

**MAUI REDEVELOPMENT AGENCY
REGULAR MEETING
NOVEMBER 21, 2008**

APPROVED 02-20-09

A. CALL TO ORDER

The regular meeting of the Maui Redevelopment Agency (Agency) was called to order by Mr. Ronald Kawahara, Chair, at 1:05 p.m., Friday, November 21, 2008, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

Mr. Ronald Kawahara: I'm going to call the meeting to order. My name is Ron Kawahara. I'm the Chair for the Maui Redevelopment Agency. And present Commissioners are Alexa Betts-Basinger, our Vice-Chair; Katharine Popenuk; and Bob Horcajo. Ray Phillips is absent. So hopefully all of you signed in on the registration sheet. There's an agenda and appeals that will be discussed at today's meeting. To the extent possible, I'm going to follow the agenda and keep things on track.

B. APPROVAL OF THE OCTOBER 30, 2008 MEETING MINUTES

Mr. Kawahara: Approval – Item B on the agenda – approval of the October 30, 2008 meeting minutes. That wasn't circulated was it? I don't recall seeing that.

Mr. Bob Horcajo: By email.

Mr. Joseph Alueta: By email.

Mr. Kawahara: Did we get that? Did you get that Katharine?

Ms. Katharine Popenuk: Sorry?

Mr. Kawahara: The minutes of October 30th? Did you read it? I haven't read it. Did you read it Bob?

Mr. Horcajo: Yes.

Mr. Kawahara: Any additions? You want to make a motion?

Mr. Horcajo: I move to make a motion to approve the minutes from October 30th meeting.

Ms. Alexa Betts-Basinger: I'm sorry Chair, I haven't read them.

Mr. Kawahara: Why don't we defer action on the minutes of October 30th?

C. PUBLIC TESTIMONY: Testimony will be limited to three (3) minutes per testifier. At two minutes, thirty seconds, a thirty second notice will be given.

With the recommendation of the Chair, an additional three minutes may be granted.

- 1. Wailuku Community Association report on upcoming events and projects.**
- 2. Other public testimony.**

Mr. Kawahara: Okay, Item C, Public testimony. First, I'm going to call on Wailuku Community Association. Alexis?

Ms. Alexis Dascoulias: Aloha. Seeing as you have a full agenda, I'll keep this short. We had an extremely successful first Friday on November 7th. The WCA Board has not met since the last MRA meeting. We are meeting on Monday, at six o'clock at the Iao Theater. Current projects include cleaning up the Banyan Tree Park on the corner of Market and Vineyard; fundraising for first Friday events; trying to be prepared for budget cuts; and scheduling entertainment and themes for first Friday in 2009. And we want to thank the MRA for your continued service to the community and for supporting the projects especially first Friday. And we will see you at next Friday, which is December 5th.

Mr. Kawahara: You want to identify yourself for the record?

Ms. Dascoulias: Alexis Dascoulias. I'll give you this cause you'll know how to spell everything.

Mr. Kawahara: Okay, any other public testimony? Okay, moving on.

D. PUBLIC HEARING ITEMS

JORDAN E. HART for MYNAH BIRD PUB To obtain a MRA Use Permit to establish for a 678 square foot Adult Establishment (Neighborhood Pub) as well as Joint-Use Parking and Parking Abatement Approval located at 1910 Vineyard Street Unit #5, Hart's Corner, in Downtown Wailuku, Maui Tax Map Key: (2) 3-4-017: 001, Wailuku, Maui, Hawaii (MRA 2008/0009)

Mr. Kawahara: Public Hearing Items, Item D on your agenda. Jordan E. Hart for Mynah Bird Pub. This should be interesting. Mr. Hart here? I think – who's going to –?

Mr. Alueta: We have staff planner, Joe Prutch, to do it. As you see down, we do have a petition to intervene. What we normally do with these is that we'll go – because this is a public hearing item, it has been noticed, we will go ahead with the staff's report on the

project, take public hearings, and then we will defer action on any recommendations until the petition to intervene is dealt with. So that would be our recommendation at this time. So at least, and that way you can get some base information on the project, get some public testimony on the project and conduct the public hearing as we've noticed it.

Mr. Joe Prutch: Thank you Joe. Good afternoon everybody. I'll go over a brief presentation on the Jordan Hart Mynah Bird Pub application for a MRA Use Permit for an adult establishment in a 678 square foot commercial space over at Hart's Corner on Vineyard and Central; a joint use parking approval with Dad's Donut Shop for shared parking; and a parking abatement for additional required parking.

As I've said, the property is located at the corner of Vineyard and Central Avenue. It's approximately 7,500 square feet. It's developed with a two-story mixed use building. It's got a residential unit upstairs, and on the first floor you've got a salon, a computer business the Dad's donut shop. There's a parking lot with nine parking spaces and the parking lot is available and accessible from Vineyard Street and from Central Avenue. The applicant is proposing to renovate the 678 square foot commercial space formerly used by Down To Earth Health Food Store. There will be no exterior renovations proposed. The interior renovations, and the applicant will probably go into a little more detail, will include a bar top counter, bar stools, tables, et cetera, with a serving area of approximately 524 square feet.

Now for the MRA Use Permit, subject property is identified as business/multi-family in the community plan, and I'll read what that entails. The business/multi-family district includes a mixture of retail office, commercial services, which are oriented to neighborhood services and single-family and multi-family residential uses. Per the zoning code, adult establishments are identified as requiring an MRA Use Permit, which is one of the reasons we are here today. The second reason we are here today is for the –. I'm sorry. I'm going to step back here a second on the MRA Use Permit. It's important to note that the adjacent properties to the subject property have community plan designations of either business/multi-family or commercial. There are community plan residential designations approximately two lots to the north of Central and there's a few lots to the east of site, and down Vineyard are also residential designated properties.

For off-street parking, an adult establishment requires one space for every 75 square feet of serving area. The applicant said he had approximately 524 square feet of serving area for the guests and patrons, which equates to approximately seven required parking spaces. Of the nine parking spaces available, one of them is for the residential unit upstairs. The other eight are for the commercial uses downstairs. There is a rule in the MRA for commercial properties for reduction of parking spaces of 30%. Since this is a commercial use, we're – well I don't want to say recommending at this point but the suggestion is that the parking reduction be reduced down to five parking space per the code which allows the 30% reduction. So for that reduction requirement, the applicant is responsible for five

parking spaces for the pub. There are also 15 on-street parking stalls, the applicant pointed out in one of the exhibits, that are within close distance to the pub. For joint-use parking, it says the joint-use parking of required parking spaces, or what a joint-use parking is a joint-use of required parking spaces where two or more uses on the same site are able to jointly use the same parking spaces because their parking demands occur at different times. In this case, the owner of Dad's Donut, Chris Hart, and the Mynah Bird Pub, Jordan Hart, will participate in the joint use of the parking spaces where the Dad's Donut Shop has three parking spaces reserved for it, and Dad's Donut Shop is more of a morning hour business which closes by 4 p.m.. Although the Pub maybe open all day long, majority the peak hours for the Pub is anticipated to be more of a night time Pub/Bar from 4 p.m. until closing, which works out appropriately with Dad's Donut Shop as far as shared parking is concerned.

And then the last thing on your agenda today for this project is the parking abatement – parking abatement with approval of the MRA. The MRA may offer a partial or total abatement of parking spaces required provided that there's six criteria. One of them has to be met. And of the other five criteria, majority of them have to met. So at least three of the five have to be met. They're all listed in your staff report, but I will simply list that criteria A, which has to be met, is the abatement will forward the vision , guiding principals, and objectives of the Wailuku Redevelopment Plan. And the applicant will go into his reasons for how these are satisfied for the parking abatement.

And then the five criteria that they have to meet at least three of them, one of them is the majority of trips generated can be expected to be pedestrian oriented because the project's principal market area is the Wailuku commercial core as defined by the boundaries of the Wailuku Redevelopment Area. The second of the five is the floor area of the proposed use is less than 1,000 square feet, and that's an easy one. They're 678 square feet. The third criteria is the applicant, for economic reasons, is not capable of providing cash-in lieu of parking or participating in other parking programs set forth. The fourth one is it is impracticable to provide parking at their proposed site. And the last criteria of the five is that the project will have little or no affect on the parking supply. As I said, the applicant will elaborate on these criterion.

At the time of the staff report, the Department had no letters of support or opposition. Since that time, of course, you've received a handout, and I just got some today from the applicant as well that you got. So we're up to 12 letters in support of the project, and I believe, five letters in opposition of the project. I won't go into the recommendation at this time, but I'll be happy to answer any questions about the project itself, and the applicant is here as well, Mr. Jordan Hart, if there's any questions.

Mr. Horcajo: I have a question for staff.

Mr. Kawahara: Go ahead.

Mr. Horcajo: Can you explain the 30% reduction rule and how that applies to this? I thought it had to be just a business requirement.

Mr. Prutch: Give me a second here to find it.

Mr. Alueta: If you have your Wailuku Redevelopment Zoning and Development Code, under 13.13.030 parking reduction. Existing compact, mixed use, land use pattern within the redevelopment area fosters more pedestrian trips and fewer automobile trips and other automobile depending commercial districts in the County as such the following parking reductions shall applied to lots zoned in the commercial, for commercial non-profit, and public/quasi public uses within the Wailuku Redevelopment Zoning District. So for commercial, non-profit and public/quasi-public uses on land zoned for such uses within the district shall receive a 30% reduction in the required number of stalls.

Mr. Prutch: Thank you Joe.

Mr. Horcajo: Joe. I'm sorry, this –

Mr. Alueta: 13.13.030.

Mr. Horcajo: Thank you.

Mr. Prutch: It's at the bottom of the page, all by itself there. It starts at page 44.

Mr. Alueta: It's on the back section of your – section 13 is off-street parking and loading ordinance requirements – similar if you're in the regular County of Maui, Title 19, it would be the same as Title 19.36. This is your parking code for the Wailuku Redevelopment Area. So for those who normally deal with Title 19, it's not applicable to this district.

Mr. Horcajo: Thank you.

Mr. Kawahara: Anymore questions of Joe?

Ms. Betts-Basinger: I do have a question Joe.

Mr. Prutch: Yes.

Ms. Betts-Basinger: What are the other uses under adult – district under adult?

Mr. Prutch: There's a definition of adult establishment in here. Hold on one section, I'll read

that you. Adult establishment – this is the definition in the Wailuku Redevelopment Code – “businesses or commercial activities primarily restricted to adult customers, including bars, nightclubs and taverns, and other establishments that dispense alcoholic beverages.”

Ms. Betts-Basinger: Thank you.

Ms. Popenuk: What’s the number on that?

Mr. Alueta: It’s on page #4 of your Wailuku Redevelopment Code. It’s under the definition section.

Mr. Prutch: The definition. Yes.

Mr. Horcajo: So, I guess just one more comment and this is for future clarification too. For the purpose of defining commercial in this 13.30.030, is that the same as a commercial destination – I mean business. Would that be construed the same because we have commercial mixed-use and business multi-family? I mean is business and commercial deemed to be the same?

Mr. Alueta: Correct. I think if you look at the code, what they’re trying to distinguish it from is the multi-family or single-family uses as far as parking requirements.

Mr. Raymond Phillips: Joe, this may not necessarily a question for you, but more for the applicant. I’m concerned about the hours of operations for both senior Chris Hart and the Donut Shop, and to talk about what the parking will look like after say 5 p.m. at night.

Mr. Prutch: The applicant does have a presentation and they will go over that. I don’t know if you want to do that now or if you want to wait till questions. We will get back to that question. They will answer that.

Mr. Alueta: It’s probably better if you are completed with your staff report and if you have any other technical questions, then you probably want to go ahead with the applicant’s presentation so he has an opportunity to clarify the project for you as well as the general public. And then you still need to take public hearing. And that would be your best bet.

Mr. Prutch: Thank you.

Mr. Alueta: You have anything else Joe?

Mr. Prutch: That’s it for now. Obviously, there was an intervention – a petition to intervene placed on this project or submitted for this project. Obviously we will have to get into that and deal with the intervention prior to staff making a recommendation on this project.

Ms. Popenuk: I had another question.

Mr. Prutch: Sure.

Ms. Popenuk: I was wondering an adult establishment – would there be dancing?

Mr. Prutch: They'll get into that. I believe so, but my understanding is it's a small pub, drinking, conversation, social gathering. They may have, my understanding is they may have music, like acoustic type music, maybe on the weekends or so. But I'll let them go into a little more detail about the use itself, and the interiors.

Ms. Popenuk: Would the County have any way to control whether the music stays acoustic? What sort of recourse do we have?

Mr. Alueta: You would establish that. So you would establish any type conditions based on the information provided by the applicant, as well as, the concerns of the community as to addressing the standards. So you have pretty much a good range as to what you want to control. And it's not uncommon to establish either conditions such as non-amplified music or hours of operations. Because again this is for a MRA Use Permit, and it's not an outrightly listed use. If it was in the commercial core where it is just a listed use. And at the same time, if you have restrictions, you want to list them now because although liquor license would control whether that's allowed, if you want to make sure you have the final authority as far as what are the final limitations.

Ms. Popenuk: Thank you.

Mr. Kawahara: Anymore questions or comments from the Commissioners? If not, thank you Joe. The applicant.

Mr. Jordan Hart: Hello. I'm Jordan Hart. I'm the applicant for the Mynah Bird Pub, and I just wanted to thank you for the opportunity to present this project. The Mynah Bird Pub is seeking an MRA Use Permit for an adult establishment which would be only for the serving of alcohol; a joint use parking approval for three stalls; and a parking abatement for two stalls.

Basically the project is a compact neighborhood pub. The target market would be Wailuku professional community. It would be a coffee lounge for the Donut Shop in the morning. That would be the basis of use. The Donut Shop is existing. There would be no alcohol prior to about 12 p.m. on weekdays. On weekends, perhaps, if there's for instance a football game that starts at 10 a.m., there might be alcohol at that point, but not during weekdays, and also for business pau hana. I provide a relaxing and comfortable setting. Music slightly above conversation level. Live acoustic ukulele or guitar music when

available. Television for important sporting or political events. Coffee and espresso service which is already provided by the Donut Shop, but there is not really an area to enjoy it. Pupus – p.m. and weekend –alcohol.

So basically in preparing this project, first, I started reviewing the MRA or the WRA Code, and then I formulated the concept for the project. So basically, it's a condensed version of what I was trying to accommodate. Basically the reduction of regulatory barriers because the project's location and constraints. Flexible code standards. Encourage a mix of compatible uses, create opportunities to live, work and shop in the compact WRA, facilitate efficient use of lands, high level of service, reduce reliance on automobile, enhance bicycle and pedestrian relationships, preservation and adapted reuse of existing structures, stream line permitting and reviewing process, stimulate economic revitalization of the core area of Wailuku Town. The anticipated schedule, pending the approval of a MRA Use Permit for an adult establishment, joint-use parking and the parking abatement, I would then proceed into the liquor license process which I'm going to estimate at six to nine months. And concurrently, I would file for my building permit application. Now, there's no structure renovations whatsoever. I still have to clarify whether or not even adding the bar requires a permit because essentially it's going to be like furniture or a low standing wall where it's not supporting any structure. It's just sitting on the ground and meets the walls. So it's really an interior remodel.

This is the location map. Central, Vineyard, Main, project site, Mill Street. I think you guys are all familiar with Wailuku. This is an area location. This is the project site. Streets again, north is down on this map. This is the MRA community plan map. The project site is here. As you can see there's commercial directly across the street, and then the project is surrounded by business/multi-family.

The Hongwanji provides classes, but as I understand it, it's not an official elementary school. And if it was, it would be a direct conflict with a liquor license. So as I said, as I understand it, this is a preschool here, but preschool don't conflict with a liquor license approval. So that's all I have to say about that.

This is the central frontage of the property. This is the Vineyard frontage of the property. This is the pub location. This would be a style sheet. The easiest way to describe it is an Irish Pub, except everything would be from Hawaii or Maui. So basically, for instance, I have these photos already. I've been going to the Bailey House Museum and looking through their photo collection to find other material that I'm going to basically frame and put on the walls. It's going to have shelves with odds and ends that are consistent with this style here. You saw a mini version of this already. This is basically what you would see if you're standing across Vineyard Street looking at the Pub. This is a top view. This is the front entrance here. The entrance to Dad's Donut Shop here. This is the bar area. This is the service and bathroom access area that was subtracted to create my useable floor

area which is this area here. An angle view. There will be one television – not for constant use. This is just a shifted view. It's a very small location. The women's bathroom would be out here. There's a lanai. This is a fenced area. The men's bathroom, you would have to exit out here and come around the building. There's another bathroom there.

Occupancy calculation, as I showed you with the quick outline, this is the behind the bar area subtracted, the restroom access area subtracted for a total of non-servable area. The remaining servable area, the way you calculate your occupancy is dividing that amount by 15 which comes to 34 as an estimated maximum occupancy. The Fire Department will probably have something to say to this after my building permit plans are submitted, so this is the best that I can do. These are my neighbors. This is an accountant here, business-commercial. This business here, I haven't been able to identify what it is. This one is in transition. It was real estate, now it's financial services. This is vacant. This is Salon Executives. This is directly across the street, vacant, and this is an attorney's office. So including my location, there's obviously three vacant areas right here.

This is the hours of operations. This is A.M. coffee service, no alcohol. The Donut Shop, computer center, the salon. So Monday thru Friday. I would basically be proposing to close the latest at 11 P.M. on Monday thru Friday. I'm sorry Monday thru Thursday. On Friday, I'd like the option of staying open till 2:00 P.M., and Saturday. Sunday, I would close at 11:00 P.M.. I'm sorry, I believe that's 10:00 P.M. A.M. I wouldn't be serving alcohol on weekdays. I may, earlier, if there's a game for instance on Saturday or Sunday. Then you can see when these other operations are functioning.

The Donut Shop, as I've said earlier, would basically co-exist with the Pub during the non-alcohol times so that people could get baked goods at the Donut Shop, get speciality coffees that are already served, and go and sit in the room that's been remodeled for a comfortable setting. This is the parking calculation. You've seen this calculation before. This is the useable area, non-useable area. Essentially it comes down 524. Net required stalls, 6.99, multiplied by the 30% reduction that was discussed by Joe, it comes to 4.99. I'm sorry 4.89, round it up to five. So I'm seeking joint-use approval for sharing three stalls with the Donut Shop. And then I'm basically asking to have two stalls waived.

This is the site plan. These are our nine parking stalls. Here is the salon existing. A computer web-site hosting company here. This is a live-work unit. The individual who runs this operation lives upstairs. I didn't show the floor plan for the second story, but it's essentially a one-bedroom. This is the Donut Shop, the awning area that serves the Donut Shop. This is the men's restroom. This would be an open walk here. This is the women's restroom. This area is enclosed.

Let's see, here's on street parking. There's 15 stalls within less than a block. Basically this is upper Vineyard Street – I'm sorry – West Vineyard Street, East Vineyard Street, South

Central Avenue, North Central Avenue. So this is really what I wanted to illustrate for everybody. Essentially this is not a irregular occurrence. I took this photo at 5:20 P.M. yesterday, so basically as soon as Wailuku empties out, this is what we have here. This is Vineyard Street. This is the other end of Vineyard Street. This is looking north on Central. This is looking south on Central. Then just to go along with the same theme, I walked up to the Municipal lot, this is 5:30 P.M. at the Municipal lot. I walked from the project site to the Municipal lot. Everyone is familiar with this.

Parking abatement – the reason I'm seeking it is because I think that first of all the project is consistent with the principles and guidelines of the Wailuku Redevelopment Plan. The majority of the trips generated should be from within the WRA. As I've stated earlier, my target customer group is professionals that live and work down here. I understand that not all professionals live down here, but that's who I would like to see in this place. The floor area is less 1,000 square feet. For economic reasons, I'm not capable of providing, you know, provide me with more criteria on how that is explained and I can provide more verification of my finances. It's impractical to provide additional parking. We do provide parking, but it's impractical to redevelop for this project, and it will have little or no effect on parking supply. So you know, that's kind of a vague statement on parking supply in Wailuku Town in general. Definitely not on parking supply in the immediate vicinity. So I have to meet a majority of these which is obviously – I think it's clear that I meet this. It's absolutely clear that I meet this. And it's clear I meet this. So these, obviously, if there's more information on how to verify that I comply – I think I do.

Communication with the intervene party. I first spoke with William Rees on November 7th. We had about a 40-minute conversation which I took notes on. Prior to receiving an intervention or being notified of an intervention, we talked about Central Avenue, traffic concerns, parking safety – as far as mirrors being knocked off on Central Avenue – and things like that, sound volume, and I basically explained the intensity of the proposed scope and what potential mitigation measures I had. I spoke again on the 17th for approximately 12 minutes after receiving the intervention. Requested a meeting. On the 18th, we did a site visit together at about 6:00 P.M. It lasted about 40-minutes. We did a sound test where I took the actual stereo that I intend to put in the Pub, open all the doors and windows and turned it up way above what I would consider conversation level to the point where it was comfortable in there. So essentially I would be intending to be operate the majority of time with A/C on and doors closed essentially if it's hot. If it's cooler, I might want to open up to save energy. But anyway with full volume, all doors open, the sound dies out at the north east boundary of Hart's Corner on Central Avenue. On Vineyard, the sound does go up to approximately to Pizza Paradise property line which is – I'm sorry – let me show you so that makes sense. This is Pizza Paradise here. So the sound goes to here approximately. And that's like I said far beyond what I would be interested in operating a pub in.

Central concerns – Mr. Rees had serious concerns about pulling off of Vineyard Street unto Central because of basically the way people drive on Central. These are two telephone poles that are across Central, on Vineyard, that I offered to put mirrors on so that visibility can be increased. That essentially the nature of our conversation. One thing I do want to reiterate which has been a little difficult for me is that there is no methods to basically protect a petitioner's interest. So I would like to reach some sort of middle ground or moving forward but I haven't been able.

Conclusion – I'm sorry.

Mr. Alueta: I just don't want you discussing the intervention.

Mr. Hart: No problem. So basically, improvement and continued success of Wailuku community is important to everyone in this room. The Mynah Bird Pub is an opportunity for people to gather, create and strengthen interpersonal relationships which is the basis of a community. In the context of land use entitlement, this project was proposed after a thorough review of the WRA Code. I believe it is consistent with the purpose and intent and criteria of the WRA in the request for a Use Permit in an adult establishment, joint use parking, and parking abatement. If you've received the Planning Department's staff report you can carry on with that. In the context of concerns of neighboring property owners, I'd just like to share a little bit about myself. I live in Wailuku, and I work in Wailuku, both within four blocks of the project site. I was born on Maui, raised in Haiku, graduated from Maui High School. I have a degree in Business Management from Northern Arizona University. I have six years of bar experience where I was security or doorman and then I was also a bartender. That's how I worked myself through school. I also volunteer in the community. Like yourselves, I am the Chairman of the Maui County Arborist Committee. And so in conclusion, I'd just like to ask to be given the opportunity to show that this project can be a positive addition to Wailuku Town. That's my conclusion.

Mr. Kawahara: Thank you Jordan. Excellent presentation. Questions, comments from Commissioners first?

Mr. Raymond Phillips: Jordan, can you give us kind of an overview on how the bar would function and the type of alcoholic beverages you're planning on serving.

Mr. Hart: Well, I intend to have a full service bar. So why don't I just go back to a floor plan, and if you would like to ask more specific questions about how it functions. So as far as how it would function, could you expand on that?

Mr. Phillips: You'll have a full-time bartender?

Mr. Hart: Yes. Yes. I'm sorry. Well it would probably more of a Barista before 12:00 – like

a coffee, a speciality coffee drink preparer because I won't be serving alcohol before noon. So after noon, when alcohol starts, yes, I would definitely have full-time bartender. I would like to be able to run the operation with two people so that basically pupus would be ready. They would be light. But I would like to run it so that one person can run the floor, and if somebody has to go in the back and make food, they can do that quickly and come back out.

Mr. Phillips: The concern I have and the reason why I'm asking about full time bartender is if – I'm not sure whether bartenders are licensed in Hawaii.

Mr. J. Hart: Yeah, you have to be certified by the County of Maui.

Mr. Phillips: Fine. That gives somebody that can oversee whether somebody is (inaudible) too much or having a problem with one particular type of patron or particular patron.

Mr. J. Hart: Yeah that's true and the Liquor Commission does have inspectors that patrol and review projects – establishments.

Mr. Phillips: Would you consider doing beer and wine for a certain period of time, and then alcoholic beverages?

Mr. J. Hart: You know, I really would like to differentiate from for instance Marc Aurel or even Café O Lei which is the way they operate. I thought that there would be an opportunity for some level of demand for a full service bar which doesn't exist in downtown Wailuku right now. So that was basically a component of my business plan is the differentiation.

Mr. Phillips: I think the only concern I have is I was participated in a couple of restaurants on the mainland for years and we did a restriction during the day to just beer and wine because unfortunately we found that people who had a problem would show up reasonably early in the day and by the time 4 or 5 o'clock rolls around in the afternoon we had difficulties with them.

Mr. J. Hart: I completely understand that and that ties back into my desire to target people – appeal to people in Wailuku because obviously increase pedestrian use reduces my liability as they leave the establishment. And, as I said, the Liquor Commission supervises liquor establishments, so I need to keep a good rapport with them and good performance with them and that involves my own supervision of customers.

Mr. Kawahara: All right, at this point what I'd like to do is take public testimony before we go into the intervener issue. So thank you Jordan. So hopefully everybody registered. Anybody wish to give testimony on the Mynah Bird Pub? Please identify yourself for the

record. Anybody giving public testimony go ahead.

Mr. Eric Rohozinski: My name is Eric Rohozinski, and I have a physical therapy practice at 84 Central Avenue, next to Diane Ho's and the kitty corner.

Mr. Alueta: Eric, use the microphone please.

Mr. Rohozinski: We're a kitty corner across right from Chris Hart's corner. And I've been there since 1990. I've been in Wailuku since 1993, doing physical therapy. And we use on-street parking quite a lot. And I get a lot of patients come with handicap that have a hard time traversing the roads and so they need to park in front of their building. So we have three parking stalls there. Then next door to us, there's a residence and it has an easement, a three-foot easement, between Diane Ho and 86 Central to a magazine company behind this. And they have their parking on the street for their people because they don't have parking. They're in between the easement, so we've got a few problems in terms of parking. I did do a walk up around the neighborhood the other day, and I got some handouts if you want to have a look. So I was sort of concerned because when I read in the newspaper the other day they said there would be up to 30 people occupancy into this facility. And when I walked up I counted that on North Market Street down to Hart Corner there was some – if you have look on the next page over, parking stalls was 16 on the street. I listed all of the businesses that I came across just walking down. As you can see, there's a lot of business in that region. And there's quite a few medical and attorney businesses in that location. And then if you go down, going south, the next page over, going south down Vineyard down to the corner, there was no parking stall. It has on the side, no parking. I didn't see anything marked for parking going down that way. That's what I observed. And then there were a few residents, and then there was a preschool there.

Then if you go to Chris Hart's Corner, head down to Mill Street, going that way, I counted six parking stalls. Again there's a mental health facility on that street there. There's a medical building on there, and there were several residences. Now from where we are, we're on Market Street, but we go up towards Chris Hart's Corner, going up to the old O'oka's building – where O'oka's used to be – and on that section there's only eight parking stalls. And just next door to us, there's (inaudible) Electrical. They have massage in there. They've got AA, Alcoholic Anonymous, in there as well. They've got a couple of psychologist up there, and they use all the street parking. And then across the road from us, where we are, there's another physical therapy clinic. There's a massage school over there, and they use up parking. And where I am, I have occupational therapist in my building at 84 Central. There's two physical therapy clinics up from where I am, and we share parking as well. And when we get MEO dropping off patients. Our operating hours goes Monday, Wednesday, Friday from 8:30 A.M. to 5:30 P.M., and Tuesday and Thursday, we're there from 9:00 A.M. to 7:00 P.M.. And we have patients being dropped

off by MEO, and we try to have some parking, fairly close, because we've got handicap people coming, so that's really our issue. And I'm thinking, gosh, if we've got peak parking at 2:00 in the afternoon for an hour or two and all we need is three or four and we're having a hard time. So that's where I'm at. So it was a concern for me with parking. And that region serves community. We provide essential services. And it's hard for us to find any other place to rent and move out. So I sublease at \$600 a month. Physical therapist and occupational therapist at \$150 a month to keep in business on Maui. They can't get anymore business. And we rely on parking, and we have business in the afternoon. So I better get going, I'm running late – 15 minutes I should've been back. But I'm glad to have your time. Thank you.

Mr. Kawahara: Just a second.

Mr. Horcajo: I have one question. Mr. Hart in his presentation show the street parking at 5:00 or 5:30 P.M. yesterday. I realize you say you stay open till 7:00 P.M. on Tuesday and Thursdays, and 5:30 I guess Monday, Wednesday and Friday. Were those pictures fairly accurate as far as generally during the week, at 5:00 or 5:30 P.M., as far as you're concerned? I realize you're inside working.

Mr. Rohozinski: Actually we have a window. We actually see the whole street. It's a place of Police accident. Diane Ho accident. Her whole wall got knocked down a month ago. An alcohol guy side swiped a parked car in front of 86 Central, took out Diane Ho's wall. The car was in her front. Had to tow it away, and rebuild the wall, and that was only a month ago. We see a couple of those occur. We loose a lot of mirrors on patient's cars, at least once or twice a month if the big trucks park, they hit the mirrors. Quite often actually parked on the property on that foot path which is cracking our sidewalk and that's on our property. They've also done it just next door further down. Because parking shortage in front of Maui Print Shop, their front window is broken. A car gone through into it and cracked it, so you'll have a look at that. So everybody is finding parking in that neighborhood.

Mr. Horcajo: But is that fairly accurate? The pictures?

Mr. Rohozinski: The pictures weren't accurate. No.

Mr. Horcajo: So you're saying at 5:30 P.M. most of those stalls are filled on Central and on Vineyard?

Mr. Rohozinski: I'd say it's filled up from 1:30 P.M. to right around about 3:30 to 4:00 -ish.

Mr. Horcajo: They're filled. But after 5:00 P.M.

Mr. Rohozinski: It starts clearing out. Yeah.

Mr. Horcajo: It starts clearing out.

Mr. Rohozinski: Yeah.

Mr. Horcajo: Okay. Thank you.

Ms. Betts-Basinger: I have a question. Thank you for all of this data collection on parking stalls. This is very useful for us. How many patients do you have generally on Tuesday's and Thursday's between 5:00 P.M. and 7:00 P.M. when you close?

Mr. Rohozinski: Michelle has a patient one every 45-minutes.

Ms. Betts-Basinger: Okay, so that would be about three.

Mr. Rohozinski: What happens is that patient comes for two hours so you'll sit and overlap. So you have him working out, while the other one is coming in. So you often have maybe two or maybe three at a time in there. That's what happens with me. I'm jamming. I have a system so I keep running around about three, and they come for two hours. Even though they're scheduled for an hour, you have them on -. If you have two or three knee injury, you've got them exercising 10, 15, 30 minutes - hands on 30 minutes - and then you've a modality.

Ms. Betts-Basinger: So in addition to your patients, the people that work there also are parking on the street?

Mr. Rohozinski: I have parking on the property. For our property, it's one every 500 square feet. We've got 1,500 square feet. We have on site, three parking stalls. And then I have - we use the ones in front and that our code. And that building was built a dental office originally. And back then, it was a Code, now dentist is actually 300 feet per parking stall.

Ms. Betts-Basinger: Thank you.

Mr. Kawahara: So Mr. Rohozinski, do I take it that your position is you are against the applicant's opening up the pub because of the parking?

Mr. Rohozinski: Yes.

Mr. Kawahara: So am I correct in saying that you would be opposed to any business that would go into there because they're going to require parking?

Mr. Rohozinski: It's going to be tough. If it's an accountant, it's low volume. I mean that will probably work fine. Or if there's a doctor. If there's enough parking. There's three. But when we're talking about the number, I just saw that really scared the heck out of me because it is a struggle, not all year round. There are periods with ease, and other times it gets very busy and that is seasonal. Our busy times are throughout the year. But there is times we've had to park and walk on North Market Street looking for parking and they'll come down our way. You've got to remember the time that went where O`oka's use to be, they got exempted from 20 odd parking stalls back then because they were relying on having parking, actually at O`oka's at that time. Now that it sold, they're not even up to their code in their specs.

Mr. Kawahara: Thank you.

Mr. Rohozinski: Thank you.

Ms. Betts-Basinger: Mr. Chair, I have one other question. In the applicant's presentation, he pointed out several vacant properties in and around where you are. Do you concur that those buildings or potential businesses are vacant spaces right now?

Mr. Rohozinski: The ones he pointed across the road, to the right corner, the one that was part and there was one that sweeps around, he did send testimony against it.

Ms. Betts-Basinger: No, no, I'm just asking if you agree that there are several vacant buildings in that area?

Mr. Rohozinski: The one that was Patsy Mink's old storage facility, that is a vacant facility. But he thinks he can a put parking in there. He hasn't changed (inaudible), I'm not too sure. I'm here for testimony on that property.

Ms. Betts-Basinger: Thank you.

Mr. Rohozinski: Thank you.

Mr. Kawahara: Thank you. Before I take anymore public testimony because of the number of potential presenters, I'm going to limit to three minutes as provided in the agenda, more or less. So next person, John Noble.

Mr. John Noble: . . .(Inaudible. Did not speak into the microphone.) . . .

Mr. Kawahara: All right. Leo Caires wish to give testimony.

Mr. Leo Caires: Hello everybody. My name is Leo Caires. Today I will be supporting the

applicant's application to the Commission here. Let me introduce myself. I am a small business owner here on Maui. I own a renewable energy company. I serve on the Cost of Government Commission and various other organizations. But today, I'm just testifying as an individual. Essentially what I wanted to share today was a couple of things: just the person I know Jordan to be, something about his business and then a conclusion.

Jordan as person, I know him from growing up. We grew up since pre-school. Played football together. So I know him on a base of his character. And I know that he is someone who will follow through with his intent and you can count on him as being a man of his word with integrity for whatever he proposes to you guys and agrees with what you recommend to him. So my basis is to just let you know the type of person he is. He's a good guy. He's a stand up guy. As you can see, he's had some experience in this industry, and he's not going to take any b-s. If things are going to be risky, I know he's someone who's going to make sure that things are run properly. And I'm supporting him as a person. As a business, just the idea, I live in Haiku. The parking situation, the idea I enjoy about his presentation of his project is that, you know, meeting the parking requirements, but the idea is to promote pedestrian use. So there are larger parking lots nearby in the area. And I'm sure in places like New York or Barcelona, Spain where I've been we've walked blocks to get to a restaurant or what have you. So I think that's the intent as it seems to me from what I understand about the project.

And essentially in conclusion, for me, I think Jordan is somebody who is willing to work with his neighbors and he is willing to be very respectful to whatever you guys would suggest. And I think you guys would be glad to have somebody as Jordan operating a new venture in the Wailuku area. Thank you. Any questions?

Mr. Kawahara: Thank you. Do we have any questions or comments from the Commissioners? Thank you. Next is Monroe Bryce.

Mr. Monroe Bryce: Thank you. I just would like to also express my support for Jordan and his application for this establishment. And I think that what he had presented in his presentation was very well put together and I support his intention to start a new business. I'm also a small business owner, and I recognize the opportunities that employment that can be provided by a service like he's presenting. Thank you.

Mr. Kawahara: Thanks. Dean Frampton.

Mr. Dean Frampton: Good afternoon, Mr. Chairman, members of the Board. My name is Dean Frampton and I am here to testify in support of Jordan Hart's proposed pub. I should disclose that while my full time is a land use consultant here in Wailuku. My wife and I also own a small wine distribution company, Sandwich Isle Cellars, and I am licensed with the County of Maui Liquor Department. While I look forward to doing business with Jordan in

the future, the purpose for me being here today is not to drum up business. My purpose is to speak in support, and to speak in confidence of Jordan's ability to run a clean, respectable operation and one that will compliment the neighborhood, the larger area of Wailuku. More importantly, Jordan's Pub will operate within the context of the Wailuku Redevelopment Area Plan. And I think that really what the crux of this discussion is here today. And I'm sadden by the petition to intervene. Holding Jordan accountable for traffic problems in Wailuku is not fair. Especially for other businesses in the same area to look at Jordan and to blame him for potential traffic problems. What this community needs and I think what this whole Board could agree on is we need a centralized parking structure in Wailuku. The purpose for the redevelopment plan, one which, Jordan's father helped draft is a compact walkable community. And I definitely think Jordan's use is within that context, and it would compliment the plan.

You know, simply put, if Jordan's application is approved, we would have a member of the community who is running a small business. In other words, we'd have an open ear to the community's concerns. He's been here. He's lived here. He's from here. And I think this is the best type of business owner we could have in a small community. You know, there's any number of imagines that come up when one hears the word pub. One of the worse case scenario is a watering hole for the hells angels which I might have been known to frequent when I was younger. But that's not what's being proposed. And Jordan is proposing a classy, professional establishment. And more importantly, as you've heard, Jordan was a bouncer and a security member of a bar establishment in college. He knows first hand the negative effect of unruly behavior on a successful business. So imagining this as a rowdy, loud establishment I think is unfair. So I think we have to put Jordan's character – we have to look at the context of this application with Jordan's character in mind and I think that's really important. I think this will be a reflection of his character, of his family's character, and their dedication to the community.

So most importantly, I'd just like to say that I believe that this use is consistent with the Wailuku Redevelopment Area Plan. And I really hope that you will look fondly upon this application and vote for its approval. Thank you.

Mr. Kawahara: Thank you. Next to speak would be Chris Hart. Are you fore or against Chris?

Mr. Chris Hart: I'm fore. My name is Chris Hart, and I appreciate Mr. Chairman, members of the MRA, the opportunity of speaking. I am in favor of the project. I am the father of four sons. Jordan is my youngest and I am privileged to have the opportunity of working with one of my sons. And I didn't want to work with my father. He was a baker. But I'm trying to do something to rectify that through my donut shop. But besides that, I'd just like to say that Jordan, when he went away to school. He graduated from Maui High. He was a football player. He was about 6'1", about 235. He got to Flagstaff and he was able to get

a job at Maloney's Irish Pub in downtown Flagstaff as a bouncer at 19. He couldn't even legally drink, but he was a bouncer. And he worked there actually through six years of school. He took time off as he liked working in the pub. Anyway, he did graduate and he has always had an interest in this. As far as I'm concerned, I feel that Hart's Corner is an opportunity to basically have a mixed use project on Maui. And I think when I purchased it, one of the very important aspects of the project was to be able to have parking. It has nine parking stalls, and they are legal parking stalls in the context of being able to be eight-feet, six-inches wide, by 18-feet long, with 24-foot wide maneuvering space so that you can go into the property, turn around and go out properly. A lot of parking in Wailuku basically is you just basically go in out the street. You have to back out into the street.

Also, I would like to say that in the context again of Wailuku that this is an appropriate kind of business. I will also say that in terms of our office which we just opened at 115 Market Street, we really felt that you can't operate a business without having parking. And we built 15 parking stalls for the office and it's more than we need. Now it's farther away than 400 feet, but it could be available as additional parking. At the suggestion of one of the members, you know, I have taken it upon myself to actually try to contact some property owners in the area within 400 feet that would be properly zoned. And that is something that I'll work on in order to expand the opportunity to have off-street parking to serve Hart's Corner. And also the street that I live on, Wailani Street, which is within walking distance, four or five minutes away from Hart's Corner. And I feel that parking is an important part of doing business in Wailuku. I also feel that the opportunity of being able to have mixed uses, you know, within the district is very important for the revitalization of Wailuku. And I think having a really small adult establishment like the Mynah Bird Pub will basically be a significant asset to the community and will be a very well run and a very desirable business in this particular location. I thank you very much.

Mr. Kawahara: Thank you Chris.

Mr. Phillips: I have a question Chris. Chris, during your normal every day operation, how many parking spaces are filled?

Mr. C. Hart: It varies. I would say that probably regularly there's probably six spaces that are filled. There always seems to be an extra space. People go to the Donut Shop, and they basically go in, get their donuts, and get into their car and leave. The people that go to the beauty bar, basically, stay there an hour or an hour and a half. People that go to (inaudible) Computing, there's not a lot of customers that go there. So generally speaking, I've never gone into the parking lot, literally, and not been able to park. There's always at least one stall. But I would say on an average there's probably three stalls available. So I'd say that on average during a busy part of the day that there's six people parking, six stalls filled.

Mr. Phillips: I understand that Jordan's intent, part of his intent, is to share services with you at the Donut Shop. So of these people that are visiting at the Donut Shop, do you anticipate what percentage will be staying with Jordan as well?

Mr. C. Hart: You know, I really can't say. The way we kind of looked at it is that I have a certified kitchen so we're going to have some very minimal pupus that will be available for the bar that would be prepared in the kitchen. And I would also like to have the opportunity because people come and buy a latte or espresso, and basically there's no place really for them to sit down. That opportunity will be available, and that would be available in the mornings and through, you know, like say one o'clock or so in the afternoon. You know, I really can't tell you how many people. We don't have a tremendous coffee business right now. But there is some and I'm sure that some people (inaudible) of themselves of it. But a lot of the people that come to the Donut Shop seem to be people that are on their way to work or on their way to a meeting or something like that.

Mr. Phillips: So they stop off and pick something up.

Mr. C. Hart: Yeah.

Mr. Phillips: So it's a quick. You don't have a pick up and delivery window.

Mr. C. Hart: We don't have a drive-thru, but people do actually pull up to the edge and some girls walk out and give them their order.

Mr. Phillips: Call to order.

Mr. C. Hart: Yeah.

Mr. Phillips: Thanks.

Mr. C. Hart: Thank you very much.

Mr. Kawahara: Thank you. Next, John Rippy.

Mr. John Rippy: Good afternoon. I'm John Rippy. I'm a long-term resident of Wailuku. I've been on Maui for 33 years, and 27 of them have been in Wailuku, right in the area of Hart's Corner. I've been there from when Wayne Nishiki was selling vegetables there, and Down to Earth was there. I live about one block away. The pictures I saw that Jordan was showing, they're pretty accurate. Like at night, there is absolutely no problem with parking in Wailuku. I mean, even though I live right over on Maluhia Drive, and my wife had a beauty salon right across street, where it's a beauty salon right now, never ever had a problem with parking. And I've had several businesses in Wailuku that had no parking,

there was no parking whatsoever, I depended on the County parking. And that was pretty much of a hassle because even though I had businesses, where I had parking inside the County parking lot, people just didn't like to park there and then to walk to where I was. But that's okay, I survived. These guys at least they have some parking. So I am just saying I'm in support of the Mynah Bird Café. And when I think of Chris Hart – I met Chris Hart almost 30-years ago in Lahaina and he was on the Historic Commission. And I was trying to do something down there, and he was pretty hard on me. But, I mean, we got it done. But he was hard on me, and he made me do it exactly the way it was suppose to be done. And I think that he'll be hard on his son and saying wait, it's going to be done the way it is suppose to be done. Thank you very much.

Mr. Kawahara: Thank you John.

Mr. Rippy: Aloha.

Mr. Kawahara: And I apologize, I skipped a name. Morgan Gerdel. I hope I pronounced that correctly.

Mr. Morgan Gerdel: Aloha. My name is Morgan Gerdel, and I am a licensed architect that works in the Wailuku Millyard. I'm here to testify in support of the Mynah Bird Pub. This Pub is an excellent opportunity to enliven downtown Wailuku and allow for the critical mass needed for further commercial and residential projects for the area. The Mynah Bird will be a great resource for professionals to meet with both clients and personal friends. Personally, the Mynah Bird is within walking-distance to both my home and my work space. So additional parking will not be necessary for my case. I have a number of friends who also work in the Wailuku area that would find the Pub within easy walking distance. And they've all expressed support for the project. Thank you for the time.

Mr. Kawahara: Thank you Morgan. Next, Michael Summers.

Mr. Michael Summers: Thank you very much Commission. My name is Mike Summers and I am a property owner on Wailani Street, within 500-feet of the proposed Pub. My wife and I and son live on that property. And also worked with Jordan, and I've known Jordan for several years. I worked for his father for nine years. And I'd like to express my support for Jordan's pub. I will say Jordan is a very hard worker, and is extremely responsible. He cares a lot about this community and he's a very responsible young man that I'm sure will pay attention to his neighbor's concerns and work with them to address any concerns that they might have.

This project is definitely in the interest of the Wailuku Redevelopment Area. It's a reinvestment project into Wailuku. As you've noticed, Mr. Hart has done a fantastic job with his property, Hart's Corner, and this is just building upon his efforts. At night, there's really

not a parking shortage in Wailuku. Most of those on-street parking stalls are free and available. Traffic is not a problem. So I think it's a really win-win for Wailuku. And I've very confident that Jordan will run this operation in a very responsible way, and it will be a benefit to everybody that lives in Wailuku Town. And I'm certainly looking forward to going to the pub and having a cold beer once in while. And I hope you folks approve his request. Thank you very much.

Mr. Kawahara: Thank you Mike. Next to testify is Bryce Theyer.

Mr. Bryce Theyer: Good afternoon. My name is Bryce Theyer and I also grew up here in Wailuku Town. In fact, I grew up right up the street from the proposed site where now Cade that Canvassing exists – the Old Four Sister's Bakery. As a child just growing up, I remember walking during the evenings with my parents to go eateries, Siam Thai, Fujia's, Hamburger Mary's and to certain extent, O'oka's Super Market. And all those places I just mentioned are all gone now. And that kind of speaks to just an overall trend that's happening or happened in Wailuku town. And I think this project really aims at correcting that. And I still live in Wailuku in a different location, but still definitely in walking distance. And I also work in Wailuku as well. The other thing I wanted to say is that I was fortunate enough to live in Europe for collectively over a year and experience the type of Pub that I think that Jordan is trying to create. And just having experienced those establishments, they're really family oriented type places where it's not so much about drinking, it's more about socializing. And I truly believe that this is kind of establishment that Jordan is trying to create. The other thing that I wanted to say is the question that Mr. Kawahara had for the first testifier, got me thinking, you know, when he asked if he thought that there were any type of business that would be appropriate to be there. Well if anything, is going to be appropriate there, it is something that would draw a night-time crowd. So again, I am in favor of Jordan Hart's petition. Thank you.

Mr. Kawahara: Thank you Bryce. Bradford Ing.

Mr. Bradford Ing: Good afternoon. My name is Bradford Ing. I am here to testify as a resident of Wailuku and a person who works here in Wailuku. I am in support of the Mynah Bird. When I walk through Wailuku, I see a lot of potential. Wailuku can become a town with a nice mix of commercial, residential and a little bit of history. I think the Mynah Bird Pub is going to add to this diverse mix. But just important as the business proposed, I think the investor behind the business. Jordan Hart is intelligent. He's got roots from Maui, and he's got Wailuku's best interest in mind. An investor like that during times like these are kind of hard to come by. These type of investors you should be encouraging and maybe we can get those vacancies filled and Wailuku could thrive again.

Another reason why I'm in support of the project is because my friends and I need more options here in Wailuku. We feel kind of like we can only go to either Kihei, Wailea or

Lahaina. If we have more places like this, maybe we can stay closer to home and kind of socialize and unwind here in Wailuku. All in all, I think the Mynah Bird Pub is going to help Wailuku get closer to realizing its full potential. Thank you.

Mr. Kawahara: Thank you Bradford. And Kimberly Skog.

Ms. Kimberly Skog: Hello. Good afternoon. I'm Kim Skog. I would also like to speak in favor of the Mynah Bird Pub. I'm kind of here for a reasons. I guess, one, it's completely in support of the Wailuku Redevelopment Area Plan. It would support the revitalization of the town. I work in Wailuku too, and it would be nice to have somewhere to go after work where everyone can kind of gather, socialize, get to know each. I think it's good for the community. And also Jordan is actually an old friend of my older brother, and we're from Haiku, and I know he's trying to good thing. And it's a Maui Boy trying to start a small business on Maui. And I think that is really important that, I guess, young people are encouraged to start a business. And I think you guys should encourage that also. But, yeah, I guess that's all I have to say. Thank you.

Mr. Kawahara: Thank you Kim. For the record, we have written testimony for those that had sent in letters. One from Wesley H. C. Wong Jr. in favor of the applicant. Another one from Blaine Kobayashi in favor of the applicant. Both of them are residents of Wailuku. And in addition we have letters opposing the applicant. And one is Todd H. M. Mirzai, MD, and Glenn –. So Dr. Mirzai has an attachment to his letter entitled to all residents, business owners, employees located in the vicinity of Vineyard Street and Central Avenue, Wailuku. The petition states that I'm asking for your support in opposing the proposed Mynah Bird Pub to be established at 1910 Vineyard Street. Allowing a bar/pub in this area will attract many of the wrong type of problems into this peaceful corner of Vineyard and Central. As a local business owner I strongly urge you to support this petition by signing in agreement to oppose development of an adult establishment in a form of neighborhood pub/bar. And names listed for the record Judy Mirzai, Michelle Laura, Glenn Okuda, Jim Obu, looks like; Iris Kimura-Carpio, Salon Executives; Mia Watson; Holly Formoio; Jenny Ockaray; Jackie Erman; Judy Crane; Benjamin Quinsaat; Laura McKelvey; James Galo; and the last one in decipherable. They all have addresses in Wailuku. And in addition to that petition, we have Gerry Ohta and Lloyd Sodetani, opposed.

Ms. Betts-Basinger: And a Glenn Okuda who also signed that letter.

Mr. Kawahara: Right.

Ms. Betts-Basinger: I'd like to make a note Chair. Of those opposed, that are opposed only to the parking issue, which would be Gerry Ohta, Lloyd Sodetani and Glenn Okuda, have a problem with that use.

Mr. Phillips: With the use or the parking?

Ms. Betts-Basinger: The potential use as in serving alcohol.

Mr. Kawahara: Okay, any other public testimony fore or against the pub? Yes Sir?

Mr. Clayton Logue: . . .(Inaudible. Did not speak into the microphone.) . . .

Mr. Kawahara: You can speak now. You've got three minutes. Please identify yourself for the record.

Mr. Logue: I'm representing William Rees.

Mr. Alueta: Yeah, we have you on here a separate item. We'll call you up shortly.

Mr. Kawahara: Any other public testimony?

Mr. C. Hart: I know that there was a letter from Jeremy Kozuki as well who is in favor.

Mr. Horcajo: It's in here.

Mr. C. Hart: It is? Okay.

Mr. Kawahara: Thank you. Any other public testimony? Okay, Mr. Noble.

Mr. John Noble: Well, here I am making friends again. You know Mr. Rippy ran a bar across the street from my place. And I have like six hours on video tape that I took of fights in that place. And when you look at the Vineyard Tavern that was up the street, that was a place where they took a woman out to the cane fields and they raped her and killed her. This is not a peaceful place. Wailuku is a very violent place. I live here and I know that. At night, things change. And I'm sure Mr. Hart and his son are very kind people. But there's going to be 30 people here too. And I think there has to be some kind of a reasonable thing of how much parking is going to go on. It's not a commercial area. It's a bunch of houses. And I think you have to look at the responsibility for the parking. 30 people is a lot of parking during the day. So I think, responsibly you have to look at the parking and you have to look at things that have happened in that town in the past. The Marc Aurel's is kind of an oddity of what's happened in that town. Hopefully Mr. Hart – I'm not her fore or against it. But I think the people that have been here and they have looked at these things, you have to look at this really responsibly and what can happen here. I mean alcohol is a poison, and there's going to people that want to come in there that are dangerous. And Mr. Rippy wasn't able to contain it, and he's a pretty strong person. And the Vineyard Tavern wasn't able to contain it. So I think you have to look at those things.

Everybody likes Mr. Hart. I like Mr. Hart too. But I've also lived in this area for 33 years. The other night for instance I was driving home, and some guy comes and jumps over the fence. And he comes over to me, and I turn my motorcycle around and parked it. And he said, I'm sorry, but you know, the guy is down here in the park. If you're really start noticing – when I came up here today, there's a whole new element that's coming in with all of these kind of things. So I think responsibly you really have to look at what's happened in the past, and what could happen to this. I mean that's all I have to say. Thank you.

Mr. Kawahara: Thank you. Any other public testimony on the Mynah Bird Pub's application. If not, I'm going to close the public testimony portion of this. And item E on the agenda would be the intervener.

Mr. Alueta: From a procedural standpoint what we're going to do – you closed the public hearing?

Mr. Kawahara: Yes I did.

Mr. Alueta: And then what you're going to do is that given that there's an intervention, we recommend that you defer action on this item until the intervention process is dealt with. And if you don't grant the intervention, you can come back to it during this meeting. If you do grant it, you would just defer it until the intervention has been resolved. So either it's resolved by granting of it and it goes through the whole process and it's completed. Or if you don't grant it, you can then come back to it. But at this point, we recommend you defer action on the public hearing item of the Mynah Bird Pub.

Ms. Betts-Basinger: So you're suggesting, Joe, that we kind of recess from Item D. Move on to E and then come back to D.

Mr. Alueta: Yes.

Ms. Betts-Basinger: Okay.

Mr. James Giroux: Just a procedural – what I want the Board to focus on, we're going into a stage where we received a petition to intervene. So the decision making process is whether or not to grant the intervention. And depending on what the decision is on that then we're going to have to go through a few more procedural matters to figure out how we want to proceed. But I think at this juncture I want you to focus on the petition to intervene, and the decision is whether or not to grant it, the petition to intervene.

E. Communication Items

Petition to Intervene by William T. Rees on JORDAN E. HART for MYNAH BIRD PUB to obtain a MRA Use Permit

Mr. Logue: Hi. My name is Clayton Logue. I am representing William Rees who filed the intervention. William is my partner who owns the property at 156 Central Avenue where we both reside. I have a statement that I would like to read from William as well as my statement after this statement.

“Dear Members of MRA. My name is William T. Rees. I own the residential property located, I guess, the TMK No., more commonly known as 156 Central Avenue, which is part of the MRA sub area one. Unfortunately I am unable to attend today’s meeting as I am off island due to a two-day work related meeting in Honolulu. Mr. Hart’s plan for an adult establishment that is a pub at the above mentioned address is the wrong type of usage for this particular property. Mr. Hart mentions that one of his goals is to create a gathering place for Wailuku residents and business owners. He has also mentioned to me that he would like to see a walkable downtown community. I too would like to see revitalized walkable vibrant Wailuku. However, Wailuku can not become a walkable town without appropriate infrastructure separating vehicles from pedestrians.

Aside from the very short three-foot sidewalk fronting the store front where Mr. Hart wishes to open his pub, there are no other sidewalks in the area, nor are there curbs or pedestrian areas. In the intersection of Vineyard and Central Avenues can be very dangerous. Why would pedestrians forced to walk in this traffic lanes, limited lines of site or cross traffic from any direction, and according to a conversation I had with Lieutenant Bobby Hill of the Maui Police Department, and unforceable 20 mile per hour speed limit due to the narrowest and congested nature of Central Avenue.

The addition of more vehicles and pedestrians to this intersection especially after dark will only make this corner more dangerous. Maui Police Department while proposing a vehicular solution in their memo response. It does not address pedestrian safety. Vineyard Street has no sidewalks at all, aside of the small area in front of the proposed pub. The off street parking area just west of Hart’s Corner lacks any kind of demarcation devices between it and the street such as striping or curbing. Central Avenue is so narrow that often vehicles traveling toward Main Street staddle the double line in order that their drivers feel that they have enough room on their right. Many area residents including ourselves have had side view vehicle mirrors smashed by vehicles veering too far to the right when our cars were parked on the east side of Central Avenue. And the line of site for anyone in a vehicle approaching the Central-Vineyard intersection from any direction is blocked to a greater or lesser degree by buildings, parked cars and foliage.

I would very much understand Mr. Hart’s business plan and that he wishes his pub to be in a family elm structure with an existing permitted commercial kitchen. I have met with Mr.

Hart in person and have had several telephone conversations with him. I do believe that Mr. Hart's idea of opening a quiet gathering place in Wailuku Town is a good one. Where we disagree, however, is about the location. A pub with this pedestrian and vehicular traffic belongs on Market Street or Main Street where appropriate pedestrian infrastructure exists. Not on a quiet, dark, narrow corner with no pedestrian safety zones. Thank you for considering my position."

That was from William Rees. As for my own personal experience I do live on Central Avenue and I do see the conditions at night time. I'm very familiar. We've lived there several years. We bought this property five years ago – four years ago. In the evenings I see couples who live in the area, walking their dogs. I see elderly ladies, groups of ladies, taking their afternoon/evening walks. Central Avenue is a very dangerous street. All the way down Central Avenue, the speed limit is 20 miles an hour. We frequently, all day, all night long, traffic speeds through with 40, 50, 60 miles an hour. We have consulted the Police Department who tell us that there are no places on Central Avenue where they can park and monitor speeding traffic. So that's a major concern of ours. We're so concerned about crossing the street. We love Dad's Donuts, but it's so dangerous to cross the street. We don't even go there anymore because we've almost been hit several times crossing the street, and that's during the day time.

In the night time hours, there is several –. Well there's the Judo Mission, Hongwanji Mission and I can't remember the name of the mission on High Street that are just within a very short distance – you know where those establishments are. From time to time, these missions have festivities, like the Bon Dance and the other things they have in the evenings. And this area quickly fills with cars parking on the streets. It's a very dark – that corner of Vineyard and Central is very dark. Even though there's a light there, it's still very dark. But during those festivities the area just fills with people attending these festivities. And our concern is that even though you have extra parking spaces in the area, our concern is is that after a night of drinking, what's going to happen when these people who have been drinking all evening, leaves these parking spaces and drive away. We're concerned about our neighbors. The neighbor to the left of us between our property and Hart's Corner is owned by Mental Health Kokua. And I've visited the administrator this past Friday and was asking, you know, are you going to attend the meeting? She had no idea that there was a meeting. She had no idea about this project at all. So I made copies of the certified letter we received from Jordan. And she had never seen this information before. And her first response was this goes against everything we've worked for here at Mental Health Kokua. And this is the property between our house and the pub.

Mr. Giroux: Sorry to interrupt you, but I just want to focus the Commission that we're not really getting into the merits of why the pub is a good or bad idea. What we're trying to focus is to reach the inpass of whether or not to actually allow the petition. And I see the areas could get grave, but I want to focus on the petitioner's petition and to see how this

petition matches with your rules on why you should or should not allow an intervention.

Mr. Logue: Where our concern is the safety and the fact that you're encouraging pedestrian traffic where there are no sidewalks and there's poor lighting.

Mr. Giroux: I guess, I hate to make a mess of this, but just to clarify because Mr. Rees is not here, that raises an issue. And I don't know if the Board wants to make this an issue or not. But as your attorney I think I should raise it that under Rule 12.701.17 that the MRA may require the person appearing to show documentation that they actually have the capacity to, and qualification to act in the stead of the petitioner. I mean I don't want to make too much of an issue.

Mr. Logue: I have a signed statement from William Rees. Is that what you need? And plus the intervention that he filed.

Mr. Giroux: Stating that he wants you to represent his position. That's what I'm concerned about.

Mr. Logue: Now he contacted Joe and he gave him the approval for me to represent him today.

Mr. Alueta: I don't think that's --. I believe there is a letter correct? Or did he just talk to you?

Mr. Prutch: William talked to me the other day and told me he wasn't going to be able to make it. I asked around trying to decide okay what do we do if the intervener can't be there. Obviously, we either defer the project or we go on and he doesn't represent himself. It was understood that he has somebody that can be there on his behalf and has a letter stating that Clayton can be here on his behalf to bring that in, and that we can move forward with the intervention.

Mr. Giroux: So do we have a letter stating it?

Mr. Prutch: He's got it.

Mr. Horcajo: I would suggest you get it and review it.

Mr. Prutch: I haven't seen it yet.

Mr. Giroux: It's up to the Chair.

Mr. Kawahara: This is the letter he read. Right?

Mr. Logue: Yes. The same letter.

Mr. Kawahara: I mean, do we have the –. I guess it's a legal issue – do we have the authority under the law to allow Mr. Logue to intervene on behalf of the petitioner, William Rees? A simple yes or no question.

Mr. Logue: We were told by Joe that I could –

Mr. Kawahara: Well, the question is addressed to Corporation Counsel. If we do, then we will decide whether you have standing. If we don't, then we may have to defer it.

Mr. Giroux: As the issue of your rules, it just says that the MRA – it says that it may at anytime require any person appearing before the MRA in a representative capacity to provide evidence of the qualification to act in that capacity. My concern is that if you do allow the petition to intervene today there are a lot of issues of procedure because in your rules one of the issues is whether or not there's going to be pre-hearing. There's also the capacity to waive procedural matters if both parties agree to that. Also, whether or not they want to schedule a mediation and other legal ramifications that may occur which that discussion could happen if we were talking to Mr. Rees. And whether or not Mr. Logue has the authorization to make those types of decisions for Mr. Rees. And that's what I'm concerned about. As far as evidence, I mean, if you take the conversation with Joe as evidence then that's up to Board. If the Board is not comfortable that, I think as a matter of expediency at this hearing, I think there is a lot of issues that the Board in order to move its business forward wants to know if the person they're talking to has the authority to agree to procedural matters such as, you know, waiving pre-trial hearings, waiving evidence matters. There's a lot of rights that a petitioner or once he's granted a petition to intervene, has the ability to waive in order to help the Board move their business along.

Mr. Kawahara: I think you agree Mr. Logue that you want to move his business along and receive a decision as expeditiously as possible.

Mr. Logue: Well, I want to make sure that as we were told that I could represent Bill. If not, if that's not the case, then I think you should reschedule a hearing with him that he can attend.

Ms. Betts-Basinger: Mr. Chair, I'd like to call for an Executive Session to discuss with our attorney some things I don't understand about this process.

Mr. Kawahara: Okay. Why don't we get through the remainder of the agenda. And then does everybody agree to go into Executive Session on this? Katharine? Okay. I'm just going to continue with the agenda, and call for an Executive Session after we get through the agenda items.

Ms. Betts-Basinger: Maybe I wasn't clear Mr. Chair. It's the agenda that I want to halt until I have some clarification from Corporation Counsel.

Mr. Horcajo: Chair? Excuse me. I would rather, I guess, go through the Executive Session now just because I feel that our discussion, maybe cash in lieu and other issues, may take some time too, and it would benefit the members of public here now to kind of get through this discussion first.

Mr. Kawahara: I understand, but I just didn't want inconvenience our guests. It's a long time since we've had this many people present. So I'm sorry, we're going to have to excuse you. The Commissioners request that – we're going to go into Executive Session right now, answer some legal questions and we'll come back into session, I would hope within 10 minutes.

Mr. Giroux: And just to clarify this is to discuss the rights, duties, and liabilities regarding the intervention.

(The Maui Redevelopment Agency convened into Executive Session at approximately 2:41 p.m., and reconvened back to Regular Session at approximately 3:00 p.m.)

* * * * *

**Summary Minutes of a Portion of the MRA 11/21/08 Meeting
Recorder was not on during this portion of the meeting**

The executive session ended and Chair Kawahara reconvened the meeting at 3:00 p.m.

Chair Kawahara asked Clayton Logue if he would be presenting additional testimony.

Mr. Logue replied that he did not have additional testimony at this time.

Corporation Counsel, James Giroux, noted that his concern with Intervener William Rees not being present is that they could not ask the Intervener whether or not he would be presenting additional information.

Chair Kawahara asked if Intervener William Rees will be providing additional testimony.

Mr. Logue replied that he and Intervener William Rees would not be providing additional information.

* ***Member Basinger then made a motion to deny the Petition to Intervene by***

William T. Rees on Jordan E. Hart for Mynah Bird Pub to obtain a MRA Use Permit.

Member Popenuk seconded the motion.

During the discussion, Member Basinger stated that she appreciated the testimony of Intervener William Rees and Clayton Logue and that they would take their testimony into consideration.

Clayton Logue stated that he did not understand the reason for the denial of the Petition to Intervene.

Member Basinger explained that the testimony by Intervener William Rees and Mr. Logue did not raise the level of concerns above the concerns already presented by other testifiers - oral or written - that would warrant an intervention and that their testimonies raised the same concerns already presented to the board.

Clayton Logue asked if their concerns would be taken into consideration.

Member Basinger stated that their testimonies would be taken into consideration.

* ***A vote was taken on the motion to deny the Petition to Intervene by William T. Tees on Jordan E. Hart for Mynah Bird Pub to obtain a MRA Use Permit.***

(Assenting: A. Basinger; R. Horcajo; R. Phillips; K. Popenuk)

MOTION CARRIED.

Joseph Alueta, Planning Staff, stated that due to the denial of the Petition to Intervene, that Item D, Public Hearing on Jordan E. Hart for Mynah Bird Pub can be considered during this meeting, therefore, the MRA resumed consideration of the application.

* * * * *

Mr. Giroux: Yeah, this is your opportunity if you thought that you had missed anything in your presentation that you wanted to highlight to this Board.

Mr. J. Hart: It's very quick. Essentially, at the south east corner of the parcel which is the corner of Central and Vineyard, we plan to add parking lot lighting. And also at the north east corner of the parcel which is the farthest north on Central Avenue. We are going to add two parking lot lighting – light bulbs we'll add. And then in comments about the Mental Health Kokua, I did receive a letter from Frank Cummings who is the Director. And

basically his statements were that he does not support the position of the intervention which is that the operation of the pub would interfere with his operations or the services that he provides. And so you know, I just want to re-iterate that statement were made to the contrary, and I have a written letter.

Mr. Alueta: The Board does have that.

Mr. J. Hart: Thank you. That's all I have to add. And I just want to say thank you for the opportunity.

Ms. Betts-Basinger: While you're there Jordan, could you – so you're going to have lighting which is a great mitigation and it was something I was going to ask you anyway. But are you going to have lighting at the front, like under your canopy?

Mr. J. Hart: Do you want me to show a diagram?

Ms. Betts-Basinger: Yeah.

Mr. J. Hart: We actually do already have existing lighting under the trellis area which is in front of the beauty bar, and then also in front of the covered area which is at the donut shop. It's just going to warm up for a second. So we have a lot lighting existing. We don't always use it because there's not evening use at the location. But when people are going to be around at night, we're going to have that operating, and also the parking lot lighting will be added and operating.

So essentially there's more than adequate lighting here, and it's on in this photo. I can provide and verify that in other ways. But there is fluorescent lighting here, fluorescent lighting here. There's lighting in this area, and then there's going to be a parking lot light installed here, a pole light. And let me try and get to a better photo. Here and here will be parking lot lighting. There's adequate lighting here and in here, and then there's lighting in here as well. So this is not always active, but it is sometimes. This will always be active if this is operational, and then this will be added.

Ms. Betts-Basinger: And what do you have directly in front of Mynah Bird Pub?

Mr. J. Hart: There isn't –. I would say there is inadequate lighting in front of Mynah Bird Pub now, but that would be part of my electrical permit and part of the interior renovation where I would bring – it's got to be visible. If I can't supervise people that's not a good situation. So it's going to be adequate to see what's going on, and that's what I'll be proposing.

Mr. Phillips: Jordan, I think we need to be respectful to the people who are testifying today

who are bringing up the traffic issues and particularly the parking issues. And we do have lots of businesses in the area which are depending on already a diminishing asset which is called parking. And in the premises we understand about the pub is that it is a gathering place. And it's something that we're going to spend some time and watch a ball game and have a beer and talk to our friends, so we're going to be occupying parking. And to a detriment possibly if some of the folks in the neighborhood. Is there any sort of any other type of an abatement process? Is there a procedure where we can introduce or give people a map on alternate locations for parking? Or to bring to their attention the fact that there are things like this occupational situation that needs to have parking directly in front it and to call out areas specifically that would be suggested for parking?

Mr. J. Hart: I've spoken with several of the neighboring property owners – after – basically I sent out the official notices that are required and then an additional basically a descriptive letter and a request to contact me with any concerns.

Mr. Phillips: Well this will be for your patrons.

Mr. J. Hart: Anyway, in the course of those conversations what I basically said is, you know, it's a small area. Wailuku is a small area. This is a small pub. It will get to the point where I know who people are and where they're parking and things like that. And I'm willing to respond to my neighbors and also speak with my patrons. And if they're, for instance, infringing on other people's parking areas, tell them that they're not welcome to do that and so on. If you have further suggestions, I'm open to hearing them. I don't have an idea of what to suggest right now for you.

Mr. Phillips: Thanks.

Mr. Horcajo: I have a comment. I guess in reading the, I assume, the Zoning Code, it talks about potentially getting a five year lease for outside parking. So I guess my question is have you specifically asked those property owners whether they would be willing to lease you some of their parking that is not used say after five o'clock? And is that something that you might be willing to do?

Mr. J. Hart: That is something that I might be willing to do. That's not something I've discussed. As I've said in my presentation the way I formulated this application was based on the Code as it is. So when I went through and saw these mechanisms for dealing with the parking situation that exists at the site, basically I applied for, for instance, joint use and abatement in the context of the mechanisms that are provided. I could speak with my neighbors and see if they have things available. I wasn't offered anything like that. It appeared to me that their concerns were more that my patrons will be interfering with their use of their own parking, and not that they were looking to allowing me to use their parking for a fee. I'm happy to look into those things.

Mr. Horcajo: I believe most of the other comments that we got in letters and maybe testimony was not just the parking, it was also about the alcohol serving I guess from 12 o'clock. Is that something that – I mean, the folks that testified or wrote against your project because of the alcohol, did you talk with them and they said well if you started at four o'clock, at three o'clock and five o'clock, that would be something I would agree with or no discussion about that?

Mr. J. Hart: Dr. Okuda I didn't get an opportunity to speak with him. I did speak with Iris prior to her letter, and after concluding I didn't expect a letter but nobody specifically had concerns with the timing of service. That they mentioned to me, their main issue they had was service period, and then the use during the middle of the day because they're mainly all day time use or businesses.

Mr. Kawahara: Anymore questions or comments of Mr. Hart? Okay, Mr. Prutch?

Mr. Prutch: Thank you.

Mr. J. Hart: Thank you Mr. Chair.

Mr. Prutch: Staff is making the recommendation that the Maui Planning Department –.

Mr. Alueta: Joe. Joe. This is not the BVA.

Mr. Prutch: I've never been to that. Staff's recommendation, the Maui Planning Department recommends approval of the MRA Use Permit for an adult establishment, the Mynah Bird Pub – recommends approval of the joint use parking spaces with Dad's Donuts and approval of the parking abatement for the – it looks like it was two parking spaces for the Mynah Bird Pub as well subject to the eight conditions that are listed in your staff report. One of those being that the written agreement for the joint parking lot – joint parking spaces be drafted and submitted to the Planning Director. That's one of them. Also, from what I've heard from you just recently, I'm thinking you might want to add condition #9 and you can help me craft this if you want. This is what I've come up with. That additional lighting shall be provided in the parking lot, and shielded to not spill on adjacent properties per your request. And it sounds like the applicant is willing to do that anyways. And then maybe a recommendation that a 10th condition be added that outdoor lighting for access to the restrooms shall be provided all times while the pub is operation or to something to that extent.

Ms. Betts-Basinger: Yes.

Mr. Prutch: If that pleases you guys. And if the applicant is okay with those. That ends my recommendation. Any questions?

Mr. Alueta: Joe, did you have the standard condition that the applicant shall develop the project in accordance to plans and as represented.

Mr. Prutch: Condition #1.

Mr. Alueta: I'm sorry. Okay, thanks. I couldn't find my copy.

Ms. Katharine Popenuk: I wanted to offer a suggestion for a condition which would be acoustic music only, no amplified.

Ms. Betts-Basinger: Does the Liquor Department have regulations on sound? Liquor Commission – do you know? Does anyone know?

Mr. Prutch: That, I do not know. Do we have own noise standard for the MRA – our own levels?

Mr. Alueta: It's normally established permit by permit if there is an issue – on most projects that's how it is. So if he is proposing – if you don't establish any condition, then you would be relying upon the Liquor Department.

Ms. Betts-Basinger: He is – the applicant has addressed this by saying conversational level.

Mr. Kawahara: Above conversational level, the music will be.

Mr. Prutch: Just above is the way he stated it, or at least the way he stated in the application.

Mr. Horcajo: So we can have the applicant come up because I guess my comment about Katharine's condition is you could have a stereo going off way high. It's more the decibel level that you're talking about right? Could we get your comments about that.

Mr. J. Hart: I'm more than happy to accommodate that. The amplified music, I just want to clarify that doesn't include a radio. Because when I can't get a band – not a band, but an instrument player who plays acoustic music, I would need a radio. If amplification would rule that out, that's what I'm trying to avoid. I'm happy with some sort of decibel restriction. I have no other way to verify for you aside from saying that I want to have a place where you're not banished through music to communicate. That's not the kind of place that I want. So I'm fine with anything like that.

Ms. Betts-Basinger: Can we get a decibel level that is a range that he would fit into with his description of just above conversation level?

Mr. Prutch: Do you know what the County's ordinance is right now on noise level decibels? I don't know what the number is. I'm sure the County has specific noise decibels, but I don't know what those numbers are. It's probably pretty high.

Ms. Betts-Basinger: I think it's an important position.

Mr. Prutch: We would have to do some research and determine what those possible noise levels are and what the decibels are. I wouldn't know a number off the top of my head that's for sure.

Mr. Alueta: There is this County Ordinance I guess on noise and nuisance, and that's enforced. But it's normally like after 10 o'clock and certain noise levels. But I don't know what that level is. It's a law that he would have to comply with regardless, or it would be enforced by the Police regardless.

Ms. Betts-Basinger: Can we have a condition that's open ended sort of – that just says we'll abide by MRA directed decibel levels?

Mr. Horcajo: I think we'd want to make a decision.

Ms. Betts-Basinger: Yeah I think so too.

Mr. Prutch: Yeah, we need something more quantitative and I can't think of how we can –.

Mr. Alueta: If you want to just leave it at that he's limited to live music, live acoustic music, as opposed to amplified, and just be specific on what you're talking about.

Mr. Kawahara: Almost all music is amplified.

Mr. Prutch: Yeah.

Mr. Alueta: And that way his radio – and you're not talking about his stereo or anything like that.

Mr. Giroux: You know, I think with the car – I've dealt with cases where the Police have to enforce the boom box law, and they usually go by how many feet away from the vehicle they can hear the radio. And that's how they estimate the decibel. And if you want to look at that and say that if you can't hear music more than 10 feet outside of any entrance or something like that.

Ms. Popenuk: That would be acceptable.

Mr. Alueta: That would be easier to enforce.

Mr. Kawahara: What is the distance of the nearest residence? Do you know approximately?

Mr. J. Hart: It's approximately 40-feet – maybe more. It's basically – it may be more.

Mr. Kawahara: So Jordan may I ask that you would – would you consider that the music at that nearest residence would not exceed conversation level?

Mr. J. Hart: Yes. With no problem. Yes, I could.

Mr. Kawahara: Is that reasonable Katharine?

Ms. Popenuk: That sounds fine.

Mr. Kawahara: So that will be the 11th condition then.

Mr. J. Hart: Thank you.

Mr. Horcajo: And Joe, I guess, as far as your additional condition #10, would it better to just say that additional lighting, I guess, the additional exterior lighting to meet current County lighting codes, as oppose to saying it does not impact neighboring properties? Because that's what the Code says right?

Mr. Prutch: Yeah –

Mr. Horcajo: It would be straight down and shielded and all that stuff, so it might be better to just make reference to the current outdoor lighting ordinance.

Mr. Alueta: – Outdoor lighting ordinance.

Mr. Horcajo: Yeah, it just got passed.

Mr. Alueta: Yeah.

Mr. Kawahara: All right. Let's move on.

Mr. Prutch: Before we do, I want to make sure I'm getting these correct. So what I'm hearing is the approval of the project, the joint parking, the parking abatement, the use permit, with the conditions in the staff report, with the additional condition #9 saying that additional lighting shall be provided in the parking lot to the outdoor lighting standards,

ordinance standards. Condition #10, I believe and you can correct me if I'm wrong, that outdoor lighting to restrooms shall be provided at all times when the Pub is in operation. It's pretty standard, and I'm sure you'll do that anyways. Just since the bathrooms are around the corner behind the building. And #11, I believe, is that music and sound levels at the Pub shall be limited as to not be heard from neighboring residences.

Mr. Kawahara: No.

Mr. Prutch: Okay, that's what I need clarification of.

Mr. Kawahara: The volume of music at the nearest residence shall not exceed conversational level.

Ms. Popenuk: Actually, you know, I kind of like what you just said better because imagine it's like 1:30 in the morning, and you have music at conversational level, that would be quite annoying. So if it's just acoustic music, somebody playing ukulele and singing, I don't want to hear it at 1:30 in the morning.

Mr. Prutch: My understanding is that the – it sounded like in his presentation that when they put a stereo in the Pub's interior, and put it up really loud with all the windows open, they weren't able to hear beyond like the second property or so. Can you clarify that?

Mr. J. Hart: On the Central Avenue frontage, on the north corner of the property is pretty much where it was dying out completely. And then at the Beads of Paradise property line which is basically there's essentially – I'm sorry –.

Mr. Prutch: That's probably 40 or 50 feet away.

Mr. J. Hart: Yeah, that's what I was trying to estimate. It's not effective for me anyway. Here's the property that I think is vacant. There's two small houses here, Salons Executives, this is an access way to these back residences, Beads of Paradise. So essentially here. And the reason is because the Pub is right there, and the access to the women's bathroom, I had the door open. Regarding the recommended condition of basically music not being heard at the nearest residence, is that possible that we could have conversation tone up to a reasonable hour, and then after that hour, not be heard at the nearest residence? Because for instance, 10 P.M. might not be unreasonable. 11 P.M. might not be unreasonable especially on a Friday or Saturday. But I can definitely understand that 12 P.M. and 1 A.M. is getting unreasonable.

Ms. Betts-Basinger: When you did your experiment and you shut all the doors, how many feet before the noise stopped?

Mr. J. Hart: To be honest, I didn't even bother to try and shut all the doors because it was limited with the doors open. So I don't even know.

Ms. Betts-Basinger: So a quantifiable distance then would be 50-feet?

Mr. J. Hart: That would be a quantifiable distance for me.

Ms. Betts-Basinger: Because I don't like to use the word residence because that may change, so just a distance.

Mr. J. Hart: I understand. Okay.

Mr. Prutch: Plus they have residence directly up stairs.

Ms. Betts-Basinger: Right.

Mr. J. Hart: I'd like to add, you know, in the interest of avoiding noise complaints myself, I would be intending to, for instance, close the doors up to make sure. I did want to reserve the opportunity to keep the doors open on a cool day or cool evenings, but as it gets later, I have A/C – I'm intended to have automated door closer to all the doors, so I would intend to have doors closed as it got later.

Mr. Horcajo: I just want to make comment. I guess to some degree I agree with the concern about loud noise, and if there is a lot of loud noise, I would imagine that the neighbors would complain, and then you would have to deal with that. Across the street, it's all business/commercial zone, and there could 20 bars across the street. So I don't want to restrict them to something that maybe somebody who can put a bar right across the street and not be as restricted as what we're asking Mr. Hart to be restricted on. You know, I'm not saying that I want it, but I'm just saying we have to look at that district is commercial/business up and down the street, across the street. So I just want to be sure that we're reasonable to his business operation. If 50 feet is reasonable, then that means it's across the street. If somebody moves into the Young Building as a residents then he's got to quiet it down.

Mr. Kawahara: So you want to state condition #10?

Mr. Horcajo: I'm not sure. I mean even just say delete #11, with the understanding that if he – he's already got three of his neighbors saying no. And if he's going to get noisy, they're going to complain.

Ms. Betts-Basinger: I would agree with you Bob that it might be too unique to him. There

are other establishments in Wailuku at night that I'm not aware that have that noise restriction on them. And the proof would be in the complaints that are received by the neighbors. I can go with eliminating #11 if that's okay with you Katharine.

Ms. Popenuk: It's being represented as a low key, kind of comfortable, sit down, talk stories, maybe listen to a little tune or something, so I'm trying to think of some sort of way to describe the appropriate noise level for that.

Mr. J. Hart: I understand what you're saying.

Mr. Kawahara: Let me just move along here. I'm going to make the motion, please second it, and then let's vote on it whether we're going to include condition #11 which was the volume of music 50 feet from the establishment will not exceed conversational level. I'm making the motion, and can someone second it so we can vote on it.

Mr. Horcajo: I second. I'm sorry, is the motion to approve #1 through #10?

Mr. Kawahara: No, no. It's just #11.

Mr. Horcajo: Just #11.

Mr. Kawahara: Just #11. So we're going to include it or exclude it.

Mr. Horcajo: Okay.

Mr. Kawahara: So you made the second. Any more discussion?

Ms. Popenuk: So you're saying – we're asking whether or not we will include –

Mr. Kawahara: I made a positive motion to include #11. So all in favor of that motion. Oppose? Ray –. So the fact that it is tied, it doesn't pass. Correct? It doesn't pass because it was stated positive.

Ms. Betts-Basinger: I thought you voted.

Mr. Kawahara: I did. I voted against.

Mr. Alueta: He voted against the motion.

Mr. Kawahara: I made it for the purpose of voting.

Mr. J. Hart: I would like to add that I do have to renew my liquor license. And if I have

complaints that continue, that will become a problem for me. So I know that doesn't apply to your decision making, but that is regulated.

Ms. Betts-Basinger: You know Bob does bring up an issue that's important to this body. In future businesses like this that may come before us and that is that we don't have a quantifiable noise level for night time businesses. So maybe it's something that should be outside of this particular application, but something that we should not let go of.

Mr. Kawahara: But I think we need to also remember that one of things we're trying to encourage is more night life in Wailuku, which means more retail, restaurants, that type of establishment. And I think that you need to take each case – each case is unique – and you don't want to put unreasonable restrictions on that type of activity. So that's the reason I voted against my motion.

Mr. Horcajo: I make a motion to accept the recommendations from the Planning Commission regarding the parking abatement of two stalls, and a joint use of three stalls, and condition as prepared from #1 through #8, and additional conditions #9 and #10 as outlined by our staff.

Mr. Kawahara: Also, it's not simply the parking. It's the –

Mr. Horcajo: – the use.

Mr. Kawahara: – the adult establishment use also.

Mr. Alueta: The establishment of the adult establishment.

Mr. Horcajo: The Use Permit for an adult establishment as well.

Mr. Kawahara: Do I hear a second?

Ms. Betts-Basinger: Second.

Mr. Kawahara: Any discussion? All in favor of the motion please say "aye?"

Agency Members: "Aye."

Mr. Kawahara: Oppose? It's carried. Thank you for your presentation.

Mr. J. Hart: Thank you Mr. Chair.

It was moved by Mr. Robert Horcajo, seconded by Ms. Alexa Betts-

Basinger, then unanimously

VOTED: To approve the Planning Department's recommendations to obtain an MRA Use Permit for an adult establishment, joint-use parking and parking abatement; and to approve the Department's conditions as submitted and the additional conditions, #9 and #10, as outlined by the Department.

**(Assenting: A. Betts-Basinger, K. Popenuk, R. Horcajo
Excused: R. Phillips)**

Mr. Kawahara: Moving on the agenda.

Mr. C. Hart: Mr. Chair, can I just add one point? You know I had a chance to talk to Mr. Logue outside, when you were in Executive Session, and I would just like to say two things. One, we will be looking for opportunities for off-site parking that could be additional to what we have. That's #1. But #2, we talked about the intersection of Central, specially, and Vineyard, and it's a situation that exists at Market Street and Vineyard where there's a four-way stop. It's something that I'd like to explore with the Department of Public Works. And I will do that. And perhaps we'll be able to initiate something like that as improvement because there are cross walks at that intersection, at Vineyard and Central. But, you know, as he said because nobody stops, you know, you really have a hard time getting across. So I will explore that and see if we can do an improvement similar to the one that's at Market and Vineyard. Thank you very much.

Mr. Horcajo: Chair, a quick bathroom break?

Mr. Kawahara: All right. How long is it going to take?

Mr. Horcajo: Three plus.

Mr. Kawahara: Okay.

(The Maui Redevelopment Agency recessed at approximately 3:30 p.m., and reconvened at approximately 3:35 p.m.)

F. PLANNING DEPARTMENT UPDATE

- 1. Update on Proposed Projects and Enforcement.**
 - List of Projects for 2008**

2. **Cash in lieu update**
3. **Update on Wailuku Municipal Parking Structure**
4. **MRA expenditures and Budget update**

Mr. Kawahara: Item F on the agenda. Joe.

Mr. Alueta: I don't have any updates for you as far as 2008. Cash in lieu update – I'm just waiting for what you guys want to do.

Mr. Kawahara: I just want to make a statement on that because of the lack of time I'm not going to get into a lot of discussion except to say that I would like the cash in lieu issue resolved before I leave office next March. So we're either going to adopt it with the amount, or we're going to drop it. So I think there's a lot of room for discussion, but we need to resolve this issue.

Mr. Alueta: Moving forward to the parking structure. I will be hopefully getting that, the final update out.

Mr. Horcajo: Excuse me Mr. Chair? So as far as you say making a decision on the cash in lieu. How should the body proceed? You know because since it was submitted as a draft in 2002 not much has happened.

Mr. Kawahara: Well, nothing –

Mr. Horcajo: So when you're saying if we want to have dialogue we need to bring it forward back at the Council, have more public hearings, more Planning Commission or whatever. We need to talk beyond this body.

Mr. Alueta: This body got – I don't want to say cold feet, but didn't act on it. What needs to happen is if you want to take it up, we have to schedule it, just like we did with item here as a public hearing item, and we hold a public hearing on them. And then you adopt it as a resolution, or make a recommendation to the Council to adopt the cash in lieu fee. We would then transmit it up to Council and Council would then take it up and adopt it. But it's again the reason it never – I want to say never got traction during Arakawa's Administration was that Alan wanted a plan, or at least he felt that the board needed to be prepared to address what the money was going to be used for, where the money was going to go, and was it going to be use to – at least come up with a plan. And I feel that – there's a subcommittee now to discuss that. So that's pretty much it. If you're not interested in doing a cash in lieu, even though it is an item on your to do list, as an LU item on your steps for revitalization for Wailuku, I think you need to, if you're going to draft it, you need to amend your plan and go back to Council and say we're not going to do a cash in lieu. I personally, again, think it is an important tool that this board needs.

Mr. Horcajo: Well, I guess for me, as I've said at the last meeting, I think it is an important tool too. I just want to be sure that we have the appropriate dialogue and where do we start. And I want to bring something up or get an opinion from Counsel – if you look at our WRP, section six, page #65, it says here “however, where the proposed revision, amendment, or modification requires or involves a basic material or substantial change in the plan” – meaning that we want to change something in the plan – “the agency will secure a formal approval of such revisions or amendments by following the same approval procedure set forth in Chapter 53, HRS.” And Chapter 53, HRS, says by how this plan got approved it had to go through Planning Commission first and then County Council. So my question is whether it be cash in lieu, decided not to build the big parking lot, what determines a substantial change or basic material that would dictate us following this process here?

Mr. Kawahara: Well –

Mr. Horcajo: Chapter 53. I'm asking Corporation Counsel I guess as our Counsel.

Mr. Giroux: I think if you're proposing something that's substantially different than what's in the plan, I think that would be part of the dialogue. You know, first of all, what is it you're proposing. And if you look at the plan, is it not included in the plan or is it modifying the plan so substantially that it would actually be two different proposals happening. Comparing what happened in the plan, if it was carried out, is it different than what you're proposing to do? I think that would be a test for what is substantial?

Mr. Horcajo: And I think the complication is like projects like Promenade and maybe Doug McLeod I think. There's money supposedly that they have to pay if in fact the cash in lieu, so that kind of complicates the issue too.

Mr. Kawahara: Well we need to – we're either going to adopt the cash in lieu ordinance which has to be approved by the County Council. And then we've got to decide if we do that, where the money is going to go – to the General Fund, to the MRA, to Wailuku Municipal Parking Structure – and what is the cash in lieu amount? So that is if we adopt it. If we decide not to adopt the cash in lieu that means we waive all parking requirements within the Wailuku Redevelopment Area, and just go by the County Ordinance which says that if you're within 200-feet, you don't have –

Mr. Alueta: The County Ordinance is this book. Chapter 19 doesn't exist for you.

Mr. Kawahara: We're just saying that's what will apply. That's all I'm saying. Yeah, you're right, we go by different rules. But we can say those parking requirements that are used for other parts of Maui, we can use that as alternative.

Mr. Horcajo: Right. I guess I'm saying is that are we fully informed. I guess, have each of us looked at the cash in lieu as presented back in 2002, and are we saying we don't like it, period, we like it if we make these changes, or have each one of us or the others really looked at that to say I like it, I don't like it, I like parts of it, and don't like parts of it. And that's where I think we haven't gone there yet. I mean I've looked at it. I think there's some poor sections that should be changed. But so my point being is how do we get to that point before making a decision whether we keep it or don't keep it. It's not just -. If you're saying that we should choose based on what came out in 2002, I don't think that's appropriate.

Mr. Kawahara: No. No.

Mr. Horcajo: We have to bid it.

Mr. Kawahara: That's correct. I'm saying that cash in lieu, regardless of what the previous board did, is an issue that needs to be resolved only because there's developers that needs certainty when they develop. And #2, we need to give closure to projects like Main Street Promenade and those other projects that agreed to pay a cash in lieu parking when they were issued their permit. That's all. We need to do that. I mean, as a body, it's unconscionable to me to let this thing go for like almost seven years now.

Ms. Betts-Basinger: And there's another segment that's involved here. It's not just we as Commissioners on this body at this point in time. There never seems to have been big community support. Because if there had, we would have it. So there's a community that needs to buy into a plan like that. So I think what Ron is trying to say, and I agree, we can't let it continue to hold back development and redevelopment. Maybe it can be redone, you know, reinvented, brought up in a different way. But as long as it's preventing revitalization then it's going against our mission.

Mr. Horcajo: I agree with you, so maybe I'm going to stop my talking and maybe when we get into our investigative report then we can bring that up.

Mr. Kawahara: Wait Bob, we're going to go through -

Mr. Robert Kimura: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Kawahara: I know you do, and we're eagerly looking forward to it. But Bob just a second, I'm going to let you talk, but not right now.

Mr. Alueta: Just for your information Mr. Chair and the members, you do have the ability to waive the parking at any time. I mean that's what you did today. So there isn't any - rather than doing waivers that's what the cash in lieu was an alternative to be able to get

some funds to do MRA projects relating to parking. And that was the whole impetus of cash in lieu.

Parking in lieu structure, we'll just move it along. I'm trying to get that RFP out as soon as I can finalize it.

Mr. Kawahara: What's the hold up on that?

Mr. Alueta: Me. I just don't have time. I have other projects to do so I'm just trying to get – do one and move on to the next. So hopefully I can sit down next week and finally bang it out.

Ms. Betts-Basinger: Do you think it will be done –? Can you give us –?

Mr. Alueta: Before the end of the year I promise you that.

Ms. Betts-Basinger: Fiscal year?

Mr. Alueta: Fiscal year, it gives me – fiscal year is next July.

Ms. Betts-Basinger: No. Our current fiscal year that we're in so we can encumber our existing funds.

Mr. Alueta: Yeah, that's June of next year.

Mr. Kawahara: But he's going to get that done by –

Mr. Alueta: I'm trying to get it done before the end of this calendar year. I mean get it out and get it to somebody to publish it. MRA expenditures – I gave you a data base. I worked with the person who keeps track of our tracking, and that's what you wanted I hope where you show what you expended money on and it shows you a balance at the bottom.

Mr. Kawahara: We have \$96,000 available. No.

Mr. Alueta: Yes. But you've got to minus – well she doesn't account for the 16% cut that we had to take. And then you have expenses paid account.

Ms. Betts-Basinger: Thank you Joe.

Mr. Alueta: All right. Does that work?

Ms. Betts-Basinger: Yes.

Mr. Alueta: So every month you'll get one of those.

Ms. Betts-Basinger: Mahalo.

Mr. Kawahara: Good job!

Mr. Alueta: That's all I have.

G. Wailuku Main Street Association, Tri Isle Main Street Resource Center Report Update on Project Involvement Relating to Projects Listed in the Wailuku Redevelopment Plan.

Mr. Kawahara: Item G – Jocelyn Perreira called me early in the week. She apologizes for not being able to make the meeting. However she has an illness, and hopefully she'll be at the next meeting.

Mr. Horcajo: John are you going to speak as President or Chairman?

Mr. Kawahara: John, you're hiding behind that column.

Mr. John Min: Good afternoon. I'm here really to represent the Wailuku Main Street Association. I'm Chairman of the Board. Jocelyn as you mentioned has a family situation today and wasn't able to attend. But she asked me to be here because of your interest in cash in lieu parking. And when I was with the Department back in 2002, this was one of the initiatives. Just as a little background, when I was Planning Director, we worked on the update of the Wailuku Redevelopment Plan, and that's the plan that you currently have that's sort of your Bible. Cash in lieu parking was one of the tools to expand parking opportunities in Wailuku Town. It's very much related to the redevelopment of the Wailuku Municipal Parking Lot property, and the development of a parking structure with additional parking. So all that was part of that program. Several months ago, the Mayor's ad hoc committee, which several of you here are familiar with, transmitted a resolution to the County Council requesting consideration of moving the Wailuku Parking Structure Project forward. I was informed recently by Chair Danny Mateo of the Policy Committee that they would not be taking that matter up this year. But there was an effort made to bring this matter of the Wailuku Municipal Parking Lot to the attention of the Council. The cash in lieu parking ordinance is a very key part of that in terms implementation and funding.

The other important consideration is a study that the County Administration is doing called the Wailuku Campus Study. And this is to look at properties in Wailuku Town and projected needs for County office space over the next 20 something odd years. And they're looking at a number of properties, including this property here, Kaohu Street and Waialae Drive

there's a baseyard. That's another property that's being looked at. The Wailuku Municipal Parking Lot is another property, and there's several others. I'm not sure where that study is today, but it's coming at the point where there's going to be a recommendation on what sites would be recommended for redevelopment or expansion of office space. But that's a key study in terms of where the Wailuku Municipal Parking Lot Study fits.

Our organization maintains that the Wailuku Municipal Parking Structure Project is important for the town, and should proceed. But I just want to provide you with a context of what other things are out there that are part of this consideration. We hope that relative to the cash in lieu parking ordinance that it be kept on your plate and not just swept off because we think that it has relevance for the future redevelopment of the town. So we have reviewed previous drafts and there has been some issues that we've had with some of the specifics and our organization would be happy to work with the MRA in providing our suggestions in crafting Legislation that we feel would be a benefit to the community. But at this time, we would ask you, don't just shelve it. Keep it alive and let's see where some of these other studies and initiatives go because like I said, we'll have a bearing on this matter. I'd be happy to answer any questions.

Mr. Kimura: . . .(Inaudible. Did not speak into the microphone.) . . .

Mr. Kawahara: Bob, you're going to get to speak. Just be patient please.

Mr. Horcajo: I guess my only comment and if you're going to hang around I'm going to talk next, I guess, about a meeting I had with another member here, and about doing surveys with merchants, landowners, and employees. And while it was more about physical items, I guess, maybe getting into policy might make some sense, like the landowners regarding what they think about the cash in lieu. So I'll guess talk about that little bit on the next agenda item. But the idea of getting the WMSA to look at the original draft and make comments, I mean, I think that would be important, and I think it would be for us here to also again take a good look at it, a hard look, and talk about it.

Mr. Min: Sure. Just to kind of add to that, I noticed in our correspondence that Jocelyn shared with me, we did provide comments on the 2002 draft bill for an ordinance. And there was another item in 2005, and I'm not sure whether that was the outline that was presented, or whether it was a draft bill for an ordinance. But we've provided comments on two separate occasions. But, yeah, we'll be happy to work with the MRA on that.

Mr. Kimura: . . .(Inaudible. Did not speak in the microphone.) . . .

Mr. Kawahara: I understand Bob.

Mr. Kimura: . . .(Inaudible. Did not speak in the microphone.) . . .

Mr. Kawahara: Bob, wait, wait. First, Commissioners, do you have any more comments or questions of Mr. Min? But it isn't a dead issue because we're going to carry this through and there's a lot of issues and I think it can take up a whole session. But I want the MRA to come a decision on this. And if we're going to, as I say, adopt this cash in lieu, that we decide how the money is going to be used and what the amount is going to be, you know, the legal process that we need to go through to adopt this thing. So, it is, unfortunately, that Mynah Bird Pub thing took way longer than we expected. But it is not a dead issue. Thank you John.

Mr. Min: Very good. Thank you.

Mr. Kawahara: Mr. Kimura. All right, you've got three minutes, and I mean three minutes.

Mr. Kimura: Thank you. I've got to go by 4:45. I've got to pick up my wife at 4:45 p.m. And I have my responsibility also.

Mr. Kawahara: You already lost 10 seconds.

Mr. Kimura: I figure this is the key – do I go through the old procedure?

Mr. Kawahara: No.

Mr. Kimura: My name is Robert M. Kimura. MRA contributor. The cash in lieu – I always feel cash in lieu was initiated – from the old to the new. You see, you folks don't know that. The person who know all about it is – have you consulted John Summers? He even brought the attorneys in to stop the construction of the promenade or whatever. Now how many more minutes do I have? Two more minutes. Now if you consult John Summers, he knows the beginning of it. He brought in an attorney in to stop the construction across the street because of the cash in lieu situation. The cash in lieu came into being because the old law died out. 280 parking spaces were allowed for any business person to come it. They said sorry, 280 free parking space for the parking area that was the old municipal parking lot was permitted. So they had to bring in a new law. At the same time they wanted to kill two birds at one time. Take all of the old requests, those people, business people, who were trying to get into the business section. Please consider this. I almost forgot it. Now you know what to do – consult with John Summers – he was there from the beginning of cash in lieu. And there was an old law – 280 spaces was gone – free spaces to allow –

Mr. Kawahara: Bob, are you favor or against cash in lieu?

Mr. Kimura: I'm only in favor of it that it doesn't belong in the MRA situation. I'll tell you how to get cash for the municipal parking structure, but we would be getting away from my three

minutes. You can talk to me privately if you want to. But the cash in lieu doesn't belong in the MRA situation. It belongs in the new construction areas.

Mr. Kawahara: That's what it is.

Mr. Kimura: Not the MRA area because that parking structure is in the MRA area. And now, if you want a new structure, you can not build it without the MRA – under the MRA laws.

Mr. Kawahara: Thank you Bob.

Mr. Kimura: You have the answer. All you have to do is contact John Summers.

Mr. Kawahara: Good. We will when we discuss.

Mr. Kimura: Give me some more time and I'll explain.

Mr. Kawahara: Thank you.

Mr. Kimura: I told you from the beginning that I only come up here if I don't have anything to contribute.

Mr. Kawahara: Thank you Bob.

Mr. Kimura: . . .(Inaudible). . .

Mr. Kawahara: Very good. Item H on our agenda, redevelopment area parking issue subcommittee. Bob? Thanks Bob.

H. Redevelopment Area Parking Issues (sub committee report)

Mr. Horcajo: You folks have read this I'm assuming, so I'm not going to read the whole thing. Basically, Katharine and I did meet yesterday and basically our focus of course is what I brought up before, you know, short term and long term parking options besides the municipal parking lots. There's been discussions about satellite parking stalls – they'll need it in the parking lot. We'll need it anyway when the parking structure happens. Joe brought up parking meters, changing the time limits from two hours back to one-hour on the street, and 12-hours from 6:00 to 4:00 in the parking. You know I suggested that one time about shared parking. In the development code it talks about not only creating cash in lieu but the shared parking ordinance. I said, hey look we've got apartment buildings, residents where they're gone all day, they went to work, maybe we can facilitate shared parking on those lots. But the plan is to do – I guess the plan in the second paragraph it says do

surveys. But we only would really want to get involved if we get a lot more people involved, of course, WMSA and especially the WCA. Because the merchants down there who make a lot of noise. I'm down there. I'm a merchant. I'm a land owner, and my take always been to those guys, you know, you've got to be part of it. So I realize it's a big task, but I feel that I'm willing to take on the task on getting that group with a little more merchants involved, landowners, and especially the surveys are going to force them to get involved.

So the first survey is an update on who uses the big parking lot. The second survey has to do with all of these options that I brought up and more to see what they say. The second survey may have more than one because one audience maybe just the employees of the merchants. The merchant owners themselves – the Richard Dans – and also the landowners – the (inaudible), the Norman Franco, the Kato's, the Ron Kawahara's, the Bob Horcajo's – and lay out the survey so by next month's meeting, hopefully, we're going to propose or bring forth surveys and just to go over the formats to be sure that – and make changes so that when it goes out, it's fair and we get the results that we want to be able to make decision and prioritize this body, aside from the municipal parking lot here, what other things can we do? Can we take the money from the cash in lieu or get money to re-stripe the mini-park so that we gain another five to seven stalls. But I wouldn't want to do it until the WCA supports it, not in voice but in body. They have to be out there in saying, you know what –. Or streets are for customers campaign – whether we can get them to say – every merchant just say, for this one week, I'll be sure that none of my employees park on the street and let's see what happens. Let's see how many vacant stalls we have on Market Street.

Ms. Betts-Basinger: Bob, did you guys discuss – you know I'm a firm believer in professionals, and to do all of this I think is great and I believe it should be done by professional surveyors, SMS or other organizations that do this. And we do have it in our budget, so is this something that you would to talk about hiring a consultant?

Mr. Horcajo: Yeah, good, if you read the last sentence, it says lastly, we briefly discussed whether funding might be needed at any stage of the process. So we'll talk about it and report on the issue as well. Now, we want to be sure that its done properly so we may start a draft format, get it out to whoever that maybe, get a proposal for cost – make sure that we do it right. I want to be sure that its done right. We both noticed you had \$10,000 in there for '010 to re-stripe Market.

Ms. Betts-Basinger: I have \$15,000 also for consultants.

Mr. Horcajo: Right. So we figured – that's why I made the note about potential funding needs – I'm not going to say much other than if you want to ask me questions. Hopefully by next month we have some surveys start reviewing for format and then –

Ms. Betts-Basinger: Well that's what I was going to ask, for next month, you could report back on professional firms that do this that you've consulted with and what they can do and what their costs are.

Mr. Kawahara: Very good. Maybe you want to not necessarily expand, but on the parking issue requirement is to identify lots, satellite parking lots that perhaps the County could acquire or lease.

Mr. Alueta: It's just that there is, again, I've got a whole room of studies, a whole room of plans. I don't have enough people doing stuff, except for me, and I think there's so many studies out there that already identifies, and I handed off one study that was already done, identifying all the vacant lots in Wailuku and even laying out parking. They even laid out how many stalls could fit on there.

Ms. Betts-Basinger: Can you share that with us?

Mr. Alueta: I did.

Mr. Horcajo: I have three of them.

Mr. Kawahara: Really?

Ms. Betts-Basinger: You want to share with the rest of us?

Mr. Alueta: I turned it over to the subcommittee.

Mr. Horcajo: You've got to ask.

Mr. Alueta: I turned it over to the subcommittee as I was –.

Mr. Horcajo: Some of them have already been built upon of course.

Mr. Alueta: As well as the contracts that you have – well I should say the contracts that the Department has with the Wailuku Main Street Association, for Jocelyn's group, we give them lots of money and part of that is studies.

Ms. Betts-Basinger: Well those studies we've been asking for too.

Mr. Alueta: And so have I. Hopefully, to me, we don't need to reinvent the wheel. A lot of these studies plans already exists. It's just a matter of digging them out, organizing them and putting them in the right hands of doing them.

Ms. Betts-Basinger: I agree, and perhaps we need a consultant that can do just that. Go through all the studies.

Mr. Alueta: Not \$15,000. Heck I'll do it for that.

Mr. Kawahara: Joe, this is why it's so important that you continue to be the liaison because you've got the history. We wouldn't have known that. I mean, you were asking for – when we were in the process of hiring a full-time manager to identify all the lots we could use for satellite parking, and low and behold there's already a study.

Ms. Betts-Basinger: I know he had it. That would be part of this person's job, to gather it all together.

Mr. Alueta: Again, I'm not planning on – I will be here even with our Small Town Planner. I mean, she's going to be doing about 1/3 to 1/2 for MRA. But as far as being here, I'll probably be here for the administration.

Ms. Betts-Basinger: Thanks Bob. Thanks for the time you guys spent together.

Mr. Horcajo: And by the way, I do agree that a Small Town Planner, if given, if having reviewing these past studies from GYA and Chris Hart and Mike Munekiyo and Jean Wilson or whatever, it's all there.

Mr. Alueta: Jean Williams.

Mr. Horcajo: Someone just has to –

Ms. Betts-Basinger: Some of it is a little outdated.

Mr. Horcajo: – but still, for our purpose, the survey was more just get a general or broad concept. Because the bottom line is if you read the old studies, Group 70 said if there was built out in Wailuku based on the zoning, we need 1,100 stalls. The municipal parking lot is 386. It's no where it's going to cover other than what was proposed at the time that study was done. So we have to look beyond that and that's always been my point, you have to look beyond the municipal parking lot. There's got to be other parking lots scattered around Wailuku aside from the County and State where they park, otherwise, you know, it doesn't make any sense.

I. Discussion on FY 2010 Budget

Mr. Kawahara: Item I, 2010 fiscal year budget. Alexa?

Ms. Betts-Basinger: I passed out to all of you, the Mayor – Mayor and I met at our monthly meeting. We missed Ron very much, but we had a very productive meeting. And at the meeting she requested that we actually send her our proposed budget and so I passed out to all of you a draft letter. With your authorization, I'll forward it to the Mayor. She also had some very good news about the municipal parking lot. Can I report about your meeting with the Mayor? It's not on the agenda, but it relates to our regularly monthly meeting that covers all the subjects.

At that meeting, we talked about the RFP of course, and I know that she had it for a while and now Joe is going to finish that up. She asked that we give her our budget because time is getting short which we have before us right now. But the big news was that she and Jo Ann Inamasu went up to visit EDA yesterday requesting \$800,000 for the municipal parking lot, and I'll pass this around. This is her letter that she shared with us to Gail Fujita from the Economic Development's US Department of Commerce, and I'll just turn it to the page on how much she's asking. And in fact, it turns out that we've been asked, the County of Maui have been asked to submit more than just for the parking lot. Also for another project which is the – I'm going to mis-speak here – but it's money for a shelter, you know, like a disaster shelter. But it's \$800,000 for the municipal parking lot, and I sent out tons of good spirits yesterday at 11:30 a.m. when she was making her application. And so we wait patiently to hear results when she comes back. But that is evidence of her support of the municipal parking structure. And she further clarified her support of the MRA. Now regarding who the municipal parking lot coordinator, whose money comes out of our budget, reports to, that person will be working within the Planning Department, but will be focused on our mission which the municipal parking lot. So she gave me a sense of confidence that there's not a disconnect between this new person and the MRA. We will not be that person's day to day overseer which we never wanted to be to begin with. But this person will work very closely with us. And she did.

Because my meeting with the Mayor came the day after Bob and I met with Danny Mateo because we too heard that Danny Mateo had some concerns with the resolution that the Mayor's Task Force has put forth. And I'll let Bob talk to that meeting with Danny Mateo, but my general sense of it was that it was kind of just a misunderstanding which had a lot to do with this study that's being done. And, you know, Council doesn't know what Administration is doing. And so it's not that they don't want to know, so he highly recommended that we go ahead and give our presentation to Council. He said plan it as soon as possible. Come, do it. You know, he wants to hear it and he said the Council wants to hear it. So the next day when I met with Mayor, I said that. I said, you know, they want us to make our presentation. She said that's a really good idea. Plan to do it in February. And she wants to update the template that was done by the Task Force, the power point template. She'd like to see it beefed up a little bit with more photos similar to what they're taking up to EDA. So I think that's our task between now and the next meeting to call for another stakeholders meeting to update everyone and the stakeholders meeting

about the reso – to get rid of all the confusion between Council and Administration, and the Munekiyo & Hiraga study, and all of that. So that's the first thing we need to do, and I don't know who needs to call that meeting. Bob, do you? An update meeting?

Mr. Horcajo: Yeah. I can suggest to the Mayor's Office as I did in the beginning when we set the thing up to get – suggest to the Mayor to set a date because – we made it so it came it from her office anyway. So I will do that.

Ms. Betts-Basinger: Let's do that. Have an update.

Mr. Horcajo: Suggest the first part of February.

Ms. Betts-Basinger: No. Sooner than that because –

Mr. Horcajo: I thought you said she said February.

Ms. Betts-Basinger: Mayor would like us to present to Council in February, and so does Danny Mateo.

Mr. Horcajo: I see.

Ms. Betts-Basinger: So we just want to have like an update meeting for the stakeholders.

Mr. Horcajo: For the stakeholders, yes, I'm sorry.

Ms. Betts-Basinger: Yeah, about the resolution.

Mr. Horcajo: Right. Yeah. Sure.

Ms. Betts-Basinger: And hopefully by that time we'll have a little bit more information on the Munekiyo & Hiraga study which actually the municipal parking –. What this study does and what they were instructed to do was simply to identify the large parcels of property in Wailuku to figure out how the County can grow into them, how the County can best use them with an idea for their own space planning, office buildings that they'll need, and et cetera. And so naturally, the municipal parking lot property became part of their study because it's a big parcel of property. This study is not complete. Danny Mateo has not seen even a draft. We have a draft, so maybe we can get copies made of this.

Mr. Horcajo: Can I get a copy of that?

Ms. Betts-Basinger: Okay, of the draft. And so unless there's questions, I think that does it. I had a good feeling about it all. I have good thoughts about the EDA money because

the County was solicited in large part for this, and \$800,000 goes a long way. You can't keep it.

Mr. Horcajo: I guess you had mentioned --. I have two comments. One is on the meeting with Danny Mateo. I mean, while he said the reason he filed it was because maybe the response he got from the Planning Department regarding the Campus Plan and its relationship to the municipal parking, I think it's deeper than that. There's a lot of issues that's between Administration and Council, and this is just -- Moloka'i Ranch -- he's got a lot of things with the lack of communication and that just happens to be the latest that for maybe for me, Mr. Mateo chose to kind of take on. So for me, it's just the way it is. But I just want to mention one more thing and this is just for a broad, for you guys to think about, and I brought it up to Alexa the last time we spoke, and this is just I'll make it short, but for me, a big part of this situation with Administration and Council and maybe the MRA not having any power is that that's just the way we are. We only have five people and for the Council to give us the right to control money would be very difficult. They got elected -- they can say by the people. They are the ones that should be the only ones that hold the (inaudible). So my thought has been -- my suggestion is when you look at the HCBA on Oahu, the make up of that board consists of State Budget Director, State Planning Director -- there's government officials on that Board, and they funds, they have assets. And for me, if government officials or whatever, County in this case, Council representative is part of the MRA or whatever you want to call, then there can't be any argument about well I didn't know, I don't know what you guys are doing at the Administration level or the Council level. So that's all I'm going to say. Really, for me, I'm really looking at long term, for the MRA to really make headway, we may have to propose to the Mayor and the Council that hey let's look at the HCBA, let's bring your representative over, let's learn how they operate. They have their own statute -- HRS 206E that says this is what you do. It's different from Chapter 53. Same thing, but much more powerful and they control money. They have government involvement every step of the way in making decision. It's food for thought. Get on the internet and look at what they've got. Look at their budget.

Mr. Alueta: That was State.

Mr. Horcajo: It's the State. But I'm just saying that --

Mr. Alueta: It's not County.

Mr. Horcajo: But my point being they are regulated by an HRS. We could do the same thing. For me, the MRA as it is written only points to Chapter 53. If we had what's in Chapter 53 or more in our County Code, we'd have a lot more power. And if we had more government officials involved with MRA, I'd be gone, but at least for me that's how the MRA grows to go even beyond Wailuku Town.

Ms. Betts-Basinger: Well you have the same questions that lots of new people learning about the MRA have, and it's part of the ability to operate independently in order to affect our mission and being stifled all these years. So I agree with you and I think we have money in our budget to start putting together whether it's examples of other redevelopment agencies across the country that have succeeded, or if it's an example of what's happening on Oahu. I think that there are ways that we can convince the people you're talking about. However, that's our job. We have to get in front of them. We have to gather the information, and go to them and give them presentations, and talk to the Council Members, and talk to the Mayor and Planning Director. And I agree with you, bring in their consensus. So we have a budget that will allow us to do that and get started with it. So Mr. Chair if you want to like have a committee that –

Mr. Kawahara: Well, I agree and I think Bob your comments are – how shall I put it – highly desirable but probably impracticable because I don't know that the MRA, through the State or the County, would give us more authority is a practical matter. So what I tried to do and I finally got to realize that was to set up monthly meetings, preferably monthly, with the Mayor and with the Planning Director and with the Council people. Having no more than two commissioners meet with them on a periodic basis, and to give them an executive summary, which I apologize I did two of them and then I got tired. Not tired, I just ran out of time. But I'm going to do an executive summary. The way I've got to do it not accumulated because then I get –. I'm going to do one for this meeting. But I think that's what we give, a one page – hopefully it's not more than one page – a page and half summary, 15 minute meeting with the Mayor or the Council people just to keep the name MRA in front, so when we go up before them it's not like you pointed out. What is it? Where no communication. We want to establish that because that's how you get involved in the political process to get the things done that we need to have done. So the monthly meetings with the Mayor. We had a meeting with Jeff Hunt. And I told Jeff that I wouldn't necessarily meet with him every month, but only if we had something substantial that he needed to be informed. And, you know, I agree that that's something desirable to work for, but in the mean time, we can certainly educate the Council people.

Mr. Horcajo: And I agree, and that's what I was going to say. Let's not forget Mike Victorino, who I every time I see him, he says, you know what, I really want to see this thing go up. Yeah, as long as we speak as one voice here, and get organized and educated before we speak that's all I care about.

Mr. Alueta: If I heard you correctly. I think it's a good idea that you want to have some of the board members or the board be made up of government official. I mean, have a Council Member and someone like that.

Ms. Betts-Basinger: Some redevelopment agencies are structured that way. Some redevelopment agencies, the entire board, is the Council. I remember in our case, our

County Council does not just handle the first strings, they make policy. So one of the ways that we can help move our projects along is by writing our own Legislation or Resolutions because that gets held up often. In fact, I was told by Danny Mateo that our Resolution that went from the Task Force was not in correct form. So Mayor suggested that we go to Council Services and ask them to help us word it correctly. But in all of these ideas that we have, to bring in revenue, to keep our operation going, they all start with an Ordinance, a Legislation that says the MRA is going to receive .5% of all the property taxes in their bounded area. It has to start with a law, so we need to be working for those things as well.

Mr. Horcajo: . . .(Inaudible. Didn't speak into the microphone.) . . .

Ms. Betts-Basinger: Otherwise nothing gets done. Nothing gets done.

Mr. Alueta: Your topic that you were discussing was actually I. So was there a motion or did you want the board to make a motion?

Mr. Kawahara: I make a motion that we adopt Alexa Betts-Basinger's letter on November 14th to the Honorable Charmaine M. Tavares concerning the MRA's budget.

Mr. Horcajo: I second and discussion. The \$10,000 for re-striping. Was that re-striping in its existing layout?

Ms. Betts-Basinger: Well you know it's broad. It could be re-striping, re-timing. It's what we have the capacity to do. For example, to re-time, to change the configuration from two-hours to have more two-hours, less ten-hours, it requires an ordinance. So within that, we're going to need to hire someone to write that ordinance.

Mr. Horcajo: No, no, it says re-striping \$10,000.

Mr. Alueta: But he wants to –

Ms. Betts-Basinger: Right. I didn't just mean just re-striping \$10,000.

Mr. Horcajo: Okay, good.

Ms. Betts-Basinger: I can expand that, and I will.

Mr. Horcajo: If you can because for me if it's just re-striping, it's Public Works function. If it's like, you know, like I suggested, re-strip with angled parking to potentially get more parking, that involves a study.

Ms. Betts-Basinger: How about re-striping or re-configuration? Re-striping or re-

configuration.

Mr. Alueta: A study for a new layout to increase parking stalls in the municipal parking lot.

Ms. Betts-Basinger: I want to say also that this is also a budget that remains the same. It doesn't take into account the fact that all Departments and all programs are probably going to have to take a bite. And so there are some things in here that we could probably not do, like re-stripping, but still be able to do the rest of it.

Mr. Horcajo: Yeah, I'm just wondering, Council, whether if we say \$10,000 for some thing and we want to re-use it for something else. Is that a big deal?

Ms. Betts-Basinger: That's why you want to keep it broad. But this would be in the Mayor's budget.

Mr. Horcajo: Well, this is not broad. So what ever we say, I want to be sure it's broad enough that we can use it for something other than –

Mr. Alueta: Broad budget –

Mr. Kawahara: Why don't we just call it parking lot reconfiguration.

Ms. Betts-Basinger: I think it would be just \$10,000 for the MRA is how the line item would read under Planning Department.

Mr. Horcajo: What about short-term parking solutions? Does that make sense? That means we may end up getting into re-stripping the mini park or something.

Ms. Betts-Basinger: I don't think the Council is going to see this deal of a breakdown.

Mr. Horcajo: That's my only point. As long as –

Mr. Alueta: They can or they can't. But from the Planning Department, ours is just \$84,000 MRA.

Ms. Betts-Basinger: Right. So Mayor simply wanted to see what our intentions were.

Mr. Horcajo: So what about short-term parking solutions? Is that an option? Or study or something short term?

Mr. Kawahara: Just put reconfiguration of parking lot slash –

Ms. Betts-Basinger: I have parking solutions study under —. So under that \$10,000 I wanted it to be under something that could be physical — beautification — even if it's weeding the municipal parking lot. So that's why I started with the idea of re-stripping. But yeah, magnify that or broaden it.

Mr. Kawahara: Just put comma, reconfiguration, comma — what — short term.

Ms. Betts-Basinger: Short term use.

Mr. Horcajo: Short term parking strategy solutions.

Mr. Kawahara: Short term parking strategy solution, et cetera.

Mr. Horcajo: And Joe just out of curiosity, we had talked about this briefly last week, when the — I wish what's her name was here — Yuki but — isn't the contractor on the Market Street improvements required to maintain the trees for like a year or something before either Public Works or Park or we decide we take over maintenance? And if you don't know, is that something you can check on?

Mr. Alueta: Yeah, I just didn't have time. I was going to find out exactly. Again I mean we're here in the coconut wireless and different rumors that we hear. And then I talked to John Summers about it, over the contract, and he said no, they're suppose to put in — they're putting in the irrigation into the tree wells. And he said, they're suppose to put in the trees and everything.

Mr. Horcajo: And I thought they are maintaining it for one year or something.

Ms. Betts-Basinger: They are —. No. When Yuki testified before us, we asked that specific question, and the answer was no. That their contract ends at all the installation of the trees et cetera, but not the maintenance. So it was at that time that this body decided well that's something that we would want to put into our budget.

Mr. Horcajo: So this \$3,000 for beautification contracts does that involves just the trash pickup, but involves the tree maintenance as well?

Mr. Alueta: That would only cover trash. That would only cover trash at this point. So you would have to move something.

Ms. Betts-Basinger: We can move some of that \$10,000 money up to maintenance.

Mr. Horcajo: Sure. Okay. If we have to. That's what I'm saying, if we can move stuffs around because it's just within our budget of \$100,000.

Mr. Kawahara: We can do anything we want. We have to full cooperation with Mr. Giroux and Joe Alueta. I don't have a problem with that.

Mr. Alueta: I mean for us, this is good for giving the Mayor an idea as long as she doesn't –

Ms. Betts-Basinger: I'm giving you guys an idea.

Mr. Kawahara: Anyway, I'm going to call for the question. All in favor of the motion, please say aye. Oppose, ney? It's carried unanimously.

It was moved by Mr. Ronald Kawahara, seconded by Mr. Robert Horcajo, then unanimously

VOTED: To approve Alexa Betts-Basinger's letter to the Honorable Charmaine Tavares, regarding the Maui Redevelopment Agency's Budget.

Ms. Betts-Basinger: While we're on the subject of budget, I want to submit on the record – and I guess I can pass a copy to everybody – but I have been personally paying for our MRA Website hosting charges.

Mr. Kawahara: I don't think we need a motion. Just submit this and get reimbursed.

Ms. Betts-Basinger: Pass this down. Do you want a copy?

Mr. Kawahara: We don't need it.

Mr. Horcajo: No.

Ms. Betts-Basinger: But it gives us an idea of what that part of it is, which is not very much.

Mr. Kawahara: What is Host Net Quo?

Ms. Betts-Basinger: Those are the people that host our MRA.

Mr. Horcajo: The ISB.

Mr. Kawahara: I see. That's for the website.

Mr. Horcajo: Is this annual by the way, \$50?

Ms. Betts-Basinger: No, I think that's – does it say quarterly?

Mr. Horcajo: I'm only saying because for my computer, you know, I have like eight websites, I think I pay like \$34 for two years.

Ms. Betts-Basinger: This February, May, August.

Mr. Alueta: It's not hosting. I think it's registration probably – website registration or hosting?

Mr. Kawahara: No that's the domain name registration. Hosting would run –

Mr. Alueta: Hosting would cost you more money.

J. Setting of the Agenda

Mr. Kawahara: All right, so let's set the agenda.

Mr. Alueta: A, B, C – and you deferred B.

Mr. Kawahara: So A, B, C, D if we're going to have any.

Mr. Alueta: Yeah, D, if you have any.

Mr. Kawahara: And then F will be the same.

Mr. Alueta: Yeah.

Mr. Kawahara: G will be the same.

Ms. Betts-Basinger: Well I'd like to add to F any response – that if we hear anything about the Mayor's success at the Department of Commerce, would that come under your report Joe?

Mr. Alueta: Yeah.

Mr. Horcajo: Yeah, that will be update on Wailuku Municipal Parking Lot.

Mr. Alueta: Yeah, I'll update on that.

Ms. Betts-Basinger: Thank you.

Mr. Kawahara: H will remain the same. I think we need to add – H should just be subcommittee reports, and under that will be the redevelopment area parking committee and report on meeting with various government officials. All right. Any other items? I think that's pretty comprehensive. Wow, almost 4:30 p.m.. The first meeting I attended lasted until 5:00 p.m..

Ms. Betts-Basinger: And we had a hearing.

Mr. Kawahara: Yeah, we had an intervener. Look at the turn out. It's wonderful.

Ms. Betts-Basinger: You want to adjourn?

K. NEXT MEETING DATE: December 19, 2008

L. ADJOURNMENT

Mr. Kawahara: Meeting is adjourned at 4:30 p.m..

There being no further business brought forward to the Agency, the meeting was adjourned at approximately 4:30 p.m.

Respectfully submitted by,

LEILANI A. RAMORAN-QUEMADO
SECRETARY TO BOARDS AND COMMISSIONS I

RECORD OF ATTENDANCE

Members Present:

Ronald Kawahara, Chair
Alexa Betts Basinger, Vice-Chair
Raymond Phillips (from 1:10 p.m. to 4:30 p.m.)
Katharine Popenuk (from 1:05 p.m. to 3:30 p.m.)
Robert Horcajo

Others:

Joseph Alueta, Administrative Planning Officer
James Giroux, Deputy, Corporation Counsel