

**MAUI REDEVELOPMENT AGENCY
SPECIAL MEETING
JUNE 24, 2009**

APPROVED 09-18-09

A. CALL TO ORDER

The regular meeting of the Maui Redevelopment Agency (Agency) was called to order by Ms. Alexa Betts Basinger, at 2:00 p.m., Wednesday, June 24, 2009, in the Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

Ms. Alexa Betts Basinger: Calling to order the MRA special meeting of June 24th 2009. We have a one item working meeting today which is the continuation of our cash lieu work. And so this meeting is called to order. Chair recognizes Warren Suzuki, Katharine Popenuk, Robert Horcajo; staff Erin Wade, Leilani Ramoran, and what's your name? James Giroux, Counsel. Did everyone have an opportunity to read the May 27th meeting minutes? I don't remember them. What meeting was that about?

Ms. Erin Wade: That was the cash in lieu.

Mr. Warren Suzuki: That one was e-mailed.

Ms. Betts Basinger: Yes. Yes. Do I hear a motion?

B. APPROVAL OF THE MAY 27, 2009 MEETING MINUTES (via email)

Mr. Robert Horcajo: Motion to approve.

Ms. Katharine Popenuk: Second.

Mr. Horcajo: I have a discussion on it.

Ms. Betts Basinger: It's been moved and seconded to approve the May 27th, 2009 meeting minutes. Discussion.

Mr. Horcajo: Just a question. It's on page two, second paragraph. What it says is that the second requirement is that the ordinance proposed – this is by Ron – “that the funds be put aside in a special – the MRA put the funds aside in a special fund for a specific use which is parking. I feel they should be put in the General Fund of the MRA.” I guess that makes sense. I'm sorry.

Ms. Wade: It doesn't make sense to me.

Mr. Horcajo: I thought it was the General Fund of the County, right? It's correct.

Ms. Betts Basinger: Any other discussion members? All in favor of approving the minutes say aye.

Agency Members: "Aye."

Ms. Betts Basinger: Opposed? It's unanimous. Thank you.

It was moved by Mr. Robert Horcajo, seconded by Ms. Katharine Popenuk, then unanimously

VOTED: To approve the May 27, 2009 Maui Redevelopment Agency minutes as presented.

- 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.**

- D. DISCUSSION on submitting a bill for an ordinance amending Chapter 14.72, Maui County Code, Relating to needs assessment study relating to Parking Assessment Fees. The amendments establish a cash in-lieu of parking program as a method of providing parking within areas designated as the Wailuku Redevelopment Area by adding a new section which establishes the following:**
 - a. Purpose**
 - b. Intent**
 - c. Applicability**
 - d. Criteria for MRA review and approval of applications for cash in-lieu-of parking.**
 - e. A review process for applications for cash in-lieu-of parking.**
 - f. Requirements for cash in-lieu-of parking.**
 - g. A methodology for calculating cash in-lieu-of parking fees.**
 - h. Fee**
 - i. Payment options and related costs, parking entitlements and provisions for the deposit of funds.**
 - j. Parking entitlements**
 - k. Deposit of funds**

Ms. Betts Basinger: Moving on to Item C, public testimony. Is there anyone wishing to give

public testimony? Seeing none, we'll close the public testimony portion of the meeting. Move directly into discussion, Item D, discussion on submitting a Bill for an ordinance amending Chapter 14.72 of the Maui County Code in relation to cash in lieu. We're going to follow the exact – (a) through (k) – that we started out on. And in a minute, I'm going to turn this over to Erin so she can go through the summary of requested changes with us. But it was my expectation that at this meeting, we're just going to roll up our sleeves and go through each section, make our input, and give it to our wonderful staff to write up the ordinance. So if everyone agrees with that process? Good. Seeing so, I'll now turn this over to Erin to talk about her summary.

Ms. Erin Wade: Thank you. The summary recommendations that came out of the first discussion from the May 27th agenda are at the top that we need to pull together a formal needs assessment which documents why we would want to do this, and what the cost of the construction of the parking structure and surface parking lots would be and then what the breakdown and the burden of cost would be per space long term. So this is actually, I think, something that we're going to have to come back to and discuss in a lot more detail later. Right now, Waltery Design is doing an updated cost estimate for us for the parking structure, just so we've got a number that we can work with that's in realistic present day construction cost. The thing that we are going to have to grapple with then is what will be the burden of cost and how will that be broken down. So at this point, we know we have Federal dollars, the County has committed some money, but the development and users is the portion that we're going to have define a lot more clearly as time goes on as the MRA. There hasn't been hardly any discussion about what is the user cost as far as I understand it with the MRA to date. So it can be none, you know. There can be free parking, but this is the potential breakdown of finances. So once we get the cost estimate updated, we can pull together the needs assessment and this is something we're going to have to come back to. Which is why this discussion on fees which is at the bottom, I asked Alexa if we could postpone this discussion for a later agenda until I can give you folks some real numbers to deal with because it's hard to develop a structure when you don't know what dollar we're talking about.

Ms. Betts Basinger: One comment to that Erin. I agree that when we get to the nitty-gritty of discussion, we are going to put it off. But I think, today, as we go through it, and we get to the fees, I think we can have conceptual discussion about alternative ways of assessing fees.

Ms. Wade: That's perfect because the way I've structured this discussion on fees was maybe three different ways from very simple, to very complicated approach, for how to structure charging for the parking waivers. And we can do anything in between, but these are sort of the three ways that I've seen it done before. Then in – were there any comments, I guess, on the needs assessment at this point? That something that we don't have.

Ms. Betts Basinger: We do have – we were presented at the last meeting with a Wailuku Municipal Parking Lot Master Plan report and future parking needs projection for the area, and Wailuku Municipal Parking Lot Usage Study. Are these documents – I assumed all of these documents were a part of that needs assessment rationale.

Ms. Wade: Yes. Exactly. So basically what the Planning Department – and this is Joe's project – so since he's on vacation, I kind of got up to speed quickly, but he will ultimately be the one doing the drafting for this. He will be drafting the cover letter and introduction which explains the content which will be those three studies you just pointed out, and then the updated cost assessment. And behind that, it might have some recommendations for how to breakdown per parking stall that would then lead right into the ordinance.

Mr. Horcajo: Chair, question I guess. Excuse me, I guess, I have a question about the study. Well, I guess, my question is as far as, you know, these website that you e-mailed to us, I guess, through Chair here, it seemed like, maybe, a couple of them, whatever the cost of the stall was, including the land base or not, some of them just took a percentage of that cost, like 50%.

Ms. Betts Basinger: Bob, could we hold off until we get to that spot on the document, and then have a full discussion?

Mr. Horcajo: Okay, yeah. Excuse me.

Ms. Betts Basinger: Thanks.

Ms. Wade: Was it something about the needs assessment?

Mr. Horcajo: Well, that's what I was heading to. Is that something that Waltery is going to be involved with, or just something through the Planning Department? You guys giving us advice.

Ms. Wade: In terms of the breakdown, we probably won't give you specific advice because it's going to depend on the burden of cost per agency or user. But, the total cost, we'll have a good idea of. We had initially based the discussion of the cost, 1/3 County, 1/3 Federal, 1/3 developer. That's my understanding of how they developed the cost per space.

Mr. Horcajo: I didn't know that. Okay.

Ms. Wade: So ultimately, though, it might not pan out.

Mr. Horcajo: Okay.

Ms. Betts Basinger: Anything else Erin?

Mr. Suzuki: Question.

Ms. Betts Basinger: Yes? Warren?

Mr. Suzuki: What's the approach that the consultant is going to take in doing the needs assessment? Do you have any idea? I mean, how are they approaching it in coming up with the final recommendation?

Ms. Wade: Well, right now we're not going to have a consultant do the needs assessment. We're just going to use the studies that we already have with the updates and the cost of estimate. So the cost estimate, Joe would have to tell you how they're coming up with that rationale. It was updated fairly recently when the Mayor and Jo Ann Inamasu went to the grant for the funding. So we don't think it's too far off, but it can use a little bit of updating based on current trend.

Mr. Suzuki: What is Waltery going to be doing?

Ms. Wade: They did the initial design, the preferred alternative for the parking structure.

Mr. Suzuki: Oh, it's on the structure itself.

Ms. Wade: Right. The parking structure.

Ms. Betts Basinger: And when we get to that part, members, we'll talk about this more in debt because it may be that the cost estimate per stall of a municipal parking structure is not the limiting factor in establishing the fees, so let's not think that that's the only way we can establish fees. Anything else Erin?

Mr. James Giroux: Can I add just for clarity?

Ms. Betts Basinger: Yes counsel.

Mr. Giroux: I'm looking at the Code, and I'm looking at the HRS. So the Department is agreeing that we do need a needs assessment study and that that has to be approved by Council.

Ms. Wade: I didn't know that piece.

Ms. Betts Basinger: If anyone would look at – again this is what we passed out this morning. And then attached with that, this is the parking assessment fees and the State

law that James just passed out. And you'll notice that in the Bill, in the proposed ordinance, they are calling it 14.72.030 which is meant to be added. This is 14.72.030.

Mr. Suzuki: Alexa I wasn't at that May 27th meeting. Is there a copy of the Bill?

Ms. Wade: Yes.

Mr. Suzuki: Because I don't recall seeing it my packet.

Ms. Betts Basinger: Did you get your packet mailed to you. I don't know if it was in the packet. Was it in the packet or handed out?

Mr. Horcajo: So James, as far as the Council approving the needs assessment, are you saying that should be done before they address this potential ordinance or can they be done at the same time?

Mr. Giroux: Well, the language, the way it reads, half way through paragraph A, 14.72.020 (a), and if you go about, looks like about four or five sentences down, it says pursuant to a subsequently enacted ordinance providing for the imposition of a parking assessment fee. That always gives me the inclination that there's a two step process.

Mr. Horcajo: Sorry, where are you reading? Excuse me?

Mr. Giroux: Maui County Code –

Mr. Horcajo: Oh, that. Okay.

Ms. Wade: Do you have that Bob? Chapter 14.

Mr. Horcajo: I don't know. I guess I do. Yeah. I'm sorry.

Mr. Giroux: And that language is consistent with the HRS, Hawaii Revised Statute 46-141, where it talks about the authority to impose impact fees.

Ms. Wade: May I ask a question?

Ms. Betts Basinger: Erin, yes?

Ms. Wade: Would this, then, be the time to set up that special fund that Ron Kawahara referred to? Can we do that at the same time as the needs assessment?

Mr. Giroux: Let me see, under 46-144, it says upon collection, the fees shall be deposited

in a special trust fund or interest bearing account. The portion that constitutes recruitment may be transferred to any appropriate fund. So I don't think – I mean – you probably can talk to Kalbert about setting up a special fund, but I don't think that there's any issue about timing. I mean, as long as there's –. I know that there's a lot of like all the funds have a number, so as long as that number is created, Kalbert could probably give you a little more detail on how they can process that. Because we went through the same process for trying to pay for the – the first time we tried to pay for the manager, we created a special kind of –. It was pretty tricky, but we kind of just punt it and let Kalbert figure it out.

Ms. Betts Basinger: So, James, help me here. So what you're asking is whether or not 14.72.020 and 010 have been codified by the Council already?

Mr. Giroux: Well, whether or not we're meeting the County Code and that State at this point is –. I'm looking at the issue of needs assessment and whether or not the Council has approved that needs assessment study. And the issue was brought up, does that need to be done first, and can it be done simultaneously. And I'm reading the language as subsequent which kind of leads me to believe that you've got a step one, step two. It maybe at the same day, but you want check. You know, the way the Council takes up, might be as an agenda item one, agenda item two.

Ms. Betts Basinger: So you checked and this has not been before Council?

Mr. Giroux: That's why I'm bringing it up.

Ms. Betts Basinger: Okay.

Mr. Giroux: I want staff to verify, you know, what is the position of the department? Because what I got was we have a needs assessment, and from me sitting around, being, you know –.

Ms. Wade: It's not a needs assessment.

Mr. Giroux: I recall a meeting with Francis Cerizo where he was asking for review of an ordinance that would set aside monies for a study to be done. And when he was talking about the study, he was talking about Paia, he was talking about Lahaina, and I mentioned on the record, I said, you know, the MRA is going through this right now, is that in your budget? I mean, is that in your thing, and he kind of took aback, and said, well, I'll go look into it. And I said, well, wouldn't we, the MRA, need to do that same study, wouldn't it be logical to put us in there? And so I never got a response and I think that's something we can check up with the Department because my understanding is that they are going forward with some type of study for Paia and Lahaina. But this ordinance also includes Wailuku also.

Ms. Wade: Right.

Mr. Horcajo: So lastly I guess. So are we saying that the previous needs assessment that was done before did not go through Council?

Ms. Wade: It's actually not been deemed a needs assessment at this point. All of the studies have been provided to the Planning Department, and we're going to put them under one cover, is my understanding from Joe. But no, that has not.

Ms. Betts Basinger: Okay, Erin, this is really important. I mean, we're going to continue with the writing of the ordinance, but thanks James.

Mr. Giroux: You're welcome.

Ms. Wade: Well, that actually leaves me to another question. Given that this (b) says that the study is going to include these other towns, do we need to put for our 14.72.030 in our purpose statement, something about this being for Wailuku only? In the intent maybe or in the purpose?

Mr. Suzuki: Yeah, you have to.

Ms. Betts Basinger: Well, it does later in the ordinance, restrict it to just the MRA boundaries, so I think you're right.

Ms. Wade: So, if other communities did this, they would have basically the same language and structure, but it would be just for Paia, or just for Makawao.

Mr. Giroux: Yeah, if you look at the traffic impact fee ordinance, 14 point something-something, because the way the State law is set up is you have to have impacted areas. And so once those are defined then the monies collected have to be used in that area. So if you do a study for Lahaina, then you delineate the boundaries of that study and then the monies collected have to be used in that area. So you would have another ordinance, you know, the Lahaina fee.

Ms. Wade: I see. Thank you.

Ms. Betts Basinger: Can you check and see if we could maybe get into this study that's already being –. Have they've already been RFP'ed and awarded?

Mr. Giroux: That's what I wanted to know. I don't know where, what stage they're at, if they went out and asked for a bid for somebody to actually start doing.

Ms. Wade: Is that the Planning Department?

Mr. Giroux: I think so. My understanding was Francis was the one.

Ms. Betts Basinger: The other thing is this ordinance that we're hashing out today which would become 14.72.030 of this Code is really just for a portion of Wailuku, and that's the MRA bounded area which operates – we operate under our own kind of –. I mean, I'm wondering if this isn't even germane to MRA district.

Ms. Wade: Wailuku Redevelopment Area, as it's stated in the purpose, I think, defines that because it's actually not called the Maui Redevelopment Area. It's called the Wailuku Redevelopment Area.

Ms. Betts Basinger: Right, and this, Chapter 14.72, does not specify the Wailuku Redevelopment Area, so maybe we're exempted, you know, we're outside of this.

Mr. Suzuki: That's still Wailuku though.

Ms. Wade: Yeah, I mean, I suppose we could do it separately. I think by having Wailuku in there, in general, it offers –. Let's say the Millyard wanted to do their own cash in lieu investigation, and they could do that under the guys that you can do this in Wailuku. It wouldn't be under the Wailuku Redevelopment Area, it would be separate. But we fall under the same Wailuku umbrella. Would you say that's true?

Mr. Giroux: Yeah. The way I'm looking at it is that we are setting up an impact fee. We are looking at Chapter 46 for guidance in doing that because we're actually asking the County to set up an ordinance – that wheel under our rule making would administer. So we're going from taking the State law, asking the County to come up with an ordinance, and then after that ordinance is created, then under Chapter 91, we could create our rules to administrate, and then, you know, the MRA would have more control over that. But you have the legal frame work already set out in the County Code that says, yes, the County can exact a fee, but that fee goes, you know, to the MRA.

Ms. Betts Basinger: Well that's pretty important. Go ahead Warren.

Mr. Suzuki: I'm still a little bit confused with the whole approach that's been taken. You know, I agree that having in place a clear and concise needs assessment is very important because then that goes to the crux of your ability to us assessing the impact fee. Because if you can't justify the in lieu fee with a needs assessment, then you're not in the position to assess an in lieu fee. There's a lot of questions that, you know, I have in my mind. I apologize for not being at the first meeting, but, you know, first of all, are things being done in a way where we'll ultimately we'll come up with how much, let's say each, of the method

to assess a developer doing a development in Wailuku town. And the reason why I'm saying that is because if you look at the parking structure, are the number of stalls being provided in the parking structure just based upon the land area that's available, and the size of the structure and the design of the structure. How does that then relate to the actual number of stalls that are required for the Wailuku redevelopment area? You know, because, if the amount of the stalls that's being provided in the parking structure is not going to be sufficient to satisfy what is determined to be the number of stalls required in the Wailuku redevelopment area, you know, then, we need to understand that the certain amount of in lieu fee would be applied towards the parking structure. But there's also going to be in lieu fee that needs to be collected to look at additional lands upon which stalls can be provided. But until we know what the number of stalls are required for the MRA area, I have a hard time understanding how we can determine, you know, how we're going to come up with a fee or assessment for the structure itself. I mean, maybe because of my engineering background, it's just that the approach that's being taken, to me, is not being done in a way where you can support each step as you take going forward.

Ms. Betts Basinger: I agree, and I think James brings up a real good point because you have to have the horse before the cart, and we need that needs assessment study. And it's sounding like the things that Planning Department has depended on don't qualify, so this is really important. But as we go through each section of the ordinance, we'll pick up those questions, other questions, that you have.

Mr. Horcajo: Chair, I have one, just one, question for staff about the needs assessment. So Erin, I guess, your thought again was to get an update from Waltery, and then, was it that staff that was going to combine that information along with the other studies that were done that staff would be creating the needs assessment? That's my first question.

Ms. Wade: Right.

Mr. Horcajo: Okay. And then my second question maybe, of course, for staff as well and James. From the Council's standpoint, if they're going to rely – if they're going to be looking at a needs assessment, is Council – I mean, would Council be willing to accept something coming out of Planning or does it have to be from a professional agency? I don't want it to go and they say, well, who did this? Staff. What's your – what's your skill set? So I want to anticipate that question in the future.

Mr. Giroux: The law addresses that.

Ms. Betts Basinger: Yeah, and I think at our previous meeting, our previous meetings, it's been high on the MRA's priority to use our funds to get a professional study that would be acceptable by the Council and acceptable to the requirements. So whatever that is Bob, that's what we're going to do.

Mr. Horcajo: Okay, I just want to make sure I mentioned it.

Ms. Betts Basinger: Okay, well, let's move on. That's really interesting.

Mr. Horcajo: It says so right here.

Mr. Giroux: Yeah. Let me just –

Mr. Horcajo: Study should be done by an engineer, architect or other qualified professional.

Mr. Giroux: From (b) all the way through to (e), it's very specific of what the study has to contain: the methodology, how you come up with pro-rata, the types of projects you look at. If they follow this, if the contractor does the scope of work, you should get a product that you could send up to Council.

Ms. Betts Basinger: So I think the MRA wants to put out an RFP for that study and it's one of the things on our lists of to dos right away. Okay, members, if we can start looking at the ordinance itself. And it was very clear at the last meeting that we're going to have to do this really systematically and just go right down the line, section one, understanding that we need a needs assessment shouldn't hold us back from a full discussion on each section. We can always come back after the needs assessment, and adjust, so I really want us to do some good work here. So I guess we'll just start by going around. Section one, cash in lieu of parking, (a), which is the purpose. Does anyone have any comment about section (a), purpose? It is the purpose of this section that cash in lieu of parking be an optional method of providing parking within areas designated as the Wailuku Redevelopment Area. Members?

Mr. Suzuki: We don't want to word smith do we?

Ms. Betts Basinger: We do. Exactly.

Mr. Suzuki: I'm looking at, at the method of providing parking within areas designated to Wailuku Redevelopment Area. Shouldn't it somehow read in such a way where optional method of satisfying parking requirements?

Ms. Betts Basinger: You just read from my own note Warren. What, you have x-ray vision? One of my suggestions was where it says an optional method of, I'm suggesting satisfying the parking stall requirement within the MRA area.

Mr. Suzuki: I don't think you need to put the word stall in there for satisfying the parking requirement.

Ms. Betts Basinger: Isn't that what the requirement is though for a certain number of stalls?

Ms. Wade: Well it's possible in some cases that someone could provide the stalls but don't have the proper ingress or egress, or, you know, there's something that's associated with the parking that's not actually the stalls. So you want them to meet the full compliance or the parking section of your ordinance, so I think Warren is looking ahead.

Ms. Betts Basinger: Satisfying the parking requirement within the area. Everyone in agreement there? Any other suggestions?

Ms. Katharine Popenuk: I really like this document. They had a detail of expenditures on how they did use the money in this Ottawa City cash in lieu, and detail of expenditures. It was on a lot of different things – expansion; creating facilities; marketing; management; some program called on/off street parking which I don't even know what that is; taxi stand; equipment replacement which I don't know what that would be – maybe parking meters or something like that – so it was like very broadly used.

Ms. Betts Basinger: So you're suggesting to expand a – to include not just the purpose, but to include what the monies are going to be used for?

Ms. Popenuk: Well, I didn't want (inaudible) too tightly, you know, especially if it says parking stall, then all of sudden that's all they're talking about is parking stall. And if we decide we need to do marketing or management or something, then maybe that's a conflict or something. So I would be more in favor of sort of a broader way of expressing it rather than restricting ourselves.

Ms. Wade: Chair?

Ms. Betts Basinger: Erin?

Ms. Wade: My notes from the last meeting, you'll see under this (a), you suggested that we talk about the structure, satellite, surface lots, or high quality pedestrian access and then adding the other things in too to the purpose. You know, the purpose of this maybe not to just provide a parking stall and maybe to provide excellent access or management, just as you're suggesting.

Ms. Betts Basinger: One of the things that I would suggest also is in the title. The title here says cash in lieu of parking. I think it would be clearer if it was simply a parking assessment fee which then would incorporate. And there's another section in the ordinance folks where it does outline uses including, maybe including, operating and maintenance fees. And the interesting thing here is that in the conversations I've heard over the years, it's always been aligned to just to help build this huge structure. And these

kinds of fees are never going to make a significant dent in that structure. However, if we're providing satellite parking areas, you know, a satellite parking area that maybe the MRA buys and sets up is not going to cost anywhere near the same amount as a stall in a huge, you know, three or four level structure. So trying to delineate what that cost is depends on what kind parking we're providing. And it makes it a too complicated way of assessing a fee. And so when we get to that part, that's why I'd like to explore what other municipalities have done, what their rationale for the fee might have been rather than just having it so tied to the structure because it's actually – if you look on section (d) when we get down to (d), no (e) – well throughout this as we go through it. Actually (d)(3), providing the required off-street parking within a centralized parking facility. Well I don't think that's a goal of providing parking in the region, in the area. I'd like to see that word disappear or be augmented. So now back to purpose. What the purpose looks like to me is that we're offering developers an option to satisfy the existing parking requirements, and this is not the place where we talk about where it's to be used.

Mr. Horcajo: I think I agree. That I would rather – when we get into fee, we can add another paragraph that talks about use of this fund and keep the purpose very simple.

Ms. Betts Basinger: So we'll add your concerns at another point.

Ms. Popenuk: Yeah, I just didn't want –

Ms. Betts Basinger: Got you. Exactly. So any discussion on simplifying the name, getting rid of this cash in lieu of parking and just calling it parking assessment fee. That would be the name of the – okay. Also, James, the title of this Bill is for an ordinance amending Chapter blah-blah-blah relating to needs assessment study. So it seems to me that a big part of this ordinance, we need to add to this ordinance those requirements of the needs assessment study. What we're talking about now is the parking assessment fees, but we're missing the first part of this title. So does everyone agree that we need staff to add a needs assessment study to this ordinance in line with what James said earlier that would go to Council for approval?

Mr. Giroux: I'm thinking when I'm reading the 14.72 and 46-141, in my mind, I'm envisioning a two step process. Maybe a resolution sending the needs assessment to Council for approval and then an ordinance enacting an amendment to 14.72.

Ms. Betts Basinger: That makes sense. So then I would propose that we take out the phrase relating – take out to needs assessment study – and just have this be a Bill for an ordinance amending Chapter 14.72 relating to parking assessment fees. Does everyone understand and agree?

Mr. Suzuki: But the current title of the Chapter in the Code currently says needs

assessment study relating to parking assessment fees.

Ms. Betts Basinger: That's correct.

Mr. Suzuki: So don't you have to be consistent with the current title?

Ms. Betts Basinger: Well, what James is proposing is that he sees this as a two part thing. That the needs assessment, once we get it, we will forward to Council for their approval. Then the second part would be a Bill for the ordinance to establish parking assessment fees. So he's not seeing it – it's not all together in this one Bill.

Mr. Suzuki: But, if you look at the title of the Bill, it says a Bill for an ordinance amending Chapter 14.72, and states the title as the current ordinance reads – the current ordinance reads – so you can't change that now in the title.

Ms. Wade: Right.

Mr. Horcajo: I agree.

Ms. Betts Basinger: Well, it now reads –. Okay, yeah, I see what you're saying.

Ms. Wade: It doesn't make sense, but it's true.

Ms. Betts Basinger: Yeah. It's like a title. Title, title. But we all understand and when we explain it to people, we're just talking about the assessment fee now. Go ahead Bob and then Erin.

Mr. Horcajo: No, no.

Ms. Betts Basinger: Erin?

Ms. Wade: I would just suggest you change the title of 030, and I would add parking assessment fee for Wailuku Redevelopment Area.

Ms. Betts Basinger: Okay. Very good.

Ms. Popenuk: I want to make sure I understand this. So what's already been written here, and especially 14.72.020(b) it's saying a needs assessment study shall be conducted, blah-blah-blah, so that's already calling for a needs assessment study?

Ms. Wade: Uh-huh.

Ms. Popenuk: And that's what Francis Cerizo was – you were talking to him about it or something? No. It's something different. So the needs assessment study is already called for.

Ms. Betts Basinger: And we're going to have it done. Isn't that the plan?

Ms. Popenuk: And we get it done by how? How do we make it happen?

Ms. Betts Basinger: We're going to put out an RFP using the scope of work defined in law for this study. We're going to hire a consultant to do it and when we have – if we approve of the report we get back, then we will forward it to Council for their approval which will then allow us to submit this ordinance for a parking fee.

Ms. Popenuk: Okay, and that's when we submit 030, right?

Ms. Betts Basinger: Yes.

Ms. Popenuk: And then hopefully pass this.

Ms. Betts Basinger: Yes.

Ms. Popenuk: And then we talked about something about Chapter 91. So do we discuss how we're going to enact the ordinance then?

Mr. Suzuki: No.

Mr. Horcajo: No, not Chapter 91. That's administrative rule process and this is through Council.

Ms. Betts Basinger: What we're doing today is filling this ordinance with all of the questions Council will have. How are you going to do this? What are you basing the fees on? How are you going to collect the monies? Where are the monies going to be kept? What are they going to be used for? So that's what we want to put in this parking.

Ms. Popenuk: We're drafting the 030 part.

Ms. Betts Basinger: That's correct.

Ms. Popenuk: Okay. Thank you.

Ms. Betts Basinger: Okay, so we've got 14.72.030 – title has changed to parking assessment fee for Wailuku Redevelopment Area – (a), purpose, it is the purpose of this

section that a parking assessment fee be an optional method of satisfying the parking requirements within areas designated as the Wailuku Redevelopment Area.

Right up front, I'm making the appeal that throughout this ordinance we change cash in lieu of parking to parking assessment fee, universally, so I won't repeat it.

Ms. Wade: Great.

Ms. Betts Basinger: Thanks everyone.

Mr. Horcajo: Chair, I'm sorry.

Ms. Betts Basinger: Yes Bob. I'm sorry.

Mr. Horcajo: I'm a little not sure. I mean, I agree with changing the title to parking assessment fee for the WRA. I'm not sure about eliminating cash in lieu of because, you know, as far as how other towns and cities, they're basically – cash in lieu of is a term that they use. Every single information that we got from Erin that's really the kind of buzz word, right, so I'm just wondering why not just have it front so that when the Council talks about – and so they know cash in lieu of – that's a term that they've heard. That's a term that we can document that other cities, counties, States use for the purpose.

Ms. Betts Basinger: I get your question. Well not all municipalities use that phrase. It's a very old phrase, and also it's limiting because as we move forward there are going to be suggestions that this pot of money also could provide maintenance of all of these variety of parking areas. It could allow us the opportunity to purchase lands for satellite parking. So I like being straight forward and also it aligns itself with what our laws already say. They all refer to a parking assessment fee and that's the State and the County. So I just kind of like the ease of everything matching, so when someone is looking at everything there is about parking fees, they'll all say parking fees. And I think also that, just as a personal side, cash in lieu has just been beaten to death in the public and misunderstood, so I'd like to just get rid of it. Any comments members?

Okay, let's move on to (b), intent. It is the intent of this section to (1), reduce the cost of doing business by providing an alternative method of meeting off-street parking requirements when it is difficult or impossible to provide parking onsite. Does everyone like that? Anyone have changes?

Mr. Suzuki: I don't like the phrase, reduce the cost of doing business. And I'm not too sure if that type of phrase is appropriate in an ordinance or codify.

Ms. Betts Basinger: So the intent of this section is to provide an alternative method of

meeting off street parking requirements.

Mr. Suzuki: I think you can say when it's difficult and impossible. Well –. See when you start to say reduce the cost of doing business, I mean, you're making a certain inference when you say that.

Ms. Betts Basinger: Yeah.

Mr. Suzuki: Then when you – and depending upon what the ultimate cost is going to be for the parking structure fee, it may not reduce the cost of doing the business. And when you said difficult or impossible, I mean, that's so subjective in terms of what difficult means and what impossible means.

Ms. Betts Basinger: Yeah, and the more subjective it is, the harder it is to meet criteria, or you know, it becomes more. Okay, so, what if we simply said it is the intent of this section to (1) to provide an alternative method of meeting off-street parking requirements, period. (2), forester better urban design by citing parking lots and structures where they have the least impact on the physical and built environment.

Ms. Wade: Was there any change to that when you read it?

Ms. Betts Basinger: I think this is really good planning statement. It comes from planners. I'm just questioning whether it belongs in an ordinance for an assessment fee. It's a rationale, a planning rationale, but we're really doing this to encourage development.

Ms. Popenuk: Well, also, we have a responsibility to the community to guide its physical –

Ms. Betts Basinger: Right. And we have our design guidelines, et cetera, that do that.

Ms. Popenuk: So, by virtue of creating this opportunity for parking to be logically located like not at the front of the building or whatever, we are encouraging a better urban fabric, the way the street looks and appears, and also it has a tendency to “densify” the downtown area so it's more compacted, there's more happening in a smaller space which is encouraging more retail, and mass transits, and many, many things. So I think that this actually has a lot of positive outcomes.

Ms. Betts Basinger: I agree. What if we just said to foster better urban design, and not define it.

Mr. Suzuki: I feel more comfortable with that because the criteria of citing parking lots and structures only based upon the least impact on the physical and built environment. You

know, what about design from the standpoint of having the parking lot and structure in close proximity to where the need may be? It's not just based upon the physical and built environment – the impact on that.

Ms. Betts Basinger: Yeah, I think that's limiting. But I agree, Katharine, the intent is to foster better urban design. Okay. Any other comments? Number (3), the intent is to encourage the preservation and adaptive reuse of historic buildings which typically occupies most of the lot making it prohibitive to provide parking onsite without demolishing, rebuilding or losing floor space. I would end it after historic buildings, period.

Ms. Wade: Is that enough justification, James?

Ms. Betts Basinger: Encourage the preservation and the adaptive reuse of historic buildings.

Ms. Popenuk: Is it better to be more descriptive or less?

Mr. Giroux: I guess, legally, I mean, just to cover your basis for Chapter 46, to make it clear that it's for the purpose of meeting the need. That the need of the impact being created by the development. But, I don't think it's going to hurt to – I think that kind of language probably – I mean, if you go on to make rules, it's probably in the MRA rules. You know, how you guys, in your variance, even though it follows model code, it actually uses your own criteria of, you know, to increase economic development.

Ms. Betts Basinger: So are you saying that item (3), encourage the preservation and adaptive reuse actually could roll right into foster better urban design, if we're talking about making an impact justification?

Mr. Giroux: Yeah. I think –. Yeah, I think when they were writing this, they were kind of thinking of it as kind of a balancing test or something. Because I guess one of the issues is that if somebody opts to want to do cash in lieu, is that something that once they meet a certain criteria, they can do it? Or do they have to pass some kind of test before they can start using cash in lieu? I think that's a basic –.

Ms. Betts Basinger: Yeah, that's a good point. And this is the intent. So this is under the intent section where the County is saying the intent of this law, developers, is to do this, this and this. Outside of that, we already have design guidelines that tell developers what they have to do in our area, so I'm wondering if this wouldn't limit us.

Ms. Popenuk: Well, I guess it depends on what you think the intent of this law is, and I see it as being multi faceted.

Ms. Betts Basinger: Well, no, the intent isn't law, and it's to charge an impact fee to provide parking. So it's already in a law and it would be easier if we just kept it framed in it.

Ms. Popenuk: And know we're saying why we're going to do that, right? The intent. So for me, as far as the developer's concerned, it's a bonus for him to move forward on his project, and it's a bonus for Wailuku town to get more development happening. But I also see other bonuses, you know, in the way the city is going to look, you know, the street scape design and et cetera. And I don't see that as like being a secondary kind of a benefit.

Ms. Betts Basinger: What if we were to actually put in that one of the intent is to encourage alignment with the MRA design guidelines?

Ms. Popenuk: That could be a blanket way to –

Ms. Betts Basinger: – say it all.

Ms. Popenuk: Yeah.

Ms. Betts Basinger: James?

Mr. Giroux: I'm going to leave it up to you guys. It sounds kind of policy. I mean, I don't see it meeting the requirement – I mean, the requirements of the law.

Ms. Betts Basinger: It doesn't meet the requirement of the law, but it would satisfy Katharine's concerns and it would do it in one statement.

Mr. Suzuki: Go ahead.

Ms. Betts Basinger: No.

Mr. Suzuki: Can I ask a question? What if a developer came in and said, I'm going to knock this whole building down and put a parking up front. Do we have an authority? I don't want to pay a parking assessment fee. I'm going to provide my own parking on my lot, you know, with a brand new building that's going to be set back away from the road. Do we have the authority to prevent that?

Ms. Wade: Deny. Yes.

Mr. Suzuki: We do?

Ms. Wade: Yeah.

Ms. Betts Basinger: And we have the authority to waive it also. I mean –.

Mr. Suzuki: I just want to make sure that we're going to spend all the time to come up with this language and then there's a loop hole in everything that's there that would allow a developer to do what I just said. But then we'll be very inconsistent with what we're trying to achieve.

Mr. Horcajo: So, I'm sorry. So, Chair, right now, we're talking again about intent and the plan, for example, for number (3), is just to put a period after historic buildings. I'm not sure about –. I'm sorry, that's kind of what we talked about, right?

Ms. Betts Basinger: Correct.

Mr. Horcajo: And you just suggested making reference to the design guidelines which, for me, I guess –. For me, I guess, when the Council looks at this or the general public, they should be able to read this and understand without having to look at something else to understand what the intent is, I guess.

Ms. Betts Basinger: Yeah.

Mr. Horcajo: But before I forget, you know, on number one, I want to bring up – excuse me again – something that we talked about at the last meeting – alternative method of meeting off-street parking. We had a discussion which Joe – would it be better if it says alternative method of meeting on site parking requirements?

Ms. Betts Basinger: I'm sorry, where are you?

Mr. Horcajo: Instead of off – (b)1 – instead of saying off-street parking requirements, saying on-site parking requirements because that's what we talked about. They can not provide it on-site, so this is an alternative.

Ms. Betts Basinger: No.

Mr. Horcajo: It's an option for them right? I'm just wondering whether that –. We had the discussion last time whether that is clear.

Ms. Betts Basinger: Erin?

Ms. Wade: Well, they currently have the option to lease parking elsewhere so that actually wouldn't be on-site parking. You know, so I could, if you had 10 spaces and I wanted to lease four of them from you, I wouldn't need to provide my on-site parking, and I also wouldn't need to pay a cash in lieu.

Mr. Horcajo: Wait. But, the parking ordinance says that you have to provide parking on-site, right, and if you can not, you can go lease some place else off site, or you can get a waiver, or you can pay cash in lieu of if we have it.

Ms. Wade: Right.

Mr. Horcajo: Right. So this is an alternative to on-site parking requirements?

Ms. Wade: What I'm saying is I think off-street is actually more accurate because you can provide –. If my neighbor has the parking available, it's not on-site.

Mr. Horcajo: Okay.

Ms. Wade: So, therefore, it's off-street, but it's not on site.

Ms. Betts Basinger: We could take off-street off, and just say provide an alternative method of meeting parking requirements.

Ms. Popenuk: Well, if you can't get it on-site, you can't provide your parking on-site, then it's off-site. Whatever it is. It's on the street, it's on your neighbor's lot, it's in a parking structure.

Mr. Suzuki: Was she saying off-street?

Ms. Wade: Right. Street is the key word here. You're not using –

Mr. Horcajo: Off-street. Okay, I think I remember.

Mr. Suzuki: Chair?

Ms. Betts Basinger: Yes.

Mr. Suzuki: In the case of MRA area – and again I'm just kind of taking the scenario that Erin described – if a property owner satisfies his parking requirements, who wanted this parking requirements to lease the parking stalls from another property in close proximity, that approval has to be approved by MRA right?

Ms. Wade: Correct.

Ms. Betts Basinger: So, did we want to take off-street out of that or leave it?

Mr. Horcajo: I think I'm fine. I was trying to refresh my memory what the discussion was

the last time.

Ms. Wade: I think it's on another section of this, but I remember it.

Ms. Betts Basinger: Okay folks, we'll move on to number three. And, you know, when we're talking about intent, I think what we're talking around here is that the intent of this tool in our basket is really to encourage redevelopment in the Wailuku area. That's the intent of this – to encourage development. So maybe it would be better to say that and not all of these subsets of having to be historic buildings because those are already in our design guidelines. A developer has to do that already to redevelop in Wailuku. So, this just gives them – this is just another tool for them to actually develop in Wailuku. So, I guess I'm suggesting that under intent, (1), it's an alternative method to satisfy your parking requirement, and (2), the intent is to encourage redevelopment in the Wailuku Redevelopment Area.

Mr. Horcajo: And just (2) right there.

Ms. Betts Basinger: Foster better urban design –

Mr. Horcajo: I'm sorry, leave . . . (inaudible) . . .

Ms. Betts Basinger: – and (3), encourage redevelopment in the Maui Redevelopment Area.

Ms. Popenuk: I'm good with that.

Ms. Wade: Can I make a comment?

Ms. Betts Basinger: Sure.

Ms. Wade: If you don't address the historic building piece, it doesn't prioritize historic buildings, so that's a very fundamental philosophy choice you're making, then, if you take it out. I'm not saying that's good or bad, but if you don't protect them here in your intent, then you're just saying redevelopment in general.

Ms. Popenuk: Is historic preservation, is that part of the urban design? When you say urban design, is that like a big, giant container with lots of (inaudible).

Ms. Wade: It doesn't have to be. No, it doesn't prioritize historic structures and you might not want to. You know, our historic structures have a lot of problems, but you might want to. But it takes that tool out if you don't specifically identify it, I think.

Ms. Popenuk: But I have a really basic question. Why do we write the intent? Who are we writing this for?

Ms. Betts Basinger: We're trying to convince the Council.

Ms. Popenuk: So we're putting forth good reasons why this is a good idea to the Council.

Ms. Betts Basinger: That's right.

Mr. Giroux: Yeah, and I think it's helpful because it sets the tone for the fact that it follows State law, and it's in compliance with the County law. A lot of times for lawyers if we get stuck in ambiguous language or there's litigation that comes out of disagreements and the rest of the body of the documents like maybe two clauses conflict with each other and we have to try to interpret that, what we do is we look at – we try to look at the words, and if the words don't make any sense, we have to then look at the intent, and we can look at the legislative history or we can look at the law as whole, the whole law. And we usually go to the intent and purpose. And if you look at title 19, it always has something about, you know, what is the purpose of this law. And that's so you don't reach an absurd result when interpreting the law.

Ms. Popenuk: So is there a down side or like a laundry list of it will be this, or we want to do this? Because actually, one of these, they talked about increased densities, the support public transit, support urban design principles, eliminate street level parking lots on vacant properties, protect the historic core, encourage future retail development.

Ms. Betts Basinger: But I bet that's not in their ordinance.

Ms. Popenuk: Right. But I'm asking you if we're trying to be convincing, do we want to say, you know, all the great things about this or is that confusing?

Mr. Giroux: Yeah, I think if you look at the ordinance as a whole and if you look at section (e), the review process, as an attorney, that's where I would kind of start getting nervous because it's giving the Director a lot of direction.

Ms. Betts Basinger: Yeah, and we'll be there in a minute.

Ms. Popenuk: So that's where this all should be going.

Mr. Giroux: Yeah, and what we would do is when we're advising the Director, when he's got to make a discretionary thing and he asks the lawyers, you know, am I on shaky ground here, I'm going to deny this guy this, and then you go, well, what's your basis? And he goes, well, I think it's not going to preserve a historic building. So you go to the intent, and

you go, oh, yeah that is one of the purposes of the law, so I would say that you're okay with making that decision.

Ms. Popenuk: Thank you people for indulging me. I've never written a law before.

Mr. Giroux: I've never followed one - no.

Ms. Wade: We can all brush up.

Ms. Betts Basinger: Okay, so, Katharine, number (2), foster better urban design. All of those things would fall under that statement. And number (3), maybe if we added the intent is to encourage redevelopment in this area in accordance with our design guidelines and Maui Redevelopment Agency Plan.

Mr. Suzuki: I wouldn't try to put it together. I would keep it separate.

Ms. Betts Basinger: Okay. Would you make it separate?

Mr. Horcajo: I like the way it reads. I think it's fine that we leave it just that first sentence myself – keep the historic buildings purpose in there.

Ms. Wade: You could add redevelopment – encourage redevelopment and the preservation and adaptive reuse of historic buildings.

Ms. Betts Basinger: I think what Warren is saying is to make that a separate – to encourage redevelopment.

Ms. Wade: Okay. That's fine.

Mr. Suzuki: Because you want to qualify redevelopment – you're staying consistent with the design guidelines, right?

Ms. Betts Basinger: Yeah.

Mr. Horcajo: Well, so what about for (2) – you can say foster redevelopment – not buy better – better urban design.

Ms. Popenuk: They're really seem like separate.

Mr. Suzuki: They're separate things.

Ms. Betts Basinger: Yeah.

Mr. Horcajo: They're separate things.

Mr. Giroux: And just as a suggestion, it would be consistent with the mandate of the MRA. So if you look at your code, I think, you kind of are consistent with that idea. You're actually trying to meet your balance of development and preservation.

Ms. Betts Basinger: So the language would read something like to encourage redevelopment in accordance with the mandate of the MRA.

Mr. Giroux: I like it.

Mr. Suzuki: Mandate?

Mr. Giroux: Yeah. You might want to make it consistent.

Mr. Suzuki: Mandate doesn't sound . . . (inaudible) . . . You can say consistent.

Mr. Giroux: With your code, if you look at your code, purpose and intent, it says the adopted Wailuku Redevelopment Area Plan calls for a small town development code which reduces regulatory barriers to business creation investment with the Wailuku Redevelopment Area, and which provides for the following: flexible zoning, building public works, fire code, outdoor dining, mixed use zoning, and such. The purpose and intent – then it goes on to list, I think, four, five, six, seven, eight of the things that you're trying to accomplish.

Ms. Betts Basinger: I really like that. What is that? 30.01.030? 030.01.030, purpose and intent of the MRA. So encourage redevelopment consistent with the purpose and intent of the MRA. Okay.

Mr. Horcajo: That would be number (4), or that replace number (b)3?

Ms. Betts Basinger: Well I kind of – you know, I'm an editor, so I like to get it down to just the meat. But the body will vote, so I think that says it all. So I think number (1), the intent of this is to provide an alternative method of meeting off-street parking requirements, and (2), to encourage redevelopment consistent with the purpose and intent of the MRA.

Ms. Wade: You took out the foster.

Ms. Betts Basinger: Yeah, I think, fostering better urban design is part of the purpose and intent of the MRA, and we have proven that by having design guidelines.

Mr. Horcajo: I guess my comment earlier was that would it be the Council or anybody sitting

in the audience – I mean, I don't undoubtably want a whole ten intents here, but I think having the general meat of what this is about is important. For me, the question then comes up if you're using just one and then two, is the Council going to ask, well, what is all this mean. What are the guidelines? Do we want to spend the time or are we kind of getting into that area of discussion with them versus just at least having something here that makes them, oh, yeah I understand. I can think of x-amount buildings in Market Street, that yeah, it typically occupies a whole lot so that makes sense so let's move on.

Ms. Betts Basinger: I think generally, those would be attachments. Those would be resources as attachments, and when you're speaking to Council about this and you want to make a narrative, you would give examples like that.

Mr. Horcajo: Sure.

Ms. Betts Basinger: But, I think it's always better when an ordinance is simply spoken and clearly stated. So my efforts throughout this is going to try to be to edit it down to what it really means. Because it's really just an ordinance. It's not what the MRA is about. It's not –. It's this parking assessment fee ordinance, and why we're going to charge a fee, and what that fee is going to be used for. And to say it's going to be used in alignment with the MRA's mission – and here is the MRA's mission. You know, you can read it – I think that's enough. Members? I mean, do we need to put a litney of – do we need to repeat what the MRA's mandate is?

Ms. Popenuk: Well, what we're writing here is the law right?

Ms. Betts Basinger: Right.

Ms. Popenuk: And generally speaking, I think – I'm not a lawyer, but – that you want it to be fairly the same, so I understand exactly what you're saying for somebody who's picking this pick and reading it, they don't have a clue what the mission of the MRA is, and what if the evil powers take over the MRA and it's their mission is to bulldoze everything, then we're screwed.

Ms. Betts Basinger: But, you know, if they want to know what the MRA is or the design guidelines or the redevelopment plan, there's a document that's been passed by Council and approved.

Ms. Popenuk: So when this is presented, I assume there's a human being that goes along with.

Ms. Betts Basinger: And there's a cover letter that explains it. Yeah.

Mr. Giroux: I've got a quick question. Erin, as far as the parking requirements that we're talking about, within the MRA, are those parking requirements the same requirement coming out of 19.36?

Ms. Wade: No. They are not. Can I make a clarification real quick? You are saying consistent with the purpose and intent of the MRA. But this is the purpose and intent of the WRAZD, the Wailuku Redevelopment Area Zoning and Development Code.

Mr. Suzuki: Yeah, I'm trying to figure out which you were referring to.

Ms. Wade: So, I mean –

Ms. Betts Basinger: Yeah, let's be real clear.

Ms. Wade: So you've got the plan. I've got the zoning and development code.

Ms. Betts Basinger: The plan, passed by Council, the Wailuku Redevelopment Plan, calls for: provides the vision, direction, and plan of action for revitalization of the Wailuku Redevelopment Area.

Mr. Suzuki: What section are you reading?

Ms. Betts Basinger: I'm reading from the plan, page one, section one, introduction, first paragraph. Section one, introduction, redevelopment plan purpose. The plan provides the vision, direction and plan action for the revitalization of the Wailuku Redevelopment Area. And everything in this document has been approved by Council. So my thought is by saying this, you know, Council has already approved this, and now we want to add this parking assessment fee to help us do this work. Erin?

Ms. Wade: As a person who reviews the plans for you, and will be sort of your first line of defense, by incorporating in the intent statement everything that's in the plan is a challenge because it doesn't allow me to filter anything for you. So if it is poorly design, but it's a reduction of slum and blight, it counts. You know? It doesn't give me very many tools in my tool box to provide them any guidance.

Ms. Betts Basinger: By having the word consistent with?

Ms. Wade: Right. Well, I mean, I wouldn't mind if you did consistent with the purpose and intent of the zoning and development code, and design guidelines. I think that makes a lot of sense.

Ms. Betts Basinger: I agree with that.

Ms. Wade: And I think that would then lead to the urban design. But I think if you're just saying the whole plan – we're throwing financing and all kinds of things that could be used to defend why someone needs a waiver when realistically they could easily just put the parking on site.

Ms. Betts Basinger: I agree with calling out their names specifically, but it also goes to Katharine's concern that, you know, in Ottawa they used some of these cash in lieu money for marketing. So by saying – you know – does everyone agree with that? That number (3) will be to encourage redevelopment consistent with the –

Ms. Wade: – purpose and intent of the Wailuku Redevelopment Area Zoning and Development Code, and Wailuku Redevelopment Area Design Guidelines.

Ms. Betts Basinger: Correct. What do you think?

Mr. Suzuki: I'm struggling with that because you're being so specific in the purpose and intent section. And the purpose and intent section you're normally not quite specific. And when you talk about consistent with the purpose and intent of the zoning code and all that, being that they have to come before this body, we have to ensure that they are consistent. To me that would be sufficient, but to put it in the purpose and intent, to me, from my perspective, it's too specific in the purpose and intent section. Maybe James can answer this – in the purpose and intent section, are you so specific that you have to cite certain documents you got to be consistent with?

Mr. Giroux: I think for the purpose and intent, you want to cite the documents that you're being legally consistent with. If you look at the 14.72.010 they're citing to 46-143 and they're citing to 19.36 Maui County Code, so right away you know what the purpose is. The purpose is so that you're in conformance with the law. The next – if you're going to amend or add another section to that, it should be that the purpose and intent is to execute the information you got from the needs assessment because the first part is section .010 and .020 is you're receiving your needs assessments. So when you're trying to enact it, your purpose and intent would probably to execute the purpose or the – or why you did the needs assessment.

Ms. Wade: Well, James, wouldn't it be, the purpose is what we're doing, and the intent is why we're doing it? So the purpose is the parking assessment, and why we would be willing to give someone the option to utilize a parking assessment should one, two and three. To me, what I suggested, the consistency with the two documents is the same thing as foster better urban design. So you could just say that, and as the person who's reviewing, it's much easier for me to evaluate that. And it actually provides some more flexibility because if it's not consistent – if they need a variance, for example – if we said this, they wouldn't be able to get a parking assessment because they would have to be

consistent with the zoning and development code. You know what, we have to vet all this stuff. Is it going to back us into a corner if we say this or that? So I like the foster better urban design because it leaves it open and it allows you folks a lot of room to determine does it comply with that.

Mr. Giroux: I think one of the main things I would want to see there is that it encourages urban redevelopment. But basically what you're doing is you're establishing a rationale basis. So what you're saying is that this cash in lieu furthers your mandate which is urban development or economic development.

Ms. Betts Basinger: Revitalization.

Mr. Giroux: And revitalization which is universally seen as a State interest or a municipal interest.

Ms. Wade: But it's almost it assists in ensuring the quality of redevelopment that takes place at the same time as just general redevelopment, I think.

Ms. Betts Basinger: Well, what if we were to wordsmith both of those, on item two, to say foster urban design consistent with the purpose and intent of the MRA document.

Ms. Wade: I would be –

Ms. Betts Basinger: Because remember we're just talking about this area which we will all review. If this precludes us issuing waivers, though, I don't want it in there.

Ms. Wade: I agree with you. So I would just say foster better urban design, period, like you said.

Mr. Suzuki: There's no question that this section that we're talking about is within the Wailuku Redevelopment Area. It's stated in the purpose section. So I don't think that's in question at all.

Ms. Wade: Right.

Mr. Suzuki: Clearly, it's within the Wailuku Redevelopment Area.

Ms. Betts Basinger: So maybe taking James' advice, foster better urban design and revitalization or redevelopment.

Mr. Suzuki: But they're two different things.

Ms. Betts Basinger: Well we're actually – I know. Design is not development.

Ms. Wade: Right.

Ms. Betts Basinger: And what we're supporting, what our job is, is to get development in this area.

Ms. Wade: Quality development.

Ms. Betts Basinger: Right.

Mr. Suzuki: State that as a separate intent.

Ms. Wade: Yeah. I agree.

Mr. Giroux: Yeah, I think your urban design will come when you're actually looking at the permits, your permitting, and what you want to do is focus on the economic development.

Ms. Betts Basinger: Okay, so item (3) then would be encourage redevelopment and revitalization of the MRA area. Okay.

Ms. Wade: Wailuku Redevelopment Area – WRA.

Ms. Betts Basinger: Yeah. Exactly.

Mr. Horcajo: I have a question. Does the design guidelines or the, I guess, the design guidelines, does it specifically say encourage the preservation and adapted for use of historic buildings, somewhere in the design guidelines or zoning code?

Ms. Wade: No. There's a general discussion about the qualities associated with historic structures, but there's no requirement for the preservation of a historic structure and that would come before you folks. Anything that's 50 years or older, historic, we get recommendations from SHPD, so that can be part of your consideration in the approval process, but it's not part of the design guidelines.

Mr. Horcajo: So I'm just asking based on a previous comment you made about, you know, whether that doesn't help us if somebody has an old building and decides they want to remove it and there's not some kind of need either in here or the design guidelines that says, you know, we really encourage you guys to keep building stuff.

Ms. Betts Basinger: No.

Mr. Horcajo: No?

Ms. Betts Basinger: No. If you want to –. It's just like the Pono Building. We made an attempt to save the facade, but the point is it developed the design was consistent with what the original building looked like, but it's a brand new building. So you're saying do we have something that precludes someone from demolition of a 50-year old or more building, and we don't.

Mr. Giroux: If you look at your – I believe this the Wailuku Redevelopment Area Design Guidelines – this is 2006. Is there a newer one?

Ms. Wade: That's the new one.

Mr. Giroux: The 2006. Page 57, it's section 5, preserving historic buildings – but also, it looks more like a guideline than a mandate.

Ms. Wade: Right.

Ms. Betts Basinger: Yes. Okay, thanks everyone. Can we move on to number (c), applicability? Within the Wailuku Redevelopment Area all or a portion of the off-street parking requirements for a proposed or existing use may upon approval by the Maui Redevelopment Agency be satisfied by payment of a fee levied on the basis of parking spaces required but not provided. The boundaries of the Wailuku Redevelopment Area are set forth in the Wailuku Redevelopment Plan which is available at the Planning Department.

Ms. Wade: It's a confusing first sentence.

Ms. Betts Basinger: So this is, we're telling Council how this law will be applied. Pretty wordy.

Mr. Horcajo: I have a comment. I thought I read, maybe in the back page, that really the Director can actually approve it.

Ms. Betts Basinger: Well we'll get to that when we get to that section.

Mr. Horcajo: Yeah, but my point being if that's really – this is saying MRA, but the back says – so you don't want to deal with that until we get to the last section?

Ms. Betts Basinger: Because this is very wordy and I'm not a lawyer, but, gee, what do all those words mean?

Mr. Suzuki: No, but, I can understand where Bob is coming from.

Mr. Horcajo: Well, we'll come back to it if she wants to handle it that way. Let's not talk about it.

Ms. Betts Basinger: Yeah, we'll get to that. Yeah. I'm going to be really methodical so we can check off one and then get to the next one.

Mr. Horcajo: That's what you were doing.

Ms. Betts Basinger: If we agree.

Ms. Wade: Well, can I just make the point that administratively then they would be acting as an agent of the MRA basically. So whomever staff is, this would suffice for what's the language that's in the back, for Director approval if you keep it or not.

Ms. Betts Basinger: This preserves the ultimate approval to this body, and whether it's the Director, or Erin, as the small town coordinator, who actually is our agent, that we can discuss later.

Mr. Suzuki: I've got a question. You know, by having that phrase – levied on the basis of parking spaces required but not provided – and again, I'm not a lawyer, but I can see where it potentially may prevent us from using the funds for purposes other than just providing stalls themselves.

Ms. Wade: I think so too.

Ms. Betts Basinger: I underlined the same thing.

Mr. Suzuki: It's talking about different things – you know – Katharine.

Ms. Popenuk: Yeah.

Mr. Suzuki: The maintenance and other type of stuff – that if this language is the way it is, James, then the monies have to be used to provide the stalls and nothing else.

Ms. Wade: Is that true, or can the fee be based on the per stall, but used for other things? Because it says the fee is levied on the basis of parking spaces.

Mr. Giroux: If you look at the HRS 46, under their definitions. One of their definitions is capital improvements, and it says it means the acquisition of real property improvements to expand capacity and serviceability of existing public facilities and the development of a new public facilities. And if you read that in conjunction with impact fee, which was recently amended, impact fee means that charges imposed upon a developer by a County or Board

to fund all or a portion of the public facility capital improvement cost required by the development from which it is collected, or the recoup the cost of an existing public facility, capital improvements made in anticipation of the needs of a development.

Ms. Betts Basinger: So let's just take those exact words.

Mr. Giroux: So it depends on what your study is on, and your study should be based on the development of parking – to do with parking.

Ms. Betts Basinger: Not just the development of the structure, but satellite facilities.

Ms. Wade: So in that case, would we need in our needs assessment an analysis of the management cost, and the maintenance and all of that?

Mr. Suzuki: And marketing.

Ms. Betts Basinger: Sure.

Mr. Giroux: Let me see –

Mr. Horcajo: 14.72 – I was reading this earlier – the study shall seek to determine the appropriate level of parking assessment fees, and the proper use of revenues derived from the fees – proper use out of the needs assessment study.

Ms. Wade: So can those two things be congruent but not exactly the same?

Mr. Giroux: Well, if you look at 46-143, section (c), it says the pro rata amount of each impact fee shall be based upon the development and actual capital cost of public facility expansion, or a reasonable estimate thereof to be incurred.

Ms. Wade: Okay. So the way it's written now is based on the capital cost, the provision of a parking space.

Ms. Betts Basinger: However, this is what I was talking about earlier. Our ability and the cost of buying a lot and just surfacing it for parking versus the structure, those are totally different. So then we would have to itemize or create different fee bases based on – and we'll get to that part later.

Ms. Wade: Right. But my question was then, it said, you base your fee on the capital cost, which is fine because that's the way it's written. But then can we use the fee for more than the capital cost – more things than just the capital cost?

Mr. Horcajo: It doesn't sound like that according to what James described.

Mr. Suzuki: And you're further limiting yourself with that language in there.

Ms. Betts Basinger: Yeah.

Mr. Giroux: If you look at 46-144, section 2, when it starts talking about the benefit zones. It says collection and expenditures shall be localized to provide a reasonable benefit to the development. A County or Board shall establish geographic limited benefit zones for the purpose.

Ms. Betts Basinger: And we already have a benefit zone established.

Mr. Giroux: Yeah, the MRA zone. Yeah, I think we would start running a foul of the rational basis if we started using it for, you know, if you started using it for more of a beautification project or if you do a police substation rather than provide parking.

Ms. Betts Basinger: But the question was on maintenance and operation of parking.

Mr. Suzuki: O & M, marketing.

Ms. Betts Basinger: If it's related to parking.

Mr. Giroux: I'm probably going to have to do some research on that.

Ms. Wade: We'll come back to this. Let's just circle it for now.

Ms. Betts Basinger: But I kind of agree that these are parking impact fees so they should relate to parking and –

Mr. Suzuki: But I think there's no question it needs to relate to parking. So the question right now is that are the monies limited just for the purpose of the capital improvements to provide the parking?

Ms. Betts Basinger: Right.

Mr. Suzuki: And I think that's what James is saying. And we talked a little about monies being used for more than just the stalls themselves.

Ms. Betts Basinger: What he just read, though, it kind of leads me to think if you already have a benefit zone established which we do, that those parking impact fees can be used to develop that special zone in relation to parking. So that's why I'm thinking maybe it

would include the maintenance of the parking operation.

Mr. Suzuki: No it wouldn't. It's just saying you guys got to have a zone within which the assessments would be made, and that's what they're talking about when it talks about the zone.

Ms. Betts Basinger: And that that zone would benefit from whatever we spend the assessments on, right?

Mr. Suzuki: For the capital cost to provide the parking stalls themselves.

Mr. Horcajo: James –

Mr. Giroux: Well, I think, possibly if your needs study includes an analysis of maintenance – if you have to – certain amount of years you're going to have to re-pave this, in a certain amount of years you're going to have to re-stripe it, certain amount of year, you're going to have to whatever. So if it's included in your needs study then you may pass that rational basis test that you're using the money, you know, for the purpose of off setting the impact caused by the development.

Mr. Suzuki: Okay.

Mr. Horcajo: I think that makes sense, and that was going to be my comment. But also my second comment was one of these, one of these – one of the sites, Erin, that you had e-mailed to us, the fee was based on the cost, the capital cost, of a stall on Main Street and the capital cost of a stall off of Main Street, and they took the average of that. So my point being is if the assessment, undoubtedly, and it should not be specific to the cost of a multi-story parking lot, but we're talking satellite parking and get some average cost so that hopefully helps our case to say it's not just for, of course, the big parking lot, it's for satellite stalls, and as you say, it includes future maintenance, then that makes sense. So the needs assessment is some what key, yeah.

Ms. Betts Basinger: Okay, folks, so how does this apply to number (c), applicability?

Mr. Suzuki: Okay, let me read it for you.

Ms. Betts Basinger: Thank you.

Mr. Suzuki: So the fourth line, starting with satisfy – satisfy by payment of a parking assessment fee, period.

Ms. Betts Basinger: Okay.

Mr. Suzuki: And the boundaries are set forth.

Ms. Betts Basinger: I like that. Everyone agree?

Ms. Popenuk: Do we some place later say how we come up?

Mr. Suzuki: That's the needs assessment.

Ms. Popenuk: Okay.

Ms. Betts Basinger: Okay. Thanks everyone. Number (d), criteria for approval. The MRA or it's authorized designee may approve parking assessment fees when it is demonstrated that one or more of the following criteria are met. The size or topography of the lot precludes the development of the required off-street parking on-site. First of all, is everyone okay with the introduction? The MRA or its designee may approve – may assess. No, may approve the assessment of the fees.

Mr. Suzuki: Designee or agent?

Ms. Betts Basinger: Designee or agent?

Mr. Giroux: I'm not sure.

Mr. Suzuki: It doesn't make any difference.

Mr. Giroux: Yeah.

Ms. Betts Basinger: Make it a slash.

Mr. Giroux: I'm going with designee. No. I would assume designee is fine.

Ms. Betts Basinger: Okay, when it is demonstrated that one or more of the following criteria are met. So this again is going to be one of those statements where we don't want to be so defining that someone comes along that doesn't fit into, you know, the following criteria. But number one, the size or topography of the lot precludes the development of the required off-street parking on-site. Is that a criteria?

Ms. Wade: I think this is the same as the criteria in your variance approvals.

Mr. Suzuki: Does it say anything about shape? It just says size of topography. I think shape might have a –

Ms. Wade: That's a good one.

Ms. Betts Basinger: Size, shape or topography. Number two, a building currently occupies much of the lot making it difficult or impossible to provide the required off-street parking and the proposal will facilitate the renovation or the adaptive reuse of the building. And it doesn't say demolition either.

Mr. Suzuki: I don't like the language.

Ms. Betts Basinger: You don't like this one Warren, do you, yeah? Because it's a negative statement. Could just one or two words be added that say this into number one? The size, shape or condition? Size, shape or as-built?

Mr. Suzuki: No, number one refers to just a lot itself, the land. Number two talks about the building comes into play, what is the intent?

Ms. Betts Basinger: Okay.

Ms. Popenuk: Here they talk about physical limitations imposed by site conditions.

Ms. Betts Basinger: Right. Okay.

Ms. Wade: That's number one.

Ms. Popenuk: These things that catches many – the size, the shape the topography, the soil condition.

Ms. Betts Basinger: How about the siding of the building precludes the required off site parking, and the proposal will facilitate redevelopment? Are we getting closer?

Ms. Wade: The existing building.

Ms. Betts Basinger: Yeah.

Ms. Popenuk: This actually brings up an interesting question. In one of these – actually it was the Ottawa – didn't it just limit it to like existing buildings? Maybe a developer would make a decision that he would want to fill the block with his building and count on an assessment parking fee to park cars else where.

Ms. Betts Basinger: And this would not stop that.

Mr. Horcajo: I think that's number three maybe.

Ms. Wade: One or more of the following, so they don't have to meet all of the criteria.

Mr. Horcajo: So for two, then, Alexa, you're saying that – can you read – you're saying like the side of the existing building.

Ms. Betts Basinger: Yeah, we're referring now to the building itself, the existing building precludes –

Ms. Wade: The provision of required off-street parking.

Ms. Betts Basinger: – precludes the provision of the required off-street parking. And I think we can say period.

Ms. Wade: I do too.

Ms. Betts Basinger: Yeah.

Mr. Suzuki: What about in case of a new building with a new design, your preference is not to have, you know, on-site parking?

Ms. Wade: I think that would be caught in the third criteria.

Mr. Suzuki: Centralized parking.

Ms. Wade: Take out centralized.

Mr. Suzuki: Okay. I see where you're coming from.

Ms. Betts Basinger: So does everybody agree on two about just leaving it at the siding of the existing building precludes the provision of the required off-street parking? And that's the criteria.

Ms. Wade: Can I play devils advocate real quick? Let's suppose something like the bowling alley which is there now, and can't provide its own parking. It's in disrepair and a new use wants to come into that location, and they meet everything but the parking requirement, would we just say okay? I think that this would allow us to just say okay, without requiring additional improvement, you know what I mean?

Ms. Betts Basinger: Like making the period there.

Ms. Wade: Right.

Ms. Betts Basinger: Yes. I agree.

Mr. Suzuki: But we could also say no.

Ms. Betts Basinger: Yeah.

Ms. Wade: You can also say no. You've got a lot of tools in your tool box. I guess you don't need to regulate that here.

Ms. Betts Basinger: Okay, moving now onto three, and again, we're still under criteria for approval. Providing the required off-street parking within a centralized parking facility rather than on-site will improve the areas, urban design, and facilitate economic revitalization. Let's just stop there. My note to myself here is, is this reference, James, to a centralized parking facility a promise of a municipal parking structure? And maybe we should take that phrase out.

Mr. Giroux: Yeah, I think Erin suggested take out centralized because you might have satellite parking areas that actually might be appropriate. I mean, if the person had only three or four lots, and there's actually a satellite that's outside of there.

Mr. Suzuki: What if we just said providing the required off-street parking within alternative parking facilities?

Ms. Betts Basinger: Yeah.

Mr. Suzuki: That way you kind of have different options.

Ms. Wade: Excellent.

Mr. Horcajo: Can you repeat that, again, Warren? I'm sorry.

Mr. Suzuki: Providing the required off-street parking within alternative parking facilities.

Ms. Betts Basinger: Well alternative to what? On-site?

Ms. Wade: On-site.

Mr. Suzuki: Yeah.

Ms. Betts Basinger: Okay.

Ms. Wade: Maybe we could take out rather than on-site if we say alternative.

Ms. Betts Basinger: Yeah. And then, again, I would like to have a period there because the rest of this will improve the areas. I mean, that's –

Mr. Suzuki: . . . (inaudible) . . .

Ms. Betts Basinger: Yeah.

Mr. Horcajo: So Erin —

Ms. Betts Basinger: And then the – I'm sorry – Bob?

Mr. Horcajo: I'm sorry. If somebody wants to develop and he's able to put a couple of stalls on-site and he leases and he gets a long term lease to meet his parking requirements on someone else's property, now, he does not have to deal with any cash in lieu right?

Ms. Wade: Right. Exactly. He's providing his parking within the required –

Ms. Betts Basinger: Alternative parking facility.

Mr. Horcajo: Is that just assumed, or I just want to be sure that I've asked the question.

Ms. Wade: The cash in lieu, or the parking assessment, would only be utilized if they haven't used the other tools in the tool box, either on-site, leased parking, variance. If they can't do any of those three things, then they would go with a parking assessment.

Mr. Horcajo: So leading to my next question is I'm assuming, we're all assuming, that the cash in lieu fee is to be used to create municipal county owned parking facilities, right?

Ms. Wade: Yes.

Mr. Betts Basinger: Municipal, yeah.

Mr. Horcajo: Municipal, right.

Ms. Betts Basinger: Not a structure per se.

Mr. Horcajo: Right. So, should that be in here, municipal?

Ms. Wade: Or publicly – public parking – alternative public parking.

Ms. Betts Basinger: Where would you put that?

Mr. Horcajo: Well, instead of centralized – public parking facility which could be multi-story satellite parking – that’s what we’re really talking about, right?

Ms. Betts Basinger: Well, what if it’s an alternative private facility that you’re leasing?

Mr. Horcajo: Then they don’t have to deal with the cash in lieu.

Ms. Betts Basinger: Right.

Mr. Horcajo: We’re saying here that to get a cash in lieu, the criteria is basically that you’re going to be using a public parking facility. If you’re using a private, you’re leasing it then this does not apply to you. That’s kind of my point.

Ms. Wade: It’s true. Right, it’s a little gray, like you might have to do both at this point.

Mr. Horcajo: Well, we know that’s not the intent, but I wanted to make sure it’s clear that really we’re talking about we’re going to take your money and we’re going to provide public parking facilities for you by using part of your fees.

Ms. Betts Basinger: Yeah, and you know as this goes on, after the semi-colon and the lot or applicable portion thereof is within 650 feet of a designated public parking facility that has adequate parking capacity to absorb the number of required off-street parking stalls not provided on site. That’s kind of the definition of what you’re talking about.

Mr. Suzuki: You know, Alexa, you’ve got to be very careful when you read three in the context of the criteria for approval, you can not delete, will improve the areas of urban design and facilitate economic revitalization.

Ms. Wade: Right. I agree.

Mr. Suzuki: Because you’re saying that this is a criteria and if you were to provide the parking stalls with an alternative parking facilities which will improve the areas of urban design and facilitate the economic revitalization, then you may approve the parking fee assessment. If you take out will improve then it doesn’t fit. It doesn’t read right.

Ms. Betts Basinger: Okay, explain that to me again. I’m not getting it. Give me like an example.

Ms. Wade: We haven’t made a point yet.

Mr. Suzuki: If you look at (c), and you read what it says here, the MRA or its authorized designee may approve a parking assessment fee when it has demonstrated that one or

more of the following criteria are met. Number one talks about the size, shape or topography precludes that from happening. The building currently occupies the lot where you don't want the parking on the property, providing the required off-street parking within alternative parking facilities, period, wouldn't make sense in the context of what you read before. Only if it will improve the areas as urban design and facilitate the economic revitalization. If you have it in there, then it read such where it's okay.

Ms. Betts Basinger: I see what you're saying.

Mr. Suzuki: But without that, it doesn't read right. So you transform that criteria to approve – being to make the parking conditions.

Ms. Betts Basinger: Yeah. So you would put the period after economic revitalization, and leave in rather than onsite?

Mr. Suzuki: You can take out rather than on-site.

Ms. Popenuk: And then did we want to address Bob's comment that it should be a municipal parking facility?

Mr. Horcajo: I started reading that, again, and it wouldn't be any harm if we just change centralized to public. It would make it pretty clear. If somebody, for example, has development – if that wasn't in there I guess, 700 feet – well if it's over 650, I guess, they do not have to provide any parking.

Ms. Wade: They have to provide their own parking. They don't qualify. Well, which is what I was going to ask is, if –. It seems to me it would make sense to say your criteria are – you need to meet one, two or three, and that the lot or applicable portion thereof within 650 feet designated of public parking because – or the remainder of three should apply to all three of these conditions because if this – even if there's a size, shape or topography problem, if the distance is too great or there's no capacity in the parking facility, we shouldn't grant them the waiver. They should find an alternative means.

Mr. Horcajo: Right, if they're over 650 feet.

Ms. Wade: Right.

Ms. Betts Basinger: Okay, so four would be, and the lot or applicable portion thereof is within 650 feet, blah-blah-blah-blah.

Ms. Popenuk: You could say criteria for approval for blah-blah-blah is that the lot or applicable portion thereof is within 650 feet, blah-blah-blah, and one, two, or three.

Ms. Wade: That's a great idea. Include it in the criteria for approval statement (d).

Mr. Horcajo: Repeat that Katharine. Leilani?

Ms. Popenuk: Too much blah-blah-blah. That (d) would be criteria for approval – that the MRA or authorize designee may approve parking assessment fee when it is demonstrated that the lot or applicable portion thereof is within 650 feet of a designed public parking facility and has adequate parking capacity to absorb the number of required off-street parking stalls not provided onsite, and when it is demonstrated that one or more of the following criteria are met, number one, blah-blah-blah, two blah-blah-blah, three blah-blah-blah.

Ms. Betts Basinger: So you want to move that into the (d) introduction?

Ms. Popenuk: Yeah.

Ms. Betts Basinger: Okay.

Ms. Wade: And I think that number, the 650 feet, might be something that we work when the needs assessment comes.

Ms. Betts Basinger: Yeah. So are you suggesting we take that out for now?

Ms. Wade: Highlight it.

Ms. Betts Basinger: Just leave it blank. So did you get that?

Ms. Wade: I did.

Ms. Betts Basinger: Great! Thanks folks. Moving right on. Any other questions about – you know I love that phrase, to include but not be limited to the following – so just in case someone comes before us with some reason that is not stated here, we can hear it. You know what I'm talking about? But I don't know if that's appropriate in an ordinance.

Mr. Suzuki: Where?

Ms. Betts Basinger: Under criteria. You know, cause I don't think we could possibly list every conceivable criteria where this would be beneficial to the MRA area. It's kind of like, these are blatant ones, and you know, they're the first ones you would think of, but there might be others.

Ms. Wade: Hey, James, correct me if I'm wrong, but wouldn't they be able to grant a

variance to this also? You may have like supreme variance power.

Mr. Giroux: Yeah. I think because your parking ordinance establishes the actual parking, yeah, you can grant a variance from what the requirement was anyway, I believe. Yeah, then you wouldn't get your cash, I guess.

Ms. Betts Basinger: Okay. So then I guess what we're saying is that these would be the primary reasons –

Ms. Wade: Right.

Ms. Betts Basinger: – and so we'll just leave it to that. Does everyone agree with that? Okay.

Mr. Horcajo: I think I have to see it retyped.

Ms. Wade: Catch all are tricky.

Ms. Betts Basinger: Especially that one. Number (e), the review process – applications for parking assessment fees shall be processed as follows. Upon receipt of the application – and here I have a question – is it the permit application? What application? So it's a permit application. So I think we should add that so it doesn't indicate that there's a special application you need to apply for this. Upon receipt of the permit application, the Director of Planning shall review the request for compliance with this section and the Wailuku Redevelopment Plan.

Mr. Suzuki: What permit?

Ms. Betts Basinger: When they apply for a permit.

Mr. Suzuki: What permit?

Ms. Betts Basinger: Building permit.

Ms. Popenuk: So we wouldn't have a specific permit for this?

Ms. Betts Basinger: Well, that's what I was asking.

Ms. Wade: Yeah you would. It would probably be part of the MRA packet, you know. When you apply for anything in the MRA, we have a packet that you submit for, so it would be –

Mr. Suzuki: It's not a building permit.

Ms. Wade: Right, it's not a building permit.

Mr. Horcajo: So Ottawa has application for cash in lieu of parking and it's a separate application.

Ms. Betts Basinger: Okay, so, upon receipt of the –

Mr. Horcajo: You want to say parking?

Ms. Betts Basinger: Parking assessment.

Mr. Suzuki: Parking assessment fee application.

Ms. Betts Basinger: Okay. You know, I don't want to see Jeff Hunt having to look at all of these. I would rather say the Planning Department or –

Mr. Suzuki: No wait, you said, the Director of Planning, then automatically understood that the Department can also review it.

Ms. Wade: He just signs all the letters I write basically.

Ms. Betts Basinger: Okay. So is everyone okay with number one – that we're just adding parking assessment fee application? Number two, if the request in accord with the criteria and other requirements set forth herein, as well as, the Wailuku Redevelopment Plan, the Director of Planning shall issue the MRA permit within 30-days of receipt of the application. And what this does is it precludes us from seeing them. So we might want to think about changing it to say that the Director of Planning, you know, through the Department of Planning, shall submit it to the MRA for review and approval and issue the MRA permit within 45-days.

Mr. Suzuki: I don't follow because here we are talking specifically about the parking assessment fee application, and now we're talking about issuing the MRA permit.

Ms. Wade: That's why I said I think it's part of the – intended to be part of the MRA packet of permits. But it would make sense to me to make this is independent of that because you may have a business and decide, you know, I need four more parking spaces and I'm not doing any addition or anything. I just want to know that I've got four spaces paid for in the municipal lot. It might be good to change this to say, shall issue the parking assessment approval.

Mr. Suzuki: Grant approval.

Ms. Wade: Right.

Mr. Horcajo: Let me ask you this. What would preclude a landowner from applying for a – soon – a parking assessment fee application now for an actual building for the purpose of adding value to their property?

Ms. Betts Basinger: Well, I think once there's an ordinance.

Mr. Horcajo: Yeah, I'm only asking. I mean, is that good or bad?

Ms. Wade: Well, you would have to evaluate it based on the criteria of approval.

Mr. Horcajo: Yeah.

Ms. Wade: So, this point we've tied everything to construction, so I would not be able to administratively approve something that didn't require new construction. You will have to review it.

Mr. Suzuki: And we're talking about off-street parking requirements. If you're over and above then it doesn't qualify as required off-street parking.

Mr. Horcajo: I'm sorry. If you're over.

Mr. Suzuki: Yeah, you're talking about off-street parking requirements, you know, based upon what development you're doing, so that's required parking.

Ms. Wade: Right.

Mr. Suzuki: So if you're doing parking stalls over and above, that's no longer required parking.

Ms. Popenuk: But if you had a change in use.

Mr. Suzuki: Then it becomes required.

Ms. Popenuk: But if you're not ready to build yet, or whatever, I'm not sure I see that there would always be a building permit.

Ms. Wade: That's right. Like if you felt like this maybe a restaurant or maybe a doctor's office, and I'm going to provide the number of parking spaces for the restaurant use which

is the much higher use, by paying the parking assessment fee for that number of required stalls, you would have to come to the MRA, the way that I read this, because there's no development trigger or there's no use trigger. There's no requirement, so the MRA would be able to evaluate that application. But they're changing use, it's happening now, they're required to have additional parking, we would be able to administratively approve the assessment.

Mr. Suzuki: What about the scenario that Bob is saying that let's say a property owner wanted to pay the parking assessment fee, technically for, let's say three additional stalls above and beyond what is currently provided for, thereby enhancing the value of the property. Is that something that would be entertained by the MRA, or could potentially be reviewed and approved by the MRA? I guess you could.

Ms. Wade: I think it would go to you though. You would be able, as a body, to make that determination. We wouldn't administratively approve something like that.

Mr. Horcajo: But I'm anticipating that happening.

Ms. Betts Basinger: What is the trigger though for this law?

Mr. Suzuki: It's not required anymore.

Ms. Wade: No, it's just a tool. There's no trigger.

Ms. Popenuk: Well, first someone would come to the building department and say I'm changing from storage to restaurant, right? And then someone in the building department would say, well, you need 20 parking stalls, and you only have four. So, at that point, what would happen? Would the –. Well, in some of the stuff I was reading about Ottawa, they were putting the onerous on the owner or the developer, who may not be the owner actually, of the property to then provide information and then seek this out. I'm thinking out loud right now. I'm trying to figure out –

Ms. Betts Basinger: And I'm thinking out loud too in that why would someone, unless they're speculating, why would someone want to increase the use beyond what it currently is. And I think that's a loop hole that we should address.

Ms. Wade: But is it bad or good? I mean, it's not necessarily bad.

Mr. Horcajo: That's why I asked, is that good or bad?

Ms. Betts Basinger: Well, because if it goes –. Well, I think that's an unknown and so we want to look at that on a case by case right? We don't want to just allow someone to come

in and say, well, I'm going to put up my –

Mr. Suzuki: I want to pay for 10 stalls.

Ms. Betts Basinger: Right. Exactly.

Mr. Horcajo: But if we want to disallow it, we can, the way this is written.

Mr. Suzuki: We could.

Ms. Wade: No. I don't think so.

Mr. Suzuki: We couldn't?

Ms. Wade: Oh, no, you can based on your criteria. That wouldn't meet any of these criteria.

Ms. Betts Basinger: Yeah. So the criteria is just if they have no way of –

Mr. Horcajo: Yeah, but it doesn't say when they're going to do the work right? Criteria.

Mr. Suzuki: You have to have the application.

Mr. Horcajo: It could be I plan on doing something 10 years from now and I want to be sure that I reserve my stalls now.

Ms. Wade: I think, yeah, you'd have to have the application for your future use.

Mr. Suzuki: Yeah. You'd have to have a formal application in.

Mr. Horcajo: I see.

Ms. Wade: So do we want to provide the provision for people to pay for parking stalls?

Ms. Betts Basinger: No.

Mr. Suzuki: Alexa, I need to run.

Ms. Betts Basinger: You know what, go through the rest of it yourself and then the next time we meet, we'll be able to finish it quickly. Thanks.

Mr. Horcajo: So I guess, you had earlier said, you were thinking this was part of the MRA

application packet.

Ms. Wade: The way it's written now.

Mr. Horcajo: The way it's written now.

Ms. Wade: Yeah.

Mr. Horcajo: And you still agree with that?

Ms. Betts Basinger: No, I think we're going to segregate it.

Ms. Wade: I would think so.

Ms. Betts Basinger: Because there may be times when it's really just a change in use.

Mr. Horcajo: Which is an MRA application.

Ms. Wade: It's still an MRA.

Ms. Betts Basinger: Yeah.

Ms. Wade: Well, not if it's – yeah, you'd apply if it's intensification of the use, which is when you would need the parking.

Mr. Horcajo: That's the only time.

Ms. Wade: If it's not an intensification.

Mr. Horcajo: Right. If you go from retail to office. It doesn't matter.

Ms. Wade: Right.

Mr. Horcajo: I mean, it's the same.

Ms. Wade: Right.

Mr. Horcajo: We intensify.

Ms. Popenuk: So when you intensify use, do you have to get some sort of a permit or permission? I don't know how that works.

Ms. Betts Basinger: Well we're going to get to that. That's item (f).

Ms. Popenuk: From the building department, so then we know that person is out there, and they're intensifying use, so they should come.

Ms. Betts Basinger: Well, should have, would have, could have. We have a big enforcement team don't we?

Ms. Wade: I know.

Mr. Giroux: The A-Team.

Ms. Betts Basinger: The A-Team. So is everyone happy with upon receipt of the parking fee assessment application? Is that segregating it?

Ms. Wade: Yeah.

Ms. Betts Basinger: Now, where were we?

Ms. Wade: The Director of Planning shall review the request for compliance with this section in the Wailuku Redevelopment Plan, (e)1.

Ms. Betts Basinger: Okay, everyone okay with that? Two, if the request is in accord with the criteria and other requirements set forth herein, as well as, the Wailuku Redevelopment Plan, the Director of Planning, and I'm suggesting we just say Planning Director, but I guess they're synonymous?

Ms. Wade: Yeah.

Ms. Betts Basinger: Are they?

Ms. Wade: Uh-huh.

Ms. Betts Basinger: Are they legally?

Mr. Giroux: Planning Director –

Ms. Betts Basinger: Director of Planning versus Planning Department are synonymous.

Mr. Giroux: We would try to get consistency with the Charter. It states it a certain way. I don't have my Charter.

Ms. Wade: This is how it's stated.

Mr. Giroux: Yeah, we would use it how it's stated in the Charter.

Ms. Betts Basinger: Okay. Then the next point here is, shall submit for review and approval, to the MRA, or is it going to bypass this body and be administratively approved?

Ms. Wade: I'm lost. Three?

Ms. Betts Basinger: I'm on two. After the Director of Planning shall issue the permit within 30-days, and I'm suggesting that the Director of Planning shall submit to the MRA for review and approval, and then submit.

Ms. Popenuk: So we're trying to decide who approves it or not.

Ms. Betts Basinger: Right. We're trying to decide if we want to be passive in this ordinance, and give the authority to the Planning Department, which is what – they wrote this – so it's the way they would prefer to see it.

Ms. Popenuk: Is there any reason why we would want to see it? I mean, if we've laid out these are the hoops, this is the guidelines. I like delegating.

Mr. Horcajo: So let me ask you this. If, of course, if the Director denies it, then the applicant will come to the MRA to ask for a waiver?

Ms. Wade: Uh-huh.

Mr. Horcajo: That would be their option, right?

Ms. Wade: Uh-huh.

Ms. Betts Basinger: Is that right?

Mr. Giroux: Yeah. That's something I was going to bring up. I was waiting – no. In my notes, I have under 46-143(e), it says that the applicant needs a method of appeal. I think it's mostly gearing towards whether or not the amount is set properly. But I think you should look at setting yourself up as an appellate body like the Planning Commission does with SMA permits. They have final authority, but they delegate a lot of the administrative work to the Director. When somebody doesn't agree with the Director, it becomes an appeal to the Commission. So, you may want to think of that structure, where you're an appellate authority.

Mr. Horcajo: And I guess my other comment was one of these other's cities or something – well if you needed only five or less, they would just waive it. So I guess it's not the same here, but I'm wondering whether in fact we choose to have the Director approve it administratively whether we set a natural limit based on the amount of parking stalls, sort of speak, that can be approved by the Director and the rest has to come to this body.

Ms. Betts Basinger: In most of the –

Mr. Horcajo: And that's another option. Because if somebody wants to add something and need one stall, I don't know if we want to have to deal with that. I trust that.

Ms. Betts Basinger: In a lot of those municipalities – the other municipalities that you're talking about, they have a – their MRA is a body onto itself. Our agency is under the Planning Department. So, you know, in Ottawa, they come before the board. But what this is saying, is they're going to – it could be administratively approved. And it's really kind of a philosophical thing. If we had a staff, for example, that would answer the question.

Ms. Wade: How is that? How is it different?

Mr. Giroux: Yeah, if you look at your enforcement rules in your zoning code, the Director is the enforcement agent. But, you're the appellant agent of that. So it's very similar because they're basically – they're kind of staffed. You're not under the Planning Department. They're actually staffed to you, per your rules.

Ms. Betts Basinger: I see. I was saying it, though, politely.

Ms. Wade: We do in reality. You can say it.

Ms. Betts Basinger: Well, there are minutes here. So really, if it's the intent of this body to grow into its full power as the Council wishes we would, then this is an important question. Or do we just want to serve our term, and delegate, and give the authority away which is not our fiduciary responsibility.

Mr. Horcajo: Let me ask this question, previously it says MRA or authorized designee – under what condition does the MRA authorize the Planning Department? I mean, if this was, I guess –

Ms. Popenuk: I'm not just trying to finish my term and give it away.

Ms. Betts Basinger: I know you're not. I know you're not, but that's the –

Ms. Popenuk: I'm just thinking like – first of all, I'm thinking of resources of this board and

what you said about staff that is a real issue. And I'm thinking also that we are crafting the plan or the guidelines for how this should operate and I'm trying to think in my head, I'm asking myself that question, do we need to review this? Do we really –? I mean, as long as they're complying with the regulations and the intent of what we set forth is being upheld and supported, is it necessary that we, ourselves personally, look at each of these cases?

Ms. Betts Basinger: Well, you know, we, ourselves personally as the MRA are the legal entity that is responsible for these things. And particularly, in this, which we are crafting, I personally would like to make sure it's working right. You know, and when the Planning Department comes before us on behalf of applicants, they've done this work. I mean, Erin has gone through everything that they need to be eligible for. And when she stands there on behalf of an applicant, she's advising us as to what they believe is the right thing to do. I don't like to see us miss that – that part of it. It's not that we have to do all of that research as board members, but we're missing hearing what's happening in the area that we're response to revitalize. And if it satisfy us just to get a monthly report which they talk about, I want to remind members how long it took for this body to get a monthly report of our budget. How long it took this body to get a monthly report on active applications in our area. So, you know, I'm just kind of protecting our ability to know what's happening in the area that we're responsible for. Erin?

Ms. Wade: You know, we do administrative approvals now for very small things – for, you know, the installation of a window, or painting a facade or those type of things. And I think, maybe, what would make some sense was kind of what Bob was suggesting is if there was something so small like a two or three spaces or up to a number of spaces just to help property owners if they're getting a new tenant and need a couple extra spaces, you know, to have an administrative tool. If it's not going to affect – if it's not going to significantly impact the resource you have of the parking facilities, that might be reasonable. Because when rental spaces within the MRA go vacant for an extended period of time, that's what causes all of our turnover and a lot of the problem. And if I'm preparing a request for your agenda, it won't be 30-days. It will be more. So I could do an administrative approval within 30-days, but I can't get something on your agenda that quickly. So, it will probably be a 60-day process to grant the parking assessment. So I think that's something for you to think about is if one of your mission is streamlining, but also under one of your mission is ensuring that the district is run properly, you're weighting those two issues.

Ms. Betts Basinger: I agree with that, that some portion of this is probably achievable administratively. But, to me, it's a huge thing when an impact fee is assessed and at least for the first years or two of its implementation, I think those of us here that implemented it, should be watching it very carefully. So maybe we can craft some language here that does what you're talking about. You know, those that are under two stalls or three – you know, what you find – and anything above that would then come like any other application that we've looked at.

Mr. Horcajo: Sure, and even for the ones that are under two stalls that we agreed to have the Planning Department do administratively. If they don't like it, then they'll spend –

Ms. Betts Basinger: They have an option. Right.

Mr. Horcajo: 30-, 60-days to come to us, right?

Ms. Betts Basinger: And then we will get a report anyway at each one of our meetings on what has been –. Now see, that's another thing that we're failing to get each month. We use to get a print out of all the administrative approvals that have been made by Jeff. We haven't gotten that in about a year, a year and a half.

Ms. Wade: Well you get the permit list which has administrative and MRA requests on it, so that permit list is more comprehensive than an administrative. I can break it out, though, for you, if you prefer.

Ms. Betts Basinger: Okay. Yeah. Because we use to get one that says, these were the administrative approvals made and it listed who got what.

Mr. Horcajo: Okay, but, the same paragraph I guess, I'm still a little confused about, it says shall issue the MRA permit. So say somebody – say we agree that if it's one or two stalls it can be done administratively, but as well, that job, that application would involve design issues that would have gone through WMSA, that would automatically come to us any way, right? Is that correct or is that clear?

Ms. Wade: Well, I send, even administrative approvals to WMSA now, for their design review, so I would say if any portion of the project required MRA review, the parking assessment should also require MRA review. So I wouldn't issue an assessment approval if it was still waiting for the MRA permit. So maybe there's a way to say that a little better.

Ms. Betts Basinger: Okay. So we've all agreed to keep the MRA in the loop on reviews unless they are, you know, "manini."

Ms. Wade: You guys want to give me a number for what would be "manini."

Ms. Betts Basinger: Maybe there's a phrase that says that on those applications that don't require –. I was going to tie to something else that they might require – that would require them to come here. If you could tie it to that trigger.

Ms. Wade: Okay. Use permit or design review.

Ms. Betts Basinger: Some trigger.

Mr. Horcajo: But as far as the number, is it still – is it two or three under the condition, and if it's not –

Ms. Betts Basinger: I don't think it's a number. I think its purpose is more important.

Ms. Wade: Okay.

Ms. Betts Basinger: Which would mean it would be kept pretty small because let's say it's an apartment and they're switching tenants or they want – that wouldn't come before us – for any other –. Would there be a trigger to that?

Ms. Wade: Yeah. Well, a new apartment?

Ms. Betts Basinger: No, an existing apartment.

Ms. Wade: I'm not following you. Why would they need parking?

Ms. Betts Basinger: Okay, so –

Ms. Wade: An example for me would be the Bentos and Banquet site which is being remodeled right now – the old Bentos and Banquet – the Holmes property. They came for administrative approve for facade improvements. They anticipate another use to be coming in there. So, they do not know what that use is right now. They're marketing the space. So they came in for their MRA permit. They're marketing the space. Once they've defined the use, I'll know how many parking stalls they need. Likely, they'll be able to meet it, but there's a possibility they'll just need – they might need two or three more parking spaces. Should I bring that to you or should I approve if it's less than three additional stalls?

Ms. Betts Basinger: I think if it's anything more than one stall.

Ms. Wade: Okay.

Ms. Betts Basinger: Because, see, we're not even going to get the opportunity to see that project.

Ms. Wade: Right.

Ms. Betts Basinger: There's nothing that triggers that redevelopment project, and it makes us as overseers of this particular area and responsible for redeveloping it, we don't even know.

Mr. Horcajo: Well, but I'm not sure if that's bad. I mean, we did Main and Market, and Wakamatsu. You know, we got electrical permits, building, but we didn't get —. I mean, electric permits and building because that wasn't required. We patched and paint. What's wrong with that? We basically didn't spend the time doing two or three months after the process and we still met approvals. I don't think that's bad. You know, we want development, we have to —

Ms. Betts Basinger: It's not bad, but —

Mr. Horcajo: — somewhat stay out of the way.

Ms. Betts Basinger: I'm not saying it's bad or good. I'm just saying that I think this body needs to know what's happening in the MRA district. And whether we know it by a monthly report, which we get, or by things that would trigger the applicant to come before us, we're knowing. But this is an example she just gave us — something that — is it on there, our list?

Ms. Wade: Yes, under Holmes family.

Ms. Betts Basinger: So we would've seen it on our list.

Mr. Horcajo: So we would get that. Yeah. Then that's not applicable to what we talked about.

Ms. Betts Basinger: Right. It's not. My mistake.

Ms. Wade: Right.

Mr. Horcajo: It's on the list.

Ms. Wade: So the one space —. I mean, I'll report it to you whether you make this one space or whether you make this 15 spaces, I'll include it in a report.

Ms. Betts Basinger: But see, I think this body would be concerned about an approval of 15 parking spaces with assessments that we don't know anything about — that we haven't had a chance to review ourselves.

Ms. Wade: Okay.

Ms. Betts Basinger: And I'm just —

Ms. Wade: I'm not arguing. I don't want the responsibility for it.

Ms. Betts Basinger: I'm arguing with myself. I'm talking to myself.

Ms. Wade: What I think, you know, part of your mission, in the stream lining and trying to make sure business has the opportunity to come in when you need to, maybe there's a magic number of spaces that as we start implementing this, we can figure out. I don't know if we need to codify – I mean, we don't codify a number. Maybe this goes in the administrative rules. Would that be okay James?

Ms. Betts Basinger: I think we shouldn't even put a number in there because we have a lot of time before this actually becomes law.

Ms. Wade: Okay.

Mr. Giroux: Yeah, you should look at it as an administrative.

Ms. Betts Basinger: Okay. Number three – and I just want to get through (e) and we'll pick up the next time on (f) – so the Director of Planning shall attach the following conditions to all approvals. Payment shall be made to the MRA as set forth herein prior to the issuance of any license, building permit, or certificate of occupancy for the project. The Director of Planning may place other conditions on the project as deemed by the Director of Planning to be necessary to effectuate the purpose, intent, and requirement of this section. Again, this is putting a big burden on Erin to make all these decisions, but there was some public testimony when we met about this, that talked about the possibility of having the payment be made over time, say for example, maybe half when they applied for their permit, the half when they get their C of O, or prior to getting their C of O. So I'm not comfortable with number three. And is it only necessary, James? I mean, I don't even know why it's necessary under criteria for approval – I mean, under review process. Shouldn't it be under how they pay?

Ms. Wade: Well, right now – maybe I can speak to this – right now, if someone does – if they come in for an after-the-fact permit, where they've already done the work, and now they're applying for the permit, we require the payment for the permit and after-the-fact fees prior to issuing the permit. So this is consistent with that. It doesn't – I don't know if it has to be, but that would be the precedence, I think, that would –. They're not complying with the law as stated so we require them to pay up front.

Ms. Betts Basinger: Well great. Let's specify that, and not burden the developer that's coming in the beginning. It's not an after-the-fact. They're coming in and they have money to spend elsewhere on this redevelopment, so we give them a break by giving them –. So the Director of Planning shall attach the following conditions: payment shall be made to the MRA as set forth herein, period. And then at some point we'll make the distinction of that this is for new applications only.

Mr. Horcajo: What (h) talks about, payment and time of payment, that that's what you're saying?

Ms. Betts Basinger: Yeah, that maybe there's another. It all should go in different place.

Mr. Horcajo: Payment options and related costs – is that what you're saying?

Ms. Wade: That's a good one.

Ms. Betts Basinger: That's what I was saying, why is this even under the review process?

Mr. Horcajo: What really – what really needs to be here is just that last sentence – that the Director can place other conditions on the project.

Ms. Wade: Uh-huh.

Mr. Horcajo: I mean, does that have to be there?

Ms. Wade: The prior – I agree – prior to the issuance of any license, building permit – we can resolve that later. I think you want the Director to have the authority to place additional conditions.

Mr. Horcajo: I agree.

Ms. Wade: In the event like it's going to provide some type of a nuisance that needs to be mitigated and conditions. But I think they have that authority. If you grant us the authority to give the permit, we have the authority to place conditions anyway, don't we James?

Mr. Giroux: Yeah, reasonable conditions. I think that goes under three, yeah, the Planning Director –

Ms. Betts Basinger: So I'm thinking that we should just remove number three all together from the review process because we're talking later about payment options and related costs under the fee itself. I mean, is there anything important that you see, Erin, that we need to hold on to here, in three?

Mr. Giroux: Well, the conditions part, I think you specifically want to give the Director the ability to do the conditions – I mean, if that's the intent.

Ms. Betts Basinger: I thought he had already it. I thought you already had that.

Ms. Wade: That's what I just asked him.

Mr. Giroux: Oh, because it was here.

Ms. Wade: Okay. So it's here.

Mr. Giroux: When you said delete it –

Mr. Horcajo: – not someplace else.

Ms. Wade: So just maybe take out. Keep the last sentence, take out other – Director of Planning may place conditions on the project as deemed by the Director of Planning, if necessary.

Ms. Betts Basinger: Yes.

Ms. Wade: Okay.

Mr. Horcajo: I'm sorry. Are we saving this first sentence, just ending after "hear in?"

Ms. Wade: I took the whole first part.

Mr. Horcajo: You took out the whole first.

Ms. Wade: And we'll just be able to place conditions.

Mr. Horcajo: Okay.

Ms. Betts Basinger: Okay, number four – almost to the end guys – the Director of Planning may submit any application to the MRA if there are outstanding questions of compliance with this section or the Wailuku Redevelopment Plan. And this ties back into the discussion on number two, so –

Ms. Wade: I think that should say will. If there's any outstanding questions on compliance or it's inconsistent with the Wailuku Redevelopment Plan, the Planning Department shouldn't have the discretion whether or not to issue.

Ms. Betts Basinger: Okay, so make it a will. And did you want to define?

Ms. Wade: Or shall. I'm sorry. Shall submit any application. You've got to use the right words.

Ms. Betts Basinger: Shall.

Mr. Giroux: Shall or may. It makes it easier for us when we have case laws.

Ms. Betts Basinger: Everyone agree with that?

Mr. Horcajo: Yes.

Ms. Betts Basinger: And number five, the Director of Planning shall/will/may provide a report to the MRA at its regular scheduled meeting summarizing all administrative approvals of parking assessment fees approvals granted pursuant to this section.

Mr. Horcajo: Or else?

Mr. Betts Basinger: So that's a shall.

Mr. Giroux: Chair, can I just bring it up – I don't know if it's appropriate at this time – but I was just wondering because we do have outstanding fees, you know, conditions where we waived pursuant to, you know, us passing – I'm wondering if the Planning Department has taken into consideration whether we need to add language in this Bill in order to make sure that we are able to collect on those fees. Because we're talking about applications. We're talking about payment upon C of O's, but we're not talking about receiving of funds, post waiver or –

Ms. Betts Basinger: Is there a specific area, James, that you think that should come under? Perhaps maybe requirements which is the next section we'll take up when we meet again. And one of the requirements would be number one, that any pending applications must be paid in full with blah-blah-blah.

Mr. Giroux: I think it would probably fit right around where we're talking conversion, transferability – in that area.

Ms. Wade: (f), under requirements.

Mr. Giroux: And add another requirement of outstanding fees.

Ms. Wade: So how would –

Ms. Betts Basinger: So under (f), yeah?

Mr. Giroux: Maybe upon passage of this ordinance, outstanding fees shall be paid in accordance to.

Ms. Betts Basinger: So would that be at the – would that be another – like after (h).

Mr. Giroux: Maybe (f).

Ms. Betts Basinger: Well we've got (g), (h), (i), (j), (k). Should it be (l)?

Mr. Giroux: You want to just tag it on the end?

Ms. Betts Basinger: Yeah. Upon passage, and make it stand out and have its own kind of thing.

Ms. Wade: Why wouldn't we put it under requirements?

Mr. Horcajo: Yeah, that make sense to me.

Ms. Betts Basinger: Because I don't know where that is. Where is it?

Ms. Wade: We were right up here, and now here's (f), so we've got one, two, three.

Ms. Betts Basinger: (f), requirements – yeah.

Mr. Horcajo: The Planning Department shall apply –

Ms. Wade: So it would be four.

Ms. Betts Basinger: Okay.

Ms. Wade: Upon passage of this ordinance, outstanding fees shall be paid in full –

Ms. Betts Basinger: Within – and we should have it within a time frame.

Mr. Giroux: For projects that received prior waivers with conditions that they make, in accordance with –

Ms. Betts Basinger: And then within a certain time frame, at which time penalties will start being assessed.

Mr. Horcajo: But I guess we'll talk about it next time. But you also talked earlier about not one lump sum payment, right? So I guess that can make reference.

Ms. Betts Basinger: Right. Yeah, except for those guys. Nah, I'm kidding. I'm kidding. They've had a long time to save up.

Ms. Wade: They have. That's what they were saving. Okay, did we do it?

Ms. Betts Basinger: Gosh, boys and girls, we've done really well. We have ended today at section (e). We will schedule one final cash in lieu special meeting when Erin can fit it in to finish off (f) through (k), and bring this back for a vote and tie it in with our getting an assessment study done.

Mr. Horcajo: Okay. I guess this is for staff. I know we kind of talked about this a few times, but can we get a list of, I guess, all the projects that have been approved? I understand – I thought it was only two, which is the Joslin and Doug McLeod, but it sounds like there could be more or something that maybe we don't know about.

Ms. Betts Basinger: Yeah, thanks for that Bob. Yeah, Erin, we've been asking for that for about two-and-a-half years. So I'm not sure it exists, but it should if these are signed.

Ms. Wade: Okay.

Mr. Horcajo: Have you seen this before? This came from what's that architect's name?

Ms. Betts Basinger: The study. The one that did the public/private presentation?

Mr. Horcajo: The architect with WMSA. But somehow there's a code in here that he say, I don't know, red or blue or yellow that got waivers or something.

Ms. Betts Basinger: Percha – August Percha.

Mr. Horcajo: Anyway, I think that was an important part of last meeting because this talks about – this ordinance talks about if there's parking available that has adequate parking capacity.

Ms. Betts Basinger: And you know what Bob, that's another good point because I think that those pending applications that have not been paid, need to be attached as an exhibit on the ordinance. I mean, they need to be named and identified. And then if they want to waive it or if they have a problem with it, they can go through the process, so we do need that.

Ms. Wade: Okay. Good work!

Ms. Betts Basinger: Meeting adjourned folks. You did great work today!

E. NEXT MEETING DATE: Special meeting on July 17, 2009

F. ADJOURNMENT

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

Members Present:

Alexa Betts Basinger, Chairperson
Robert Horcajo, Vice-Chairperson
Katharine Popenuk
Warren Suzuki

Absent:

Raymond Phillips

Others:

Erin Wade, Small Town Planner
James Giroux, Deputy, Corporation Counsel