

**URBAN DESIGN REVIEW BOARD
REGULAR MEETING
NOVEMBER 1, 2011**

APPROVED 02-07-2012

A. CALL TO ORDER

The regular meeting of the Urban Design Review Board (Board) was called to order by Ms. Linda Kay Okamoto, Chair, at approximately 10:00 a.m., Tuesday, November 1, 2011, in the Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Board was present (see Record of Attendance.)

B. ADMINISTRATIVE APPROVAL OF THE SEPTEMBER 6, 2011 MEETING MINUTES

Ms. Linda Kay Okamoto: Call the meeting to order at 10. Any questions on the – or corrections on the minutes of the September 6th meeting? Seeing none, they will be approved administratively.

**The September 6, 2011 Urban Design Review Boards meeting minutes were
administratively approved as presented.**

C. PUBLIC HEARING (Action to be taken after public hearing.)

1. **KERRY RINGROSE of PACIFIC SIGN & DESIGN representing MAUI MARKETPLACE INVESTMENT GROUP, INC. requesting variances from Maui County Code, §16.13.070 to allow: (1) The installation of one (1) additional business identification sign whereas only one sign is allowed per business frontage; and (2) The replacement of an existing 180 square foot business identification sign with a 130 square foot sign, thereby exceeding the current 64 square foot size limit by 66 square feet, for the Sports Authority expansion at the Maui Marketplace located at 270 Dairy Road, Kahului, Maui, Hawaii; TMK: (2) 3-8-080:001, 022 and 023 (SPV 20110001) (Trisha Kapuaala)**

- a. **Public Hearing**
- b. **Action**

Ms. Okamoto: Item C on the agenda, public hearing. Trisha, is everyone here for this part?

Ms. Trisha Kapuaala: Yes ma'am.

Ms. Okamoto: Kerry Ringrose of Pacific Sign and Design representing Maui Marketplace Investment Group, requesting variances from Maui County Code 16.13.070 to allow, (1), the installation of one additional business identification sign, whereas only one sign is allowed per business frontage, and (2), the replacement of an existing 180 square foot business identification sign with a 130 square foot sign, thereby exceeding the current 64 square foot size

limit by 66 square feet, for the Sports Authority expansion at the Maui Marketplace located at 270 Dairy Road, Kahului, Maui. We will go ahead and turn it over to the Planning staff. Thank you Trisha.

Ms. Kapuaala: Thank you very much. My name is Trisha Kapuaala with the Zoning Administration Enforcement Division. I just have a very brief presentation to show you just to familiarize yourself with the area. Variances are based on land and on the building so I wanted to show you the 270 Dairy Road location.

Let's go here first. Is everybody able to view the board? Thank you so much Leilani. This is a flood hazard assessment tool, but this is good as far as imagery, and it has an overlay of TMK boundaries. The properties in question today is 3-8-80 parcel 23, as well as parcels one and 22.

This is Dairy Road and Hana Highway. You see 23 highlighted. And these are the remaining parcels. For the purposes of the sign code, all three parcels are viewed as one property, as one project, and it's viewed as a whole. This is the subject building, and this is where the variance is being requested.

We have some aerial views. Dairy Road. This is the Hana Highway area. This is the Puunene Road area. This is the subject building. Here is where the old Borders store is, and here is the existing Sports Authority. You can kind of see the signage from here. Again, Borders, Sports Authority. And you'll see the surrounding area, it's very industrial in nature, primarily zoned M1, Light Industrial. This is the Maui County Kahului Fire Station, and the Harley Davidson, Wal-Mart. I can swing around if anyone is interested in the signage there. Let's go ahead and take a look at the street view.

This is a little too far. Let's go down the road. I use to actually go down there and take a video, and stand around at 360 degrees. But this is so wonderful. Thank you to Google imagery and satellite imagery. You'll see the Borders's existing signage that remains there today in the Maui Marketplace area. Maui Tropix. Now any of this imagery is available for your use when you – during your deliberations. I'd like to also direct you to Maui County Code 16.13.170 which governs your decision today. What the applicant must do is demonstrate to the board that a unique circumstance or special condition exists which are peculiar to the land, structure, or activity involved, the proposal is the most practicable alternative, and the granting of the variance would not be contrary to the purposes of this chapter. And just to state for the record the department did recommend approval of this variance. So, with that, I'd like to introduce Mr. Kerry Ringrose of Pacific Sign and Design representing the applicant today. Thank you very much.

Mr. Kerry Ringrose: Is this turned on? Yes it is. Good morning ladies and gentlemen of the board and several others. I'm Kerry Ringrose. I'm here on behalf of Maui Marketplace and Sports Authority. I'm working with the variance we have in front of us. With me this morning is Mr. Ben Arita, the regional manager for Sports Authority in Maui, and Mr. Adam Plenge who is the local store manager. And my assistant Kaih Nagasaka who heavily assisted with the

research work on this project.

In the matter before us, as Trisha has outlined, Sports Authority has optioned a lease on the adjacent premises, the old so-called Borders Books location. And it seeks to identify the additional premises with their brand identifier which in this form is a set of channel letters. Trisha has covered the ordinance 16.13.070 which does allow by a variance process the installation of an additional sign at the board's discretion.

This is a fairly large frontage. We've got something like 157 lineal feet just on the existing store itself. This is a large complex in the scale of Hawaii shopping centers, very high facades on the building. And originally back about 16 years ago when the shopping center went in, a special sign allowance was negotiated with the County for 1.5 square feet per one foot of lineal frontage. And that's why some of the existing signage quite notably Old Navy etcetera do appear to have quite a large signs there. What we're proposing to do on this occasion is to reformat the existing sign on the existing location down from 180 square feet, down to 130 square feet. And the new proposal as per your drawings there would not exceed 64 square feet which is in line with current codes.

There is one other issue too that part of the reason for updating the existing sign is that Sports Authority has undergone some changes to their name there now, known as Sports Authority, sans The, and the bottom line of Company which was previously in a . . . (inaudible). . . sort of style is now in the modified . . . (inaudible) . . . style that you see on the drawing earlier. If you look to the drawing to my right here, this is the existing conditions. See that one there. As you see the existing Sports Authority sign there, we have actually photo shopped out The because that's the intention.

Mr. Darryl Canady: Is there any way that could be brought over a little bit to her left over there?

Mr. Ringrose: Sure. More this way?

Ms. Okamoto: Can you see it Morgan?

Mr. Ringrose: Would it be better in front?

Mr. Canady: It was the glare.

Mr. Ringrose: Yeah, it's got a glare.

Mr. Canady: Beautiful.

Ms. Okamoto: That's fine.

Mr. Canady: Thank you.

Mr. Ringrose: Okay, as you can see, the existing sign is 180 square feet . . . (inaudible) . . . and

this is what we are proposing. And as you can see we're downsizing the existing sign, cleaning it up and the new sign would be quite potentially smaller. Now these two areas, the original Borders & Books sign, I believe, is about 160 square feet. And so we're dropping about 100 square foot off that. The sign area for these two locations is slightly different as you can see from the drawings.

Yeah, as you can see the sign area, the facade up front here, is quite a bit larger on the existing facade, compared with the Borders Books location. So that's the summation of the plan. Again, I mean, we're asking for a variance from the current code because it does not allow, usually allow. Switch to another one. Normally it does not allow two signs on the same frontage. But as you can see, the overall frontage, I believe, is in the vicinity of 400 lineal feet. And again, I refer back to the scale of the building and the architect in general. It would a little naked to have this building not branded in some fashion, some appropriate fashion. One other issue too is as you saw from the Google presentation, the existing Sports Authority sign is not readily visible from Dairy Road. Those trees have matured up in the last few years, and it's quite difficult to see that sign actually from Dairy Road itself. So the additional sign out on the other building will help that in terms a location identifier.

And again, in summation, this extended facility will provide enhanced product line commensurate with Maui's unique visitor and resident sport experience. And obviously the addition of employment opportunities should also be – will also come as a welcome note to the expanded location. And if there are no questions – do you have any questions at this point?

Ms. Okamoto: We will go around and see if there are questions –

Mr. Ringrose: Okay.

Ms. Okamoto: – if that is your presentation?

Mr. Ringrose: It is the end.

Ms. Okamoto: Okay. We will ask the board if you would stay up if they have any specific questions. Morgan, we will start with you.

Mr. J. Morgan Gerdel: Okay, I have a question regarding the space inside the store. Is it contiguous or is it two different stores with two entrances?

Mr. Ringrose: It is two different stores with two entrances as I understand it. You concur?

Ms. Okamoto: You'll have to come up and use the microphone. I'm sorry.

Mr. Ben Arita: Hi. My name is Ben Arita, I'm the District Manager for Hawaii. It will be one large store. We'll be taking down the center wall, so we'll be expanding greatly inside. All the departments will be expanded, so one giant store.

Mr. Gerdel: Okay. Thank you. And then my other question was, did you look at the option of a single 64 square foot sign at the existing Borders location versus two signs?

Mr. Ringrose: Actually, there is only one sign, one new sign proposed for the Borders location. The other sign is the existing one on existing Sports Authority location. Did I misunderstand the question?

Mr. Gerdel: I guess the question was, rather than doing a variance, did you look at the option of a single sign maybe closer to the Dairy Road?

Mr. Ringrose: Yes, except, again, it's the two sign on the same frontage which would have triggered a variance anyway.

Mr. Gerdel: Okay. Thank you.

Ms. Okamoto: Bryan?

Mr. Bryan Maxwell: I don't have any.

Ms. Okamoto: Bob?

Mr. Robert Bowlus: Will there be any signage at all on the Dairy Road side of the Dairy Road facade?

Mr. Ringrose: There is no signage planned for that part.

Mr. Bowlus: There's nothing planned. None.

Mr. Ringrose: None.

Mr. Bowlus: Alright. Thank you.

Ms. Linda Berry: Where will the main entry be on the remodeled store?

Mr. Ringrose: There will be two entrances. One, the existing entry, as I understand it. I'll need to get confirmation on this, but as I understand it, the existing Borders entry will be one of the entries, and the other existing entry below the existing Sports Authority sign will be another one. I'll get Ben to concur on that.

Mr. Arita: That is correct. Both the existing Sports Authority entrance as it stands, that will be our main entrance. And we'll have a secondary main entrance which is the current Borders entrance. So, two entrances.

Ms. Berry: Thank you. I'm curious, it says on here the linear footage for the total combined is 289. I'm wondering what the linear footage is at Lowe's is, and what their sign size is. I mean,

it looks from the drawing like a similar size building.

Ms. Kapuaala: I may be able to research that, but I'll need some time. I'll be able to answer your question in a few minutes.

Ms. Berry: Okay. Thank you.

Mr. Ringrose: I believe –. I'm sorry.

Ms. Berry: Go ahead.

Mr. Ringrose: I believe from memory – because my company did actually service the Lowe's sign at one point – and I believe it's in the vicinity of 230 square feet.

Ms. Berry: Their sign is. So that's less than your two proposed signs combined.

Mr. Ringrose: Yes. Yes, marginally, yeah.

Ms. Berry: And they are farther from the highway.

Mr. Ringrose: Yes.

Ms. Berry: I think, I'd like to ask Morgan's question in a different way. Why did you not remove the existing sign and install a single sign?

Mr. Ringrose: The existing Sports Authority sign?

Ms. Berry: Correct.

Mr. Ringrose: And just put another sign in the same location?

Ms. Berry: In the Borders location closer to the road where it's visible?

Mr. Ringrose: Again, it's an . . . (inaudible). . . based on commercial necessity. I mean, if you have a very large building, it just makes sense to have a brand identifier near the entrances. That's just a common practice.

Ms. Berry: Not according to Maui Code it's not. Thank you. I'd like to find out what the answer to the Lowe's signage and linear footage. Thank you.

Ms. Okamoto: Trisha, do you already have that?

Ms. Kapuaala: I can read to you, read into the record what our permitting system says, that it is 202.50 square foot sign. The details entered in the year 2000. Sign two, individual internally illuminated. Channel letters mounted on the wall with the top of the sign 20 feet from the

ground. Overall size of letters seven feet-six inches by 27 feet. The size to be 10 feet high and 31 feet long. I'm sorry, there is no building frontage information.

Ms. Okamoto: But your total square footage on the Lowe's is 202.5 square feet?

Ms. Kapuaala: Yes.

Ms. Okamoto: On their permitted sign?

Ms. Kapuaala: (nods)

Ms. Okamoto: Thank you.

Mr. Ringrose: What we're proposing is 194.

Ms. Okamoto: Yes. Any further questions Linda?

Ms. Berry: No. Thank you.

Ms. Okamoto: Darryl?

Mr. Canady: Thank you very much Madame Chair. If you could put your old, the original sign up on the board, I have some questions on that please. As a biz – thank you very much – as a businessman I would like to assume that the Borders sign that is there, shown there, was big enough to see from Dairy Road, so that Borders was known to be there.

Mr. Ringrose: Correct.

Mr. Canady: Okay. And the Sports Authority sign as shown here is a larger sign and it was or not was – I am not familiar with it – able to be seen from Dairy Road?

Mr. Ringrose: It was not.

Mr. Canady: Okay.

Mr. Ringrose: Well again I would use the language marginally.

Mr. Canady: Then my question is why increase the signage, why not keep the, where the Border sign is, the signage for Sports Authority, why does it have to be – why couldn't it be just the size that the old Borders sign was, number one? Number two, why the – if The Sports Authority sign at 180 square feet couldn't be seen there, why not put a smaller sign there and stay in the Code? If it's not seen anywhere from Dairy Road?

Ms. Okamoto: Do you want to answer that? Okay.

Mr. Ringrose: If I could just ask for some clarification. The option again would be to put a new Sports Authority sign in the location of the existing Borders Books at 180 square feet?

Mr. Canady: At 150. My thought was if the Borders sign at 150 can be seen, then keep the Sports Authority sign where the Borders was as 150. If it's visible.

Mr. Ringrose: Right. If it's visible. But does that mean eliminating the existing sign?

Mr. Canady: No. But you don't need one. You don't need one at 130 there either because it's not visible. But you need a smaller one, so put a smaller one in.

Ms. Okamoto: May I answer that?

Mr. Canady: Is that –? Can I –?

Ms. Okamoto: It would – yes, you can ask that – it would still require a variance.

Mr. Canady: Okay, fine.

Ms. Okamoto: Because you have two signs. Is that correct Trisha?

Mr. Canady: Okay.

Ms. Kapuaala: (nods)

Mr. Canady: Again, I still ask my question, because if it's not visible – as long as it's visible when somebody drives in, fine, it doesn't need to be that size, in my opinion. And why is it that size?

Mr. Ringrose: That is essentially correct. But, again, we've got a situation where that probably from the vantage point of the parking, the parking lot, everybody who currently patronizes Sports Authority knows where the store is. If the sign was removed from there, I mean, I'm not sure how easily confusion it would create as to where the entrance then was, since signs are usually placed very near to the entrance.

Mr. Canady: As I look at the sign as you're showing it here, the Sports Authority sign goes above the roof line. And the new one that you're proposing also goes above the roof line. I would like to see one that goes within the roof line.

Mr. Ringrose: Now when you say above the roof line, you mean the very apex of the top of the roof, or above the awning? The awning part of it?

Mr. Canady: Well I'm saying, looking at what you're showing now the existing conditions, the Sports Authority sign that is currently there, looks to appear to me to be above the roof line. Is that in fact true or not?

Mr. Ringrose: Depends on your dissemination what the roof line is.

Mr. Canady: I'm looking at your picture here.

Mr. Ringrose: Okay. Well as the County determines the roof line that means the top of the roof as I understand it from the code. Would you concur with that?

Ms. Kapuaala: I'd just like to show this to the board.

Mr. Canady: Is my question wrong?

Ms. Okamoto: No.

Ms. Kapuaala: If you notice here, this is the aerial view of the building, and it is a flat roof with a parapet wall that extends above the flat roof. And I think Mr. Ringrose is trying to clarify from you whether you mean that this sign is above this awning. Is that what you're considering this to be the roof line?

Mr. Canady: I'm just looking at the sign the way it is now – Sports Authority sign – 180 square feet. It appears to be above the roof line as compared to the roof line where the 150 square foot existing Borders sign is. Is that a maze or am I seeing something wrong?

Ms. Okamoto: I think – let me see if I can clarify. I think what you're saying is not the awning that covers the entrance, but that they appear to be over the flat roof line, although, both of them do appear to be that way. Maybe you can put up the proposed ones.

Mr. Canady: Well, the Borders doesn't appear to be over it Madame Chair. The Borders sign looks like it is part of the roof line.

Ms. Okamoto: Okay, can you put up the proposed one? Let's look at those. That might make it simpler.

Mr. Canady: I'm sorry to be difficult.

Ms. Okamoto: Gosh, no.

Mr. Canady: I guess it goes with the territory.

Ms. Okamoto: Yeah.

Mr. Canady: Okay, in this sign, it looks like it is above the roof line and one big billboard compared to the Borders sign at 64 square feet over the new entrance for Sports Authority.

Ms. Okamoto: Although Trisha, clarify, the parapet wall is there, correct? If you took the sign off that parapet wall is still there.

Ms. Kapuaala: Yes.

Ms. Okamoto: That's not like a billboard.

Mr. Canady: Thank you very much. I was confused. I apologize.

Mr. Ringrose: It's part of the architecture.

Ms. Okamoto: Any further questions?

Mr. Canady: Thank goodness, no.

Ms. Okamoto: Okay, Sue?

Ms. Susan Liscombe: Only one. It's kind of an assumption or a question on the original sign, the Sports Authority sign. I assume you are trying not to make any changes to that? You don't plan to change that sign at all?

Mr. Ringrose: Very slightly as I mentioned earlier in my presentation. The bottom line of Company, if you look at the existing condition sign, you might look rather closely you might get better luck seeing it on your notes. But where it says Authority – and this is a very minor change – it's only a font issue. Sports Authority has upgraded their font as corporations do from time to time. And the Sports remain the same, and they've just taken that same font and used it for the word Authority as well. It kinds of cleaned the whole thing up.

Ms. Liscombe: And the reason I was asking that question, if you're redoing that sign anyway, maybe you could reduce that a little bit in size to take some of the impact off the total signage. Just a thought.

Mr. Ringrose: Bearing in mind that this is being reduced from 180 to 130. We're dropping. We're giving it a 50 square foot haircut.

Ms. Liscombe: Okay. Thanks.

Ms. Okamoto: Michael?

Mr. Michael Silva: I don't have any specific questions. I don't know if you want me to voice my concern at this time I could do that.

Ms. Okamoto: No.

Mr. Silva: Or later? Okay. Thank you.

Ms. Okamoto: My question would be for Trisha. As far as the original sign, they're going smaller. We don't need to approve anything there. It's having that second sign. That is the real

variance, correct?

Ms. Kapuaala: That is not correct.

Ms. Okamoto: If we disapprove the 130, they could leave it at 180, what they have now?

Ms. Kapuaala: That is true.

Ms. Okamoto: Okay. So really, we're looking at that second, the additional sign.

Ms. Kapuaala: You are looking at both, to allow a replacement that would still exceed the limit, as well as an additional sign.

Ms. Okamoto: Thank you. At this time, if there's no further questions, I'll open it for public testimony. I do not see anyone for public testimony, so public testimony is closed. And we will now go around and Michael this will be your time for your comments.

Mr. Silva: So I do see the need maybe for another sign over the facade. I think that makes sense. That would be a special circumstance. But I don't see the need for the larger sign further away. I think the Code does say you have this much square footage if you're this far away which I don't see any reason why we shouldn't be meeting that especially if we're allowing the second sign closer to the road. I don't see a need for a larger sign further back.

Ms. Okamoto: Just to clarify – so you would say as long as both of them were the 64 square feet you would be –?

Mr. Silva: Yeah.

Ms. Okamoto: Thank you. Sue?

Ms. Liscombe: I also see the need for signs over each entrance just because of the architecture and the way that's laid out. And again I would agree that the signs maybe need not be that large especially the one that's further back into the shopping center.

Ms. Okamoto: Thank you. Darryl?

Mr. Canady: I also, thirdly, would like to agree that there is no logical reason that I can see for a huge sign, and just because there was a fairly large one there in the first place. I think it could be at least downsized tremendously since it's not visible other than you want visible as cars are parking in front of it and noticing it as an entrance. Thank you.

Ms. Okamoto: Linda?

Ms. Berry: I agree that granting a variance for two 64 square foot signs makes sense without violating the intent of the Code.

Ms. Okamoto: Bob?

Mr. Bowlus: Well, just a comment. By my math it looks like you were 334 square feet. You're now proposing 214 square feet, so you're over 100 square feet less than the existing signage. And it's upgrading it and it's cleaning it up. And you're not adding any signage, you're just changing the two existing signs I see. It's helpful for identifying the stores and clarity and locating entrances. I see no problems whatsoever.

Ms. Okamoto: Bryan?

Mr. Maxwell: I agree with you on that. The only concern I have is – actually it's not a concern. It's like if it went smaller, Maui is such a small island, everybody knows already that they're expanding. And everybody that lives here won't figure out that it disappeared honestly. I think what happens is having the signs towards the road will help out on visitors basically. Because most people will understand that Sports Authority is here.

Ms. Okamoto: Morgan?

Mr. Gerdel: Okay, I can support the single sign. I think the sign closer to the road is more functional than the sign further back, where the existing Sports Authority sign is. I could support a variance for a larger sign, but I don't think there needs to be two signs. They can function with one.

Ms. Okamoto: Any other comments? I guess I'll throw mine in too. I don't have any objections to the two signs. And I think you want to have the one over the main entrance a little larger. Maybe it doesn't need to be that much larger. But definitely the two together would now give you less than what was there before with Borders and Sports Authority. So I do need to remind everyone that this time, on signs, we do make a decision. And where in other things we make a recommendation to the Planning Department or to the Planning Commission. This one is in our court. And Trisha would you like to repeat what the department says, and then we'll have to work with that?

Ms. Kapuaala: Thank you Madame Chair. Would you like me to read the recommendation into the record?

Ms. Okamoto: Please.

Ms. Kapuaala: Based on it's analysis, the Department of Planning finds that, one, that all unique circumstances or special conditions that exists that are peculiar to the land, structure or activity involved. Two, the proposal is the most practicable alternative. And three, the granting of the variance would not be contrary to the purposes of this chapter. Based on the foregoing findings of facts and conclusions of law, the applicant has met all of the requirements for the granting of the subject variance. Therefore, the Department recommends approval of the subject variance. In consideration of the foregoing the Planning Department recommends that the Urban Design Review Board (UDRB) adopts the Department's staff and recommendation

reports prepared for the November 1st, 2011 meeting, and authorize the Planning Director to transmit said findings of facts, conclusions of law, and decision and order on behalf of the Urban Design Review Board. Signed by Mr. William Spence the Planning Director.

Ms. Okamoto: Thank you. Alright, we'll need a little more discussion because obviously we do not have a consensus, just from listening to comments. Anyone have further comments they want to make before we move forward?

Ms. Berry: I'd like to comment that I think that we should keep in mind that every time we grant a variance that leaves the door open for other people to request them and that that should be in the back of our minds. I'd like to know if we have an option other than just granting the variance or not granting the variance, or can we say we would grant a variance for two signs at 64 square feet?

Ms. Okamoto: Trisha, I believe that's a question.

Ms. Kapuaala: Thank you. Because this is a published public hearing I believe you have the authority to modify your approval. Anything smaller will do. If you were to say change your decision to make the proposed 64 square feet sign, for instance, larger, for whatever reason, I would have to defer to Mr. Hopper. But I think that would call for maybe a new notification process to the adjacent property owners. For your information, every adjacent property owners and leasee has been notified of this variance request, as well as this hearing published in the newspaper. So we wouldn't want to – we want our decision to be in the open, and every affected property be knowledgeable of your modification. Mr. Hopper can clarify.

Mr. Michael Hopper: Yeah, the code section stated that the board shall grant the variance, grant the variance with appropriate conditions, or deny the variance. And so I would perhaps look at a smaller size as an approval with conditions perhaps if you would phrase it as variance is grant however that on the condition that only a blank square foot sign shall be allowed. I think as far as the notice requirements that that would be satisfactory because there's notice given that the sign would be bigger. And so I think Trisha is correct there as long as we talk about that as an approval with conditions. I would probably also suggest it on the record you state the reasons for –. If it alters from the staff report in any way that you state the reasons for your alteration and that can be provided to the applicant because the staff report right now supports the granting of the variance. And if you're going to do something different, it may be advisable to state on the record the reasons for differing from that, even if it's granting but with conditions.

Ms. Okamoto: Okay. Thank you. Does that answer your question?

Ms. Berry: Yes, thank you.

Ms. Okamoto: Other comments?

Mr. Ringrose: Madame Chair, could I?

Ms. Okamoto: Okay, Bryan.

Mr. Maxwell: I just had one question. It was brought up regarding the entrance is – the existing entrance is still going to be the main entrance, or is it going to switch around with the new layout? Does that make sense? Or are they equal in uses?

Mr. Ringrose: I will have to confer with the manager. Would you like to speak to that Ben?

Mr. Arita: The existing entrance will actually be the main entrance and we'll have more registers. So the focus of the entry will be that, with the current Borders one has also a very big entrance but it will be secondary to the first one.

Mr. Canady: Which one is going to be the main?

Mr. Arita: The existing.

Ms. Okamoto: The one that is current will be the main entrance. The one that is now Borders will be the secondary I think.

Ms. Liscombe: But there will be registers at that secondary?

Mr. Arita: That is correct.

Ms. Berry: I thought registers were usually at the exit and the entry was open.

Ms. Okamoto: At some, I believe, it is. But at Sports Authority, the registers are right at the entrance, correct?

Mr. Arita: Correct.

Mr. Ringrose: It's the same.

Ms. Berry: Because there's only one.

Ms. Okamoto: Michael, you had a further comment?

Mr. Silva: Yeah. I just – maybe someone could help me on the history. I saw some numbers or years up there that –. I'm just looking right now at the code. Maybe for the signage, was that done after this initial construction? I saw the Lowe's was – or the – yeah, the Lowe's sign what it was, in 2000. It says 2002, it's up on the screen, is that –? Possibly this code came in after this development? Okay. So, just more reason to support the limiting to 64, in my opinion.

Mr. Maxwell: Michael, the Lowe's use to be Eagle's.

Ms. Okamoto: Okay, Trisha, could you comment on that, then? The Lowe's sign that is

currently there was approved before the current code or not?

Ms. Kapuaala: Yes, it was approved before the current code. The year was in 2000. The decision date was in November of 2000. The first adoption of the current code was in 2002. What happened prior to this code was that when a comprehensive signage plan was adopted by the UDRB inherit variances were approved, as well as sign permit approvals. It was done one time, with one clean sweep. A proposal was made. The UDRB granted. The developer went ahead and erected signage according to the comprehensive signage plan. So it wasn't until this current code was adopted that sign permits were required and you'll see in the staff report that signs that are grand-fathered, any modification, any replacement will need to comply with current code unless approved by the UDRB.

Ms. Okamoto: What about the Old Navy sign?

Ms. Kapuaala: The Old Navy sign is a similar situation. It was approved by the UDRB. It is compliant with the comprehensive signage plan.

Ms. Okamoto: That was also before the –

Ms. Kapuaala: Yes. Let me go ahead and look at this project – building permit history. Hold on one moment.

Ms. Okamoto: Other comments while we're waiting for Trisha?

Ms. Berry: I'd like to know when the original, the existing Sports Authority sign was approved. Was that prior to the code as well?

Mr. Canady: Madame Chair, I am prepared to make a motion. If you want it, I've got it.

Ms. Okamoto: Thank you, but I don't think we're quite ready for that.

Mr. Ringrose: Madame Chair, if I could have an opportunity to make a further comment at this point.

Ms. Okamoto: Yes, please. Well, as soon as she finds the list, then we can look at that.

Ms. Kapuaala: It looks like I stand corrected. There were sign permits approved and they were generally in the 1997 area. And the question again was when was the existing Sports Authority sign approved? Hold on one second. It looks like there was no sign permit code for the existing Sports Authority sign.

Ms. Okamoto: So it was part of the general sign code for that whole development, is that what it would be?

Ms. Berry: How about Old Navy?

Ms. Liscombe: Office Max is also a very large sign.

Ms. Okamoto: Yeah.

Ms. Kapuaala: Old Navy was in the year 1999. Let's see if there's a size listed in the scope. 133.6 square feet for Old Navy. Again, approved in 1999.

Ms. Okamoto: And what about Office Max?

Ms. Kapuaala: No sign permit listed for Office Max.

Ms. Okamoto: So that means it was a part of the original comprehensive?

Ms. Kapuaala: Yes. It's not uncommon for you find this in old signage that with the building permit, signage was indicated in the plan. The approval was made. At that time it was LUCA, Land Use and Codes Administration. The Zoning Administration and Enforcement Division did not break off and become a part of Planning yet. So when permits were issued it was just kind of issued. And it's not how it is now where you actually apply through the Department. Also, it has to do with the contractor. Contractors would commonly put up the sign when they're doing their project, but they're not a sign contractor. Here we have a sign contractor who applies for a sign permit, is knowledgeable of the code, has the proper issuance, etcetera, so that's the reasons for no sign permits.

Ms. Okamoto: Okay, thank you. I have to make another –. I am less perturbed with building signs than all the horrible signs we have all over the place of little, you know, tacky signs that are advertising everything. And we don't seem to have any, you know, we don't seem to have any handle on that. I don't mind two signs like this at all offensive, but that's my personal opinion. Yes?

Ms. Liscombe: I agree. I can see why you would want a larger sign where the main entrance is going to be. And they are not bad looking signs. Every other business in there, most of those businesses, have very large signs – The Office Max, the Lowe's.

Mr. Ringrose: They're all bigger.

Ms. Liscombe: So I kind of agree. I'm for, going for it.

Ms. Okamoto: Any other comments?

Mr. Ringrose: Madame Chair, if I could?

Ms. Okamoto: Oh, yes, I said you could make one more.

Mr. Ringrose: Just to delude for a moment back to the original code, the formula was, and believe, and I could stand corrected, but I believe it was 1.5 square feet per one foot of linear

frontage. So if you project that out, I mean, that's why some of those of signs are as large as they are. And again, moving back to Sports Authority, the case we're making for two signs that hinges somewhat on the fact that there's two entrances. But also the fact that we have – there's a size differential for somewhat for hierarchal reasons because one is obviously the main entrance. But these signs are not at a scale with the area where they're going when you compare them with the other signage on the building. These are quite conservative looking when you compare them with the other signage like Lowe's, Office Max, Old Navy particularly. Again with Old Navy there was a situation where they had the frontage but the way the architecture works, in my opinion and I was the original contractor for that job, in my opinion, they would have done better with a smaller sign because it just, those Old Navy letters just completely fill the area with no negative space around the property whatsoever. Here we have a comfortable amount of negative space sort of speak around the signage, and it doesn't seem excessive. It does not seem like an excessive arrangement. And again I would point out that as proposed this will be a much more downgraded conservative look in favor of the existing signage on the building, most of which is apparently grand fathered. It won't be taken down unless there's a change in the code that requires that. As long as it's maintained, they can keep those very large signs up basically for as long as they want.

Ms. Okamoto: Thank you. Okay, I have few further comments. Morgan?

Mr. Gerdel: Actually, this is a question for Planning. I noticed Ohekani Place is on the corner of Dairy Road. Does this building have two frontages or one?

Ms. Kapuaala: Let me take off the tax map key. Hold on one moment. I'll need some time.

Ms. Okamoto: Okay. Morgan, can you kind of clarify? Are you looking at one of these maps?

Mr. Gerdel: Right. I was looking at the site plan. I guess my thought was is this building allowed two signs or one because it looks like it could be on two street frontages.

Ms. Okamoto: I believe the Ohekani Place is down by Lowe's correct?

Mr. Gerdel: Right, but she mentioned this is one TMK.

Ms. Okamoto: Oh, I see what you're saying.

Mr. Silva: But wouldn't that be all the signs – Office Max, Lowe's? It does say Eagle Hardware and Garden on there, Bryan.

Mr. Maxwell: What's that?

Mr. Silva: It does say Eagle Hardware and Garden.

Mr. Ringrose: Going back in time here.

Ms. Okamoto: Trisha, do you see what he's saying?

Ms. Kapuaala: Yes, now I see what you're saying. The way the department would analyze this is that the building must be directly adjacent to the two streets. So the way the code is written and how we would approve sign permit today, this building alone is eligible for two signs because it is directly adjacent to two streets, two frontages. So in other words, that wouldn't qualify this building to have two signs, or this business.

Ms. Okamoto: Thank you. Does that answer your question? Any other comments or questions?

Mr. Ringrose: Madame Chairman?

Ms. Okamoto: Yes?

Mr. Ringrose: Could I call on the representatives of Sports Authority to make a comment at this time?

Ms. Okamoto: Sure.

Mr. Arita: I just want to say we're really excited to be able to expand the store here. If you guys have ever shopped at the location there, it's small, in Sports Authority terms. It's very cramped to shop in. If you try to shop in apparel, you probably can't weight over 165 pounds to get between the racks. What we're going to do is make this a world class sporting goods store, expand a lot of stuff. I guess we were in the paper the other day that tells the general outline of what we're going to do. We're going to bring in a lot more youth sports to help the youth of Maui out. We're going to make it easier to shop in. We're going to employ a lot more people including adding manager positions to basically help out people – all local – so it's going to be a great benefit. I'm not a sign guy so this is just a comment of what we're going to do and we're really excited to do it just to make the whole place better for the consumers of Maui. Thank you.

Ms. Okamoto: Thank you. Do I have a motion to – okay, now, it has to be a clear motion Darryl.

Mr. Canady: I appreciate that comment Madame Chair. I wish to make a motion that we grant the variance and that both signs must be within the 150 square foot variety. In other words they must equal, the front one and the back one. In other words we are approving 64 square feet for the front one, the back one should be equal in size to show both entrances.

Ms. Okamoto: Okay, so you're saying –

Mr. Canady: Or the back one should not be more than 150, what it is. In other words, both signs should not be larger than 150 square feet. Either one.

Ms. Okamoto: I'm totally confused. Are the rest of you?

Ms. Berry: Yes.

Mr. Canady: Am I confusing?

Ms. Okamoto: Yes, you are. So you're saying grant the variance with a condition.

Mr. Canady: Yes.

Ms. Okamoto: And are you saying the condition is that both signs should be 64 square feet? I'm not sure where the 150 is.

Mr. Canady: Both signs should look alike as they do in what is being proposed right now on the sign posted up here. The front one is 64 square feet. If that is large enough for that area, then I see no reason to have a larger one, 130 feet, for the back one which is not visible from the street anyway.

Ms. Okamoto: Okay. I think I understand the motion. The motion is to grant the variance with the condition that both signs be of no more than 64 square feet. Is that?

Mr. Canady: Yes.

Ms. Okamoto: Do I hear a second?

Ms. Berry: Second.

Mr. Silva: And I may be –

Ms. Okamoto: Okay, it's been moved and seconded, and then we will – do you have any speaking for your motion before we go on to others?

Mr. Canady: I'm only speaking on behalf of this motion is that looking at what is proposed here, on that they want, the one that is closest to the street and that they say is more visible, if they want it only 64 square feet, then they don't need the other one to be over twice that size. That is why I am making the motion the way I did. Thank you.

Ms. Okamoto: Okay, discussion of the motion. Michael?

Mr. Silva: I just wanted to go back to what I learned from the Costco sign and from our Counsel, Michael Hopper. It sounds like that would be not approving the larger sign variance, and we would need to give specific reasons why we would not approve that. I mean, that sounds like, if it's going to be 64, then they wouldn't need a variance to be larger.

Ms. Berry: They need a variance to have two signs though.

Mr. Silva: Yeah, so there's two variances. So if we want to say two, 64 square foot signs, that's

just the one variance for the additional sign. So I would say to his motion that we need to add a reasoning that there is no special circumstance to make it larger than 64 for the second variance. Does that makes sense?

Ms. Okamoto: Yes it does. Morgan?

Mr. Gerdel: I have one additional question for Planning. I noticed the definition of frontage it says the side of the building facing the street, but the frontage is facing the side, it's not facing the street. Do you have any comment on that?

Ms. Okamoto: Trisha?

Ms. Kapuaala: Let me go to that definition. Are you looking at 16.13.070, or the definition? Or you could point out the number in the –

Mr. Gerdel: I think it's the definition of building frontage.

Ms. Kapuaala: Building frontage. My understanding of this has always been that although not directly adjacent – this is an adjacent street – we require that building identification sign they must be over an entrance. So in this case where it has one street adjacent to this building this sign must be located here. And you see it's very much viewable from the street which is the purpose of the code. The farther you are away from this adjacent street, the larger your sign will be allowed to be. There's that formula and you'll see it as a background facts number five, on page seven of your staff report. This is a formula we use which is based on the building set back of more than 100 feet or more. And then you would go ahead and calculate that because the business frontage is over 80 feet, that 64 square feet is the allowable signage size. This is the larger size as the code permits today.

Ms. Okamoto: Does that answer your question Morgan?

Mr. Gerdel: Yeah, thank you.

Ms. Okamoto: Okay, we do have a motion on the floor.

Mr. Hopper: I wanted to just clarify for the motion. So the motion is to allow two 64 square feet signs, square foot signs?

Ms. Okamoto: Yes, that is the current motion.

Mr. Hopper: Okay, there's an existing 180 square foot business sign. So it would appear the applicant, I mean, would not be required to change the sign. But if the variance would allow for two signs if they're both 64 square feet, so the existing sign would have to be reduced to 64 square feet if this passed. But it would be – it's not ordering the applicant to reduce the size of that sign because the applicant could just have a variance and, I guess, do nothing with it. But I don't want this to be construed as an order to take down your sign and replace it with a 64

square foot sign, you know, because I'm not sure how this would affect the existing sign. I want it to be clear that – because I don't think you would have the authority to order them to reduce the sign. But I think you could say we will grant you a variance of 64 and 64. I don't know if that's something the applicant would even pursue, but, I mean, I think that's a legal variance, but it can't be construed as an order saying tear this down and do this. I think it's saying, if you want two signs, that's fine, but they both must be 64 square feet. But I don't know . . . (inaudible) . . .

Mr. Canady: That was the intent of my motion.

Mr. Hopper: But Trisha doesn't seem to – seems to have a comment to make.

Ms. Kapuaala: Respectfully. Respectfully sir, Mr. Hopper, I think if we go ahead and deny the applicant's request to allow the existing Sports Authority sign to be removed and replaced with a large, a smaller, yet, sign which is too large. If you deny that variance, I think that's it. You deny that variance. And they have – they can leave that sign or change it to be consistent with what they proposed on the new sign if granted and it has to be compliant. That would be my take on this. When you deny – I'll go ahead and use the pointer – if you deny this sign variance request, the applicant can go ahead and leave this sign because it's grand-fathered.

Ms. Okamoto: Right, then the question is, if we approve the variance for the second sign at 64 square feet, we are not requiring them to take down the other one. Is that what you're saying?

Ms. Kapuaala: Yes.

Ms. Okamoto: So if we approve the 64, they could leave the current one, but they couldn't change their font. You know, they couldn't reduce . . . (Inaudible. Mechanical problems with the audio equipment.)

Ms. Kapuaala: That would be my interpretation as the Planning staff and how to administer.

Ms. Okamoto: Okay. So we have to be very clear on what we are approving or disapproving.

Mr. Silva: Can we make a condition that if we grant the 64, the second 64, that the other sign has to be 64 max?

Ms. Okamoto: We could.

Mr. Silva: I mean, that could be a condition of the second sign variance I would think.

Ms. Okamoto: Are you wanting to amend the motion to do that?

Mr. Silva: Yes.

Mr. Hopper: My issue is – my question is that if they grant – if you grant a sign variance to allow

for two signs instead of one business sign, okay, if they don't change their first sign, isn't there a problem with both the number of signs as well as the total square footage then, if their square footage doesn't change? Or, if all that's granted is a variance for two signs and all they wanted initially was a 64 square foot sign, then why would they need a variance to change the size? Wouldn't then all the board needs to do is grant a sign variance for the number of signs or something like that to say, two signs are allowed? Because if existing sign – could he build with that variance, could he build this other sign? Could he build this other sign and leave the current sign without violating –? You're saying the existing sign wouldn't count as a square footage overall violation because it's an existing sign, it wouldn't count at all towards that?

Ms. Kapuaala: It's not a violation as it stands. It is a grand-fathered sign.

Mr. Hopper: So they need a variance to go down to 130 because that's still over. But if they don't do anything with, I'm saying that that doesn't count towards –

Ms. Kapuaala: If they don't anything with it, it can remain. Right.

Ms. Berry: But they've indicated they want to remove it.

Ms. Kapuaala: And what I understand from the applicants is that it used to be The Sports Authority. You will see a space on the left hand side that they removed the The, and now there's a space there. As well as the applicant stated earlier that the fonts are different from what is being proposed to be erected. So what they're doing is taking the – they would like to, they proposing and requesting a variance to remove this sign, put up another sign, but a replacement altogether would need a variance to exceed the current 64 square foot maximum. If they go ahead and put a 64 square foot sign, they wouldn't need a variance. But if they leave that sign, it is grand-fathered.

Ms. Okamoto: Question. If they go in and say we're simply repairing the letters, as I'm sure some people would do that, would that, as far as you're concerned, would that be a new sign or are they just doing maintenance?

Mr. Hopper: That's allowed. There's actually a code section on this. It says non-conforming signs:

“Any changes to a legal non-conforming sign must comply with this chapter,” but it says, “repair and maintenance of a legal non-conforming sign shall be allowed.”

Ms. Okamoto: So they could theoretically move the letters over a little bit to make it more balanced.

Ms. Kapuaala: The department wouldn't consider that . . . (Inaudible. Multiple speakers.) . . .

Mr. Hopper: Repair and maintenance.

Ms. Okamoto: Repair and maintenance only.

Ms. Kapuaala: Changing the plastic on the outside or a light bulb on the inside is what we consider repair and maintenance.

Ms. Okamoto: But changing the font would not be.

Ms. Kapuaala: That would be a new sign.

Ms. Okamoto: Thank you. Alright, we do have a motion on the floor. Does everybody understand the motion? The motion right now is to approve the variance of a second sign, of 64 square feet, with also requiring the first sign to become 64 square feet. Is that my understanding? It has been moved and seconded. You can go yay, nay.

Mr. Canady: Or abstain.

Ms. Okamoto: I do ask that you vote. Okay.

Mr. Ringrose: Madame Chair, if I could make one further comment?

Ms. Okamoto: No, let us finish our votes please. Okay, we're looking at the legality of the motion.

Mr. Hopper: Are we looking at this as a condition that says we will – I think Mike may have said it that if you may – you could be granted a variance to allow for two signs instead of one. However, that is on the condition that you replace your existing sign with a 64 square foot sign. And if you do not do that, then that variance does not apply. Then that variance is only granted under the condition that you replace your existing sign with the 64 square foot sign. You're free to keep what you have, but the only way that this variance applies is if you replace your existing sign with a 64 square foot sign. Is that what . . . (inaudible). . .

Mr. Silva: Yeah, and I don't know if it helps if we re-word it that the total of the two signs could be 128. I don't know if that's helpful because you're not directing them to take something down legally.

Ms. Okamoto: At this point we could also vote it down and come with a new motion that maybe cover things a little better. That might be easier than trying to amend.

Mr. Canady: Sorry I didn't do that.

Ms. Okamoto: No, no. No, because the discussion then came about because of it.

Mr. Silva: Does that make more sense?

Mr. Hopper: Well, it seems the department is looking at this as if you grant that variance they

can put in the new sign and don't have to change the existing sign because it's existing non-conforming.

Mr. Silva: So if we limit the total of two.

Mr. Hopper: But I'm thinking if you condition allowing the two signs on the changing of the size of another sign, they wouldn't be allowed to do that change until they change the size of their existing sign if that's the intent. I think that's the only way you could do this. It's kind of different, but I've seen stranger conditions in other projects.

Ms. Okamoto: Trisha, did you have a –?

Ms. Kapuaala: The department would like to concur, worded that way, with that condition, the department can enforce that furthermore.

Mr. Hopper: I would advise that maybe the applicant – if this is even something the applicant would do maybe relevant to their deliberation. It's up to you if you want to hear from them. But if they couldn't do two 64 square foot signs, that may be irrelevant to your deliberation. I don't know.

Ms. Okamoto: Okay, then asking the applicant if that were in fact the motion that passed where the second sign would only be allowed if the first sign was removed and made also the 64 square foot. Is that something that you folks would do?

Mr. Ringrose: Madame Chair, could I request a 10 minute recess to confer?

Ms. Okamoto: I think that's a good idea.

Mr. Ringrose: Thank you.

Ms. Okamoto: We'll take a 10 minute recess. We'll come back at about 11:15 a.m.

(The Urban Design Review Board recessed at approximately 11:05 a.m., and reconvened at approximately 11:16 a.m.)

Ms. Okamoto: I'm going to amend our agenda and do our Director's Report right now.

Mr. Clayton Yoshida: Thank you Madame Chair, members of the Board. We haven't received any word on the filling of the Board vacancies, though we're pretty much getting towards the end of the year. So I would think if you know of qualified people if they could submit their nominations to the Mayor's Office before the end of the year, it will take at least about a month to get them confirmed. And we'll be doing this again in when people's terms end at the end of March – between now and the end of the year. I don't think we've had problems so far in getting quorum. And our next meeting is scheduled for December 6th. We don't have any specified agenda items at this time.

Mr. Maxwell: What kind of nominations do you need?

Mr. Yoshida: Well, if you noticed we're short two alternate members. One is a landscape architect – that kind of a background – and the other would be some kind of an engineering background.

Mr. Maxwell: What, like a civil or electrical?

Mr. Yoshida: Yeah, something like a civil because we have the two people, the two alternate members are architects, so we're missing somebody with a landscape architecture background and somebody with an engineering background as required by Chapter 2.26 of the Code.

Ms. Okamoto: So right now it's just the alternates that we're short?

Mr. Yoshida: Yes. They're a –

Ms. Okamoto: And at this time I think Sue believes that her term is up, but no one else is aware that their term is up any way.

Mr. Yoshida: That's all we would have to –

Ms. Okamoto: Can we have a quick question of you?

Mr. Yoshida: Yes.

Ms. Okamoto: And I don't know if we can discuss this, but in our mailing and in some of the other, we have gotten some letters about the church that we had last time. Since we have passed it on to the Planning Commission, and we received letters after it came to us, is there anything we do? What, I guess, what's the procedure?

Mr. Yoshida: Well again in this particular respect, the Board is advisory to the Planning Commission in terms of the Special Management Area permit review. That is scheduled for November 22nd. The letters will be part of the record that's forwarded to the Commission as well as the recommendations of the Board. You know, similar to the Maui Medical Plaza issue which was somewhat controversial, you know, if the Board wants to discuss it at a future meeting, then we agendaize it. But essentially in this particular case the Board is advisory to the Planning Commission and they will make the decision on the Special Management Area use permit in considering your recommendations as well as input from these individuals from the public.

Ms. Okamoto: Bob?

Mr. Bowlus: Can I make a comment? Would the staff be able to make a comment or a notation in their report that the letters, the subsequent letters that came in reputed some testimony. We were given testimony that we had the support of all the surrounding homeowners, and evidently

that's not the case with these letters. Would staff –

Mr. Yoshida: Staff would include public, you know, letters from the public as part of the record.

Mr. Bowlus: But not a comment.

Mr. Yoshida: It's transmitted to the Commission.

Mr. Bowlus: I see.

Ms. Okamoto: What about the timing of those letters I think is that that the Urban Design Board did not have those letters at the time we made our recommendations.

Mr. Yoshida: I think they were somewhat sparked by The Maui News article.

Mr. Maxwell: Was that made – those made after?

Ms. Okamoto: Yes.

Mr. Maxwell: The letters were made after those things?

Ms. Okamoto: Yes.

Mr. Bowlus: But they reputed testimony. They did repute the testimony that was given.

Ms. Okamoto: One other question, and this is, I guess, a comment, and I think Michael – if a member of this Board would attend the Planning Commission meeting and wanted to speak up one way or the other. What do we have to be aware of and make sure that everyone is aware of that?

Mr. Yoshida: I guess I would defer to –

Ms. Okamoto: Okay.

Mr. Hopper: Well again this is not on your agenda, so I don't want to talk about this much. But no member should be attending in their capacity as Urban Design Review Board members unless specifically authorized by the Board. If an individual wants to show up as a member of the public and make public testimony, then that can be okay. But I caution to make sure that this –. It's very difficult of the Board takes action and makes a recommendation, and then something comes up afterwards. Unless you were – unless there was actually like a misrepresentation or something at that meeting and I don't know if there was in this case because letters came up after the meeting, then normally you wouldn't be re-reviewing things that you actually took action on because an applicant could rely on that action potentially in preparing your presentation in front of the Commission. Planning Commission has the authority to approve or could even send this project back to you for your review if it wanted. But that's

within their purview. Again, this is not on our agenda today. The applicant was not notified you'd be having this on your meeting agenda today. You can put this on a future meeting agenda as far as looking at those letters, but after making a vote with – on a project and the design of the project, it's hard to go back and re-vote on that project if there's already action taken and it's scheduled in front of the Planning Commission.

Ms. Okamoto: I just wanted to make – I mean, wanted you to make your comment regarding any time we do something going to say the Planning Commission, we have to be very careful that you are there as an individual. Whether it be, you know, some . . . (inaudible) . . .

Mr. Canady: Do not speak on behalf of this Commission.

Mr. Hopper: Unless the Board – unless the Board authorizes someone to speak in a specific case, you can't say obviously you speak for all of the members because you don't know. And you're not in your capacity as an Urban Design Review Board member, you're a member of the public testifying on something. But I do think it's a good idea for the Department to maybe take a note that these letters came in after. And for whatever reason they were addressed to the Urban Design Review Board, not the Planning Commission who actually has the decision making. So, I'm not sure why that was, but that's how it happened, and that's why you got them.

Ms. Okamoto: Thank you. We're moving on.

Mr. Canady: Madame Chair, okay, I have a question on that, but I'll wait until after this is done.

Ms. Okamoto: Thank you. Thank you. Alright, thank you Clayton. We'll be back to the original item on our agenda. Mr. Ringrose.

Mr. Ringrose: Thank you Madame Chairperson. Thank you for the extension of time. We had to call back to corporate on the mainland to speak with the CEO of the Sports Authority. Is there a feeling on the Board to consider the idea of taking – now the existing sign that's up there now, the existing Sports Authority sign is 180 square feet. Is there a feeling on the power of the Board that they could consider splitting that in half, and having two 90 square foot signs?

Ms. Okamoto: I believe that would have to be – would that have to go out again to your public because that is different than what's being asked now?

Ms. Kapuaala: Yes, I believe that the concern would be that the Borders sign, the request has now changed from a 64 square feet sign to a 90 square foot sign. Because of that increase, we would want to notify the public and adjacent properties that this is under consideration.

Ms. Okamoto: Does that answer your question?

Mr. Ringrose: It does Madame, yes. Then if that's a case and I'm going to sound like I'm haggling in the market place here, but would the Board consider lowering the proposed 130

square foot sign to a 90 square foot sign, and retaining a 64 square foot sign as requested?

Ms. Okamoto: Because that would be lowering it, would that then be within the purview of this particular permit? I mean a variance application?

Ms. Kapuaala: Yes, you can make a decision today based on that.

Ms. Okamoto: So we could make a decision on that?

Ms. Kapuaala: Yes ma'am.

Ms. Okamoto: Going two 90s, if that's the way you want to go we would have to go back and notify public and do that again.

Ms. Kapuaala: And meet again next month.

Mr. Ringrose: I'm sorry ma'am, but there would be a preference to not have to reconvene this venue to do that again. So if there was a possibility of getting approval on a 64 square foot sign as presented and backing off on the 130 square foot that was requested on the existing sign backing it up to 90 square feet, my understanding is that would not require another hearing.

Ms. Okamoto: No. Okay. Thank you. Alright, does the Board understand what –? Okay, Darryl, your motion right now is two 64's. That's your motion which we need to vote one way or the other.

Mr. Canady: Right.

Mr. Hopper: Madame Chair you could amend that motion and say instead of – I think any member, because it's before the body – if they were interested in saying 90 and 64 instead of 64 and 64, could amend that motion, it would have to be seconded, and voted on like a regular motion if that's of interest to the body.

Ms. Okamoto: Okay, but we do have a motion on the floor. If there's someone who wants to amend it, we can do that. Bob?

Mr. Canady: Madame Chair, I would recommend that amendment to that motion as the motion maker.

Ms. Okamoto: So you would – you're amending it to be one 64 square foot sign, and one 90 square foot sign.

Mr. Canady: That is affirmative on my amendment.

Ms. Okamoto: Okay do I hear a second? Do I hear a second to that one?

Mr. Maxwell: I'll second that.

Mr. Hopper: And to clarify – to clarify this is essentially what the applicant stated which was the existing sign – that you would approve a variance to allow for two signs provided that the former Borders sign would be 64 square feet. And if that would be granted on the condition that the existing sign would need to be 90 square feet instead of –

Mr. Canady: Or less.

Mr. Hopper: – or less, I suppose you could say. Maximum 90 square feet. I see your staff has a comment.

Ms. Okamoto: Trisha?

Ms. Kapuaala: Thank you. To make it easier on staff in preparing the decision and order, I think it would simpler if we just approve the first variance request, the installation of one additional business identification sign. The request is to allow a 64 square foot sign. Approve that sign variance request. And then two, to approve the second sign variance request, to replace the 180 square foot sign on the condition that it be 90 square feet.

Ms. Okamoto: The only thing there, and I can see is if you approve the second one at 64, theoretically they could leave the 180 there.

Mr. Hopper: Okay, that was the only concern, and I'm not saying that the applicant is going to be dishonest because I believe what they're saying. But I don't want it to construed like you said they've got an existing sign. If we grant that first variance, maybe someone could say, we'll just take first variance, build our second sign, it has no conditions, and we're just going to leave the sign for the rest. Just to make sure, maybe granting as you said, exactly the first one on the condition that the current sign must be no greater than 90 square feet. I think that was the intent, correct?

Mr. Canady: That is the intent.

Ms. Kapuaala: I understand. Yes.

Ms. Okamoto: Okay. Just one second. Okay, we need to vote on the amendment to the motion first.

Mr. Hopper: If the amendment passes, you still have the main motion to vote on.

Ms. Okamoto: Alright. So we're voting on the amendment to the motion which is 64 square feet for one and 90 for the other. That's what we're voting on the first time. Does everyone understand the motion? This is the amendment.

Ms. Berry: Are we voting to amend it rather than to approve?

Ms. Okamoto: We are voting to amend. Then we will still have to vote on the motion.

Mr. Hopper: Yeah, basically once the motion is announced before the body as 64 and 64, and seconded, and announced and discussed, that's no longer the maker's motion anymore. It belongs to the body and anybody can amend that. That was amended to change to an approval of another sign however with the condition as stated, and that was seconded. So now that's an amendment, and until that amendment passes you still have the 64/64 motion. If that amendment passes, you'll have a new main motion as stated.

Ms. Okamoto: Does everyone understand?

Mr. Canady: Call for the motion.

Ms. Okamoto: Okay. Any other discussion? Alright, all in favor of the amendment which is a 64 square foot sign and a 90 square foot on the original please raise your hand in favor. Okay, opposed?

Mr. Hopper: If you're silent that's an affirmative.

Ms. Okamoto: Okay.

The original was amended by Mr. Darryl Canady, seconded by Mr. Robert Bowlus for a 64 square foot sign and a 90 square foot on the original. - MOTION DIES.

(Assenting: Darryl Canady, Robert Bowlus

Dissenting: Michael Silva, Susan Liscombe, Linda Berry, Bryan Maxwell, Morgan Gerdel

Ms. Okamoto: Okay, so the amendment dies because there wasn't enough. Okay, now we're back to the original motion which is the two signs, 64 square foot each, but conditioned upon that if you get the second sign, you have to reduce the original to 64. All in favor of the original motion. Discussion.

Mr. Bowlus: May I comment?

Ms. Okamoto: Yes please.

Mr. Bowlus: Because I'm going to have to vote against that motion for a couple of reasons. One of them is that my observation is that the feel of the original Sports Authority sign is significantly larger than the old Borders sign, and to have the same size signage graphics within that feel, I think they're proposing a better design. And the other reason would be that the existing Sports Authority signage will be the primary entrance and therefore it demands a larger sign. And the smaller sign, the 64 square foot sign, that they're proposing over the Borders side I feel is appropriate to that feel, that size space. So I think the two 64 square foot signs would look less

harmonious and would be a substandard design really. It would look like we forced them to do something that was too small for the space.

Ms. Okamoto: Thank you. Any other comments before we vote? Morgan?

Mr. Gerdel: I have a comment. I like the sign at the main entrance, but I think that sign implies the whole building as Sports Authority. I don't think we need two signs necessarily. And especially when someone goes there the first time they'll see the other entrance, so I would support the larger sign at the main entrance, but not both signs.

Ms. Okamoto: Okay. Any other discussion? Alright –

Ms. Liscombe: Isn't that a requirement to have a sign over the top of the entrance?

Ms. Okamoto: Not over the second entrance.

Ms. Liscombe: Okay.

Ms. Okamoto: Trisha, am I correct?

Ms. Kapuaala: That is correct.

Ms. Okamoto: Okay. I shouldn't be saying things. Alright, the motion is to . . . (Inaudible. Mechanical difficulties with the audio equipment.) . . . two 64 square foot signs. All in favor of the motion please raise your hand. Opposed? Okay the motion fails. We are now back to square one.

It was moved by Mr. Darryl Canady, seconded by Ms. Linda Berry, for two 64 square foot signs. – MOTION DIES.

**(Assenting: Michael Silva, Susan Liscombe, Darryl Canady, Linda Berry
Dissenting: Morgan Gerdel, Bryan Maxwell, Robert Bowlus and
Linda Kay Okamoto)**

Ms. Okamoto: Do I have a –? Yes, Susan?

Ms. Liscombe: I would like to make a motion to approve as presented.

Mr. Bowlus: I'll second that.

Ms. Okamoto: Okay, it's been moved and seconded to approve as presented which would be the additional 64 square foot sign over the current Borders, with the 130 which is the reduction over the current Sports Authority. I believe she's putting that one up. It's been moved and seconded that we approve this particular variance. Comments? Discussion? If not, we'll take a vote. All in favor of the motion please raise your hand. All opposed? Okay, that motion fails.

It was moved by Ms. Susan Liscombe, seconded by Mr. Robert Bowlus, to approve as presented which would be the additional 64 square foot sign over the current Borders, with the 130 which is the reduction over the current Sports Authority. – MOTION DIES.

**(Assenting: Susan Liscombe, Robert Bowlus, Bryan Maxwell
Dissenting: Darryl Canady, Linda Kay Okamoto, Linda Berry,
Morgan Gerdel, Michael Silva)**

Ms. Okamoto: Do we have –?

Mr. Canady: I would like to make a motion that we have the, as shown, the 64 foot where the Borders sign is, and what has been recommended that they would like as a 90 foot sign over the second.

Mr. Bowlus: We just voted that.

Mr. Canady: As an amendment.

Ms. Okamoto: Yes, we voted it down.

Mr. Canady: I withdraw.

Mr. Bowlus: I think it's Morgan's turn.

Ms. Okamoto: Okay, Morgan.

Mr. Gerdel: Okay, I can make a motion to approve the 130 square foot sign where the existing Sports Authority sign is.

Ms. Berry: Without a second sign?

Mr. Gerdel: Without a second sign.

Mr. Silva: They're revising. They're changing the sign.

Ms. Okamoto: Alright the motion is to approve the 130 square foot sign which is a modification of their current, but without the second sign. Do I hear a second?

Mr. Silva: I'll second that.

Ms. Okamoto: Okay, it's been moved and seconded. Discussion. All in favor of the motion? I'm sorry, Trisha has a comment.

Ms. Kapuaala: . . . (Inaudible) . . . justification for the reason for denying the second sign in order to have this stand up as a decision and order.

Ms. Okamoto: Morgan, can you give your reason?

Mr. Gerdel: I think the two signs isn't really in keeping with the spirit of the sign code that you have one sign per frontage. And I think functionally it would still work with the one sign. There is no need for two signs.

Ms. Okamoto: Does that help you Trisha?

Ms. Kapuaala: (nods)

Ms. Okamoto: Alright we are voting on the motion. The motion is to approve the 130 square foot sign, but not the second sign. Everyone is clear on what we're voting on?

Mr. Canady: We already voted on it.

Ms. Okamoto: No we didn't. Not this one.

Mr. Maxwell: Wait, wait, one thing, real quick and Morgan brought this up before is, you know, from the Dairy Road side – because the other ones like Bank of Hawaii and Starbucks all have one along the frontage. Is that something that they will be willing to, instead of putting double signs, put a Sports Authority on the Dairy Road side? So it's a smaller sign along that facade, and then you have a main one over this one.

Ms. Okamoto: I'll ask the maker. Is that –? I'm not saying that's a – that's just a question to you.

Mr. Ringrose: It's simply seen as desirable to have signage situated at or near or over the entrance. It's a feng shui thing almost. It draws people to the entrance. The Dairy Road issue is kind of a problem because it means that you're really not going to see the sign if you're driving until you're directly opposite of it, if you're going 30 or 40 miles an hour down there. The visibility issue is not great. Those also are not great areas there to put signage up.

Ms. Okamoto: Okay. Any other discussion? Does that answer your question?

Mr. Maxwell: Yeah. It was just a comment.

Ms. Okamoto: Okay. Darryl?

Mr. Canady: I have a question of the applicant. If the sign, the 64 square foot sign is the important one to be seen from Dairy Road, wouldn't it make sense to make that one the 130 square foot sign, and then the secondary entrance, or secondary from that area, make that one the 64 foot sign.

Mr. Bowlus: It's been asked and answered.

Mr. Canady: Okay.

Ms. Okamoto: And I think that's something that we haven't . . . (inaudible) . . .

Mr. Ringrose: Madame Chair, if could just speak for a moment?

Ms. Okamoto: Yes.

Mr. Ringrose: I mean, this whole issue and it was raised very ably by Mr. Bowlus here from a design standpoint, we've created something that fits with the architecture. These two signs, yes, they are different size, but they are in scale and in sync with the area provided. We've gone down small on the old Borders location, and created something on the other location which is substantially less than what is currently there. I mean, I would point out that one of the options here is to simply leave the existing sign on the existing Sports Authority in its current size of 180 square feet and simply ask for a variance for the second sign. This is not seen as desirable. That sign is old and in very poor condition. What we're proposing is a clean up. It's design friendly shall we say. And the whole idea was to create something that's in sync with the architecture and with the hierarchical nature of the two entrances.

Ms. Okamoto: Thank you. We do have a motion on the floor, correct? The motion on the floor is to do the one sign only. Did we vote on that? We didn't vote on that.

Ms. Liscombe: We did vote on that, yeah.

Mr. Silva: I thought we did vote on it.

Ms. Okamoto: Okay, then we don't have any.

Mr. Canady: We have no motion on the floor.

Ms. Berry: What happened to Morgan's?

Mr. Bowlus: We said yes just to one sign.

Mr. Maxwell: Yeah, it wasn't finish.

Ms. Berry: We didn't vote on it.

Ms. Okamoto: Yeah, I don't think we did. Okay. So it's been moved and seconded that we approve the 130 square foot sign, but not a second sign. Is that correct?

Mr. Gerdel: That's correct.

Mr. Canady: We voted on it.

Ms. Okamoto: No, I don't think we did.

Mr. Silva: No, it wasn't finish.

Ms. Okamoto: Okay, all in favor –. Now understand we're voting on the one sign, but without a second sign. All in favor raise your hand. Opposed? That one doesn't pass.

It was moved by Mr. Morgan Gerdel, seconded by Mr. Michael Silva, to approve the 130 square foot sign, but not a second sign. – MOTION DIES.

**(Assenting: Morgan Gerdel, Linda Berry
Dissenting: Michael Silva, Susan Liscombe, Darryl Canady,
Robert Bowlus, Bryan Maxwell)**

Ms. Okamoto: Alright, we are a bit of – we're kind of stymied here. It seems to be that we need to have five votes on something to be able to, you know, to be able to pass something. We are getting four-four on almost all of our votes. Trisha?

Ms. Kapuaala: Thank you Madame Chair. Staff would like to recommend to the board to maybe focus on the criteria specially 2A, unique circumstances or special conditions exist which are peculiar to the land, structure or activity involved. I think the discussion has been mainly focused on B and sometimes C which is the practicable alternatives, and being contrary to the purposes of this chapter or in congruence with the purposes of this chapter. Maybe if you focused on that criteria which the staff believes is the most important criteria which is the very nature of a variance. What about this land structure or activity is so peculiar that every other sign within the area and on this property should not receive a variance for? Every other property, every other business, if they were to take over the adjacent unit, why would this instance be peculiar that they would qualify for a variance? Thank you.

Ms. Okamoto: How about if we changed the name?

Ms. Liscombe: Chair, can I make a comment here?

Ms. Okamoto: Ignore that. Yes Susan.

Ms. Liscombe: I think one of things that does make this unique is because it is the combining of two stores with two main entrances, there is no center portion of their property that would allow for one sign over the center because you don't have it. And to put one sign up, I think it's going to cause some confusion because it does look like two totally separate stores, and it always will unless you change the facade of the building. So I do think there are special reasons for the request and approval.

Ms. Okamoto: Morgan?

Mr. Gerdel: I guess my concern would be a lot these types of commercial developments have multiple entrances, and sometimes they'll lease more than one entrance. I just didn't want to see a precedent where you allow multiple signs for more than one . . . (inaudible) . . .

Mr. Bowlus: There's an ordinance against that without a variance, so they would have to have a special approval to do that. So it wouldn't be carte blanche.

Mr. Gerdel: Yeah, I guess I don't see where this is a special case. I mean it seems similar to the other structures in the mall.

Ms. Okamoto: Michael?

Mr. Silva: The problem I'm having is the same store having the two frontages. If it was two different stores, I might be able to see that you would need a larger sign further in. But because you are one store, I think that closer store gets you the recognition from the street and that's what the whole point of what I'm thinking the signs are for. So I have a problem with raising the variance for the back store, or raising the square footage for the back store because it is just one company. If it was two company -. If we granted the variance for the second store to make it bigger, I think that does follow with the building, with the land.

Ms. Okamoto: I think our problem now is can we come to something that we can at least five of us agree on, and that really is what it boils down to. We do need to have five affirmative votes regardless of what that is. And if we cannot come to that conclusion --

Mr. Hopper: Well, I can read the code section:

“Within 60 days after the public meeting for a variance application, the board shall grant the variance, grant the variance with appropriate conditions, or deny the variances, provided that if the board does not act within the 60 days, the variance application shall be deemed approved.”

So it's 60 days or action. You need five votes to do something. And if that doesn't happen within the 60 days, from today, then the application would be deemed approved as submitted.

Ms. Okamoto: From today or from the date the application was submitted?

Mr. Hopper: No it says after the public meeting for a variance application, so that's today.

Ms. Okamoto: Alright. Okay, that does put a little different turn on it for everybody. If we do not act, which right now we cannot act, I mean we're not. If we do not act in 60 days it will pass anyway. Darryl?

Mr. Canady: Madame Chair, the only reason – excuse me – my motion was what it was was based on two reasons. One, the ethics of the design of the building and not have somebody have a huge sign up here, and little dinky sign down there.

Mr. Bowlus: It's not like that.

Mr. Canady: Second – well, it is this way.

Ms. Liscombe: No it isn't.

Mr. Canady: Okay, I think it is. Anyway, that's my comment, okay. If they need a sign on the new portion to be seen from the Dairy Road and if what they are proposing to do, if that size is the same is what they are proposing, then I don't think from an aesthetics standpoint that the one that is there now needs to remain the same size as it is. Because it's only being used for to point out an entrance to the store. Thank you.

Ms. Okamoto: Do we have any other? Or do we want to reconsider any other?

Ms. Liscombe: Okay, I have a question.

Ms. Okamoto: Okay, Bryan first.

Mr. Maxwell: Just as a graphics person maybe they could come up with a sign that shows kind of what they do. You know, where you have sports balls or – I'm just saying that's pleasing that's over that area, and you know the Sports Authority is there. That's not more of a logo use. I mean, that's just an idea. I don't know if they've done that anywhere else.

Ms. Okamoto: Susan, you had a comment?

Ms. Liscombe: No, a question. Did we already vote on the 64/90?

Ms. Okamoto: Yes we did. That doesn't mean we can't re-vote on something. If people want to bring it up again we can.

Mr. Silva: I would like to say that I would reconsider my negative vote for the 90/64 sign, in favor of that. I'm just making a statement.

Mr. Hopper: Interesting enough there weren't five votes against on that case, I don't think. There were four and four, so I don't know, parliamentary procedures probably won't be a huge factor in the end. But I don't know if you need a motion to reconsider. There actually wasn't five votes against the motion. Normally if a motion is voted down, you need somebody on the prevailing side to, you know, bring up the motion again. In this case the motion failed, but it was just because there weren't five votes. It wasn't that it was voted a certain way. So there really was no vote taken on any motion technically today. I don't think anyone got five against, so if you wanted to, if the Chair, I think, wanted to bring that motion before the body again, allow more motions and allow another – that motion could just be made again without it being an actual reconsideration. I think we could look it at that way since there wasn't actually a vote against it.

Ms. Okamoto: Mike? Yes Bob, go ahead. Yes?

Mr. Bowlus: No, I'm asking you.

Ms. Okamoto: I will open up the possibility of that if someone would like to make a new motion to reconsider, or not to reconsider, just to make a new motion of the 64 and 90.

Mr. Canady: Madame Chair, I will make that motion.

Ms. Okamoto: Okay. Alright, it's been moved. Do I hear a second?

Ms. Liscombe: Second.

Ms. Okamoto: Moved and seconded that we allow the 64 square foot sign over the Borders, the current Borders, and 90 over the current Sports Authority with the two tied together. That one is –. If they do the second sign they must do the other one at 90. Everyone understands the motion? Is that the motion?

Mr. Canady: Yes, it is Madame Chair.

Ms. Okamoto: Okay. Any other discussion?

Mr. Gerdel: I have a comment? Do we have a reason we're going from 130 to 90?

Mr. Silva: It was offered by the applicant.

Mr. Gerdel: Okay.

Ms. Okamoto: Yeah, they offered to reduce the size on the one. Alright, all in favor of the current motion please raise your hand. Okay, amazing. Alright motion passes. We then are approving the variance for the second sign. We are approving a variance for the main sign to be at no more than 90 square feet. Okay, are we all in agreement and understanding? Yes Trisha?

It was moved by Mr. Darryl Canady, seconded by Ms. Susan Liscombe, then unanimously

VOTED: to allow the 64 square foot sign over the Borders, and 90 over the current Sports Authority with the two tied together that if they do the second sign, they must do the other at 90.

Ms. Kapuaala: Thank you.

Ms. Okamoto: Thank you so much.

Mr. Ringrose: Thank you very much ladies and gentlemen.

Ms. Okamoto: Do we have any other business?

D. DIRECTOR'S REPORT

- 1. Status of the filling of Board vacancies**
- 2. Agenda items for December 6, 2011 meeting.**

Mr. Canady: I have one more question.

Ms. Liscombe: I have a question, and Darryl has a question.

Ms. Okamoto: Okay, thank you folks for attending. Alright, we can have a couple of questions, but we really are not suppose to be discussing the letters, the issue itself. Yes Darryl.

Mr. Canady: My question would be a legal one of our barrister here. If there were any misrepresentations to us at our meeting by the applicant.

Ms. Okamoto: Are we saying in general? We're not talking about a specific issue. We're talking about . . . (Inaudible. Multiple speakers.) . . .

Mr. Canady: Or by an applicant.

Ms. Okamoto: Any applicant.

Mr. Canady: I said an applicant. What difference would that make as to anything going forward?

Mr. Hopper: I think that if you're lied to basically in a meeting that that is a basis for some sort of – it would probably be a motion to amend something previously adopted and to see that as a – to see that as something that would come back to you. I think the issue is what information did you have before you at the time of the meeting, and not only that because with this process it's foreseeable things can come up and be discussed at the SMA process down the line, was something told to you that was, you know, knowingly false. In that case then the applicant, I don't think has as much of an interest in relying on your recommendation to the Planning Commission as it would. And I think you could look at in certain cases bringing that back before the UDRB for another vote. Anything like that is challenging, though, because if you vote on a project, and that project goes forward for Planning Commission review, that applicant may say they've spent money or relied on that recommendation in redesigning their project or going forward. But I think that if they made a misrepresentation to you in a given case that that doesn't hold as much weight. And I'm not saying that's happened in cases, but if it did then that's something that you can look at. I think, looking at that, reviewing that project again can be complicated if they've got a hearing scheduled. If the project already has a hearing scheduled or something along those lines.

Ms. Okamoto: And to review something like that we would have to put it on the agenda at a meeting.

Mr. Hopper: Any time you discuss anything it's suppose to be on the meeting agenda. For this one, this is, I think, it's being looked at as something for potential future agenda. So you can discuss future agenda items as long as it's understood that they need to be on the future agenda.

Ms. Berry: How do you get something on the agenda? Because when we received these letters, we asked that question again, we were told we should discuss it at the meeting.

Mr. Hopper: Well I think that –. Let me check who sets the agenda in your case. I think the Planning Department can put it on the agenda, and the Chairperson can decide and talk to the department about putting an item on your agenda.

Mr. Canady: Madame Chair?

Mr. Hopper: One of the purposes of this part of the meeting is next agenda items is to raise those issues and, you know, say what you want on the next agenda. So you could certainly do that here. But I think the Chair or the department – the department probably does it as things get ready to go, and I think the Chair could say, hey, could you put this on the next agenda?

Ms. Liscombe: Can an agenda be amended? Say we get information a week ahead of the meeting, maybe, and if we see something like letters that are kind of conflicting with what the testimony was or the presentation was, can we ask for an amendment to the agenda, discuss it at the next meeting?

Mr. Hopper: Typically you can only amend your agenda greater than six days prior to before. The agenda is usually posted six days prior. You actually are allowed to amend it after that, but it has to be a two-thirds vote, I think, of all of the board members to which you're entitled, not just who's present, and it needs to be adding an item that is not of importance to a significant number of people. That's a sunshine law requirement. The purpose being that the agenda is to give notice to the public. And if you amend your agenda after it's posted, the public wouldn't have notice of that item. That's what the State sunshine law would say. They make it tough to do that, and it's hard for me to advise this is not an item that would be of interest. It's kind of a strange standard, but it's hard to do after the agenda is posted. Unless the agenda is posted like 10 days prior before the meeting, and you could still amend it before the six days.

Mr. Canady: Madame Chair, I'd like to ask a question of Counsel?

Ms. Okamoto: Yes?

Mr. Canady: Could this board ask to have the Chairman to attend the Commission meeting and make comments there as to what has happened since our meeting?

Mr. Hopper: Well, it's theoretically possible to have a representative attend a meeting and make comments, but that has to be done as an agendaized meeting and that's still an odd thing to do in the case. Your board already took a vote on what the comments would be, now, I've seen in cases where they have a representative to attend and explain the comments or answer questions on the comments. But once you taken action to approve something as a set of comments, that's intended to be the UDRB's set of comments. So it's not that I haven't seen that before, but it's usually to explain the board action that was taken in the cases that I've seen.

Mr. Canady: Thank you Madame Chair.

Mr. Maxwell: I have one question. So in general, when, you know, the public is made aware of, you know, say there's a project and they send to say 500 feet from the property and all that stuff, basically that's made public. So not necessarily does everybody come to those, okay, so you know, it usually goes through that first before it almost comes here. So we have to assume that anybody that was interested in it had attend or you received information via letter or whatever.

Mr. Hopper: Well, I want to clarify with Clayton. Clayton, does the public hearing notice for SMA agenda items go out prior to UDRB approval or does it only go out as a public hearing after UDRB approval? Because that's noticed in the newspaper if it's an SMA major as I understand it.

Mr. Yoshida: Well, sometimes it depends on the UDRB action. Sometimes –. Well, typically, I think it will go out after the UDRB has reviewed it. But sometimes the UDRB doesn't necessarily take an action at the first meeting. They may defer for whatever specific reasons.

Mr. Hopper: Because the public hearing needs to state a specific date at which the Planning Commission is going to hold the hearing, correct?

Mr. Yoshida: That's correct. And so if the Urban Design Review Board hasn't acted yet, who knows, you could have something like the sign variance or whatever that you could take four or five meetings to go through. And so if the public hearing notice was posted for a certain date and there were other reviews, UDRB took maybe several meetings to make a vote. That could push the project forward, and so an applicant would maybe say, I don't want to notice this in the paper if I'm not required to until after UDRB make it's comments. And I don't know if the Board needs to look at different public hearing, or public notice requirements when it becomes before the UDRB because the UDRB doesn't necessarily have the benefit of having a newspaper published every time that there's a meeting here, right?

Mr. Yoshida: That's correct. But in this particular case, the Board took an action in September, so the hearing was scheduled after that action.

Mr. Hopper: Had notice been put in the newspaper at the time of the –?

Mr. Yoshida: Not at the time of the – September – because the Board reviewed it initially in

August and then deferred. And then considered it again in September. And the hearing was not scheduled until after the Board took action in September.

Mr. Hopper: So noticed was posted in the paper when do you know?

Mr. Yoshida: I would say probably on –

Mr. Hopper: After the September meeting?

Mr. Yoshida: After the September meeting.

Mr. Canady: After the Urban Design Review Board –

Mr. Hopper: – took action.

Mr. Canady: – took action.

Ms. Okamoto: Can we –? Michael?

Mr. Silva: One quick follow up to what Bryan was talking about again was the point is speaking in general sometimes our applicants do have public meetings voluntarily and sometimes they do provide confirmation receipts of those mailings which we saw. So the public was definitely notified, and being these letters came after, I don't think there's anything the applicant can do. I don't think there any false representations.

Ms. Okamoto: And I don't – and, you know, I know we're really on thin ice even talking about the whole issue. I don't know if we want to –.

Mr. Canady: I wasn't specific.

Ms. Okamoto: No, I know you weren't. No, we're getting more specific, and yes, the letters that came were all after the newspaper article. And correct me if I'm wrong if either one of you Clayton. The Urban Design, we are not necessarily looking at what neighbors or other people are saying about it. That really is more of a Planning Commission issue. Am I right or not?

Mr. Yoshida: Well I mean, they're subject to public testimony – the sunshine law – and testimony from neighbors.

Ms. Okamoto: And those were – all of our meetings, they were on the agenda. It was a published agenda.

Mr. Yoshida: Right.

Ms. Okamoto: Now these letters that came to Urban Design will they automatically be passed on to the Planning Commission?

Mr. Yoshida: Yes, they're part of the record.

Ms. Okamoto: Okay.

Mr. Yoshida: I would say, you know, there was prior action by the Board of Variances and Appeals. They had a public hearing on the height variance, so, you know, that was another opportunity for the public.

Mr. Maxwell: You know on, just in future if we have a larger controversial type project, we may want to just say defer it till we hear that kind of testimony that's, you know, maybe it needs to go the different direction at that time, and say, hey, maybe we need a little bit more public input. And, you know, we, just off the side note, Linda and I had gone over to Kauai. In fact, we want to give you guys a report at some time. But you know, it's more than just a look, it's a feeling, there's a lot more involved especially nowadays I think people are a lot more conscience and I think it's really important to have the outside public. And there's a lot of other factors we may want to even introduce into our – and that might be something down the road is things we want to think about.

Ms. Okamoto: Can we put that on our next agenda to have them give a report and go over some of the things? They went to the conference on Kauai, the Planning Conference, and yes, I think it would be very good if you gave a report. Can we put that on the next agenda?

Mr. Yoshida: If that's the wish of the Board we can put it on the agenda.

Mr. Maxwell: Even if it's a one page summary. I think it's really important because I think there's other things that we may want to do as a Board to start looking, you know, for the future of Maui and stuff like that. There's a lot of things that I think that it's beneficial.

Mr. Canady: Can I ask a question?

Ms. Okamoto: We will put that on the next agenda. Yes?

Mr. Canady: Clayton, in the past or maybe in the future, could we have a public notice put in the paper about our hearings and what we're hearing?

Mr. Hopper: Well, it's not published in the newspaper the way a public – a public hearing notice is published, as I understand it. It's published with – the UDRB agendas, I believe, are published with the Clerks Office, and they're made available to anybody who –. And they're published around the County building and anybody who request that they receive a copy of all UDRB agendas will be given one. That's State Law. Now Clayton, that's the point I was making with the publication that SMA Major Permits require public hearing notice, but that has to be published, I think, no earlier than 45-days, or no later than 45-days prior to the meeting, and has to specify a date. It says it will be on this date, so since that's the requirement, I think a lot of people wait until after UDRB approval to post that because they don't know if they post today that the UDRB needs several meetings, they may to re-notice that hearing if it doesn't

come up. So I think Darryl's question about if you want to require or change your rules to require a different type of notification for UDRB meetings also, you may be able to do that, or to look at a County Code amendment to require that. But right now the public doesn't have the same notice for your meetings as it would for a Planning Commission meeting on this item.

Ms. Okamoto: Can we also then on the next agenda put to review the current rules and any potential changes we want to make to our rules as an agenda item?

Mr. Yoshida: If that's the wish of the Board.

Ms. Okamoto: That's the wish. Okay, any other questions, comments? If not, meeting is –. Michael?

Mr. Silva: I'm just curious if want to talk about the church because I don't necessarily want to but if we want to put it on the agenda, the letters or do we not –? I mean because this the time if we want to talk about.

Ms. Okamoto: I think it's after the meeting.

Mr. Silva: . . . (Inaudible) . . .

Ms. Liscombe: . . .(Inaudible) . . .

Ms. Okamoto: Yeah, it will be passed that.

Mr. Silva: Okay.

E. NEXT MEETING DATE: December 6, 2011

F. ADJOURNMENT

Ms. Okamoto: If not, meeting is adjourned.

There being no further business brought forward to the Board, the UDRB meeting was adjourned at approximately 11:26 a.m.

Respectfully transmitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE:

PRESENT:

Linda Kay Okamoto, Chair
Linda Berry, Vice-Chair
Robert Bowlus
Darryl Canady
J. Morgan Gerdel
Susan Liscombe
Bryan Maxwell
Michael Silva

EXCUSED:

Jane Marshall

OTHERS:

Clayton Yoshida, Planning Program Administrator, Department of Planning
Trisha Kapuaala, Staff Planner, Zoning Administration and Enforcement Division
Michael Hopper, Deputy Corporation Counsel, Department of Corporation Counsel