landlocked lots or parcels have adequate access.
9. No correspondence from the public regarding the Ordinance were received.

NOW, THEREFORE, BE IT RESOLVED THAT the Regional Planning Commission recommends that the Los Angeles County Board of Supervisors:

1. Conduct a public hearing to consider the proposed amendment to Title 22 of the County Code to establish legal and physical access requirements for existing lots or parcels of land; and
2. Certify that the adoption of the Ordinance is exempt from the California Environmental Quality Act (CEQA) environmental review requirements pursuant to Section 15061(b); and
3. Adopt the attached ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code and determine that it is compatible with and supportive of the goals and policies of the Los Angeles County General Plan.

I hereby certify that the foregoing was adopted by a majority of the voting members of the Regional Planning Commission of the County of Los Angeles on September 7, 2016.

By: _____

Rosie O. Ruiz, Commission Secretary
Regional Planning Commission
County of Los Angeles

VOTE

Concurring:

Dissenting:

Abstaining:

Absent:

Action Date: September 7, 2016

ATTACHMENT C – DRAFT ORDINANCE

ORDINANCE NO. _____

An ordinance amending Title 22 – Planning and Zoning – of the Los Angeles County Code related to the addition of regulations concerning access requirements.

...

SECTION 1. Section 22.08.010-A is hereby amended to read as follows:

...

-- Access, Legal. "Legal access" means the legal right to use a certain course of travel to access a lot or parcel of land from the nearest publicly dedicated right-of-way.

-- Access, Physical. "Physical access" means a course of travel that is or can be used to access a lot or parcel of land from the nearest publicly dedicated right-of-way.

...

SECTION 2. Part 31 of Chapter 22.52 is hereby added to read as follows:

PART 31

ACCESS REQUIREMENTS

22.52.3400 Purpose

22.52.3410 Applicability

22.52.3420 Proof of Access

22.52.3430 Waiver

22.52.3400 Purpose

The purpose of this Part 31 is to ensure safe and orderly development through the provision of adequate physical access and legal access to each lot or parcel of land.

22.52.3410 Applicability

The provisions of this Part 31 shall apply to any of the following that pertain to a lot or parcel of land that does not directly adjoin and take physical access from a publicly dedicated right-of-way:

A. Establishment of a new land use, building, structure, or grading, including but not limited to establishment of a new single-family home, agricultural use, or water well;

B. Addition or alteration to an existing building or structure that was legally permitted;

C. Repair or reconstruction of an existing building or structure that was legally permitted, including but not limited to repair or reconstruction after a fire or natural disaster;

D. Permit issuance or approvals for an existing building or structure that was not legally permitted, including but not limited to an existing building or structure that is the subject of a code enforcement action by the Department or the Department of Public Works;

E. Authorization of an existing land use that was legally permitted but requires a new permit listed in Chapter 22.56, including but not limited to an existing land use with an expired Conditional Use Permit; or

F. Clearance of conditions related to proof of physical and legal access that are noted in any Conditional Certificate of Compliance recorded in the chain-of-title of the subject lot or parcel of land.

22.52.3420 Proof of Access

Prior to permit issuance or approvals, the applicant shall provide the following to the satisfaction of the Director:

A. Proof of physical access that complies with the Fire Code and other applicable Fire Department regulations. Proof shall consist of a signed and sealed letter from a civil engineer authorized pursuant to Section 8731 of the California Business and Professions Code, or from a licensed land surveyor, certifying that physical access exists or could be established; and

B. Proof of legal access that is conterminous with the physical access required by Subsection A, above, as substantiated by a land survey. Proof shall consist of one of the following documents, provided that such document sufficiently describes the legal access by metes and bounds or other descriptive means so that such description can be plotted on local surveying maps or engineering maps and located on the ground by a land survey:

1. A right of access, including but not limited to formerly prescriptive easement rights established as a valid easement by a final judgment rendered by a court of competent jurisdiction; or

2. A recorded document affirmed by a land title company in a Preliminary Title Report and/or Policy of Title Insurance, including but not limited to a Deed of Easement or a Grant Deed with Reservation for an Easement.

3. For purposes of this subsection B:

a. Where an applicant provides proof of legal access, such proof shall be sufficient to establish legal access by any means, including but not limited to vehicular and pedestrian means, and to any use allowed in the zone, unless the judgment

or recorded document expressly limits the access described therein; and

b. Evidence that a particular course of travel has been continuously used shall not be sufficient to establish legal access for the purposes of this section.

22.52.3430 Waiver

The Director shall waive the proof of legal access required by Section 22.52.3420.B when:

A. The applicant submits written proof that a land title company has completed an access easement search for the subject lot or parcel of land and did not find evidence of legal access pursuant to Section 22.52.3420.B.2; or

B. The subject lot or parcel of land was legally created per the Subdivision Map Act or Title 21 of the Los Angeles County Code and the property owner has provided proof of physical access as required by Section 22.52.3420.A;

C. The requested action is:

1. An addition or alteration to a legally permitted existing building or structure that increases the gross floor area of the building or structure by less than 50 percent;

2. Repair or reconstruction of an existing building or structure that was legally permitted, including but not limited to repair or reconstruction after a fire or natural disaster;

3. Permit issuance for an existing building or structure that was not legally permitted, including but not limited to an existing building or structure that is the subject of a code enforcement action by the Department or the Department of Public Works; or

4. Authorization of an existing land use that was legally permitted but requires a new zoning permit listed in Chapter 22.56, including but not limited to an existing land use with an expired Conditional Use Permit; and

D. The property owner records a covenant and agreement in the chain-of-title for the subject property at the office of the Registrar-Recorder/County Clerk which includes the following:

1. The property owner's representation that he or she has a right to physical access;

2. The property owner's acknowledgement that proof of legal access has not been provided to the Director's satisfaction;

3. The property owner's agreement to disclose to any subsequent owners that proof of legal access has not been provided to the County's satisfaction, pursuant to Section 22.52.3420.B; and

4. The property owner's agreement to indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees regarding liability for any damage or loss that may result from the issuance of the waiver. This agreement shall provide that it is binding on all successors in interest of the owner and shall continue in effect until proof of legal access is provided pursuant to the provisions of this Part 31.

ATTACHMENT D – APRIL 21, 2016 MEMO

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

April 21, 2016

TO: Stephanie Pincetl, Chair
Doug Smith, Vice Chair
David W. Louie, Commissioner
Curt Pedersen, Commissioner
Pat Modugno, Commissioner

FROM: Mitch Glaser, AICP, Assistant Administrator
Current Planning Division

ADVANCE PLANNING CASE NO. RPPL2016001716-(1-5) – ACCESS REQUIREMENTS ORDINANCE – RPC MEETING: MAY 4, 2016 – AGENDA ITEM: 8

At your meeting on May 4, 2016, I will provide your Commission with an overview of a proposed ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code to establish access requirements ("Access Requirements Ordinance") and will recommend that your Commission take action to initiate its preparation.

BACKGROUND

Neither Title 22 nor Title 26 (Building) of the Los Angeles County Code currently require proof of physical and legal access prior to the issuance of zoning approvals and building permits. This limits the County's ability to respond to constituent concerns about new development on "landlocked" parcels that do not directly adjoin, and take access from, a publicly dedicated right-of-way.

In December 2014, the Department of Public Works initiated collaborative discussions with this Department and the Office of County Counsel regarding "landlocked" parcels and access requirements. These discussions led to a consensus position that it would be preferable for the County Code to require proof of physical and legal access prior to the issuance of zoning approvals and building permits in a manner similar to provisions in the San Bernardino County Code.

This Department conducted a Geographic Information System (GIS) analysis to determine the number and location of potentially "landlocked" parcels that would be affected by the potential Access Requirements Ordinance. This information is provided below and has also been entered into a web-based GIS application that will be shown to

your Commission and made available to the public for outreach purposes if your Commission takes the recommended action.

A total of 53,264 parcels could be affected by the potential Access Requirements Ordinance. Most of these parcels are located in rural unincorporated areas, such as portions of the Santa Monica Mountains, Santa Clarita Valley, and Antelope Valley planning areas. However, some of these parcels are located in urban unincorporated areas. The following is a breakdown by Supervisorial District:

District	Parcels
1	420
2	200
3	2,386
4	440
5	49,818

The aforementioned County departments provided a briefing to the Board of Supervisors' Planning Deputies on March 28, 2016. The Planning Deputies were advised that staff's goal is to bring similar amendments to Title 22 and Title 26 to the Board of Supervisors for consideration at a public hearing in the autumn of 2016.

PROPOSED AMENDMENT

The latest draft of the Access Requirements Ordinance is attached. However, as a working draft, it will continue to be refined if your Commission takes the recommended action. The latest draft includes the following components:

- Addition of definitions for "legal access" and "physical access" to Section 22.08.020-A;
- Addition of a new Part 31 to Chapter 22.52 (General Regulations) concerning access requirements;
- Within Part 31, an applicability section that requires proof of legal and physical access for most types of development that require zoning approvals and/or building permits, including new structures, additions to existing structures, and repair or reconstruction of existing structures;
- Within Part 31, a description of the proof of legal and physical that an applicant would need to submit; and
- Within Part 31, an ability for the Director to waive proof of legal access for certain types of development under limited, well-defined circumstances.

Since the Access Requirements Ordinance does not change the allowable uses and development standards prescribed by Title 22, staff anticipates that it will be found exempt from the California Environmental Quality Act (CEQA). However, a more in-depth CEQA analysis will occur if your Commission takes the recommended action.

STAFF RECOMMENDATION

Based on the foregoing, staff recommends that your Commission:

- Instruct this Department to prepare an ordinance amending Title 22 to establish access requirements;
- Instruct this Department to continue to coordinate with other County departments, including but not limited to the Department of Public Works, the Fire Department, and the Office of County Counsel, with regard to this effort;
- Instruct the Department to notify all individuals and organizations identified on its courtesy mailing lists when the ordinance is scheduled for a public hearing before your Commission.

NEXT STEPS

Pursuant to your Commission's direction, staff will prepare the ordinance, CEQA analysis, and staff report to your Commission. Staff will schedule the public hearing before your Commission at a future date and will send public notice in accordance with the County Code and your Commission's direction.

If you need further information, please contact me at (213) 974-4971 or mglaser@planning.lacounty.gov. Department office hours are Monday through Thursday from 7:00 a.m. to 6 p.m. This Department is closed on Fridays.

SUGGESTED MOTION

I MOVE THAT THE REGIONAL PLANNING COMMISSION INSTRUCT THE DEPARTMENT OF REGIONAL PALNNING TO:

1. PREPARE AN ORDINANCE AMENDING TITLE 22 OF THE LOS ANGELES COUNTY CODE TO ESTABLISH ACCESS REQUIREMENTS.

2. CONTINUE TO COLLABORATE WITH OTHER COUNTY DEPARTMENTS, INCLUDING BUT NOT LIMITED TO THE DEPARTMENT OF PUBLIC WORKS, THE FIRE DEPARTMENT, AND THE OFFICE OF COUNTY COUNSEL, WITH REGARD TO THIS EFFORT.

3. NOTIFY ALL INDIVIDUALS AND ORGANIZATIONS IDENTIFIED ON ITS COURTESY MAILING LISTS WHEN THE ORDINANCE IS SCHEDULED FOR A PUBLIC HEARING BEFORE THIS COMMISSION.

MWG:mwg

Attachment

ORDINANCE NO. _____

An ordinance amending Title 22 – Planning and Zoning – of the Los Angeles County Code related to the addition of regulations concerning access requirements.

SECTION 1. Section 22.08.010-A is hereby amended to read as follows:

...

-- "Access, legal" means the legal right to use a certain course of travel to access a lot or parcel of land from the nearest publicly dedicated right-of-way.

-- "Access, physical" means a course of travel that is used to access a lot or parcel of land from the nearest publicly dedicated right-of-way.

...

SECTION 2. Part 31 of Chapter 22.52 is hereby added to read as follows:

PART 31

ACCESS REQUIREMENTS

22.52.3400 Purpose

22.52.3410 Applicability

22.52.3420 Proof of Access

22.52.3430 Waiver

22.52.3400 Purpose

The purpose of this Part 31 is to ensure safe and orderly development through the provision of adequate physical access and legal access to each lot or parcel of land.

22.52.3410 Applicability

The provisions of this Part 31 shall apply to any of the following actions pertaining to a lot or parcel of land that does not directly adjoin and take physical access from a highway as defined in Section 16.04.100 of the Los Angeles County Code:

A. Establishment of a new land use, building, structure, or grading, including but not limited to establishment of a new single-family home, agricultural use, or water well;

B. Additions or alterations to an existing building or structure that was legally permitted;

C. Repair or reconstruction of an existing building or structure that was legally permitted, including but not limited to repair or reconstruction after a fire or natural disaster;

D. Permit issuance for an existing building or structure that was not legally permitted, including but not limited to an existing building or structure that is the subject of a code enforcement action by the Department of Regional Planning and/or the Department of Public Works;

E. Authorization of an existing land use that was legally permitted but requires a new zoning permit listed in Chapter 22.56, including but not limited to an existing land use with an expired Conditional Use Permit; and

F. Clearance of conditions related to proof of physical and legal access that are noted in any Conditional Certificate of Compliance recorded in the chain-of-title of the subject lot or parcel of land.

22.52.3420 Proof of Access

Prior to the issuance of a grading permit, building permit, zoning conformance review, site plan review, or any zoning permit listed in Chapter 22.56, the applicant shall provide the following to the satisfaction of the Director:

A. Proof of physical access, as defined by Section 22.08.010, that complies with all applicable Fire Department regulations. Proof shall consist of a signed and

sealed letter from a civil engineer authorized pursuant to Section 8731 of the California Business and Professions or a licensed surveyor certifying that physical access is established; and

B. Proof of legal access, as defined by Section 22.08.010, that is conterminous with the physical access required by subsection A, as substantiated by a land survey. Proof shall consist of the following:

1. A right of access, including but not limited to prescriptive easement rights established by a final judgment rendered by a court of competent jurisdiction, in which the access is sufficiently described by metes and bounds or other descriptive means so that such description can be plotted on local surveying maps or engineering maps and located on the ground by a land survey; or

2. A recorded document affirmed by a land title company in a Preliminary Title Report and/or Policy of Title Insurance, including but not limited to a Deed of Easement or a Grant Deed with Reservation for an Easement, in which the access is sufficiently described by metes and bounds or other descriptive means so that such description can be plotted on local surveying maps or engineering maps and located on the ground by a land survey.

C. Evidence that a particular course of travel has been continuously used shall not be sufficient to establish legal access for the purposes of this section.

D. For the purposes of this section, where an applicant provides proof of legal access pursuant to subsection B, such proof shall be sufficient to establish legal access by any means, including but not limited to vehicular and pedestrian means, and of any intensity, including but not limited to intensities associated with residential,

commercial, and agricultural uses, unless the judgment or recorded document expressly limits the access described therein.

22.52.3430 Waiver

The Director may waive the proof of legal access required by Section 22.52.3420.B when the property owners submits written proof that a land title searcher has completed an access easement search for the subject lot or parcel of land and found nothing, subject to the following conditions:

A. The subject lot or parcel of land was legally created and the property owner has provided proof of physical access as required by Section 22.52.3420.A;

B. The requested action is not:

1. Establishment of a new land use, building, or structure, including but not limited to establishment of a new single-family home, agricultural use, or water well; or

2. An addition or alteration to an existing building or structure that increases the gross floor area of the building or structure by more than 50%; or

3. Clearance of conditions related to proof of physical and legal access that are noted in any Conditional Certificate of Compliance recorded in the chain-of-title of the subject lot or parcel of land; and

C. The property owner records a covenant and agreement in the Office of the Department of Registrar Recorder which includes the following:

1. The property owner's representation that he or she has a right to physical access;

2. The property owner's acknowledgement that proof of legal access has not been provided to the County's satisfaction;

3. The property owner's agreement to disclose to any subsequent owners that proof of legal access has not been provided to the County's satisfaction in the form of a notice that legal access has not been proven, which is recorded in the chain-of-title of the subject property; and

4. The property owner's agreement to relieve the County and all officers and employees thereof of any liability for any damage or loss that may result from the issuance of the waiver. This agreement shall provide that it is binding on all successors in interest of the owner and shall continue in effect until proof of legal access is provided pursuant to the provisions of this Part 31.