

**MAUI REDEVELOPMENT AGENCY  
REGULAR MEETING  
SEPTEMBER 17, 2010**

**APPROVED 10-15-2010**

**A. CALL TO ORDER**

The regular meeting of the Maui Redevelopment Agency (Agency) was called to order by Mr. Robert Horcajo, at 1:01 p.m., Friday, September 17, 2010, in the Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

Mr. Robert Horcajo: Hi. Good afternoon. It's one o'clock, Friday, the 17<sup>th</sup>. Chair would like to call the meeting of the Maui Redevelopment Agency to order. We do have a quorum. Present is Vice-Chair Katharine Popenuk, and Alexa Basinger, and myself, Bob Robert Horcajo. The initial part of the meeting we will take public testimony for anyone who cannot stay when the agenda item does come up. If you do want to testify you have three minutes. Leilani will make a sound, I guess, when it's two minutes and thirty seconds, and I'll ask you to complete your testimony when it gets to three minutes. And I believe there's a sign up sheet also so if you do want to testify, there's also a sign up sheet. Okay. So the Chair will open the meeting for public testimony. Teri Edmonds. And again if you come up and you represent a group please identify yourself and the group you represent.

Ms. Teri Edmonds: Good afternoon. This is Teri Edmonds here from If the Shoe Fits and Tester Shoe Repair, but I'm representing Wailuku Community Association today. And I'm just updating on our activities for the association which our focus is First Friday. We had our last First Friday which was probably the most successful of all them as far as body count. We estimated 3,500 people which comes with a lot of other interesting issues that we're probably going to have to address down the road. And we are looking at things like parking. We had a lot of comments about parking and lighting for safety. So those two things we've actually had help from the Planning Department which has been quite nice. They've given us some good suggestions and we're moving forward on that. We're also bringing First Friday up around the block as I mentioned the last time. We tested out Main Street, and we're going to do a couple tweaks to it for this month. And that is what we will continue to do and just play a part. That is our main focus, so we have nothing else to bring to the table today. Any questions?

Mr. Horcajo: Any questions for the testifier? Okay, thank you Teri.

Ms. Edmonds: Thank you very much.

Mr. Horcajo: Okay, next on the testifier list is August Percha.

Mr. August Percha: Aloha. I'm August Percha. I'm here to testify right now because I see a communication item later on the agenda. And just for clarification, am I able to testify now and then?

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Mr. Horcajo: Yes.

Mr. Percha: Okay.

Mr. Horcajo: Well, either or.

Mr. Percha: Either or?

Mr. Horcajo: If you can, wait, then it would probably be better that you wait when the item does come up or you can testify now.

Mr. Percha: I'll wait till the item comes up.

Mr. Horcajo: Okay. Jocelyn?

Ms. Jocelyn Perreira: I am going to be testifying later.

Mr. Horcajo: Identify yourself for the record please.

Ms. Perreira: Jocelyn Perreira, Wailuku Main Street Association/Tri-Isle Main Street Resource Center. I am going to be testifying later in strong support for the Sereno project and reserving the right to do that. I do want to congratulate the First Friday efforts. It was really wonderful and it's growing in momentum and it's everything that we hoped this would be, and our support of that is very strong as well. I do want to let you all know that we are going to be having a candidate forum, the main event, with the survivors on the 28<sup>th</sup> of September. And our main objective and agenda is to bring focus so that they are focused on the fact that these small towns are a priority in Maui County and we have received a favorable response from everyone who is expecting to be at the finish line tomorrow. So it will not only include the mayoral candidates, but the contested, close contested, Council member races. And as you know, that's important that all the Council members are in support of these initiatives. So I just wanted to let you all know that.

Mr. Horcajo: Any questions?

Ms. Alexa Betts Basinger: When is the date of your main event?

Mr. Horcajo: 28<sup>th</sup> you said?

Ms. Perreira: Going be the 28<sup>th</sup>. But, it will probably be a week and then you folks will get to see it on T.V. by the time we get in the can and to be sent out.

Ms. Betts Basinger: So if you're not in person, you got to wait a week to see it.

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Ms. Perreira: Yeah because this is like the leadership of these nine small towns that will be –. They're formulating the questions and deciding on the format this week. Thank you.

Mr. Horcajo: Okay. Any other questions? Katharine? Thank you. Any other testifiers right now before we close this portion of public testimony? Okay, if not, this portion of public testimony is closed. Item (B) on the agenda is a public hearing, so Erin Wade, staff from Planning, will introduce the project and we'll start there.

## **B. PUBLIC HEARINGS**

- 1. MS. NOREEN SERENO, DAVID SERENO ATTORNEY, MAUI requesting variances to the following Maui County Provisions for the structures located at 144 N. Church Street, Wailuku, HI TMK (2) 3-4-017:034, (MRA 2010/0003). (E. Wade)**
  - A. MCC Title 16.04B Fire Code, 16.04B.110 Subsection 902.2.2.1 amended to waive the requirement for 20 feet of unobstructed road width.**
  - B. MCC Title 16.13.140G to grant a 4' 4" setback variance for the business sign.**
  - C. MCC Title 16 Section 1003.3.3.1 to allow for residential dimensioned stairway on a commercial structure.**
  - D. MCC Title 16 Section 503.2 to allow a variance from the requirement to have fire resistive walls .**
  - E. MCC Title 16 Section 705 to allow a variance to permit roof overhangs extending beyond the floor to be left unmodified.**
  - F. MCC Title 16 Section 705 to allow a variance from the requirement to provide parapets on all exterior walls.**
  - G. MCC Title 16 Section 712 to allow a variance from the requirement that all useable space utilize one hour fire resistive construction.**

Ms. Erin Wade: Good afternoon. On today's agenda we have a public hearing. Ms. Noreen Sereno from the David Sereno Attorney Office Maui is requesting variances to the following Maui County Code provisions for structures located at 144 North Church Street, TMK: 2-3-4-017:034. This is MRA project no. 2010/0003. The variances they are

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requesting are MCC Title 16.04B, Fire Code. This is subsection 902.2.2.1 amended to waive the requirement for 20-feet of unobstructed road width. The second variance is to MCC Title 16.13.14G to grant a 4'4" setback variance for a business sign. The third is to MCC Title 16 Section 1003.3.3.1 to allow residential dimensioned stairway on a commercial structure. The fourth variance is Title 16 Section 503.2 to allow a variance from the requirement to have a fire resistive walls. The fifth variance is Title 16 Section 705 to allow a variance to permit roof overhangs extending beyond the floor to be left unmodified. And the sixth variance, Title 16 Section 705 to allow a variance to waive the requirement to provide parapet walls on the exterior. Finally, the seventh variance is to Title 16 Section 712 to allow variance from the requirement that all useable space utilize one hour fire resistive construction.

Staff has provided you folks with a report and I will summarize that report briefly. For the first variance, the applicant is requesting a variance from the requirement, for the road width, based upon practical difficulty. Eliminating the stalls on the east side of North Church Street will require a resolution of the County Council to amend the Maui County Code Chapter 10.48. The conflicting provision of the allowance of on-street parking in this location and the allowance of commercial multi-family uses in this area should be resolved by the County and not made the responsibility of the private property owner. Furthermore, the conversion of this property from residential to office use poses no greater threat of fire danger or increased risk for this property or it's neighbors. Therefore staff believes that the applicant's justification meets the criteria for variance approval as listed above. It is important to note that the Fire Department has no objection to this request.

No. 2, the second variance, staff does not feel it would be impossible or impractical for the applicant to meet the requirements of the ordinance, or is it reasonable to argue that the location of the sign can affect slum and blight. Therefore staff does not support the request for the sign variance. However since the development of the staff report, the Wailuku Main Street Association has provided testimony suggesting that local practices are customs, with support locating the sign within the required setback. So staff would ask to consider this testimony as well.

No. 3, the stairway at the front of the building is an important element of the building's historic architecture. The configuration and dimension of stairway's front porch is important to the integrity of the building. The Maui Redevelopment Agency has set precedence by approving variances for buildings originally constructed for residential use, but converted to office and personal service business. Generally variances that allow these structures to retain their residential character, especially when historically relevant, have been supported by the MRA in the past. Therefore staff believes that the applicant's justification meets the criteria B & D as indicated in the zoning code, and staff would recommend approval with conditions.

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The fourth variance, the Maui Redevelopment Agency has set precedence by approving variances for buildings originally constructed for residential use but converted for office and personal service. Generally variances that allow these structures to retain their residential character, especially when historically relevant, have been supported by the MRA. This includes the Deborah Daniels Accounting office, the Diane Ho office and the Maui Physical Therapy building, all in the vicinity of Church and Vineyard. The building's setbacks and construction type are similar to those that have been the subject of similar variances in the past. Therefore staff believes that the applicant's justification meets the criteria B for variance approval with conditions.

The variance no. 5 is related to the roof overhangs. This structure has the "Dickey" or "Hawaiian" hipped roof with flared eaves as evidenced in some parts of Old Wailuku Town. The exaggerated eave is a significant architectural element in the plantation vernacular and considered integral to the historic integrity of the building as mentioned in the Wailuku Redevelopment Area Design Guidelines. This is actually the very house that's illustrated in the Wailuku Redevelopment Area Design Guidelines for this purpose. Therefore staff believes that the applicant's justification meets the criteria B for variance approval of conditions.

Item no. 6 is regarding parapet walls. Parapet walls would interrupt the roof overhangs as described in the previous variance. The justification for this variance is the same as with the previous variance. And staff, therefore, believes that the applicant's justification meets criteria B for variance approval.

Finally, the portion of the useable floor space in question is the storage area underneath the house. The applicant seeks a variance from section 712 in order to make use of the storage without being required the necessary one hour fire resistive construction. Staff believes that the applicant's justification does not meet the criteria for variance approval given that no particular hardship was declined. And staff does not feel complying with this requirement would negatively affect the building's architecture or local practices.

In conclusion the adaptive reuse of this single-family structure to commercial use retains the residential character of the area and yet provides a diversity of uses that promotes the economic vitality of Wailuku Town. Promoting the diversity use is one of the guiding principals in the Wailuku Redevelopment Plan. The office is within walking distance of residential uses in the near vicinity, as well, of commercial uses in Wailuku Town. This report is respectively submitted to you by the Planning Department.

Mr. Horcajo: Okay. Thank you very much. Will the applicant, I guess, come forward and make a presentation and then we'll hold some public testimony after that.

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Mr. Jordan Hart: Hello I'm Jordan Hart from Chris Hart & Partners and I'm here with Matt Slepik from Chris Hart & Partners. I'm going to be presenting the Sereno project today. As Erin had said, the Sereno Law Office is seeking a Maui Redevelopment Agency variance for building code, roadway width and signage setback. So this is the aerial photograph of the project site. There's Vineyard Street and Church Street. Church Street crosses Vineyard and turns into North Church Street. And the red dotted area is the project site. If it's possible, is there a pointer that you guys have in this room that I could borrow? I forgot mine.

Ms. Wade: You know what, I can dig it out of the projector.

Mr. Hart: Don't worry about, then, it's fine. Okay, so this is the WRA Zoning map. The project is located in the business multi-family district. So this is a zoom in of the same map. It's dotted in red there. So the yellow with black polka dots is business multi-family. The orange is multi-family. So if you'll notice, there's quite a few business multi-family parcels, and also multi-family parcels that are served by North Church Street. Since we're located in the business multi-family district, permitted uses for this district are general office. And so basically the proposed project meets the square footage limitations for general office in this area. As Erin stated earlier this was one of the examples used in the Maui Redevelopment Agency Design Guidelines as an example of a plantation style residence. And so this is what the residence looks like after the Sereno's have rehabilitated it.

So this is the site plan for the project. There's existing storage garage. There is the office space that's 1,128-square feet, and there's a storage area below which is 354 square feet. So part of the, basically, incentives that the WRA Zoning Code provides is for the reuse of existing plantation homes and historic residences within the business multi-family district. So it says that building permits issued prior to the enactment of these rules. Any structure that was constructed with a building permit that was approved prior to the enactment of these rules need not acquire a variance and may be reconstructed as permitted by the original building permits and such structure may be expanded or modified with new building permits. So this structure was built in 1929 and 1932. The first building permits were issued in Maui County in 1951. So we made a direct request to the Department of Planning and to Public Works to clarify whether or not a structure that was built, basically – I mean it's still existing – built properly at that time before building permits existing was this code section meant to exclude a structure like that. Basically if it's existing non-conforming prior to the building permit process. And so from our position it was not intended to exclude those structures although the language says building permits – this thing was built before building permits existed.

So this is the letter that we received from DSA building inspectors on June 16<sup>th</sup>. So this is kind of also one of the issues that we're facing with this project. Let's see, items no. 1 and no. 2 of the letter says the structure is an existing and non-conforming building built in

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1929-1930, and no. 2 is the change in use, no permit is required, no construction, no modification. And then it goes on to say, if construction does take place, to correct these deficiencies, a building permit will be required. If alternate methods are used and approved these agencies – sorry – by agencies adhere the requirements. So the letter goes on to show the difference between the existing structure and the current building code. And so this is also one of the things we requested clarification from Planning and Public Works on is whether or not the structure is an existing non-conforming and relating to the WRA Zoning Code saying that structures that were built prior to this code don't need variances. You know, how did those provisions relate to this project? And so we haven't received specific instruction on how that relates. Basically, is this recognized the same as you would recognize a structure that got a permit because it was constructed properly prior to the existence of permits, and therefore, is a variance required at all? Now, we haven't receive a response. The Planning Department received verbal comment from Public Works stating that despite the letter that we just reviewed – this letter here – that a variance or building permit would be required. Now we don't agree, but in order to progress, we're here requesting a variance despite the outstanding answer to that question.

So moving forward, we're asking for our first variance for 20-feet of unobstructed road width requirement at North Church Street. And basically we're saying because of local practices, and because this project eliminates blight that we should be granted a variance. This is the Department of Fire and Public Safety's comment letter on the miscellaneous inspection. Their comment is that the proposed change of use of this dwelling to an office building requires a 20-foot fire lane to be provided to this building. North Church Street does not have a clear 20-foot access to the proposed building. So this is the Fire Department's only comment and concern regarding fire safety for this structure to be occupied for business purpose as it is today. So I just want to clarify that too. So this is North Church Street. And as you can see there's a series of parking stalls on the east side of the street. And those parking stalls are what brings the roadway width below 20-feet. So here again is the zoning map for the WRA, so these parcels were zoned business multi-family and multi-family, and they're all served by the North Church Street, which is, you know, doesn't – the Fire Department can't basically approve commercial uses in the area. So that's an outstanding issue that, you know, will be faced by all of these property owners as they carry out the Wailuku Redevelopment Area Plan.

The next thing that we have is the signage. Our justification was that the project further eliminates slum and blight. The Sereno's are operating a law office. They need to have people identify their structure so they can basically, you know, come and find them and they can do business. And so the method for eliminating all this blight is the operation of their law office. Their law office pays the bills and finances the renovation of the structure. So basically North Church Street is a tight street, and as you drive down, it's not very easy to see their sign. The Home Maid Bakery abuts right up against the south property line, and it basically comes up to the roadway. So as you're driving north, down North Church

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Street, you don't see – their property is tucked away behind. So the sign is up for to basically be visible from the roadways as quickly as possible.

The next variance that we're requesting is the variance from the requirements for stairways. Basically local practices, we're saying that this is a historic structure that was built in 1929 or 1930, and that the project further eliminates blight. Now regarding the handrail, this was the only issue that the department didn't support the applicant on. We just wanted to clarify that the handrail was scabbed on after the initial original structure. If you'll notice by these blown up photos the handrail is actually made out of bent water pipe and the railing area is wrought iron, so it wasn't part of the original. It's a scab on. And so when it was removed, the Sereno's basically brought the structure that closer to what it's original status was. And that's basically the underlying request for justification for not being required to add, you know, a new add on handrail. And so this is the property as it exists today, again, with no handrail there. Okay, there's the request for variance to make the exterior walls fire resistance. Local practices again – again, this is a historic residence, and then the project eliminates blight. So these are what the exterior rear walls look like.

The variance for the requirement to make the roof overhangs fire resistance. Again, it's the same situation basically. This is the original roof shape and frame, and they're requesting to keep it as it is.

There's another requirement for parapet on all exterior walls. So the parapet would be the wall that rises up above the roof and then drops back down. So again, you know, it just wouldn't be appropriate for what this structure is, and it would significantly change the character.

The final issue is the variance for the requirement to make the under floor useable space fire proof. So local practices, basically, you know the space was existing under the residence and so now they're making reuse of it. The project will further eliminate slum and blight. The Sereno is a law office. They generate a lot of paper work. They have a location on their site where they can store paper work, or they can basically not be allowed to use this area and rent off site. So they would like to be able to use this area for their storage as a function of their business for the continuation of their operations. Anyway this is the original status of what was under the floor. And this is what was done to the under area. You can see there is dry wall. So, again, now we're back to the Fire Department's comments on the project because I just wanted to recap, you know, here's the concerns about the fire safety for the structure, and there's concerns for the fire safety of the sub floor storage area. So their only comment is that the roadway width is not adequate. And so this application for miscellaneous inspection was filed for the conversion of a residence to commercial office with storage. So, it was filed for the purpose of them responding to these direct issues, and this is their only concern. So again, going back to the DSA letter that we received, you know, the letter states the difference between the current building



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code and what exists, the structure. However, the structure can be occupied for business purposes as far as the Fire Department is concerned, so long as the roadway issue is cleared up. So basically we're requesting it be waived the requirement to revise the structure further to preserve it's historic integrity of it. And so that's basically the conclusion of my presentation.

Mr. Horcajo: So Jordan, if you don't mind, I'm going to open the floor for public testimony and then we'll call you back up. Thank you. One second please. Mr. Takitani, were you planning on testifying?

Mr. Ernie Takitani: No I wasn't.

Mr. Horcajo: You're not. Okay, is there any public testimony? Again, present yourself, and recognize who you are.

Ms. Perreira: Aloha commission members. My name is Jocelyn Perreira. I'm the executive director of the Wailuku Main Street Association, Inc./Tri-Isle Main Street Resource Center. We are here today to urge you, to strongly encourage you, that this is a project that we need to embrace and support and help them get through the process because it's an excellent, excellent work and loving care that's clearly illustrated all the way from their application in the process, down to their project building that is really --. I mean, this personifies what we want, what we mean when we say revitalization in Wailuku. As to roadway widths, we have a concern because when we adopted the small town zoning and development code, part of that zoning and development code was to have roadway standards that was not your urbanized roadway standards. As a part of that, that was then sent back to Public Works for them to work on and then present it to you. I'm sorry, that's probably my grandson. Just ignore it. So anyway, we know that if we change the road width in this important part of historic downtown Wailuku, we affect the character of these small towns. I mean if you look at how many streets, they have the same situation of getting --. And we do not feel that that would be that much of a hazard as there are two fire hydrants in very near vicinity of the project, along Church Street.

The sign location, thank you Erin Wade, for noting that our concerns regarding the sign location was like, you know, the whole intent of these design guidelines was to not be like a restrictive law like what they have in historic districts. But it was to give flexibility so that people could make improvements for their buildings in the area. And this is very much a part of affecting the character. And lastly I want to say, the useable space under the building, I'm just going to restate our team of professionals, and I highlight the fact that these are seven professionals that have reviewed this. And so this is code interpretation. The crawl space for the portion beneath the building does not appear to be a basement. None of it is below grade, and we do not feel the one hour rating applies. We support and urge you to support this variance because, again, it is a code interpretation. We have to

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do whatever we can do to give the flexibility to make this project happen and to celebrate it because it is in fact doing what we have worked so hard to try to put forward which is true vitalization of downtown Wailuku. Thank you.

Mr. Horcajo: Any questions for the testifier? Jocelyn, if you don't mind, I just kind of want some clarification because this is for the public record, your letter here. For item (3), the sign location. You had noted the sign is 24-inches too close to the road, and their variance is for 4.4 feet so I'm a little confused.

Ms. Perreira: Well, that could have been a typo on our part.

Mr. Horcajo: Yeah, but that's what I'm assuming, it's a typo.

Ms. Perreira: Okay. Yeah, thank you for pointing that out. I just – but since you said that, I just do want to say that we have had a long recorded documented support for these types of buildings and signages that go with it that have been considered in the past from the MRA document. It's part of precedence that resulted in MRA, or in the property owner's receiving MRA waivers. So I just wanted to put that forth as well.

Mr. Horcajo: Okay. I've got a couple more questions, but I'm going to ask Jordan based on stuff you have here. Any other public testimony regarding this agenda item? Please step forward. Jordan, if you don't mind, we're going to ask you questions.

Mr. Hart: Sure.

Mr. Horcajo: Alexa or Katharine, should we go item by item, I guess, variance by variance first if you have any –?

Ms. Wade: You haven't closed the public testimony.

Mr. Horcajo: I'm sorry. The chair will close the public hearing at this point in time – public testimony. Thank you very much. Shall we go variance by variance. If you have any comments, yay, no.

Ms. Katharine Popenuk: I had a question.

Mr. Horcajo: On variance one?

Ms. Popenuk: Yes, for the 20-foot road width requirement. Would the chief of the Fire Department ever give permission? I noticed in one place in here it says that, on page seven, there's a notation – actually staff believes the applicant's justification meets the criteria, dot, dot, dot. It is important to note that the Fire Department has no objections to

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this request. And in the packet, exhibit #5, is from the Fire Bureau and they do object and they ask that there be a minimum clear width of 20-feet. So I was a little confused on who approved and didn't approve.

Mr. Horcajo: I'll let Erin Wade respond to that.

Ms. Popenuk: Thank you.

Ms. Wade: Following this, following the letter from the Department of Fire, we had a meeting with Corporation Counsel and Captain Paul Haake of the Fire Department to discuss this matter. What is basically going to be supported is the removal of the parking stalls adjacent to the Maui Bake Shop, and that's a process that's going to occur concurrently with this. So it would not be the responsibility of the applicant to pursue the removal of those on-street parking stalls. They do prohibit the 20-foot road which prevents two fire trucks from passing. It doesn't prevent a truck from accessing the site. It prevents two truck from passing which is why those stalls should not have been placed there in the first place essentially, and that the County itself would be pursuing the removal of those two stalls.

Ms. Popenuk: Okay, so it has received approval from the Fire Department?

Ms. Wade: Provided that this process occurs concurrently, yes. But that will be the responsibility of the County of Maui, and not the responsibility of the applicant.

Ms. Popenuk: Okay.

Ms. Betts Basinger: So Erin, would that be something because the MRA is being asked to grant a variance. So would it be something we would want to have a condition?

Ms. Wade: I will say staff did not recommend the condition to the applicant because it is out of the applicant's control. Whether or not the County actually succeeds in getting those parking stalls removed or not, would not be under the control of the applicant. However, the County of Maui should then, within itself, because we've encouraged the use of that property for commercial and we allowed multiple businesses also to locate in that vicinity, I felt the precedence allowed for us to support the recommendation of approving it. As long as, with Corporation Counsel's assistance, we pursued the elimination of those parking stalls, but not make that the burden of the applicant.

Ms. Betts Basinger: So other than the minutes to this meeting, there will be nothing in writing that we will see or have available.

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Ms. Wade: Actually Cindy Young is the member of Corporation Counsel that met with us to discuss the removal of the parking stalls, and she has transmitted something to the Department of Fire which they're reviewing it right now. So I can provide that back. You can make that a request of staff, if you would like, to provide follow up on this action.

Ms. Betts Basinger: I really just want it clear that based on what you just shared with us, whatever decision is made by this body, that we understand. Because that was also my comment. I think Jordan referred to if those stalls weren't there, it would 20-feet. So I actually wrote down that there are some streets, like this portion of Church, that should be earmarked to remove the parking. Although removing parking in Wailuku is, you know, I mean it's like a conundrum. But at least in the future making it a no parking street. Okay. Thank you.

Mr. Horcajo: Jordan, I have a question, I guess, just a technical question. Do we know the right-of-way right now for that North Church? Because I realize – I mean, is it 20? Is it 18? Is it 22?

Mr. Hart: It's right around 19-something. I don't have my –. I measured it several months ago, but I forgot to bring my notes with me.

Mr. Horcajo: You measured pavement or you measured –?

Mr. Hart: From the edge of the curb to the line. I'll show you the photo again, and I'll show you where I measured. I measured from the cement curb there over to the stripping that arcs out from Maui Bake Shop into North Church Street. And basically right when the arc levels off and runs parallel to the road, it's like 19-something, but I can't remember the dimension.

Mr. Horcajo: Well, I'm asking the question because undoubtedly it may not be 20-feet, and that affects the –

Mr. Hart: If the stalls were –

Mr. Horcajo: You know, the actual County owned right-of-way. Not the pavement, but sometimes you've got property lines into sidewalks, at boundary lines, so I'm just curious.

Mr. Hart: I took for granted that the lines, the parking stalls were the County property.

Mr. Horcajo: Any other questions regarding variance (1)? So regarding variance (2), I guess, regarding the signage. Members any questions or comments?

Ms. Popenuk: I just wanted to ask why is the sign in the setback?

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Mr. Hart: So going back, here's North Church Street. So basically, you see that you can see the end of the blue building, that's Maui Bake Shop's structure. And then you see the lanai that's poking out there beyond that? That's the property that's north of the Sereno's one, across the street. So basically the Sereno's entire property isn't visible as you're heading down the road, and there's a hedge to the right of that white van. So basically it's visibility. They put it there because it's really hard. If they set it back all the way, the way their site plan works is – or I'll just show you a photo of the structure. Basically, it's a setback all the way to the structure. And you can see the Maui Bake Shop on the right side, there, on the hedge. If it's setback all the way, it's essentially not very visible at all. And then coming back the other way, if someone were to miss and turn around and be coming back south, it would be behind their garage building that's on the left side. So visibility was why they did it, and that is why I used the justification of elimination of blight is because the business operation is what is, you know, making the elimination of blight possible here.

Ms. Popenuk: And the existing garage storage is within or outside of the setback?

Mr. Hart: Well, it was also constructed at the same time as the residence as far as I'm aware. I can show you the site plan. That hasn't been addressed. I don't know the actual dimension from the edge of the garage to the roadway. But there hasn't been construction on this project to expand the boundaries of the structure. The structure have stayed. And there hasn't actually been any renovations of the garage storage areas. There's no renovation at all here that we're discussing actually. But that wasn't renovated anyway.

Ms. Betts Basinger: Jordan, if you could go back to the photo that you had? Does the roadway abut to the front wall?

Mr. Hart: Yeah it does.

Ms. Betts Basinger: Do people park there when they come?

Mr. Hart: I would have to ask.

Mr. Horcajo: Sir, if you want to talk you need to –

Ms. Betts Basinger: Just state your name and talk.

Mr. David Sereno: My name is David Sereno.

Mr. Horcajo: If you could move further up, please, David, it's being recorded.

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Mr. Sereno: Actually they can't park there because there's a Maui County Code Statute that says that they can't park within, I think, it's four-feet of an entrance. And where, if they parked there, they would be within four-feet of the entrance. If they do park there, again, you guys, I guess, have the 20-foot problem again, but it's, that wall, right to the other side of that is our property also. So I'm not sure if they would be allowed to park on our property. I hadn't contemplated. We have discouraged people from parking there because it really blocks up stuff. Sometimes people actually park and block our front gate.

Ms. Betts Basinger: Well, I'm asking because I'm wondering where your clients do park.

Mr. Hart: There is an entire parking lot on the project.

Ms. Betts Basinger: Can you show that?

Mr. Hart: Sure. You can see, there's a photo there, you see that SUV that's in that parking lot there. And then one second, I'll show you the site plan again. The site plan is here, on the left side of the drawing. There we go. I'm sorry.

Ms. Betts Basinger: Is there a sign, Jordan, that you know of, a County sign, that prohibits parking on that side of North Church?

Mr. Hart: I have to – I can't recall specifically if there's – no. But they're the only line stalls, and they're clearly lined, like you can see the paint is new. So those are obvious parking stalls, and it's really not practical that – I hate to use the term common sense, but anybody would be driving down there, it would be unpractical to think that you would be parking appropriately there, but there's no lined parking stalls there.

Mr. Horcajo: I guess my, excuse me, my question or comment I guess for this variance request is I'm not even sure that it is necessary. I guess I read the Code differently. I read this to say that if your building is within 10-feet of your property line, you can't put a sign, and actually, a ground sign. That's the way I read this. You know, we've got, just going down Market Street, Main Street, we've got Chevron, Maui Medical. You've got a lot of signs basically right on the boundary line, even down Wells Street. So for me, I look at this differently. So I'm confused why, I guess, now I don't know whether the MRA had dealt with this before, but it is a confusing the way it's written. But for me, that's what it says. If the building is less than 10-feet away, you can't have a ground sign. That means you put a sign on the building. Does that makes sense to you Erin?

Ms. Wade: The interpretation of the Code was and is with the Planning Department, signs have to 10-feet from the property line. In this case, and in most cases in Wailuku, 10-feet from the property line is perceived differently than it is in most cases because a lot of times the properties extend, or seems to extend, into the right-of-way. So in this situation, it

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seems like maybe the sign is back, or there's adequate distance, but that's because the road is right up against the property. So, this is the way it's interpreted by the Planning Department, that the sign needs to 10-feet back, which is why they're here for a variance. But it's completely up to you whether or not you think it could be an approved variance.

Mr. Horcajo: Well, I mean, I'm going to work towards, I guess, the variance, but I think at some future point in time as we talk in the future, looking at the Code and seeing maybe what could be changed because we just looked at the Chevron thing when I first got on this board, maybe two years ago. And of course, some work, and who we gave variances, but nothing having to do with signs being with 10-feet. And I know it's within 10-feet of the property line, so that is something we can look toward to in the future.

Ms. Betts Basinger: My comment to that is that I think from the applicant's point of view, they're already setback behind the Bake Shop property, so it just makes them more invisible.

Mr. Horcajo: Yeah, but my point being, if my interpretation is right, they can move it up a foot, and turn it the other way so they can see it at Church and Vineyard, looking down the street. Just like Maui Medical, or Chevron, or Kauhani, right down the street here. Again, that's for future discussion. We're not here to talk about code interpretation. It's just my thoughts. Okay, any other comments on variance (2)? Okay, variance (3) regarding handrail, rise and run, stairs, landings and guardrails. So members?

Ms. Popenuk: My comment would be that I think the handrail is essentially because it's a health and safety issue. And going down the stairs without a handrail you're prone, anything over two steps. The reason that they asked for a handrail is because it's a safety issue. And I think that it could be retro fitted with a very attractive handrail. In this instance, I think safety would trump aesthetics.

Mr. Horcajo: Alexa any questions?

Ms. Betts Basinger: No comment.

Mr. Horcajo: You've got any retort?

Mr. Hart: Well my only retort would be that the justification for the handrail was that it was included in the original structure. And as I illustrated this was not an original handrail. So basically it would be like scabbing on anything else that was later removed because it wasn't part of the original structure. This, here, was how the structure was when it was constructed, and this is was the Sereno's are proposing to do. And so that's basically preserving the historic integrity of the entrance of the building was, you know, is the reason for the request. It remains the reason for the request. And so I just wanted to clarify that

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the handrail was an add on originally because that is, you know, basically the comment about existing in early photos was kind of the justification for –. Yeah, health and safety wasn't the reason for adding that segment, and we had met with Planning before and that wasn't an issue in our initial meetings, but when the staff report came out it was. But I suppose it was because, you know, Erin saw some photos that showed a handrail, but on talking to the Sereno's and on further inspection, you know, they informed me that wasn't the originals. And I looked at the photos, it's clearly not the originals. It goes back to, basically, the historic integrity of the entrance of the building.

Mr. Horcajo: Erin?

Ms. Wade: Let me just follow up on that real quick because I think it's being misinterpreted. In the staff report, it does say, staff feels the applicant should incorporate handrails for the safety of their staff and clients. It was for the safety. I did mentioned that there is a before picture that shows a subdued handrail inside the side walls of the stairs. And I agree, it certainly wasn't the original handrail but that it could be a possibility. And instead that a wrought iron railing that carries the railing along the lanai, down the stairs, would be preferred. So, not necessarily to be what the past one was, that was removed, something more in keeping with what the lanai handrail.

Ms. Betts Basinger: Thanks Erin. So Jordan, would you explain again why the, not the original, but the interim handrail was put up then?

Mr. Hart: Well I don't know exactly why. I believe the owner of the – basically the owner was elderly and added it on.

Ms. Betts Basinger: For safety? Thank you.

Mr. Horcajo: I think my questions have been answered. Onto variance (4) regarding fire resistive walls. Excuse me. Members, any questions for the consultant?

Ms. Betts Basinger: I do Bob, thanks. This is the one area that kind of confuses me, so if you could clarify for me. Are you –. I know you're saying the Fire Department didn't respond.

Mr. Hart: No, I'm sorry, they did.

Ms. Betts Basinger: Well their response didn't include.

Mr. Hart: They didn't raise concerns about these issues.



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Ms. Betts Basinger: Right. My question is, is it a one hour rating that's required only for the crawl space or for the entire structure that you're asking be waived?

Mr. Hart: Per the letter that they wrote basically it says the interior portion of the storage. Like I'll read you what it exactly says. This is a direct quote, so it says –

Mr. Horcajo: Excuse me Jordan?

Mr. Hart: Sure.

Mr. Horcajo: That has to deal with variance (7). Now we're talking about for the side of the building. I believe it would be the south side, which is in back of – I mean, adjacent to the bakery. Not the east side, just the south side, right? Because it's less than 20-feet to that property line.

Mr. Hart: Yeah. I believe the back.

Mr. Horcajo: East side also?

Mr. Hart: I just showed basically the back, as a typical photo, and it's not easy to get on the other side.

Ms. Betts Basinger: So the Fire Department says that they don't need fire resistance on the walls on the rear and the right side?

Mr. Horcajo: No, no. Excuse me. Go ahead Erin.

Ms. Wade: Let me just clarify briefly. The Fire Department is not responsible for the building code so the variances being requested right now is to the building code. Fire is responsible for fire code, which is the one we dealt with first. So they are not going to comment necessarily on the building code. They just want their code issues resolved first. The building department is the one to comment on building code issues, so they work in tandem with one another. You know, as long everybody's meeting all of the requirements, everything is okay. But they haven't commented, Fire Department does not comment on building code issues.

Ms. Betts Basinger: And building code did not comment.

Mr. Horcajo: Building did. That's the DSA letter. If you read that letter from DSA. It's pretty specific.

Ms. Betts Basinger: Okay.

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Mr. Hart: Could I just reiterate something that I stated earlier? Basically there's the section of the WRA zoning code that talks about these structures that are existing prior to – basically having building permits prior to the zoning code, and they don't require variances. And so that's still an outstanding question that we'd really like to address because we really believe that basically –. So that goes on to – it speaks to these very issues.

Ms. Betts Basinger: I understand that that's in the works.

Mr. Horcajo: Well, if you don't mind, Erin, can you respond?

Ms. Wade: Yes. The WRAZD, or the Wailuku Redevelopment Area Zoning and Development Code, is the zoning ordinance for Wailuku, and it basically replaces Chapter 19 of the Maui County Code. It does not, however, replace the building code or fire code. Fire code requirements, and building code, still stand within the Wailuku Redevelopment Area. So any variance from the building or fire code has to go through this process. This only replaces Chapter 19, so while there may be existing non-conforming uses, and this language is stated for zoning purposes, this does not cover existing non-conforming in the case of building, the building code.

Mr. Horcajo: Any more questions? Excuse me please?

Ms. Betts Basinger: I know it was on the slide, but the letter from –

Mr. Horcajo: From DSA?

Ms. Betts Basinger: Yes.

Mr. Horcajo: Any questions Katharine?

Ms. Betts Basinger: Is it in the packet?

Mr. Horcajo: Yes, it's in the packet.

Ms. Popenuk: Can you describe to me the construction of these walls that are under discussion? What are they made of?

Mr. Hart: Which portion?

Ms. Popenuk: The ones that are being required to be one hour due to their proximity of the property line.

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Mr. Hart: The exterior walls, I don't know what the original construction is. Mr. Sereno could possibly answer the question.

Mr. Horcajo: Please come up to the microphone. Identify yourself again.

Mr. Sereno: David Sereno. It is the old tongue and groove, the redwood, tongue and groove. And it's my understanding that at one point there was actually a timber rating as we were told. And it is a one-hour – it is one hour timber rating anyway. But what it is is tongue and groove, like what I grew up in, what a lot people here grew up in. So that's what it is. And then there's shingles on the outside.

Mr. Horcajo: Does that answer your question?

Ms. Betts Basinger: Except for the down, the crawl space area.

Mr. Sereno: With regards to the tongue and groove?

Ms. Betts Basinger: Yeah.

Mr. Sereno: Right, because before we did what we did, all it was around there, was lattice.

Ms. Popenuk: And now what is it?

Mr. Sereno: Now it is ply board, the taric wrapping and then dry wall.

Ms. Betts Basinger: Hardy plank.

Mr. Sereno: Hardy plank. And then on the outside it's hardy plank.

Ms. Popenuk: Hardy plank, paper, plywood and dry wall.

Mr. Sereno: Dry wall. Yes, as opposed to what was there which was lattice.

Mr. Horcajo: Quick clarification, now you're talking about the downstairs.

Mr. Sereno: I'm talking about the downstairs.

Mr. Horcajo: The side of the building is T&G, 3/4", one by six, T&G?

Mr. Sereno: Yes.

Mr. Horcajo: Am I correct?

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Mr. Sereno: Yes.

Mr. Horcajo: Okay. Any more questions Alexa? Jordan, I guess, I have a question about this. As we found out and what's existing now is one by six T&G, old style, single wall construction of the structure itself with windows, I guess two on the south side, right? And I don't know how many on the east side. Now, do you know what it would take to make that an actual, meet the code for a one-hour wall?

Mr. Hart: No, I don't have. I don't have proposed specs on the building.

Ms. Perreira: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Horcajo: That's not the question. The question is what does meet the code? You know what, if you don't mind then, if the board members don't mind, we have a person from Public Works. Do you folks care?

Mr. Hart: No. Not all.

Mr. Horcajo: Mr. Takitani?

Mr. Ernie Takitani: Ernie Takitani from the building department, DSA. Currently, the exterior of the building is a single wall construction, T&G. The bottom portion is double walled construction, plywood outside, sheet rock on the inside with 2 by 4 studs. To bring the first story up to compliance, a single wall construction, fire rated, there are different methods, different prescribed methods okay. Now an architect or engineer could go through the directory. There's a directory that gives you all different designs on how to construct a wall, on a single-wall, to make it a one hour rated wall. The way this building is configured the back side of the building and the right are only the two walls that need to be made one hour rated, and only a portion on the right side that does not meet the setback requirements because of the configuration, again, of the building.

Mr. Horcajo: So Ernie, excuse me, my understanding of one option is, for example, they could take the inside of that structure and put two layers of 5/8's but they will lose the windows. Is that correct?

Mr. Takitani: Well, then they could go in for a variance for the windows.

Mr. Horcajo: Right. But I'm just saying to meet the code.

Mr. Takitani: Correct.

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Mr. Horcajo: Without variances, they could put up two layers of 5/8's on the inside to keep the historic integrity from the outside and roughly meet the actual fire code?

Mr. Takitani: Correct.

Mr. Horcajo: But they will lose the windows?

Mr. Takitani: Correct.

Mr. Horcajo: Am I correct? And then for the downstairs, knowing the fact there's sheet rock inside, I don't know if it's hardy plank, T-11 outside.

Mr. Takitani: Well, that is one of the discrepancies because when you have a residential building, they allow you to do different types of methods for making this one hour wall. But when you go to a commercial building, it changes again. That's one of the contentions that we have as the building official.

Mr. Horcajo: So does it matter whether that – I guess we're going to jump because you're here to the actual basement – is that a basement? Is that a six-foot high? It looks like storage to me given it's really not technically a useable area. Although no different than under a house at three feet up if you use it for storage.

Mr. Takitani: It was not – I don't know what the original building looked like, but I would assume looking from one portion of the building, the front section, that it was all under space at one time, under the home. But then for one reason or another, it got created where the ceiling height is over six-feet which makes it another story. And all we're asking for is that area be protected because of the way it's going to be used. To protect all the tenants upstairs and all the occupants of the building at the time.

Mr. Horcajo: So the seven-feet six height for two story does not apply in this case?

Mr. Takitani: It does not apply. No.

Mr. Horcajo: Excuse me. Erin go ahead.

Ms. Wade: I wondered is there a different criteria for if the space is used for storage than if it is used to occupy for office, or is there no difference in the construction required?

Mr. Takitani: There is a difference.

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Ms. Wade: So if this was conditioned upon it being used only for storage, allow for the variance conditioned upon the space being used only for storage. Does that get closer to mitigation the concerns of the Department?

Mr. Takitani: No. We would require it to be all one hour rated.

Ms. Wade: It still would. Okay.

Mr. Horcajo: I've got one more. Go ahead Katharine.

Ms. Popenuk: I wanted to know, are these openings less than five feet to the property line?

Mr. Takitani: Yes they are.

Ms. Betts Basinger: Could you put up the picture again, the basement area, or the storage area?

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

Ms. Betts Basinger: And what it was was –

Mr. Hart: This is done now. This build permit is closed.

Ms. Betts Basinger: Okay. And what it was, was prior to the requirement of permitting when they did that?

Mr. Hart: That's correct. And this work was done, is accounted for by a permit that's finalized.

Mr. Horcajo: So Ernie, I have a question just for future references, and also owner of old houses. WMSA mentioned about timber rating. Have you ever?

Mr. Takitani: Heavy timber rating is anything that's over six by six in size, minimal size.

Mr. Horcajo: Six by six.

Mr. Takitani: Six-inches by six-inches is the minimum size. Anything below that does not meet the criteria for heavy timber.

Mr. Horcajo: And that's identified in the UBC somewhere?

Mr. Takitani: Yes.

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Mr. Takitani: Six-inches by six-inches.

Ms. Popenuk: If the requirement for the one hour wall is that to protect your neighbor or to protect you from your neighbor?

Mr. Takitani: Both. Not protect you from your neighbor, but to protect your neighbor in case your place catches on fire or whatever, and to protect the occupants of the structure. It's just a requirement to give them a minimum of one hour to escape the building in case of emergency.

Mr. Horcajo: Any other questions for Mr. Takitani. Thank you –

Ms. Popenuk: Excuse me?

Mr. Horcajo: Excuse me?

Ms. Popenuk: One more question. I just was thinking, so if you can't have any windows on the back wall because they're less than five-feet, then if you're in some of those rooms, you can't get out because there's no windows.

Mr. Takitani: That is why a basement is not suppose to be habitable space.

Ms. Popenuk: What about upstairs?

Mr. Takitani: Upstairs is okay because there's exiting from doors.

Ms. Popenuk: Unless of course there's a fire.

Mr. Takitani: Again, when you turn a residential structure into a commercial structure, you've got to meet different requirements. The requirements change.

Ms. Popenuk: Would the five-foot, no openings, less than five-feet, would that be pertinent to a residential also?

Mr. Takitani: No.

Ms. Popenuk: Just commercial. I see.

Mr. Horcajo: Thank you very much.

Mr. Takitani: You're welcome.

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Mr. Horcajo: Jordan Hart?

Mr. Hart: Yeah, I wanted to iterate now. So this building was renovated as a residential building permit and then the WRA business multi-family zoning code provides for occupying residences for general office use. So, this is a situation where the County of Maui encourages business owners to occupy residential structures for commercial uses. I want to clarify like this is not, it does not meet commercial code. But the WRA zoning code provides for that. And I wanted to recap Erin's comments regarding zoning variances – sorry – zoning and the building code. So I recognize that this is a zoning code. However, the WRA or the MRA is allowed to give variances for building code and fire codes. So I just wanted to reiterate the comment about not requiring, basically, not requiring a variance. If it is acknowledge that the structure meets the criteria or the intent of this section, then it should not require variances. And, you know, I believe that's the variances that this agency is allowed to grant, and that includes building code variances, fire safety variances. So, anyway, I just wanted to reiterate that.

Ms. Popenuk: Jordan, I have a question.

Mr. Hart: Yes?

Ms. Popenuk: How close is the back of this building to the property line?

Mr. Hart: Approximately five-feet.

Ms. Popenuk: But less than five feet. More than four-feet?

Mr. Hart: I don't have the exact measurements.

Mr. Horcajo: Okay. We're done with discussion on variance (4) I guess. We'll go to variance (5) regarding the roof overhang. Any questions for the consultants? The code requires that the eaves meet the fire rating as well. We're on page (9) of the staff report. Page (9) of the staff report. Okay, are we done with discussion on variance (5)?

Ms. Popenuk: Well, I just have a comment. So the requirements here is that it be one hour not that it be removed or something like this, just to make that clear. So whatever remedial type additions would be required to make it be one hour.

Mr. Hart: Again, I just want to reiterate that we really want determination on whether or not we even need variances here, and then in the interim, we're requesting that you grant the variances because they've completed their construction and now they're basically doing what the WRA zoning code is telling them to do, which is to occupy these existing residences in this area of Wailuku for commercial purposes. So I understand clearly.



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Mr. Horcajo: I guess if you don't mind, maybe we can have our Counsel weigh in on that original big issue and then we'll go back to the discussion on variance for the fire.

Mr. James Giroux: What was the big issue again?

Mr. Horcajo: Whether they even need to be here.

Mr. Hart: So there's this section of the WRA zoning code which basically says that –. Okay, I saw him sleeping for a second, I wasn't sure.

Mr. Giroux: No I heard the question. I was telling Bob I have to say that for the TV or else they don't think we're on Akaku. The determination actually has to come out of the Planning Department. And I guess as the position of this agency is that our intention is to look at projects in the totality of economic development. And so we're going to interpret the law as broadly as we can and say that if we can give you the variance, then we're going to do that analysis under the rubric that we have which is a lot broader than the rubric you would have if you were in the Board of Variances or if you were in any other agency. So I guess at this point I would say that if you ask for the variance and it's given under this agency then that would be the safest route, as opposed to waiting for somebody in Planning to change their interpretation of how they would interpret it. Because you could go from agency to – I mean, from director to director where you wouldn't want the applicant to be going in for maybe possibly a minor adjustment on the building, and then being told, oh, but you didn't get a variance for this, this, this, this, this and this. So for consistency sake, if the department is telling you that their interpretation is that you do need a variance, then this would be the agency to be in front of.

Mr. Hart: Okay, can I add some more information that was received through this application process? So basically we were given this letter from DSA building inspectors that recognize the structure as existing and non-conforming. So how does that also play into it? Like, basically, that's recognized. And then this section here about no permit being required and that if construction does take place then these issues that are listed need to be addressed. I don't, and we requested basically specific response on that. I understand what you're saying. What I hear you saying is if you can take a variance now, just take it. But this is kind of like a larger issue, and we're happy to have a variance, and we want to have a variance, but we also want to know, you know, how does this work? Because we read it to mean it exactly what we're saying and it's written. You know, we're just going off the literature that we have.

Mr. Horcajo: Well, I guess for me, as Chair, you need to decide whether we want to proceed or you want to –

Mr. Hart: We would absolutely like to proceed here today.

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Mr. Horcajo: Alright, then let's proceed.

Mr. Hart: Okay, thank you.

Mr. Horcajo: Okay, we're onto – again, there was no discussion except for Katharine on the roof. Am I correct?

Ms. Betts Basinger: And Katharine your discussion was again about the one hour fire rating on the roof line that is less than five-feet.

Ms. Popenuk: The eaves. Right.

Mr. Horcajo: The eaves. Alright, so we're onto variance (6) regarding requiring parapets. I wish you had a nice picture of what that would look like. You might change your little design guidelines.

Mr. Hart: I considered doing a mock up.

Mr. Horcajo: Any discussion by members?

Ms. Popenuk: I would just like to say that parapet destroy the building.

Mr. Horcajo: Okay. Variance (7). This now pertains to the downstairs useable space. As we heard from Mr. Takitani so I think we know technically what's, I guess, what's there from the pictures, and what's required to meet their UBC fire code. So any questions for the consultant? Okay, I have one question, not so much about the downstairs, but there's a garage or something next door that's kind of part of the owner's property. Am I correct?

Mr. Hart: Yeah, that was included in this request for C.O. - request for miscellaneous inspection, or C.O.

Mr. Horcajo: Right.

Mr. Hart: Could I just back track one second, regarding the downstairs storage area?

Mr. Horcajo: Sure.

Mr. Hart: Again, that was done as part of a residential building permit. And that work is accounted for by a closed permit. So I just wanted to reiterate that.

Mr. Horcajo: Okay. Well, I guess my question about the garage, is that being used for storage also?

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Mr. Hart: I don't know the status of that currently.

Mr. Horcajo: You're getting your exercise.

Mr. Sereno: I am getting my exercise. David Sereno. The problem with the garage is it's not secured. It's an old garage. Well, it's water tight from the roof now. It wasn't when we first got it. We had little wading pools catching water. The things that we have in there are just stuff. It's spooky to put files into an area that is basically open to the elements, although not directly or indirectly. And so, you know, I've got some office chairs that we don't use, an old desk, that kind of stuff. But it's definitely not what we're looking for a secured area, free from the elements.

Mr. Horcajo: Thank you. Any other questions on any of the other variance issues before we deliberate, I guess, members? Hey Jordan, I have a quick question I forgot to ask earlier. On the rise and run dimensions now for the existing stairways, do you know what that is?

Mr. Hart: I have to look and see if I have it in a documentation. But I think not.

Mr. Horcajo: Not that critical.

Mr. Hart: I don't think I have it with me now.

Mr. Horcajo: Any other comments or questions for the consultant? Thank you very much Jordan.

Mr. Hart: Thank you.

Mr. Horcajo: If during our discussion we need to pull you up, we will. So members, where do you want to go from here? We have a staff report.

Ms. Betts Basinger: Yeah, I'd like to just go to the staff recommendations, one by one.

Mr. Horcajo: So just take variance by variance, and just kind of –

Ms. Betts Basinger: Yeah. If that's okay with everyone.

Mr. Horcajo: Sure.

Ms. Betts Basinger: So no. (1) to waive the requirement for 20-feet of unobstructed road width, and that's the recommendation by staff.

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Mr. Horcajo: That's the recommendation by staff, and with the idea that they're working with County to remove the parking from that.

Ms. Betts Basinger: And on that issue, I don't know it's germane to this particular action, but that will be something that I believe MRA should be on top of in following and being recorded on. Is that okay?

Mr. Horcajo: Yeah.

Ms. Popenuk: Or at least get some kind of a hard copy of the results of that.

Mr. Horcajo: Katharine, any last minute questions or comments on the variance (1)?

Ms. Popenuk: No. As long as we are sure that the Fire Department is in support of this.

Mr. Horcajo: Okay, so do I have motion, or do we just wait till we get the variance?

Ms. Betts Basinger: I'll go ahead and move that we approve staff's recommendation for item (1).

Ms. Popenuk: Second.

Mr. Horcajo: All in favor?

Agency Members: Aye.

Mr. Horcajo: Motion passes.

**It was moved by Ms. Alexa Betts Basinger, seconded by Ms. Katharine Popenuk, then**

**VOTED: to approve staff's recommendation #1.**

Ms. Wade: Mr. Chair, can I ask? There are a series of conditions associated with the variances. Some are tied directly to specific variances, and some are independent, or apply to all. So I don't know how you want to tie those in. Would you like me to read those?

Mr. Horcajo: Yes please.

Ms. Wade: There are four standard conditions.

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Mr. Horcajo: This is page (10).

Ms. Wade: On mine, page (11).

Mr. Horcajo: Okay.

Mr. Wade: The standard conditions are the final construction shall be in accordance with the plans and representations made and approved by the Maui Redevelopment Agency at the September 17, 2010 meeting. That the applicant shall development the property in substantial compliance with the representations made to the MRA in obtaining the variances. Failure to do so may result in the revocation of the variance and MRA approval. Second, is that appropriate measures be taken during construction if there is any to mitigate the short term impact to the project relative to dust from wind, ambient noise levels, and traffic disruptions. (3), that they provide reasonable due care. This is basically the liability section. No. (4) is full compliance of applicable government requirements shall be rendered. I would suggest that these conditions be attached to each of the variances.

Then there are Planning Department recommendations for conditions, including (5), the building my be maintained and operated as a commercial office or residence only. Any intensification of use such as food and beverage sale shall require a new application. (6), that the applicant maintains the exterior architecture elements of the property in keeping with the original design of the structure. Any modification of the exterior of the building shall require an MRA permit for design review. (7), that appropriate handrails be provided on the front steps with material and composition in character with existing porch railing. (8), that the business sign – this is based on staff recommended variance denial – that the business be relocated to comply with the requirements of the sign ordinance. (9), that the applicant complies with the requirements of MCC Title 16 Section 712 to ensure the useable floor space under floors shall be enclosed and protected on the side of the useable space as required by on hour resistive construction. And (10), that a building permit shall be obtained prior to any construction on the building.

Mr. Horcajo: Okay, so what you're suggesting is that if we're going to go through this variance by variance and take the vote, the motion should include, unless we decide to change, the standard conditions and the specific conditions?

Ms. Wade: I would just ask you to consider that.

Mr. Hart: Excuse me chair, could I make a request? I just like to reiterate there's certain scopes of work that are exempted from the building permit, and I'd just like to be able to have the applicants continue to take advantage of those scopes of work that are exempted from building permit. The condition says that every, basically, single piece of construction

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will require a permit, but the County Code doesn't state that. So if we could be allowed to do the things that are exempted from permit, without, that would be great.

Ms. Wade: So, if condition (10) was changed to as required by MCC Chapter 16.

Mr. Hart: That would be absolutely fine.

Mr. Horcajo: Alright, so I guess Alexa, we need an amended. Just amend the motion.

Ms. Betts Basinger: I will, but before I do, in discussion, Erin is this an after-the-fact application?

Ms. Wade: Yes it is.

Ms. Betts Basinger: Okay, so –

Mr. Hart: Excuse me? This is not an after-the-fact application. We filed a miscellaneous inspection for a change of use, so it's an after-the-fact certificate of occupancy. But this request for variances is current.

Ms. Wade: Excellent clarification. He's absolutely right.

Ms. Betts Basinger: So a permit has been applied for.

Mr. Hart: Sure.

Ms. Wade: For the occupancy.

Mr. Horcajo: And finished under the residential permits.

Ms. Wade: There's multiple things occurring.

Mr. Hart: There's no active construction application now. The renovation was done and is accounted for – is closed under a building permit. It's a residential building permit. Now it's being occupied for business purposes, so they're doing a change of occupancy. Their miscellaneous inspection is for a change of occupancy from residential to office.

Ms. Betts Basinger: And no additional construction was done to change from residential to business?

Mr. Hart: No because the WRA encourages you to occupy residences for commercial use.

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Ms. Betts Basinger: And then the other clarification – so it remains an existing non-conforming.

Ms. Wade: Correct. So essentially the after-the-fact of the occupancy piece of it –

Ms. Betts Basinger: Right.

Ms. Wade: – which MRA is dealing with in the variance request. We have no MRA after-the-fact. There will be no fines associated with that.

Ms. Betts Basinger: So does it become a conforming existing building at some point, or does it remain an existing non-conforming?

Ms. Wade: Correct. It remains an existing non-conforming.

Ms. Betts Basinger: Thank you.

Mr. Horcajo: Before we amend the motion, Mr. Takitani would want to say something. And just for the public's information, the law allows the chair to recognize anybody in the audience who is considered an expert witness in the matter that we're talking about.

Mr. Takitani: Ernie Takitani, DSA building inspector supervisor. In regards to the miscellaneous inspection, under our miscellaneous inspection provisions, what it is is we'll go in there, we'll do an inspection. If there are any items that need to be addressed, we address them under the miscellaneous inspection. Some of those items that we do address will require a building permit. And they will be required on that commercial status. I just wanted to address one thing for Mr. Hart here. The building is existing non-conforming, granted – and I lost my trend of thought. And we are, regardless of anything, trying to preserve life and safety. If it's a matter of a little handrail being placed on a stairway, which non-conforming because of how steep it is, I would think of something minor to do to conform. And we've only spoke about the front stairways, and not the rear stairways which also is non-conforming. That's all I've got to say.

Ms. Betts Basinger: Thank you.

Mr. Horcajo: Thank you.

Ms. Betts Basinger: So Erin the change language on –

Mr. Horcajo: So what does that mean?

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Ms. Betts Basinger: – addresses what Mr. Takitani just said that in the future if there are things that they want construct, they need to get a permit. Chair?

Mr. Horcajo: Yes, but just one quick thing, on the amendment. I guess the confusion part is that, for example, especially condition (7), does not pertain most of the variances here. That pertains to variance (3), I think it is. So I'm trying to figure out the best way to –

Ms. Betts Basinger: Well then let's go through them one by one for discussion, and then culminate it.

Mr. Horcajo: Then we can come back and see. Okay.

Ms. Wade: Okay.

Mr. Horcajo: Alright.

Ms. Betts Basinger: I withdraw the motion to approve no. (1).

Mr. Horcajo: Withdraw the second?

Ms. Popenuk: Okay.

**It was moved by Ms. Alexa Betts Basinger, then seconded by Ms. Katharine Popenuk to withdraw the motion to approve staff's recommendation #1**

Mr. Horcajo: Okay, so the plan is to have discussion. I guess, maybe we'll get some consensus for each on and then we'll come back and do a package and eliminate or add any conditions that we feel, appropriate, based on how we feel. Okay? So any further discussion? I guess we're going to take somewhat of a vote. Okay, variance no. (2) regarding the sign variance. Staff had recommended not supporting the variance. Any comments on that?

Ms. Popenuk: I would concur with staff that –. I really don't see any reason why it should be in the setback. I suggest that it should abide by the setback. Looking down the street, you don't see even the sign. It's completely hidden. So once you come up to the building, then even for the setback, you would see it quite clearly. But I think it would be – I don't see a reason for granting the variance on this.

Ms. Betts Basinger: What alternatives, I mean, in your experience might make a visual effect for the car driving down looking for something on the building, maybe?



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Ms. Popenuk: Well, I would just say just as a designer, I would think putting it on the garage building would be a good place, or close to the garage building. Maybe even the yard. The point being is that you guys are sort of tucked –. The Maui Bake Shop seems to be very close to the property line, so you guys are extremely hidden behind that building, and you almost have to be looking at your front steps before you see anything. You are right in front of your building when you even see anything. So that whole front yard area, or in the vicinity of the garage, or the parking lot. I see a lot of options for visibility.

Mr. Horcajo: I guess I'm going to state what I stated earlier. I guess I don't – you know, I'm trying to understand the rationale for the 10-feet. For me, common sense tells you why. I mean, why not 12, why not eight, and why not like what you see going down Main Street or going down Well Street. You know, there's McDonald's, Chevron, a whole bunch of signs well within 10-feet. Maui Medical as well, which I think the Planning Department gave the administrative review approval for that. So I truly feel it's just a misinterpretation of what the code says. If only the building is 10-feet, then no sign because maybe there's no room, or aesthetically it doesn't look nice, put it on the building. So I guess from my personal standpoint, I mean, I'm going to recommend personally to give the variance when we get to that point. Because there's no logic for me that it needs to be setback 10-feet. I think it's a –. And given what we have approved here in the past, it's (inaudible).

Ms. Betts Basinger: You mean no logic for this particular property or in general?

Mr. Horcajo: For any sign in the ground to be 10-feet away. Because historically if you look down the street, Maui Book Store. I mean, old signs. Hokama's. I guess they don't have that, that ground sound. But there's a lot of signs that are, you know, makes sense to be as close as possible where people can see it as long as it does not affect sight distance coming out of some kind of driveway.

Ms. Betts Basinger: Is that in residential? I mean, is that in commercial?

Ms. Wade: It's in the code under ground sign.

Ms. Betts Basinger: Under ground sign. Not air sign either, right? Like McDonald's.

Ms. Wade: That's a ground sign as well. So I honestly can't explain why the interpretation may have changed in the department over time. Perhaps it has, and I agree there are multiple signs within the district that are less than 10-feet.

Ms. Betts Basinger: You mean the setback from the street?

Ms. Wade: Yeah. Mr. Takitani.

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Mr. Takitani: The intention of the rule, I believe, when it was first enforced, was for sight and vision, okay. There's a 30/30 rule that you cannot have a sign. If you draw a parallel line, you take a circumference of 30 feet, you cannot have anything within that distance.

Ms. Betts Basinger: . . . (Inaudible) . . .

Mr. Takitani: That's a corner lot. The reason on restrictions that I foresee or know of, were lots just facing the road, other than the Planning Department's.

Mr. Horcajo: Okay, anymore discussion?

Ms. Betts Basinger: No.

Mr. Horcajo: Okay. Item variance (3) regarding stairs, handrails. The staff is suggesting we allow all the variances except for requiring wrought iron railing that carries the railings across the lanai and down the stairs. I guess, not a match. Any comments on the recommendation of staff, or any suggested changes?

Ms. Betts Basinger: My concern would be Mr. Takitani testified that there has been no address to the rear stairs which are similarly going to be a safety issue for access and egress. And because it wasn't part of the issue, are we disallowed to make it a condition?

Ms. Wade: I don't think it's stated front stairs in the variance. Let me look real quick.

Ms. Betts Basinger: It just says stairs.

Mr. Horcajo: It does not.

Ms. Wade: Yeah, allow residential dimension stairway on a commercial structure. So the variance request and as it was published does speak to both. I acknowledge, staff only addressed the front stair way, so the rear stairway, though, could be covered under this variance application as well.

Mr. Hart: Could I also just add that we can only address what we receive comment on.

Ms. Betts Basinger: I understand.

Mr. Hart: So, I mean, this is kind of a moving target.

Ms. Betts Basinger: I'm just clarifying what the issues are. Thank you.

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Mr. Horcajo: Okay, any further more discussion? Variance (5), I guess, has to do with the fire resistive walls.

Ms. Betts Basinger: No. (4).

Mr. Horcajo: No. (4), excuse me. Any further comments? And the staff is recommending approval of the variance.

Ms. Betts Basinger: I do just have one thing that wasn't made real clear to me. I understand the timber rating that you claimed the structure had, and then we had testimony from Mr. Takitani that it's 6 by 6. So does still – so, does it or does it not have a one hour timber rating?

Mr. Horcajo: Excuse me a second.

Mr. Sereno: This David Sereno.

Mr. Horcajo: Why don't you come up. David, excuse me a second. Alexa, I made the comment because it was noted in the comment from Wailuku Main Street that the existing walls have a timber rating. It was not made by the consultant.

Mr. Sereno: I actually, I was repeating what we had be told by architects.

Ms. Betts Basinger: Goy you. Okay. Thank you. So I guess I would address that to Wailuku Main Street in your report. Did your experts tie it to 6 by 6 as the requirement for one hour timber rating?

Ms. Perreira: We're standing by their comments.

Mr. Percha: The comments in the record –

Mr. Horcajo: Can you just identify yourself, please, August.

Ms. Perreira: Jocelyn Perreira, Wailuku Main Street Association. I have August in case you want a clarification, but I am going to stand by our architects' comments. A team of professionals looked at and determined that this was just as what was stated in our letter to you, relative to it being fire rated. The home is a nominal two-inch tongue-and-groove siding house. This meets the definition for every timber decking with a one hour fire rating by the code, and we support the variance. And some of our people sit on the Urban Design Review Board.

Mr. Horcajo: Thank you. Alright, thank you.

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Ms. Popenuk: Can we get our County expert to weigh in here?

Mr. Horcajo: No, he already has, so let's move on. I think Mr. Takitani has answered the question. Does that make sense?

Ms. Popenuk: That it is not.

Mr. Horcajo: It is not. Timber rating and UBC is 6 by 6 inches. There's also windows on that side, and it's 3/4-inch.

Ms. Popenuk: And it's important to note that it doesn't have to be timber in order to be one hour.

Mr. Hart: Can I clarify? Again, going back to the WRA zoning code, the business multi-family section, it basically encourages people to occupy these residential structures. I can't believe that that was the intent is to encourage these people to move their businesses into residences in order to do a complete renovation of the entire residence walls and all.

Mr. Horcajo: Okay, I understand that. That's why you're here, and we haven't decided yet.

Ms. Betts Basinger: Yeah, and we haven't decided. We're just trying to gather information. We'll weigh it all. Don't worry Jordan.

Mr. Hart: Okay.

Mr. Percha: Chair, may I make a comment?

Mr. Horcajo: Yes, please.

Mr. Percha: It will be brief. Thank you Chair. In considering this –

Mr. Horcajo: August Percha.

Mr. Percha: August Percha, just a bypassing architect. And I do want to testify later. But on this issue that you're talking about, I see kind of like a soup being made out of two or three different issues. One is the one hour fire rated wall, and one is heavy timber construction. And Ernie Takitani is correct about heavy timber construction, and that's what he spoke about. He didn't exactly speak about the make up of the wall, and the two-inch thick nominal thickness of the wood. And that has a burn thru rating, according to testimony that the Wailuku Main Street provided, of an hour.

Ms. Betts Basinger: Thank you August.

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Mr. Horcajo: Thank you.

Ms. Betts Basinger: So I agree with Katharine if we could ask Mr. Takitani to clarify his comment about the timber.

Mr. Horcajo: Okay, before that, but –

Mr. Percha: He did somewhat clarify to say that in the UL rating and as well in the UBC there are certain make ups of walls that are allowed. And there are a quite a variety of them, and the two inch nominal wood, tongue-and-groove, is part of that.

Mr. Horcajo: Okay, before we – maybe we don't need to ask Mr. Takitani, but Jordan Hart. I asked this question I believe of maybe David Sereno, or at least I made comment that, a construction as far as I understand is, you know, single wall construction, 3/4", one by six T&G – I own those kind of houses – and the answer was yes. So being that we're discussing it, is it 3/4", one by six T&G, or is it two-inch, one by six T&G?

Mr. Sereno: David Sereno. I'm sorry went by me. You know, I'm an attorney. I'm not a builder. That explains a lot actually. But when you asked tongue-and-groove, you went through all those number, I just assumed that all the tongue-and-groove was the same. I grew up in a tongue-and-groove house. I got to admit, I didn't go and cut into the wall and see how thick my wall was. And I haven't cut into this wall to see how thick this wall is, so I can't tell you. I know it's tongue-and-groove. I know it's redwood. I know those are the things that I do know, and if I mis-spoke, I truly apologize.

Mr. Horcajo: That's okay. That's fine.

Ms. Betts Basinger: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Horcajo: You want Mr. Takitani?

Ms. Betts Basinger: Yeah, because he actually was there and inspected and noted.

Mr. Horcajo: I think we're fine. Mr. Takitani, you've been asked to answer a member's question.

Ms. Betts Basinger: Just clarify.

Mr. Horcajo: Or clarify.

Mr. Takitani: Ernie Takitani.

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Ms. Betts Basinger: Just clarify for me the existing building one hour rating.

Mr. Takitani: The existing building. I cannot exactly tell you for the same reason why David couldn't tell you that. But I know back in those days, two-inch tongue-and-groove didn't exist.

Ms. Betts Basinger: Didn't exist.

Mr. Takitani: It was 3/4" T&G used for siding. If anybody used two-inches, it was up on the decking on the roof, not the walls.

Ms. Betts Basinger: Thank you.

Ms. Popenuk: And Ernie, would a 3/4" T&G with a fiber thin sheet on the inside surface, do you think that would be a one hour wall assembly?

Mr. Takitani: No. Not a single sheet.

Ms. Popenuk: It would have to be a double sheet?

Mr. Takitani: Again, like I said, there's numerous ways of doing it – a double sheet. It may even be a triple sheet. I'm not sure.

Mr. Horcajo: Before I go on, staff is suggesting maybe we just take a little straw poll on each variance, and we have three more to go through. Are you in support of the staff's recommendation? Just yeh or no, for item (4)? I'm not taking a vote. And the reason I'm asking is that when we get to the end and do one motion, I want to know whether we include all the recommendations or take some out to discuss any one of these separately. So –

Ms. Popenuk: I would concur with staff recommendation and the reason being that – one thing that very much disturbs me about this one hour is the openings that it's within five-feet of the property line, and if you follow the law and back, the code and back, we are not allowed to have any openings, no windows on the back side of the building.

Ms. Betts Basinger: Unless they're fire rated.

Ms. Popenuk: No even. No openings whatsoever. And I think that would be a very detrimental to the character of this building and to its use. So I don't want to ask that the applicant to defer of that requirement. At the same time, putting up an extra layer of 5/8" skip board might be the solution to the one hour wall situation which is pretty easy kind of a solution. So in general I would say that –

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Mr. Horcajo: You're supportive.

Ms. Popenuk: I would support it.

Ms. Betts Basinger: Well, I'm not decided right now.

Mr. Horcajo: That's fine. Let's move onto (5), requiring fire resistive walls, I guess. Well, to commit roof overhangs extending beyond the porch to be left unmodified. So without any one hour fire rating. I think we didn't discuss much I'm assuming.

Ms. Betts Basinger: Well staff recommends –

Mr. Horcajo: – approval of the variance.

Ms. Betts Basinger: Yeah. And that is the code. I have no questions.

Mr. Horcajo: Okay, item (6), parapets.

Ms. Betts Basinger: Again, staff recommends – yeah – I have no questions.

Mr. Horcajo: And item (7), regarding the space downstairs, that meet fire code.

Ms. Betts Basinger: On this one, I would allow with a condition that it only be used for storage and nothing else, so if there could be language of that sort put into a condition.

Ms. Wade: To do that, we could modify condition (9), essentially, to state that – because this one talks about that variance –. Perhaps I should wait and see if everybody else –

Ms. Popenuk: Well, I was going to say that I do believe that they should have one hour fire resistive construction. I don't see that as a particular hardship as the staff has stated.

Mr. Horcajo: And that versus upstairs is because if you remove the windows upstairs it would just destroy historical integrity.

Ms. Popenuk: Well, this is actually –. This one is saying that useable space shall be enclosed and protected on the side of useable space as required for one hour fire resistive construction. It doesn't really say that it has to comply with table 5A, which outlines not only the fire resistive construction, but also the fact there are no openings allowed within five-feet of the property line.

Mr. Horcajo: So basically you're concurring with that staff's condition?

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Ms. Popenuk: Yes.

Mr. Horcajo: Any comments Alexa besides what you just –?

Ms. Betts Basinger: Well, you know, not speaking as a designer or a builder, it just doesn't make common sense to me that we're going to allow a variance for the upstairs where people are, and demand this compliance for where they're just going to store stuff. I'm not quite understanding putting the applicant to that extent. So maybe if someone could explain it to me so I get, I just don't see the difference. And if it's only used as storage, and there's no people other than putting it down there, and getting it out. Clients will not be going there. And if we make a proviso, I believe that the exterior that they put in is better than what's upstairs on the crawl space.

Ms. Popenuk: In a perfect world or, you know, if we all had like tons of money, then we would ask that both of them meet the code. But I'm trying offer some flexibility that I think that's too much to ask of them to take the openings out. Ideally, yes, they should take the openings out and keep just a blank wall that fire can't get through, but I think that's too much to ask. So I don't want to ask them to do that.

Mr. Horcajo: Alright, so maybe let's –

Ms. Betts Basinger: I thought the basement was one hour fire rated.

Mr. Horcajo: No, it's not.

Mr. Hart: Could I add a comment? Can I clarify? I believe we don't need to show a hardship, but we basically could show the reasons that we feel a variance was appropriate. And basically the removal of the blight, and the use of the – the renovation of the structure and the use of it for commercial purposes. And basically the function of the storage with the law office was our justification for the removal of the blight from the WRA.

Ms. Popenuk: Yeah, I would agree with you that this building is gorgeous. I went by there this morning, and I went through the building, and it's really an extraordinarily, lovely building. I wouldn't disagree with you one bit that what's happened down there in the renovation has just uplift the whole street. It's the nicest building on the entire street. So I don't think any of us here think that that's not the case really. But we are concerned about other issues.

Mr. Hart: Okay. I just wanted to clarify that I don't believe we need to show hardship. Is that correct? Here? That's for the Board of Variances and Appeals.

Ms. Wade: Right, you have four other criteria that you can use to get the variance.



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Mr. Horcajo: So, I guess, back to you Alexa. We talked about maybe having a motion that encompasses all the variances. So maybe why don't you start, and then we'll address them.

Ms. Betts Basinger: Okay, and then we'll have discussion.

Mr. Horcajo: Sure.

Ms. Betts Basinger: Well, I'll start for discussion sake to move that we approve all the variances together with all of the conditions as here before amended.

Ms. Popenuk: Well, I don't want to approve all the variances.

Mr. Horcajo: If you could second it, we can talk, and we can pull one out.

Ms. Betts Basinger: We can't discuss unless it's seconded.

Ms. Popenuk: What if I don't support it?

Ms. Betts Basinger: Then you can discuss that.

Ms. Popenuk: Okay, second.

Mr. Horcajo: Second okay. Discussion. So maybe my suggestion is let's go through each one, and raise our hands, which we support the staff.

Ms. Popenuk: I just wanted to say –

Mr. Horcajo: Right. That's fine. And then we can amend the motion to take out the ones we still have discussion, and settle the ones we all agree upon. Okay, variance (1) regarding the 20-feet.

Ms. Betts Basinger: I agree.

Ms. Popenuk: Agree.

Mr. Horcajo: Agree. Okay. Agree with staff report. Variance (2), regarding signage.

Ms. Popenuk: I agree with staff.

Ms. Betts Basinger: I do as well.

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Mr. Horcajo: I'm going to say I disagree with staff, but I'm out numbered. Okay, variance (3).

Ms. Popenuk: I agree with the staff.

Ms. Betts Basinger: I agree.

Mr. Horcajo: And the staff's recommendation is adding down the stairs, handrails.

Ms. Popenuk: Handrails.

Ms. Betts Basinger: On all stairs.

Mr. Horcajo: Okay.

Ms. Wade: Should we change that to all stairs? Apparently is says front steps.

Ms. Betts Basinger: Yeah, all. I think it should be all.

Mr. Horcajo: I agree.

Ms. Popenuk: Unless it's already there.

Mr. Horcajo: I agree that for (3). No. (4), one hour resistive walls.

Ms. Betts Basinger: I agree with staff.

Ms. Popenuk: I half agree.

Ms. Betts Basinger: Wait a minute.

Mr. Horcajo: I'll make it easy, I agree.

Ms. Betts Basinger: What are you saying here? What is staff's recommendation?

Mr. Horcajo: Staff is to allow the variance.

Ms. Betts Basinger: Yeah, I agree with staff's recommendation.

Ms. Popenuk: I agree.

Mr. Horcajo: We need all three?

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Ms. Betts Basinger: Yeah, on all of them.

Ms. Popenuk: Okay. Then the sign one.

Ms. Wade: At this point, the sign one would be no action essentially.

Mr. Horcajo: Which means they will argue back with DSA or move the sign back.

Ms. Wade: Yeah. We can still go back for interpretation.

Mr. Hart: Could I just ask a question of Corporation Counsel. I'm sorry, regarding voting. How does that work? I was looking at the rules earlier today. I thought it was basically the majority of the qualified voters.

Mr. Giroux: No. The rules states that it's the majority of the –. In order to take action it has to be the concurrence of the majority of all members to which the MRA is entitled. Which means we're entitled five, so we need three to have a quorum to start the meeting, and to take any action, all three of those people have to be in concurrence.

Ms. Betts Basinger: Two of our members are absent.

Mr. Hart: Yeah, I'm sorry, for some reason I thought –

Ms. Betts Basinger: So on the signage one is due.

Mr. Horcajo: And if the choice is go negotiated with DSA or conditioned, I agree.

Ms. Betts Basinger: Same here.

Mr. Horcajo: Number –

Ms. Popenuk: I have a comment on variance (4).

Mr. Horcajo: Excuse me, no. (4)?

Ms. Popenuk: Yeah. It goes with Counsel actually – I want to ask. I'm a little concerned about allowing health and safety issues, one-hour wall, within certain distance from the property line. And I'm concerned about since MRA is about to allow the applicant to proceed with something that is, you know, opposition to what's required by code for health and safety. Does that expose us to some kind of liability or something?

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Ms. Betts Basinger: Well maybe before you answer, Counsel, maybe I should've explained a little bit more, too, why I'm in agreement with staff in that way. And you know, this body has a specific task to engender economic revitalization. So we're always faced with that balance between health and safety, and economic renewal. And not just economic revitalization period, but by maintaining the character and the look of the town. So this is always our big burden, and that's why that particular power to weigh is really important. I grew up here and I know all of these houses, and they've been standing forever. You know, usually termites will get them before fire. I agree with the concerns for safety, but in my mind, our mandate as an agency and why we want to be cheerleaders for entrepreneurs and businesses that are helping us revitalize our town, is to, in that case, between safety and economic revitalization, it's incumbent on us to air on the side of economic revitalization. Understanding – I mean if it's a huge safety risk, like handrails, something that can be easily be fixed. So that's why I agree with staff, so you can understand our mandate.

Ms. Popenuk: Can you comment?

Mr. Giroux: Yeah, that's exactly what I was going to say. Yeah, when you're looking of issues of liability, you're basically a volunteer member of this agency, and you know, the County of Maui does understand those risks. We're self insured and also part of the conditions also includes some indemnification language. So as far as we're concerned, you know, we do want you to look at your mandate and decide accordingly so you don't have to worry about that issue.

Mr. Horcajo: Are you half or whole?

Ms. Popenuk: No. I'm whole.

Ms. Betts Basinger: She's reluctant.

Mr. Horcajo: Excuse me, variance no. (5) regarding the roof overhang. The staff recommends approval of the variance.

Ms. Betts Basinger: I agree with staff.

Ms. Popenuk: I agree.

Mr. Horcajo: Okay, variance (6) requiring parapets. Staff recommends approval of the variance.

Ms. Popenuk: I agree.

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Ms. Betts Basinger: I'm in agreement.

Mr. Horcajo: Okay, variance (7) to require the one hour fire resistive construction downstairs. Staff is recommending that they do need the code. Alexa had suggested, I assume, I think I understood it right, accept the variance with the condition that it's only used for storage.

Ms. Betts Basinger: That's correct.

Mr. Horcajo: How do you feel?

Ms. Popenuk: I would concur with the staff. That is that the applicant does not meet the criteria for variance approval. I think part of the thought process is that heat rises when a fire would start on the second level and burn to the upper level.

Ms. Betts Basinger: Well, another consideration might be too that when you're looking at potential fire sites, it could very well be in the storage area.

Ms. Popenuk: Right. And in fact, that the space appears to clad with dry wall right now.

Mr. Hart: Can I add to that?

Ms. Betts Basinger: It wouldn't be that much harder.

Ms. Popenuk: It would be put on another layer and the ceiling.

Ms. Betts Basinger: I'll agree with staff.

Mr. Hart: Can I add that the applicants have added fire alarms to the downstairs storage area as well as the upstairs? If that assists in your consideration situation.

Mr. Horcajo: You're saying adding fire alarms.

Mr. Hart: They have already, fire alarms.

Ms. Noreen Sereno: Well, actually it's going to be installed.

Mr. Sereno: It's not smoke detectors. It's Fire, straight to Fire Department.

Mr. Hart: So they're not smoke detectors, but fire alarms that are wired to the Fire Department.

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Ms. Betts Basinger: In both?

Mr. Sereno: Upstairs and downstairs.

Ms. Betts Basinger: In multiple places upstairs?

Mr. Horcajo: Okay, let's not have a conversation with somebody out in the audience.

Ms. Betts Basinger: Jordan, is it multiple areas in the upstairs?

Mr. Sereno: There's one upstairs and one downstairs, and that was based on consultation with the people who put them in and told us this is what we need. We needed one upstairs. And again, it's hot wired to them, to immediately to the Fire Department. So it just goes through instantaneously. And I know you guys all know this but the Fire Department is about, on a really busy day, maybe eight minutes away from us. On a really slow day, about two minutes away from us. So the downstairs will have one of these. It's not a smoke detector. Again this is David Sereno. I'm sorry I didn't introduce myself again. It's not a smoke detector. It is actually because we were – we understood concerns, we thought that would be an important thing to do. And just so you know, I understand about this million dollar thing, and just because we're doing construction. But we carry a million dollar liability policy anyway on our building. We always have even when we were in a rented building. So if that addresses any of your concerns also. I mean, at least I hope it does.

Mr. Horcajo: Thank you very much.

Mr. Sereno: Thank you.

Mr. Horcajo: I guess, staff, we have a question for Mr. Takitani, if you don't mind. One of the four criteria for allowing variances states the design and plan for the site incorporate improvement or compensating features. And I guess, the question is, is the fire alarm system that's triggered to the Fire Department, an adequate compensating feature that will provide the equivalent desirability and utility?

Mr. Takitani: It's a very nice feature to have, but it doesn't reduce the requirement for the one hour requirement.

Mr. Horcajo: Alright. Thank you very much. Okay, so –

Mr. Hart: Could I request an amendment to the condition?

Ms. Betts Basinger: I'd like to hear it.

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Mr. Hart: That the option be that the area be made unuseable if it's not to be made fire rated. So there's two options basically. Make it fire rated or make it unuseable.

Ms. Betts Basinger: Well, and the proposal that I made earlier to make a condition on it's only used for storage.

Mr. Horcajo: Which is kind of a happy medium. Does that make it better?

Ms. Betts Basinger: Rather than unuseable.

Mr. Hart: We'll be extremely happy to have it only for storage. That's all they want to use it as. That's all it's intended for.

Ms. Popenuk: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Horcajo: Of course. Sure.

Ms. Popenuk: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Horcajo: Yeah. That's true. Okay, so far, what we know that we know have consensus on is – Mr. Takitani?

Mr. Takitani: In regards to the young lady's comment there.

Mr. Horcajo: Mr. Takitani, just identify yourself.

Mr. Takitani: Ernie Takitani, building department. If you turn the downstairs into a storage complex only, a one hour rating is required. If it was to be an office, then you have the same uses upstairs and downstairs which is no separation. Then you have no one hour rating. Only your exterior walls, which they already knew.

Mr. Horcajo: Repeat that again, I'm sorry. If it's used for nothing –

Ms. Betts Basinger: Thank you for that. Thank you for that definition.

Mr. Takitani: In separation of buildings, if you have the same occupancy, office upstairs, office downstairs, there's no separation because you don't have the density. You don't have a huge amount of area. But if you change the downstairs to a storage area only, then you're required to have one hour all the way around. Whereas if it's an office, only the side up against close to the proximity to the property lines are required to be one hour.

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Mr. Horcajo: Okay. Before you say anything, members, so far we have a – are you still feeling like you want to agree with staff recommendation of requiring fire rating downstairs given what Mr. Takitani said, or change?

Ms. Popenuk: I still want to agree with staff because the important thing that he said there was that if it's both office then separation between office and office is no longer required, but then you have to have one hour everywhere on the walls as I understood him to say. Is that correct?

Mr. Takitani: Only on the walls facing the property line, in the close proximity to the property line.

Ms. Popenuk: If it's office and office.

Mr. Horcajo: Yes.

Ms. Popenuk: And what if it's office and storage?

Mr. Takitani: 5/8 all the around.

Ms. Popenuk: In the downstairs part?

Mr. Takitani: Correct.

Ms. Popenuk: Thank you.

Mr. Horcajo: So if it's office/office, only the south and the east wall needs to meet their code. Office/office.

Ms. Popenuk: So we don't really know, or have any control over how that space will be used.

Ms. Betts Basinger: But we could change – could we change our recommendation that it can only be used for office?

Mr. Horcajo: Excuse me, my understanding is if they make it an office, they still need the one hour rating on the south and the east wall, upstairs and downstairs.

Ms. Wade: Interior or exterior?

Mr. Hart: I believe it's the north and the east.



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Mr. Horcajo: I'm sorry.

Mr. Hart: And that's existing in our condition already.

Ms. Betts Basinger: We've given them a variance.

Mr. Horcajo: Staff, the variance for no. (4)?

Ms. Wade: Is for exterior walls.

Mr. Horcajo: Exterior, which includes the downstairs too then.

Mr. Hart: So he's basically sealing the ceiling.

Mr. Horcajo: Well we haven't given them but we've got consensus.

Ms. Betts Basinger: So we're still on (7).

Mr. Horcajo: So we're still on (7) now. And your comment is still the same, Alexa?

Ms. Betts Basinger: Well, originally, before I understood – on this on Takitani – I had suggested –

Mr. Hart: Now my question is can we basically request that it be office space because a variance wouldn't be required, isn't that correct?

Ms. Wade: Essentially then you would be requesting to withdraw that request for a variance and change that use to office. Do you concur Mr. Takitani?

Mr. Takitani: When the permit application they can apply for it to be an office.

Mr. Horcajo: Right. So we –

Mr. Hart: So we'd amend our miscellaneous inspection application to call that office instead of storage?

Mr. Takitani: Not your miscellaneous application. The building permit application.

Mr. Hart: Okay.

Mr. Horcajo: So an option for you folks now is to withdraw this variance request and go back and –

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Mr. Hart: Does that take us out of everything we've done here today or does that –

Mr. Horcajo: No, only having to do with variance (7).

Mr. Hart: So that would mean that could be office. Okay.

Ms. Wade: However, because I see what your concern was, at this point having, if all of these are provided, you wouldn't need a building permit application as you understand it.

Mr. Hart: Well, we don't even –.

Ms. Wade: So, when would the point then be that they would change the use from the basement?

Mr. Hart: That's the miscellaneous inspection that I was asking Mr. Takitani about.

Ms. Wade: He just –

Mr. Hart: The change in use is handled, and so that area is designated as office in the miscellaneous inspection application – I'm sorry, storage – however, I would just, you know, file a change to the site plan that calls it office rather than storage.

Ms. Wade: But he's saying no to that. He's saying it has to be on a building permit application? What if there is no activity to be done? How is that dealt with?

Mr. Takitani: If there is no activity, no work being performed, no handrails, no permits would be required.

Ms. Wade: Just clarification, for the installation of the handrails, they will be required to apply for a building permit.

Mr. Takitani: Correct.

Ms. Popenuk: I have a question. So this, no. (7), says to allow variance from the requirements that all useable space utilize one hour fire resistive construction. Then we get down to the justification portion and it starts talking about the storage area. So is just the storage area under the house that's being fire resistive or all useable space?

Ms. Wade: That was my understanding.

Mr. Hart: The sub-floor – it's called the below floor useable space.

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Ms. Wade: You can refer back to the DSA letter of June 16<sup>th</sup> where it clarifies.

Ms. Popenuk: So it's only the basement area?

Ms. Wade: Correct.

Mr. Hart: And clarified that with (inaudible - Neil Nicholas).

Ms. Popenuk: So we've granted, or we plan to grant no. (4) a variance for exterior walls as fire resistive, right? So, that would be better on the property line. So that one can be non-fire rated, right? And when we're looking at the balance of that, basement storage area –.

Mr. Horcajo: But, no, that includes that wall too right?

Ms. Popenuk: Yeah.

Mr. Horcajo: As far as I understand, by approving variance (4) –

Ms. Popenuk: Allow that back wall to be non rated.

Mr. Horcajo: – wall, the east and the south, up and down, to be non-rated.

Ms. Popenuk: Right. However, on (7), it talks about the side of the useable space. It could be taken separately from the one hour wall next to property line.

Mr. Horcajo: I'm sorry. My mind was distracted.

Ms. Popenuk: Totally splitting hairs. So we've said there is no requirement by the one hour wall assembly on the side that's closest to the property line in no. (4). When we get to no. (7), it's saying this enclosed area on the side of the useable area should be one hour.

Mr. Horcajo: Because it's classified as storage. So not just the south and the east, also the north and the west of that downstairs storage.

Ms. Popenuk: Right, so encapsulating the storage area.

Mr. Horcajo: Exactly. Right. Based on that being identified as storage. That's what I understand.

Ms. Popenuk: And if we go to call it office space, then what happens?

Mr. Horcajo: If we give it the variance for no. (4), then it goes away, at this point in time.

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Ms. Popenuk: Okay. But to call it office space, they need to put in another permit. Is that correct?

Mr. Horcajo: No.

Ms. Betts Basinger: They just need to change their –

Mr. Hart: I'll show you the site plan.

Mr. Horcajo: But they'll need a permit for the railing if we approve the recommendation.

Ms. Popenuk: I was just thinking in my mind, if they have to do a permit, isn't that like –

Ms. Betts Basinger: Instead of calling it storage area, they're going to change it to office.

Ms. Popenuk: And does that launch any kind of approval process?

Mr. Horcajo: Jordan, did you want to say something before we move on?

Mr. Hart: I don't particularly believe so. I think that the amendment to our miscellaneous inspection for change of occupancy would simply be to re-designate the storage area below the floor to office rather than storage. And so that would just be to change the notation on the site plan.

Ms. Wade: I think I'm getting two different answers from Mr. Takitani and Jordan.

Mr. Hart: Well, can I clarify that Mr. Takitani continues to refer to a building permit application. That's separate from the miscellaneous inspection that we filed with the change of occupancy. There's no live building permit.

Mr. Horcajo: Then if you feel confident there, then as we've just talked about it, if you change it to office and if you wanted to withdraw this variance, then that's an issue you deal with separately with DSA in the future. Am I correct?

Mr. Sereno: No, no. I believe you're right.

Mr. Horcajo: Please, if you're going to –

Mr. Sereno: I'm confused. Again, David Sereno. It's my understanding that if we change it, if we call it office and we'll make it an office, put a phone in there, and be a nice little office, since no. (4) was approved.

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Mr. Horcajo: Might be approved.

Mr. Sereno: I thought it was already voted on – I'm sorry.

Mr. Horcajo: But assuming it is.

Mr. Sereno: But assuming that it is approve, then we won't need fire rated walls on any of the exterior walls.

Mr. Horcajo: Exterior wall.

Mr. Sereno: Okay. So nothing then needs to be done down there. I'm not sure why the comment about how the handrailing and us getting a permit for a handrailing has anything to do with the stuff we've already got variances on. Here's what it is. It concerns me. It concerns me that I'm going to apply for a variance for a handrailing which I've got a possible proposal. I mean, I don't know how we're going to do this, but if we're applying for a variance – if we go in and get a permit for a handrailing, is he going then say, oh sorry, all these other things is up for grabs.

Mr. Horcajo: Well, that's the question we're wrestling with now.

Mr. Sereno: And I just assume as a lay person that when you go in for a building permit for a handrailing, you draw the steps, you make the handrailing, and that's what goes up. Now if that's not true, I need to know that before I can make any decision.

Mr. Hart: Could we just request a short recess to discuss this or anything like that?

Mr. Horcajo: Yes.

Ms. Betts Basinger: No, I'd like to continue conversation amongst this group if we can.

Mr. Horcajo: Well, let's have a short recess. We can still talk after the recess. I'll take a short recess until 3:15 p.m. Is that okay? Thank you.

*(The Maui Redevelopment Agency recessed at approximately 3:06 p.m.,  
and reconvened at approximately 3:16 p.m.)*

Mr. Horcajo: . . . meeting of the MRA back to order. Mr. Sereno, I think you had, for us, some comments.

Mr. Sereno: Again, David Sereno. I had the opportunity to speak with Mr. Takitani outside, and he further explained what permits I needed, and what needed to be done downstairs as

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a storage space. The problem was with an office space is we have seven feet down there, but we have 4 by 12's down there projecting down. It can only go to 6 to 8. That's the minimum height even with the projections. I don't think we have 6-8 honestly, okay. So, we were told that what we needed to do is to put 5/8-inch fire rated whatever that sheet rock, tape it downstairs, and then it would conform. And we were also told that the building permits for that, as well as, for the railing are only specifics to those specific projects and other issues will not be looked at. So with that being said, I know I wanted to call it an office, erase, go back and we'll call it a storage. You know, obviously, I still have issues with regards to whether or not we even need a variance, but I think that might be a fight for a different day. Okay?

Mr. Horcajo: Alright. Thank you very much.

Mr. Sereno: Thank you.

Mr. Horcajo: So members, so if we agree with the staff's recommendation that they need to meet the criteria of DSA, it sounds like the owner is saying he would do that.

Ms. Betts Basinger: Yes.

Mr. Horcajo: Am I correct? Okay.

Ms. Wade: So, in clarification then, are you withdrawing that request for a variance?

Mr. Hart: We would like to leave it as it was when we came in the door earlier today.

Mr. Horcajo: Okay. So members to recap, I believe that we have consensus of approving all the conditions that the Planning staff has presented, but to add for variance no. 3 that the handrails are for all stairs, not just the front, but the side stairwell also. Am I correct on what we have talked about? We've got some consensus. Okay, so I will need a motion to that effect.

Mr. Hart: One second.

Mr. Horcajo: Excuse me a second.

Mr. Hart: I just want to make sure – are you just making a motion regarding the below floor storage?

Mr. Horcajo: No.

Ms. Betts Basinger: No.

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Mr. Hart: Okay. Mr. Sereno wanted to make a comment regarding the condition about a million dollar policy. Is it an appropriate time to do that now or after?

Mr. Horcajo: You can. Sure.

Mr. Hart: David.

Mr. Sereno: Can I address the million dollar policy please? Again, David Sereno. One of the issues, and we've tried – I'm not sure the difficulty again. I don't do that either. But I can tell you that we have filed – I thought we had filed with you and showed you that we have a million dollar liability policy in place. We keep that no matter what because like I said, we were in a rental and we had that because we care about the people around us. I have no problem keeping that liability policy in place during the construction. We are having a great deal difficulty getting the County added specifically and honestly, I guess I can ask Mr. Giroux what the necessity of having the County, if I have a general liability, one million dollar policy, already in existence.

Mr. Giroux: Well, usually the standard language is that, and I know that, you know, in the industry it's kind of weird that they say name additionally named insured. And basically it's just within the policy itself that we have to be named because we also are hoping that if the policy is ever terminated, that we would notice of it. So that's the purpose of the language.

Mr. Sereno: How's about this – and I guess in this day and age there's no such thing as gentleman's agreements – but here's the thing. You know what I mean, and it's really unfortunate that a handshake doesn't go any where anymore. But here's the thing, I've been in private practice with 13-14 years now. For all but six months when I first started and I was fumbling along, we've had a million dollar policy. It's to protect us for God's sake. It's our – and adding on the County –. Whenever there's a delay from an insurance guy with what I consider to be a simple question, all I see is dollar signs. Because you're going to be considered an additional insured, I have a hunch my premiums are going up. It can be required. And again, it can be put in this order that I have in effect, during this time period, a million dollar liability policy for this space. And I am not permitted to terminate the policy, amend the policy in any way shape or form except to increase it.

Mr. Horcajo: Mr. Sereno, maybe if you don't mind, I have a question for Corporation Counsel. Now this standard condition says during the entire period of a building permit. So my understanding that always has been if there's an active building permit, and you're dealing with County processes that's when you need it. So what is the – it's not to life, but maybe –

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Mr. Sereno: No, no. And I'm not saying it's for life. But what I'm saying to you is, we have it anyway. Now I got to go because I don't know – again, I don't how long the building permit process is going to take. If it takes me six months, I'm going to have this add on to my insurance for the next six months. I guess what I'm saying is I've got the million dollars there no matter what. The only concern that the County has from what I can tell is that their notice if somehow – for lack of a better phrase and pardon the language – crap out on my end of the deal. But if it's in here and I do crap out on my end of the deal, everything is gone. I mean, I don't know how much more I can tell you as a gentleman. If I've had it for 13 years, it's something that is important to our office and is important to our neighbors on top of that.

Mr. Horcajo: I just want to make a comment just from practical experiences having dealt with adding people as additional insured, County, whoever else that work in the County property, State property, I generally have never had an extra charge. But, again, that's my experience. And before I finish, I don't think that's anything that we, as a board, can make a decision on. That's strictly –

Mr. Sereno: But you can say is amend the language and dealt adding the County as an additional insured and leave my policy that we've submitted to the County in place.

Ms. Betts Basinger: I can follow up and I will agree from my own experience in business that it doesn't cost to add an additional insured. It doesn't cost you a penny, and in exchange you're getting lots of variances. So I'm not understanding and we don't have control anyway. This is part of the legal notice of doing business.

Mr. Sereno: I'm not trying to bargain anything. What I'm trying to say – I guess for me, it's kind of practical for me. I just sit there and I say okay I've got this million dollar policy. It's sitting on my property. It's been there from the time before anybody even mentioned million dollar policy. It's extra work. It's extra –. I guess it's because the guy who's my insurance guy was my father's insurance guy, was my insurance guy my whole life. And when hems and haws about anything, I know what usually happens. I get a bill.

Ms. Betts Basinger: Well, you already have it, so –

Ms. Popenuk: I have a question to ask of Counsel. Is it within our legal –

Mr. Horcajo: Wait, excuse me, are you done answering?

Ms. Betts Basinger: No. If you have a million dollar policy in place.

Mr. Sereno: I do.



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Ms. Betts Basinger: As I from experience know about, it's just a phone call. Please add the County of Maui as an additional insured. There's usually no cost to for that.

Mr. Sereno: Okay.

Ms. Betts Basinger: So, if you have a different experience, call me.

Mr. Sereno: I don't. I know, I can tell you, and I'm saying this half jokingly, I will.

Ms. Betts Basinger: Okay.

Mr. Sereno: You know what I mean? I will because then I can sit on the phone with you, and you could say, you know, your insurance company doesn't do this and maybe that will give me some leverage, so I appreciate that. Okay. Thank you.

Mr. Horcajo: Katharine? Question?

Ms. Popenuk: I was just going to ask Counsel if we had legal authority to change this language.

Mr. Giroux: It's within your purview. You're the agency. Like I said, you're volunteering. You're taking on all the liability – no. But, your conditions, as long as they're reasonable. This is kind of a standard condition that we've been putting on all of our development permits just because we have been in litigation quite a lot. We're also named, you know. But, in other agencies that I advise, especially Board of Variances, which, you know, you're doing a variance today, is their standard condition in their rules, specifically states that they can look at the liability. They can actually do an analysis and say, well, this is a "manini" variance, two-inch height difference, not a million dollar policy. Most homeowners, at least, have a policy that covers the worth of their home. We've assumed that it's over \$300,000. Back in the day, it could have been up to \$700,000. But it would at least cover the cost of their home in case of, you know, fire and stuff. So people have to go in and adjust their insurance, get umbrellas, and all that kind of stuff. But as far as the County is concerned is because of the development, the litigation in the development arena that we have started this, at least, naming us, and then the Department then follows up as far as making sure that it's still active and such.

Mr. Horcajo: Okay. So, I only recommended a motion, right? We did not –

Ms. Betts Basinger: A motion was made and seconded.

Mr. Horcajo: It was?

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Ms. Betts Basinger: And then we just had discussion.

Ms. Popenuk: Yeah.

Mr. Horcajo: Okay.

Mr. Giroux: I'd just like to, with all of the discussion on the insurance, I just want to make a comment on the condition, a friendly amendment. It says naming the County as a named insured. Naming the County as an additional insured is naming the County, so that second naming, we're just going to bracket it out. It's just redundant.

Ms. Betts Basinger: Okay.

Mr. Horcajo: All right. So again the motion is to accept the recommendations of the Planning staff with the addition that the handrails be on all exterior stairs. And I just realized another – an amendment to that motion – maybe it should be, we talked briefly about adding to standard condition no. 10 that a building permit shall be obtained prior to any construction on the building, comma, if required by Chapter 19.

Ms. Wade: Chapter 16.

Mr. Horcajo: Oh, Chapter 16. We kind of had a consensus. So do I have an amendment to that?

Ms. Betts Basinger: I'll make a motion to amend item no. 10 as so stated.

Mr. Horcajo: Second?

Ms. Popenuk: Second.

Mr. Horcajo: Okay. Any further discussion?

Ms. Popenuk: That's also sort of applicable with no. 6 as well? We're saying any modification to the exterior building that any modification –

Mr. Horcajo: No, no. 6 pertains coming to us, the MRA, because that's a potential design review.

Ms. Popenuk: Okay, thank you.

Mr. Horcajo: Any comment or any other discussion? Okay, all in favor, say aye.

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Ms. Betts Basinger: Of the amendment.

Mr. Horcajo: Of the motion of the amendment.

Agency Members: Aye.

Mr. Horcajo: Any further discussion? All in favor of the motion as amended?

Agency Members: Aye.

Mr. Horcajo: Thank you for your time and your patience.

Mr. Roy: Thank you.

**It was moved by Ms. Alexa Betts Basinger, seconded by Ms. Katharine Popenuk, then**

**VOTED: to approve the Planning Department's recommendations with the amendments as discussed.**

Mr. Horcajo: Chair will take just a short two minute break to clear the room before we get ready for the next item.

*(The Maui Redevelopment Agency recessed at approximately 3:30 p.m., and reconvened at approximately 3:33 p.m.)*

## **C. MAUI REDEVELOPMENT AGENCY BUSINESS**

- 1. Wailuku Municipal Parking Structure update and discussion on the parking structure project including issues relating to design, schedule, contracts, proposals, project collaboration and funding. (Morgan Gerdel, AIA, Parking Structure Coordinator)**

Mr. Horcajo: MRA is back to order. Thank you very much. Okay, we're on agenda item C1, regarding the Wailuku Municipal Parking Structure. Morgan Gerdel is not here today. He did submit a report, and if you folks want a copy, it should be up there. So, is there any public testimony on what was submitted from Nishikawa and Associates?

Mr. John Noble: Can we wait until after this?

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Mr. Horcajo: No, you get to say your peace now, John, if you want, regarding the parking structure. Regarding the parking structure report. I'm sorry John, if you want to, could you talk in the mic?

Ms. Betts Basinger: The report was submitted in writing.

Mr. Horcajo: The report was submitted – this is regarding the parking structure – excuse me a second. There's copies up there, and it's an update of the timing of the project, and a short written report to say that they have a – I think they hired a consultant. I don't know if it's on this. I think they hired the architect. But again if you wanted to read a copy of the report and comment on the report, you're welcome to.

Mr. Noble: Well, I read the report and my comment on it would be short and sweet. And I've already talked to Alexa, and she slapped me. I'm learning that I don't know as much as I think I do. But my comment on this parking structure is that I think it's absolutely the most unreasonable thing that could be done with that. I think we need a traffic plan. I think we have a perfect way to go under where the bridge is, and come up under that parking structure and take all the dirt out and all the mess out of Wailuku. I think it's a poor idea just to put a four-story parking structure where we've only got the last piece of property in the town that's big enough to do anything with like put in a grocery store, and put all the things that we need like office supply or something that and different things, and to think of it simply as a cheap little parking structure. My thinking on this is that Wailuku is the capital of the best island in the world and this is the capital of three different islands. And to just put a parking structure there, and that is something that will bring people into town. Not have it so that the traffic goes underground and into it and things like that is not going to help the town any. So I realize this is not the place and this is all those things. But that's just my comment.

Mr. Horcajo: Okay. Just hang on John. Any question for the testifier?

Ms. Betts Basinger: Thanks John.

Mr. Horcajo: Wait John. I've got a question. I just want to be sure that I understand. You're suggesting that one option, I guess, mainly to get the traffic off main street is to make an underground roadway from down by the bridge, under and up, into the parking lot. But not have a parking structure or still have a parking structure?

Mr. Noble: Well, if you're going to do it to me, it would be done right that way, to have a tunnel under there. It would keep all of these –. I mean I'm sure you sit in your office and look between 2:30 and 5:00, it's jammed up there, all the way back to the bridge. You know, how are they going to do this? There's only one way to do it and that's come down Market Street no matter which way they do, and then go out Vineyard Street for five or six

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years. And it would make for a lot nicer structure. The other thing that bothers me is this (inaudible.) You know I'm thinking that private corporations and stuff would be willing to put in a lot of parking and stuff if you gave them a story. This thing of nothing being taller than a palm tree is nonsense as far as I'm concerned here. I'd like to see something that would bring people here even if you put the parking structure here that –. I know people don't like me harping on the non-profit, but they own all the major pieces of property, and this is the only major piece of property left. And if you don't do something with it that's going to bring people, it's just going to be backed up and back up the traffic.

Mr. Horcajo: Thank you very much John. Any other public testimony on item C1? Okay, seeing none, we're now moving to item C2 which is the Market Street Improvement Project. I know Yuki Lei is not here, but she did submit a one page report. That's, again, up on the desk. So any - excuse me a second - can I back track back to C1? Members, any comments on the report from Nishikawa and Associates?

**2. Market Street Improvement Project, Phase II through Happy Valley Update on project progress, public relations and schedule. (Yuki Lei Sugimura, Public Relations)**

Mr. Horcajo: Okay, sorry about that. Again, back to item C2, there's no public testimony for the Market Street Improvement Project. Members any questions? I guess for the general public, again, there's sheets up there, but basically work has resumed, and I understand they're going to be closed on Sunday and they did work in conjunction with Takamiya Market, you know, who agreed that Sunday would be the best day for them to close the street all day, and that's between Mokuahau and –. Anyway, it's just kind of short half a block. I think this week Sunday. Okay. Members, any comment on the report, for item C2? Okay.

**3. Wailuku Market-Based Plan - discussion on draft Wailuku Market Based-Plan and next steps as they relate to the Maui Redevelopment Agency**

Mr. Horcajo: Agenda item C3, Wailuku Market Based Plan, I'll leave that for Erin to start.

Ms. Wade: We provided in your packets a copy of a draft Wailuku Market Based Plan and completed the last week of work with the planning consultant who was here this past week, had two public meetings, pretty good participation and another series of stakeholder meetings. All of it kind of will be leading then to an amended draft of the report. And once that's ready, I think we should start scheduling the amendments to the Wailuku Redevelopment Plan based on what the outcomes of the draft plan are. So I'm happy to take any questions you have.

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Mr. Horcajo: Any public testimony please on C3, Market Based Plan.

Ms. Perreira: Jocelyn Perreira, Wailuku Main Street Association, Tri-Isle Main Street Resource Center. I'm not exactly clear on the process, whether or not, when the consultant has an amended draft report that the MRA then automatically institutes a request to amend the Wailuku Redevelopment Plan. It doesn't seem like that's appropriate. I would think that the report would have to then get some further review by the Steering Committee, and also get some input from the County Council. And I know we are pending to have a discussion with our own organization regarding this document. So I'm a little confused about the comment about as soon as the amended report gets back that it will lead to amending the amendment of Wailuku Redevelopment Plan which I don't know that everybody has to the conclusion that it has to be amended. Thank you.

Mr. Horcajo: Any questions for the testifier? Erin, do you have a comment?

Ms. Wade: I'll be happy to clarify. Because this was a grant under the Planning Department, the Planning Department will accept the product and determine whether it met the scope of work that was hired to be done. You know, we have a lot of coordinating agencies. We have Main Street Association, the Maui Redevelopment Agency, Office of Economic Development, all of which have participated in either resources or financing the product. But the grant is housed with the Department of Planning. So Planning will be the acceptor of the product, and then what each of those organizations want to do with the product is up to us, you know, up to each of us. So how basically what the MRA will be able to do with the report is determine which of these recommendations are appropriate to be incorporated in the redevelopment plan and to update the action. Because one of the things we've determined as part of this is to apply for a Community Development Block Grant funds for any projects. Within the redevelopment area, a redevelopment plan has to be up to date. Meaning, it cannot be over 10 years of age. We're right at that time period where we could apply for something for this year that is in the plan, but we cannot plan for anything new until we update. So we need to update with or without the recommendations of the Market Based Plan. But given the timing this seems like it's probably appropriate.

Mr. Horcajo: Any comments?

Ms. Betts Basinger: I do have a comment about that. I was going to bring it up anyway under our business. We spent a good part of last year, this body, going through the plan task by task, in updating. So I'm very concerned that that update was not completed by staff and printed and put out to the public via our website. None of the updates were of the level according to Council that required Council amendment. They were all things that within our purview to work. This has been completed. Let's change the responsible agency. So no. 1, we've been long working on updating the plan way prior to the PUMA

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study. So I'm hoping that what you're saying is that we're going to do the updates that have already been accomplished and put them in writing and get them printed and you know, bring the plan up to the date that we worked on already.

Ms. Wade: That actually wasn't what I was saying. Even though that we did do an update last year of all the tasks, and went through and determined which ones were completed and which were still yet to do, and made some suggestions for new ones, in order for it to be determined by CDBG that we have a qualifying redevelopment plan, it does have to go back up to Council. So we will have to amend the entire document and have it sent back up to Council for their approval to qualify for the grant funding. For our own purposes, we can utilize the charts that we just had developed last year. But for the qualification for the grant funding, it does have to be an official update.

Ms. Betts Basinger: But the plan, as we have updated, can go as it is, up to Council for the task that have not yet been accomplished. I mean, every task has not been accomplished yet, so –.

Ms. Wade: That was never yet the direction of this board. So if that's the direction you would like to give me, I can take that under a separate agenda item. But at this point it was my understanding we were going to use the recommendations of this report, combine it with last year, and then send it.

Ms. Betts Basinger: Absolutely. We would not have, you know, fund it, such a report, if we weren't hoping to have some really good information from it. I'm not saying that. I'm saying I see this as a good opportunity to bring up to date everything this body worked on so hard. And if there are things out of the PUMA report that we wish to add as a task, then we'll do it at that time. But I don't want to see all the work not be done.

Ms. Wade: I've got all the work.

Ms. Betts Basinger: I know.

Ms. Wade: I do have.

Ms. Betts Basinger: And I am suggesting later that that's one of the great things that our hired consultant can do.

Mr. Horcajo: Okay. Katharine, any comments? I guess I do want to make a comment and that is to concur with what with Erin had said. The process of the Market Based Plan once the final is done, the final report, will come to all the parties including us. And we're going to have public hearings. We're going to look at all the suggested changes, and we're going to talk about it, so it's a long process. Secondly, in reference to Alexa's thoughts here,

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yeah, my understanding was you don't want up or discussing before to the Council too many times. So let's get thru the Market Based Plan. We originally we were hoping it was going to be done in July. So based on that thought we figured we can wait until then to get the plan and incorporate whatever the public and we decide could be changed on the WRP and what we did last year with the strategic plan and go up one time. So, unfortunately, it's not going to be done till maybe October, November now, but I still think it makes sense because what we had done in our strategic plan was more very minor changes. So we go up, you know, let's go up with a good package to include the minor things, and maybe some larger changes that the community feels we should change. So –

Ms. Perreira: . . . (Inaudible. Didn't speak into the microphone.) . . .

Mr. Horcajo: You mean the final report?

Ms. Perreira: . . . (Inaudible. Didn't speak into the microphone.) . . .

Mr. Horcajo: Oh, sure. Okay. Fine. Any comments to that?

Ms. Betts Basinger: Well, I thought some of the strategic plan – and you'll have to forgive my memory – included things like this PUMA report. You know, there were certain tasks that we gave ourselves that we have now completed that should be updated as a completed thing. This was pretty big.

Mr. Horcajo: Well, let's revisit it at the next meeting and go from there.

Ms. Betts Basinger: So we want to put it on the agenda on the next meeting? Okay.

#### **D. COMMUNICATION AND REPORTS**

##### **1. Letter from Erin Wade, MRA staff to August Percha concerning 346 Market Street, Happy Valley Design Review.**

Mr. Horcajo: Let me see here. So we are down to communication and reports, D1, a letter from Erin Wade, MRA staff, to August Percha. I'll have Erin start first, August, and then you can comment, please. Thank you.

Ms. Wade: I provided this communication to the entire group because not only during the conversation here but members and others have expressed outside of this venue that they were confused about the process and it wasn't totally clear how when something doesn't meet the design guidelines, what's the procedure. So I wanted to copy the group on the communication and in the hopes that I communicated clearly what the options were to the



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applicant and what the procedure was. And if you had any questions as a board . . .  
(inaudible) . . . to welcome any feedback.

Mr. Horcajo: August?

Mr. Percha: Yeah, my name is August Percha. I'm here today because Paul Andres, the property owner, at 346 Market Street, asked me to be. He saw on the website that this communication was coming up, although, he and I can't quite say or identify which communication this is. What's the date on it?

Ms. Wade: August 26<sup>th</sup>.

Mr. Percha: Is that the one from Clayton?

Ms. Wade: Clayton signed it, yes.

Mr. Percha: Okay, but actually, you drafted it, right?

Ms. Wade: Correct.

Mr. Percha: Okay, cool.

Ms. Betts Basinger: And this is the first time I'm seeing it, so if we could have a minute to read thru it.

Mr. Horcajo: Well, yeah, start reading. Mr. Percha is going to –

Mr. Percha: Well, to begin with – and I'm not going to be limited to three minutes on this. There's so many myths in this I'm not going to waste everybody's time. Erin, if you think you're going to put index of record. These are just your file notes. Clayton included this to me and you're not including that to these people?

Ms. Wade: I did not provide the index of record.

Mr. Percha: Okay. Well, there's 22 items. Half of them are myths created by you, and they leave out important documentation provided to you. Some of it related to this nonconformity issue back in April. So when Council says wait for Planning Department, we've been waiting. And all we've gotten was the status quo. Are you saying, is he saying is that the status quo will prevail until you, or your department, provide issue on this because I'll tell you why. It has direct applicability in our view, to my client and others, and I put that into a memo to you last month, on the 27<sup>th</sup> as a memorandum. I haven't gotten

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any response because as you are all aware this is a big issue and it has applicability to other owners and other projects.

All right, I'm not done yet. You know in this process of yours, and I'm so happy when Alexa recalled some of the purpose and intent of what the WARZ is all about. I'm not going to go into all of them. I don't want to embarrass people, but I will say the one, (F), streamlining the permit process. We've been applicants now for almost two years. Also not in the index of record are two Wailuku Main Street referrals, or references, and actually regarding the project. On April 6<sup>th</sup>, the committee, and this Wailuku Main Street Design Review Committee, they noted that a change in use is not being proposed, no additional floor area is being added. Now you guys probably don't have this because Erin neglected to give it to you.

Mr. Horcajo: Mr. August –

Mr. Percha: Yeah, I'm not done yet.

Mr. Horcajo: Wait it minute, stop! Be respectful. We have that at the old request that was made from variance.

Mr. Percha: Okay, well, then why is this nonconforming issue still being brought from under the carpet.

Mr. Horcajo: That's the issue is that as you heard from the last public hearing process here, we're relying on what we hear from Corporation Counsel now –

Mr. Percha: Well, we heard from him today.

Mr. Horcajo: Well, then I might suggest if you don't believe him, then go try to get –

Mr. Percha: No, I believe exactly what he said Chair. I believe exactly what he said is that the status quo will prevail until Planning Department responds. And the status quo will remain in my view forever because they're not going to respond. They've had every opportunity.

Okay, it brings up an important issue. Now the other portion of this letter from Clayton and we are addressing him, and part of what I'm going to read to you is what Paul asked me to provide you. And today, he asked me to read it in front of the MRA. It's not actually addressed to all of you. It states three options. One is we can obtain a variance for the roll up doors. You know, Paul and I discussed this – what good does it do to ask for something we've already asked for, and that you've totally denied including a recommendation. So that is really a non-option as far as we're concerned. The thing that it doesn't really

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address is that it does have another option, and that is to just remove these roll up doors. Right? Return it back to its former glory. Right? Okay. I assure you he wrote it:

“Aloha all. While I support the purpose and intent of the Planning review and permitting process, I’m finding the structure and implementation to be seriously detrimental to redevelopment efforts in an area sorely in need of investment. I feel particularly victimized by the complaint process where it appears a complaint was initiated by a member of the process team.”

Does everybody know about the complaint process? This is an RFS form. In the past, it’s been used by people rightfully so to remain anonymous to complain on their neighbors for whatever activity that they’ve been undergoing. Recently though and we have good reason to believe that staffers are using this complaint form under it’s protection of anonymity for their purpose could be varied. It’s a rare opportunity. Well what this precipitates is a notice of violation. A notice of violation, maybe you’ve never seen these things, but they come in a very derisive way with fines attached to them which really causes a lot of concern for the owner of course, and necessarily so. But in these notices, and what our attorney is telling us is that there’s no opportunity or there’s no disclosure of an appeal process, none whatsoever. So this is a mandate being given to property owners. And what I was going to say is that and what really incenses us is that some people get the process, friendly service. Some people. Others get ignored. And then others get the RFS treatment. Now when I file all of this, it’s gone on that I am personally aware of. And when I examine it, when the purpose and intent, or you folks, I wonder how you’re being used.

Paul goes on to say:

“When I purchased this unique property, there was a serious blight in the neighbor, and being used as a drug house surrounded by abandoned vehicles and other trash. The anchor tenant, Happy Valley Laundry, was threatened to leave due to the condition of the premise. We cleared the problem tenant, cleaned up the trash, made necessary repairs to the roof, retained the laundry and added the roll down security doors to close off the area.”

In other words the man was just trying to secure his building. He didn’t think he was going to make anybody mad. He asked all his neighbors, did you complain on me? Because he’s a good neighbor. They say “no.” He hired a draftsman project – P stands for permit submittal – and progressing towards the building which could be properly operated and part of the neighborhood, functional and beautiful. I believe anyone looking at the photos before we started would prefer the current look.

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“A complaint was filed and notice given while we were in the process of filing permits with those drawings. When I went before the MRA, I was told that the Main Street Association would need to approve any changes to the facade, and based on that, assumed that as the local entity, they would provide primary design approval recommendation. After speaking to Wailuku Main Street, I believe I understood their intent and hired me as the architect, with a capital A. I mean, this guy is respectfully based on his extensive work in Wailuku. As he and my agent in the process, developed, and submitted method of approval of Wailuku Main Street, and before MRA, before they were rejected. I’ve been working on this permitting process and experienced local professionals for almost two years. This indicates a serious problem with the process. As the building is over 70 years old, and there are a few options to address with noncompliance with setbacks and other particular code issues. I’m prepared to upgrade plumbing, wiring, and non architectural fire walls to meet these codes. Simply put, I need your Department’s support to assist me, the agent, though, the process and receive approval for the exterior modification and obtaining necessary variances to retain this classic building. My only other option is demolition.”

Now he provides this in his absence because he’s on the mainland attending to a very critical, personal problem. If he would be here, and he will be back to address this group, but he wanted me to read this to you and I’m going to be including it in my response to Clayton. And thank you for letting me address the group. Primarily what I saw today was a skirting of the issue of the nonconformity. Take it up. It’s applicable, and I think you’ll find that it will help existing property owners throughout the town because I can tell you from my personal experience representing more than two recently that this process of yours has gotten out of hand. And in the absence of recognition of this nonconformity and sorting that out, we’re left like the attorney here, in complete rebuttal.

Mr. Horcajo: Okay. You’re done. Any questions for the testifier?

Ms. Betts Basinger: I do have one question August.

Mr. Horcajo: Sure.

Ms. Betts Basinger: Please help me recall when this body rejected.

Mr. Percha: The roll up doors?

Ms. Betts Basinger: I mean I remember hearing about it, but was that not a formal? That was not a formal application.

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Mr. Horcajo: It was.

Ms. Wade: It was. The application we had was for a design review.

Mr. Percha: It wasn't made a design –. It was not made as a design review until five days prior to the design review. We had been asking for years for a venue where this nonconformity could be concurred with. That's what we've been asking for. We were offered a design review. We took it because it's the only thing we had gotten in a year and a half.

Ms. Betts Basinger: Okay. Because I had several questions about this and the process, I recall. And I was advised by this body that it was in two parts. And in the design review part, there was no, we can't put conditions, we can't do anything. It's just that.

Mr. Horcajo: Right.

Ms. Betts Basinger: It was the other part where the MRA had a legitimate, played a legitimate role. So I'm very confused, and I don't know if I just simply misunderstood. But I do remember that meeting very, very well, and I remember being confused at that meeting. So, maybe Erin you can help clear up, for me at least, why we're now being accused of rejecting something that I didn't even think was a formal permit application.

Mr. Horcajo: Yeah, I want to make a comment, Alexa, before she. We saw this back in November of last year when it was suppose to be on the agenda soon after the violation notice, but it kept getting pushed back, and pushed back. When we finally saw it two months ago, when I saw the submittal, I was kind of surprised it wasn't for a variance.

Ms. Betts Basinger: Right.

Mr. Percha: Well, we've been asking –

Mr. Horcajo: I'm done Mr. August. August, I'm not talking – I'm talking about what I'm saying my opinion was. Now you say you folks know the law, so those are the options, variance or design review. But what came to us, whether it came, and generally it's the applicant who submits, just like what happened today. The applicant submitted a nice little packet. Kahawai, the same thing last month, nice packet. We're talking design review and talking about variance. That comes from the applicant. The applicant is suppose to look at the law, follow the law.

Mr. Percha: We've been trying to Chair. We've been asking not only design review, design review, we know what the crux of the reality is, and that is these code issues. That's why

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we've been asking for a ruling and your concurrence with the nonconformity because this would help you.

Mr. Horcajo: Of course it would help me, but this is the way I live my life. If you don't like the law, change it. Otherwise, I'm following the law. So my point being, personally, you know, Wakamatsu – I was told –

Mr. Percha: Wakamatsu?

Mr. Horcajo: Hang on a second. Wakamatsu, you know old Wakamatsu fish market, I was told if I added any siding I would loose the windows. Guess what I did? Patch and paint. I didn't want to loose the glass. You know, that's what the law is. I'm going to comply with the law. If the law changes, that says, yeah, anything is grand fathered in and non-conforming, no variance necessary, then great. Then I'm going to throw a party. But at this point in time, and you know you folks having track records, as you say, you've submitted more than one thing to this board, you know, you're preaching to the choirs as far as I'm concerned. So either submit it they way it's as presented with the law now, or don't. But don't, for me, I feel offended that you're telling us it's all our fault.

Mr. Percha: I'm not trying to say it's your fault, Bob. I'm sorry that you kind of feel that way, all right. I've got more say it's Erin. I mean we've been trying to get this non-conformity issue resolved before we can ever produce the issue like you guys want the nice books and so on and so forth. Plus – never mind.

Ms. Betts Basinger: And another comment –

Mr. Horcajo: And Erin was going to respond too.

Ms. Betts Basinger: Yeah, I want Erin to respond, but reason I'm seeking this, and the reason I was very confused at that meeting is because of all the years I've been on this body, and the years that I've been at these meetings, it's very rare that a design review comes before this body. It's usually like what we get today. So I didn't have much knowledge of it, and I heard a lot thru Corporation Counsel. It wasn't you actually. It was Michael who was here that day. So I simply want to understand why it came to us that way and –. I mean, I want to kind of defuse this. You're right, it's –

Mr. Percha: Actually it's not me. Paul, my customer, I mean, he is a legitimate property owner. You see me standing here, but I wish Paul were here.

Ms. Betts Basinger: Well I understand, but I, you know, need to process it in my head.

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Ms. Wade: Any time exterior modifications are made to a building in the MRA that are potentially inconsistent with the design guidelines, and if the administrative staff determines they're inconsistent, the applicant has the option to either come to the MRA and request formal design review or to change it. So, in this case, the applicant asked to take it to the MRA for design review.

Mr. Percha: A week before the meeting in which, excuse me Erin, you're feeding them your own story.

Ms. Wade: Well, let me –

Mr. Horcajo: Let her finish.

Ms. Wade: See, I'm really glad actually August we're having this because that was my understanding because in the letter that Paul submitted in November, it said, "I am requesting design review for only the two roll up doors and exterior front door." It said that right in the application. So I couldn't think he was applying for a variance.

Mr. Percha: Except for that, I put multiple, as his agent, multiple requests alerting you the code issues, and asking for guidance. And you've given none.

Ms. Wade: In May.

Mr. Percha: Except for the opportunity a week ahead of time to go to design review. And I call Paul, do you want to do this? He goes, heck I'll take anything I can get.

Ms. Wade: Okay, but, you need to remember, it was scheduled multiple times for design review on the MRA agenda. We had it in November, December, January and it kept getting pushed off. And then once you folks were ready to go for design review, I didn't know that you wanted to do anything but design review.

Mr. Percha: Well, except for that on multiple transmittals and memos to you I asked you about specifically issues of codes that we need to address going forward.

Ms. Wade: But none of those transmittals were a variance application.

Mr. Percha: Okay, well, you could have then said I can act on this if you give me your variance application.

Ms. Wade: And I am.

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Mr. Percha: I mean, you could have. You mailed it. Clayton mailed it. I mean, somebody said here recently, oh, you've got to make an application.

Mr. Horcajo: August, I have a question for you. In the time that you have been with WMSA, how many variance requests that you folks have processed thru this body throughout the years?

Mr. Percha: Lots.

Ms. Perreira: . . . (Inaudible. Did not speak into the microphone) . . .

Mr. Percha: This is Paul Andres. Don't forget. Don't mix it up, okay. This is Paul. I am Paul.

Mr. Horcajo: Okay. You're Paul. Then Paul, if the issue was a notice of violation of the doors, back in November, the options were then if you were told appropriately, I guess, by Planning or by their agent – whoever their agent is – that you had options of getting rid of the door and moving on, renting out the spaces, going through a variance or getting a design review process, what would you have done?

Mr. Percha: Say that again.

Mr. Horcajo: That's okay.

Mr. Percha: This is a hypothetical – kiss is my dick.

Mr. Horcajo: That's okay. My apologies.

Ms. Wade: Is there still ambiguity I guess about what needs to happen next?

Mr. Percha: Well, I think right now, we need to have this non-conformity issue resolved, not only for Paul, but for others. And you're aware of at least one.

Ms. Wade: Yes.

Mr. Percha: And there's probably more. And I think some – well, I'm going to keep that to myself.

Mr. Horcajo: Then maybe I'm going to suggest to the body and I realize that Mr. Giroux has weighted in the issue from a previous project here that we make a formal request to get something in writing from Corporation Counsel. Does that make any sense?



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Ms. Wade: So that would be, and let's be clear, regarding the WRAZD ordinance, 30.15.050, legal structures, legal uses and structures existing prior to the enactment of this code.

Mr. Horcajo: And could you read it just so we have it for the public record?

Ms. Wade: Yeah. I think it's (B) that continues to come up. Any dwelling or structure that was constructed with a building permit that was approved prior to the enactment of this code need not acquire an administrative review permit, MRA use permit, or variances; and maybe reconstructed as permitted by the original building permits. And such dwellings or structures may be expanded or modified with a building permit subject to the other provisions of this code.

Mr. Percha: That's what I've been asking for you to provide to Paul in writing.

Ms. Wade: An interpretation of this section?

Mr. Percha: Well, I don't want to be limited. I think that I'm going to be talking with Jordan. And if you're trying pin Paul down, just one thing you know about that Paul doesn't, I got to reject that.

Ms. Wade: No, that's not it. We want an answer to this as badly as you do.

Mr. Percha: Yeah because there has been a lot of fooling around.

Ms. Wade: Exactly.

Mr. Horcajo: But the way I read that, there's nothing necessary, if you're doing work according to the original building permit. So if it's res, then res, fine. But once you –

Mr. Percha: It's a change in use Bob. That's what triggers your law involvement, when there's a change in use, an intensification of use. Paul is not intensifying the use there. He has standing, we feel, in this nonconformity issue aside from the roll up doors which obviously offended somebody.

Ms. Wade: Not me. I did not file that RFS just for the record.

Ms. Betts Basinger: Actually members, if we could just maybe concentrate on what we as an MRA can do to maybe resolve this and help the applicant move forward in a positive way. I think that this issue is important and it needs to be tackled by this body and we need to get a legitimate interpretation. But that's going to take a while, and hopefully Erin will get that started now. But in the mean time, Jordan and –

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Mr. Horcajo: But let's go back. I mean, are we saying, you know, we're just going to talk about it. Are we going to make a formal request to get an opinion of this, as we continue working with –

Ms. Betts Basinger: In the interim my concern is the applicant.

Mr. Horcajo: Well, I realize that.

Ms. Betts Basinger: What can the applicant –

Mr. Horcajo: Sure.

Ms. Betts Basinger: How can we advise the applicant at this point so that they can move forward? Do we advise the applicant to file for a variance?

Mr. Horcajo: Okay, the applicant has been advised of the options via the letter.

Ms. Betts Basinger: That's right.

Mr. Horcajo: Now the applicant is also saying for two years and today that he would rather that this be resolved so it's really up to the applicant. But in the mean time, we can work from both sides, right? We get an opinion, and the applicant can choose how they want to weight.

Mr. Percha: The sooner the better. We're kind of stymie to tell you the truth.

Ms. Betts Basinger: Well can I ask you, frankly, because I don't understand. Help me understand why you just haven't come before this body for a variance?

Mr. Percha: Well we asked for, you know, we put in it for drawings that illustrated what he had there. That was recommended for denial. Now, Paul and I talked this over, do you want to put in for a variance? And he said, well what that's going to entail? Well, I said, I'm going to have to review the code and we have to meet the criteria, and I say I think we meet the criteria for a variance. But what is the likely hood of it being denied again?

Ms. Betts Basinger: Well, August, I think –

Mr. Percha: I mean I think that's common sense by a man like him.

Ms. Betts Basinger: Yeah. I think that's a common sense idea especially after the experience you had at the last meeting where it did seem like a rejection because I had that idea too even though it wasn't a formal variance. But there was this notion that it's not

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going to work. But, I'm also feeling now that you're kind of putting us in a position where we can't help you because answering the questions you want answered, saying you have to do this before I come for a variance, well, that's detrimental to you and your owner. You should move forward and come to us with a variance. There's five members here. And in the mean time, you have your options, and we can follow up to get an answer, or at least a current interpretation on, is it no. 4. Would that be okay? I mean, would you be willing to do that?

Mr. Percha: No. 1 we want an interpretation, in written, that we can understand on non-conforming.

Ms. Betts Basinger: Right, and so do we.

Mr. Percha: Okay, good. We agree on that.

Ms. Betts Basinger: And so do lots of people.

Mr. Percha: Okay, now what was the other thing you asked?

Ms. Betts Basinger: If you want to move forward with your owner, and maybe you guys can tell me if you can or cannot, why you just don't apply for a variance.

Mr. Percha: Actually, my owner doesn't have deep pockets. He's not an attorney. He's not rich. He's out of money.

Ms. Betts Basinger: So coming before us with a variance costs lots of money?

Mr. Percha: Well, I mean, there is me. Somebody who's got to put together the materials. I try to be as economical as I can. But this run around is what he don't like, and what has to be paid to me.

Ms. Betts Basinger: Okay.

Mr. Percha: Now, I'll keep that to myself too.

Mr. Horcajo: I think Corporation Counsel wants to say something.

Mr. Giroux: I just want to address this because, you know, I was not the Corporation Counsel sitting here when this project went through. And I think it's really important, and you know, in the law of land use is probably one of the most frustrating areas to practice in because of this, you know, where the administrative body has the ability to interpret its rules, and it has the reliance on professionals who are also trying their best to interpret your

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rules and then making those decisions under an administrative rubric. It goes on and on and on. And I hear the frustration in the applicant's voice, and I acknowledge that because it is very frustrating. But what we have to understand, and I've done this job and if you talk to anybody who knows me, that this is one thing that I see is that when the law is such that where it looks like you're doing one thing, but it's another and you don't understand that because of the way that the system is set up, an agency is only able to deal with what's in front of it and that's very frustrating because –. A prime example, you know a former Planning Director actually came to the Board of Variances and asked for a variance when he should have appealed the decision of the Planning Director. So even the professionals at the highest level can get this frustration to the level that it's not anybody trying to do this you. It happens. It's not fun. Nobody enjoys it. As an attorney when I have to tell a board we're not here for a variance, but for an appeal. Or we're not here for an appeal, but for a variance. It's not fun. Nobody likes that happening, but it happens. And as staff know it's difficult because, yes, they are in a position of serving, but they also know it's not their job to tell people exactly what to do. And that's frustrating because I do believe that they do try. They do try. I mean, the planner, who does the Board of Variances, sometimes she calls me and she goes they insist on doing an appeal. And I say, why don't they go for a variance. Or they insist on doing a variance, why don't they go for an appeal. And it's very frustrating because, you know, we can't see the future. We can't see the future. We know that there's a process. We know that it has to go forward somehow, but in the end, we can't determine what the administrative agency is going to do. And I think in this case, Mr. Percha, you're trying to ask this board are you just going to turn me down again? I don't think that's the case. I really don't. I think that you're in a situation where you do have options and you do have an ability to go forward and I don't think anybody is telling you don't do it. But I know the frustration that why should I go to step two.

Mr. Percha: Yes. Now let me interrupt because I've heard enough. I didn't learn about this denial until mid way in the meeting. How could I have even addressed it? Because I would have not even come here –

Mr. Giroux: Then imagine how –

Mr. Percha: – and wasted people's time.

Mr. Giroux: Imagine how we feel.

Mr. Percha: You're trying to say that I'm suppose to understand this?

Mr. Giroux: No. I'm not. I'm saying that it's very difficult. I'm saying that it's very difficult, and as we are trying and struggling with this area of law, it happens. And it's not anybody's fault, and it's not anybody's blame. But what it is is that it has happened and we need to move forward. And what I'm telling you is that this agency is not telling you do not go for

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a variance. We are saying that we are here for an application, and we are here for process.

Mr. Percha: In our notice violation from DSA, there was no disclosure by anybody ever about any appeal. The ability to appeal, is that a standard thing I don't know?

Mr. Giroux: Mr. Percha, I'm going to ask you, were you given a notice of warning or were you given a notice of violation?

Mr. Percha: It was a notice of violation. That's what I'm given by the –

Mr. Giroux: Okay, I haven't seen that document, but my understanding is that, notice of violations, under a standard clause, there is a notice of the appeal process.

Mr. Percha: Yes, but there wasn't in these.

Mr. Giroux: And, you know, I can't speak to that.

Mr. Percha: There wasn't.

Mr. Horcajo: Okay, any other questions for Mr. Percha.

Mr. Percha: Maybe I should ask for an appeal.

Ms. Betts Basinger: Well, you have a letter now that really outlines very well all of your options. So, it might be a little late but –

Mr. Percha: Except for that letter being a little late, yeah, right.

Ms. Betts Basinger: Yeah, but it's here, and I'm really glad that we were able to provide this for you. I really don't like the tone of this, so if there's some way that we can –

Mr. Percha: Let me apologize if I had tone of disgruntlement against the MRA. We don't like it. Paul doesn't like it. Even reading your letter . . . (inaudible. Did not speak into the microphone.) . . .

Mr. Horcajo: All right, thank you.

Mr. Percha: Thank you. It's been a long day.

Ms. Betts Basinger: I do have one comment and I'll go back to it. I know that – I sort of heard the same prepared frustration from Jordan. It was almost like he has itching. And

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I was like, wow, where did that come from? Part of our task, in big letters, in the very beginning is to develop fast track permit review procedures. And when we went through our tasks, that was high on our list. That was one of the high things on our list, in addition to getting updated marketing studies and other things that would sure up our ability to do things right for this town. So I'm just making a pitch to you, Chair, that this becomes one of our priority issues as it is in our mandate. We're hearing more and more frustration about it. And maybe we should tackle in a bigger way than just writing about this one little thing. But we have a budget, and the budget is really to start getting professional reports, and professional advice on how we can complete our tasks. So I might recommend when we discuss budget at some meeting that we start allocating future studies that we want. I know parking plans are really important. And rather than asking staff right now, just to deal with that one quadrant of something that we make it a priority to tackle the whole elephant.

Mr. Horcajo: Well, I will tell you and I mentioned at last month's meeting. It is high on my list. WMSA had mentioned that, you know, their group is going to start looking at it. And I had mentioned that we're going to create an RFP, almost hire consultants, if the board agrees to make, to create, a comprehensive look at this, given all of the variances and everything that's been going on for years. But, also separate it into low hanging fruit, and high hanging fruit. Stuff we know we can get approved. Whether it be the thing about, even the interpretation of the 10-foot sign, or, you know, we see a lot of stuff. And again, I'm a homeowner. I'm a land owner. I've developed many properties. I've been to the whatever, you know, processes here and it's frustrating. But I've learned how to maneuver so I don't have to deal with it if possible. I mean, I get permits when necessary, but if I don't have to because I can meet the law, I'm going to do it. So it's high on my list and part of it, of course, and that's why I mentioned last month, I've been talking with Erin about an RFP for that purpose. So we can tackle it quickly and one of the major recommendations coming out of the Market Based Plan is regulatory changes. And this specifically what you had mentioned, what August talked about, what ever consultant before us talks about. You know, I'm in the business of –

Ms. Betts Basinger: But the buck stops here. Item no. 3, provide flexible zoning and building requirements, and develop fast track permit procedures.

Mr. Horcajo: Yeah, and again, this is just, this only got, well, adopted in 2002. I mean, you know, we talked about the historic UBC codes.

Ms. Betts Basinger: Right. So we agree to make that a priority.

Mr. Horcajo: That's a high hanging fruit, but there's a lot of low hanging fruit that I think we can get through.

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Ms. Betts Basinger: Exactly.

Mr. Horcajo: So hopefully by next month, aside from the administrative assistant, we'll have that. And we still got parking management.

Ms. Betts Basinger: Can we, in our agenda for next month, Chair, in our next meeting, where are you planning to discuss these? Under MRA business? I'm not quite use to your new agenda yet.

Mr. Horcajo: Well, a lot of it is like what happened last month, it was hopefully to be on, but because of the PUMA thing, Erin got thrown off track. So it would be under MRA business. Thank you folks. Yeah, it would be under MRA business.

Ms. Betts Basinger: Okay.

Mr. Horcajo: So hopefully again we'll have a few RFP's. Erin can work on the parking management RFP. And unfortunately Morgan is not here because parking management is part of their job, but as far I feel, it's only for the time of construction. I think we should look at long term and that's what we've been talking about. So, hopefully next month we have a very engaging meeting. Okay, so, let's finish up on the agenda if you don't mind. Are we done with August Percha? D2, letter, Erin Wade regarding the Verizon.

**2. Letter from Erin Wade, MRA staff to Steven Sung concerning the Verizon Wireless cellular antenna behind the Maui Dry Goods building.**

Ms. Wade: The Chair has asked me to provide you with any communications that are sent out from the MRA during the time between the last agenda, so this was the documentation that there will be a public hearing at your next meeting regarding these antenna.

**3. CHAIR HORCAJO - Email regarding MRA business and orientation**

Mr. Horcajo: Okay, under item D3, I guess I had asked Erin to email you this letter which talks about our agenda for this meeting. And I guess given all of the work with PUMA, it kind of threw everything off track and, you know, although we talked about orientation from the beginning, I guess, when I was Chair, my main issue was just issue of permitting that August brings up. That we have a clear understanding of design review, process, variance process, administrative review process. I talked with Erin about changing the spreadsheet or changing the coding on the little project list so we know if we have approved a project administratively like Maui Medical signs or something. So we see the whole picture. We don't see just what we see on this, you know, sheets and stuff. You know, and for me, I guess we've got so much going on and I bet you guys will have some comments, but with

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the Market Based Plan and all of these RFP's that I hope we're going to have for us next month on regulatory, you know, stuff, parking management, that we're not going to have a lot of time to have a full orientation, but –. Now, again, we can have orientation strictly on the processes that we talked about today with Mr. Percha if you guys want to do that for next month. Just be sure that we all have a clear understanding of what processes the general public has.

Ms. Betts Basinger: So Chair what happened to the suggestion that we have a special meeting just for an orientation, and especially because our newest member needs to attend? I mean, I'm getting – we're losing agenda items that we can't seem to get to every month so we're getting behind in the tasks that we're really suppose to do. So at the end of the year when Council asks what did we accomplish we can't say well we were so busy with PUMA. I mean, we can't make excuses. So, it again brings up one thing that we need staff, even if it's a part-time person. We have a budget for that, and we need staff to get to our work, just the tasks that we have. So I get concerned when we start taking on new tasks that aren't even in our task bible. This is our scope of work. This is what the County Council expects us to do. So to me this takes precedent over anything. And again, so I'm looking forward to next month's meeting where we can look again and define our priorities, put in the updates that were here, and get some help so that – you know, we're asking Erin to run meetings – I mean so much. It's more than one person can do. And it's just another indication that this body, in order to do anything that it suppose to, needs help. It was always meant to have a staff.

Mr. Horcajo: First of all, I guess, I think you already know. We've been talking about what's important for a while now, what's on that WRFP. But whether we like it or not, the Market Based Plan is taking some time. We've gotten off track and stuff. But, they're gone. We're back on track.

Ms. Betts Basinger: Good.

Mr. Horcajo: Any comments on the, whatever we talked about, item D3? It was just an email that got sent out from me.

Ms. Popenuk: You were just suggesting that we needed to talk specifically as part of our orientation?

Mr. Horcajo: Well, yeah. I mean, the letter basically apologizes for not doing the orientation. But, here, I'm saying my main focus of orientation was to be sure we all understood these processes that the general public has before us. So I've asked you just now whether we want to bring just that specific item, not about sunshine law, not about whatever, sexual harassment, ethics code, intervener status, just strictly the permitting part. Because come April, there's going to be a full orientation like the BVA which not just talks



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about all those that I call basic stuff, but the BVA goes through, you know, Chapter 19, Chapter 18, Chapter 16, Chapter 12. And as long as I've been on this board, we've never talked about that. So that's April. But, you know, we get a project every month, every two months I figure, and most of the concerns have been the processes. So do we want to just focus on that for next month as far as orientation topic aside from whatever else we're bringing forth?

Ms. Betts Basinger: I would suggest that with our agenda that's sent to us in our packet, if there is a particular kind of hearing or a design review or something that we may not be that familiar with doing, that maybe just the sheet that discusses what our role is in that kind of review might help. But secondly, I want to throw out on record and ask Counsel if, you know, other agencies have to go through this orientation, would it be simpler if there was one big day where, you know, similar agencies with similar things came together instead of doing it, you know, trying to squeeze it into their business meetings? It's just a suggestion, and I know Corporation Counsel you have to do that.

Mr. Giroux: I was looking at Erin because I've gone thru about 46 of these.

Ms. Betts Basinger: Exactly.

Mr. Giroux: So if I ever violate ethics – if I ever violate ethics, I'm so screwed. But I think like the Board of Variance, I mean, if you wanted to do a joint special meeting, but coordinated an orientation day, that would be great. But think our calendars are already swinging in wide circles. I know that what I've recently enjoyed doing is customizing my power points for each agency because some do more quasi-judicial work, some are more focused in land use, some are, you know, they just have different areas of expertise. But in general, I mean, there is a general orientation – your sexual harassment, your sunshine law, your ethics. But what I do is I try to customize my presentation to use your rules and incorporate it into that. So if there's an ethics section in your rules, I put that into my presentation. But I think in the future, if Planning were to look at that, I think that would help everybody out.

Ms. Betts Basinger: You know, what you just said aligns with Bob's suggestion that we eliminate all the things that are in common – sunshine, sexual harassment. I don't know, I'll throw it out to everyone, would we be willing to come in for a special hour to hear specifically those non-in-common things that we can hear elsewhere for our role?

Mr. Horcajo: I can only suggest we ask Planning again because we have had a written response to that issue before, and the answer was no.

Ms. Betts Basinger: What?

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Mr. Horcajo: From Clayton, that they are not going to staff extra meetings. We have that in writing.

Ms. Betts Basinger: I understand, but we don't have to staff with them.

Mr. Horcajo: We cannot have a meeting without staff, as far as I know.

Mr. Giroux: We need minutes and we need a quorum. That's the bare minimum.

Ms. Betts Basinger: So we can hire Iwado. If we can get someone in here to take minutes.

Ms. Popenuk: I'm thinking that I like this idea of being very specific to the task at hand, and especially when we start talking about refocusing on a smoother permit process and August's issues that he brought forward today. That seems to be like it should be a hot topic for us. And we don't have much time, really, for like the big general all exclusive orientation. So if we zone in on something that's our hot topic for now, I think that would be a better use of our time. We're more likely to be able to put that in. And I do want, instead of having somebody outside of the County participate with us in that discussion, I think it's really critical that we have people that are from the Planning Department and our Corporation Counsel.

Ms. Betts Basinger: Well, we definitely need Corporation Counsel.

Ms. Popenuk: Right. I mean, they just have so much knowledge that there's just so many questions that would come up that they would get the answers.

Mr. Giroux: I have a suggestion and I've seen them do it at the Planning Commission is that like when we have – they do hundreds of land use permits and the code is this thick and when something comes up and it's a special use permit, you can do a special use permit workshop right before the hearing. So it's very easy to say, this is what we do during a special use. This is the section of law that empowers you to have authority. This is your rules regarding this. And so it's all put up there. And then you start the hearing. And then it becomes very easy because not only do you have the power point to say wait a second, I'm confused, are we doing a variance, are we doing a review, boom, it goes up on the wall, we're doing this. This is what we're doing. This is your criteria. And as soon as you guys finish discussing, we'll go back to that and see if we're ready. It makes the Chair a lot easier.

Ms. Betts Basinger: You know, that is wonderful because it also educates the public that's there. So they clearly understand also what the limitations are of that body that's there and what they can do. So I love that.

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Mr. Horcajo: Okay, so next month, we have a variance request for the Verizon, right? Am I correct?

Ms. Betts Basinger: Yes.

Mr. Horcajo: So, if we can incorporate –. I guess are we saying we're going to incorporate this into our meeting next week?

Ms. Betts Basinger: Yeah. That will be the first one.

Mr. Horcajo: But be sure the agenda – we make it on the agenda so the public knows that they don't necessarily have to come to that first portion I guess.

Ms. Betts Basinger: Do we call it a primer?

Mr. Giroux: We have been encouraging the reports to kind of have that, but you know you've got so much information that it's really hard to just boil what do I need? What's my nutshell? As lawyers, we want the nutshell. Put it on a paragraph or a page so I can just lift it up, and go what am I looking at because you're dealing with masses amount of quantities of information. So you need to go, okay, what's point A? What is this? Okay, it's a project that has this, this, and this. And we did that today. We did that today. But, if we had it, you know, if we had a power point or we had something that that just flash back to and say well we're on variance one of ten. Okay, so variance number one of ten doesn't meet the criteria. Okay, yes, no, yes, no, yes, no. And then it becomes very clear. And also it helps in the condition making because then you can look at that one thing and isolate it and say what specific condition does this need in order to meet the criteria.

Ms. Betts Basinger: Very efficient.

Mr. Horcajo: And I will you, Erin and I have had some discussions about – I haven't really seen it – but reformatting the application so it's obvious what your options are. And maybe with an FAQ also so that it is a lot clear for the general public to look at this application. I know I have. So at least if there's any questions, they can at least go back to, you know, why this and not that. At least they have something that kind of help him understand it better. So I know that's on the list, but that would help too, for all of us too.

Ms. Popenuk: Like a flow chart.

Mr. Horcajo: Like a flow chart and with some FAQ's so that we all –. And again, my intent originally changing the agenda like that is that we all understand we got different roles here and we're learning it a little belated maybe but.

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Ms. Betts Basinger: Well, I just, again, I want to just remind us all that this is our work. I mean, our work is really not to create new forms or new charts for the Planning Department. Our work is here and so because we only have one part-time staff person.

Mr. Horcajo: Let's move on. Let's move on. That's budget for next month, okay. Let's go.

#### **4. NEWSLETTER**

Mr. Horcajo: Newsletter, D4.

Ms. Wade: Newsletter is done in draft form so I'll be getting that to you shortly.

Mr. Horcajo: Any comments on newsletter anybody? Okay, item D5, website.

#### **5. WEBSITE**

Ms. Wade: Website, we did meet with the website manager and she got us re-excited about the website.

Ms. Betts Basinger: I didn't know you weren't excited.

Ms. Wade: Well we were concerned, I mean, frankly, because the County had concerns about us paying for our website separate from the County's website, and had been encouraged to eliminate it. But I think we found a really good role for the website to utilize it as a collaborative entity and it sounded like that was the vision all along so that was great. So I've been working with Jeanine to get her some additional information and new quotes, more photos, and a whole lot of stuff. So probably over the next month we'll be working to make some updates and revisions. And basically everything from the Market Based Plan is going to be up there once we have the draft, the final draft done.

Ms. Betts Basinger: How much time do you estimate it's going to take to continually make sure that the website is updated on a –. So people don't say I'm not going to look at it, it's never updated, so that it's always vibrant.

Ms. Wade: For her or for staff?

Ms. Betts Basinger: Well, it's always going to be staff feeding her. She doesn't – she can't do anything until we tell her what to do.

Ms. Wade: I mean, emailing her documents that are prepared and telling her where they go, that's no problem whatsoever. One of the other things that we had talked about is

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breaking out different pages with additional explanations. That's going to take a little time, but once the structure is done it will be easy so we will be filling it with information. So I'll know better after we've gotten through this first round.

Mr. Horcajo: And I think maybe for next month we'll put it as, I guess, we'll talk about it further because we also talked about, you know, changing some of the menus, adding community partners in place of I don't know what it was. So at least we'll bring it up for more specific discussion.

Ms. Wade: To do the links, you had already talked about.

*(Changed cassette tapes)*

**E. APPROVAL OF THE August 19, 2010 MEETING MINUTES (via e-mail)**

Mr. Horcajo: Okay, the most important part is item E. I'm assuming all you folks had a chance to read the minutes of August 19<sup>th</sup>, 2010 meeting? If so, do I have a motion to approve the minutes?

Ms. Betts Basinger: The only thing about those minutes were that I did read them and then when I saw the agenda a lot of what we had agreed to in the minutes, which I even related to by line weren't on the agenda. But that's fixed. So I move to approve the minutes of August 19, 2010.

Ms. Popenuk: Second.

Mr. Horcajo: Anymore discussion? All in favor say aye.

Agency Members: "Aye."

**It was moved by Ms. Alexa Betts Basinger, seconded by Ms. Katharine Popenuk, then**

**VOTED: to approve the August 19, 2010 Maui Redevelopment Agency meeting minutes as presented.**

**F. NEXT MEETING DATE: October 15, 2010 (Friday)**

Mr. Horcajo: Okay, our next meeting date is October 15<sup>th</sup>. Is that the third – I guess it is. All right, so unless there's no objections, Chair will close, adjourn the meeting.

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Ms. Betts Basinger: I have one other question.

Mr. Horcajo: Sorry.

Ms. Betts Basinger: And I guess it would have been – what is the status of the traffic plan?

Ms. Wade: What traffic plan?

Ms. Betts Basinger: That we're going to – aren't we going to RFP?

Ms. Wade: You mean –

Ms. Betts Basinger: The study.

Ms. Wade: – the circulation plan?

Ms. Betts Basinger: Yeah.

Ms. Wade: Well, right now, Wilson Okamoto has been hired to work with the consultant for the parking structure. So I don't think it would make sense for us to send that out until we understand what the results of that is because they're going to be doing –. We'll have traffic counts from them. We'll have numbers. So that will be a good basis that we won't have to duplicate.

Ms. Betts Basinger: Do it ourselves.

Ms. Wade: Yeah.

Ms. Betts Basinger: Perfect. So that is moving ahead.

Ms. Wade: Right. Not under us. It's moving ahead with the parking structure.

Ms. Betts Basinger: Right, and we'll have availability to that, right?

Ms. Wade: Right.

Ms. Betts Basinger: And do you know a time limit for the conclusion of that report?

Ms. Wade: Yeah, so they're going to have their information by February of 2011. That's the schedule.

Ms. Popenuk: Do we need to – the agenda items for next time?

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Ms. Wade: I have. First one would be the MRA use permit primer. Second one would be the Verizon use permit request and public hearing. And then this will depend on if we get any design review in between now and then so there will be the space for that. For the MRA business, we'll keep the parking structure. We would keep the Market Street improvement plan. We'll probably keep the Market Based Plan if we have enough space. Also the status of the redevelopment plan and what the strategic planning. Second would be the request for written interpretation of 30.15.050. That's the existing uses.

Ms. Betts Basinger: And you'll add budget.

Mr. Horcajo: But don't hold your breath.

Ms. Wade: I guess we don't have to do an orientation if we do one by one.

Mr. Horcajo: Yeah, we'll definitely add budget down there, and then hopefully we're going to have some RFP's to discuss right?

Ms. Betts Basinger: Well, I passed out some sample RFP's that everyone can take with them and study. I called Kathleen Aoki and asked her if she could send us copies of existing consulting contracts with folks that do support work. And so sent me two of them which I've passed on. One was a court reporter. But they are administrative typed contracts. And also with the help of Erin's input and from all the work that we've already talked about, submitted for you guys to look at a list of discussion topics to take us where the scope of work. Because Kathleen recommended to Bob that the scope of work be very clear. And so I kind of started it out, and I also started out some discussion on recommendations for how much of our budget this will take. So if we can review those things before next week I'd like to –

Ms. Wade: Next meeting?

Ms. Betts Basinger: Next meeting, yeah. Have that one the agenda.

Mr. Horcajo: Yeah, and that's one reason I know when we do want talk about budget, I want to be sure we have a broad idea about all the priorities that you talk about on the WFP – parking management, vehicular pedestrian circulation, WRAZD, potential revision – so I want to be sure we look at the whole picture before we start. At least know what's on our priority list before we start saying yes to this, or yes to that.

Ms. Betts Basinger: Absolutely. That's why putting budget off is not a good thing each month. It should always be there.

Ms. Popenuk: So, the primer, is that basically orientation as well? I mean, is that kind of –

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Mr. Horcajo: That's what it's called – orientation on the –

Ms. Wade: MRA use permit process.

Ms. Popenuk: Okay.

**G. ADJOURNMENT**

Mr. Horcajo: Okay, we're out of here. Adjourned. Thank you very much. Quarter to five.

There being no further business brought forward to the Agency, the meeting was adjourned at approximately 4:47 p.m.

Respectfully submitted by,

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

**RECORD OF ATTENDANCE**

**Members Present:**

Robert Horcajo, Chair  
Katharine Popenuk, Vice-Chair  
Alexa Betts Basinger

**Members Excused:**

Raymond Phillips  
Warren Suzuki

**Others:**

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