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GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, September 14, 2017
1:37 p.m. to 2:50 p.m.

2017 OCT 23 PM 3:52

1123

GUAM LAND USE COMMISSION
Regular Meeting
Thursday, September 14, 2017
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Vice Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Tae S. Oh, Commissioner

Mr. Hardy T.I. Vy, Commissioner

Mr. Michael Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Mr. Penmer Gulac, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet

Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Date of Meeting:	Thursday, September 14, 2017	X	GLUC		GSPC
		X	Regular		Regular
Time of Meeting:	GLUC: 1:37PM GSPC:		Special		Special
		✓	Quorum		Quorum
			No-Quorum		No-Quorum

COMMISSION MEMBERS	SIGNATURE
Chairman John Z. Arroyo	
Vice Chairman Victor F. Cruz	
Commissioner Conchita D. Bathan	
Commissioner Tae S. Oh	
Commissioner Hardy T.I. Vy	

STAFF	
Michael J.B. Borja, Executive Secretary	
Nicolas E. Toft, Legal Counsel (OAG)	
Marvin Q. Aguilar, Chief Planner	
Frank Taitano, Planner IV	
Penmer Gulac, Planner IV	
Celine Cruz, Planner IV	
M. Cristina Gutierrez, WPS II	

ADJOURNMENT: GLUC: 2:50PM GSPC:

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Speaker's Sign-In Record

Location: Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

[X]	GLUC	[X]	Regular	Date:	Thursday, September 14, 2017
[X]	GSPC	[ ]	Special	Time:	1:37 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	2:50 pm

(THIS RECORD WILL BE USED IN THE TRANSCRIPTION OF THE GLUC/GSPC MINUTES. PLEASE PROVIDE YOUR FULL NAME AND WHO YOU REPRESENT, I.E., ITEM ON AGENDA.)

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Frank C. Roberto	Tungdim 80/Woodson Ave	688 2473
Charles T. Mojon	Agana Shopping Center	777-7877

GLUC Form 20 - GLUC Speaker Log Record Form - APRIL 2010

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Public Attendance Record
Location: Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

[X]	GLUC	[X]	Regular	Date:	Thursday, September 14, 2017
[X]	GSPC	[ ]	Special	Time:	1:37 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	2:50 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.

GUAM LAND USE COMMISSION

Chairman John Z. Arroyo
Vice Chairman Victor F. Cruz
Commissioner Conchita D. Bathan

Commissioner Tae S. Oh
Commissioner Hardy T.I. Vy

Michael J.B. Borja, Executive Secretary
Nicolas E. Toft, Legal Counsel (OAG)

AGENDA

Regular Meeting

Thursday, September 14, 2017, 2017 at 1:30 p.m.

Department of Land Management Conference Room

590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

[As advertised in the Guam Daily Post on September 7th and September 12th, 2017]]

I. Notation of Attendance [ ] Quorum [ ] No Quorum

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, August 24, 2017

III. Old or Unfinished Business

IV. New Business

Zone Change

A. The Applicants, Jung Min Seo and Won Sun Min represented by Frank C. Roberto; request for a Zone Change from "A" (Rural) to "M-1" (Light Industrial) zone, for the proposed construction of warehouses and other permitted uses within an "M-1" zone, on Lots 5224-5-2 and 5224-5-3, in the Municipality of Barrigada, Application No. 2017-11. Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

Request for Extension

B. The Applicant, Agana Shopping Center; request for consideration for the continued operation of the Agana Shopping Center's four (4) electronic video wall signs, on Lot 82-1-5-R10-NEW-3, in the Municipality of Hagatna, in "C" (Commercial) zone, under Application No. 2012-22.
Case Planner: Penmer Gulac

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, September 14 2017• 1:37 p.m. to 2:50 p.m.

I. Attendance

Chairman Arroyo called the regular meeting of the Guam Land Use Commission for Thursday, September 14, 2017 to order at 1:37 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Guam Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Penmer Gulac and Recording Secretary Cristina Gutierrez

Chairman Arroyo the agenda in front of you, there are only two items to discuss. Does anybody want to make any changes on the items on the agenda. [None noted]

II. Approval of Minutes

Chairman Arroyo the first item is the approval of the August 24, 2017 Minutes. Cristina had sent them out by email, and I am sure you have had a chance to take a look at them. I am ready to entertain a motion.

Commissioner Bathan Mr. Chairman, I move to approve the GLUC regular meeting Minutes of August 24 2017.

Chairman Arroyo moved by Commissioner Bathan; is there a second.

Vice Chairman Cruz second.

Chairman Arroyo seconded by Vice Chair. Is there any discussion on the motion? [None] On the motion, all in favor say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioner Bathan, Commissioner Oh, Commissioner Vy], all opposed say "nay."

[Motion passed; 5 ayes, 0 nay]

III. Old or Unfinished Business [None]

IV. New Business

Zone Change

A. The Applicants, Jung Min Seo and Won Sun Min represented by Frank C. Roberto; request for a Zone Change from "A" (Rural) to "M-1" (Light Industrial) zone, for the proposed construction of warehouses and other permitted uses with an "M-1" zone, on Lots 5224-5-2 and 5224-5-3, in the Municipality of Barrigada, under Application No. 2017-11. Case Planner: Frank Taitano

Marvin Aguilar (Chief Planner) referred to Staff Report dated September 1, 2017. Chief Planner Aguilar noted a correction on Page 2 on the public hearing date that should read **August 23, 2017**; continues to read the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation. [For full content/context, please see attached report]

[Attachment A – Staff Report dated September 1, 2017]

Chairman Arroyo any questions? [None noted]

Chairman Arroyo pointed out that both a letter and Resolution had been received from the Barrigada Mayor's Office. In the letter, it mentioned that they had five concerns; but, the concerns were not listed nor were there any recommendations or suggestions to address the Mayor's concerns, and asked if the Mayor was just pointing out the concerns.

Marvin Aguilar responded that it was just being pointed out per the regulations.

Chairman Arroyo it was pointed out and the statutes were referenced, but they did not indicate what their concerns were.

Marvin Aguilar the Mayor of Barrigada and the MPC are very concerned about development in their municipality. They have always stressed the need to ensure that any type of development in Barrigada, that the permitting requirements are followed.

Chairman Arroyo nonetheless, they are supporting the request of the zone change.

Marvin Aguilar added that there were no objections stated in the official position statements that was received from the ARC agencies.

Chairman Arroyo please state your name for the record.

Frank C. Roberto representing Jung Min Seo and Won Sun Min for the application for a zone change from "A" to "M1." Mr. Roberto stated that he had a copy of the Resolution from the Mayor's Office. He shared with the Commission, to not go to the Legislature for a zone change; but, work with the Department of Land Management and the Mayor for a zone change. Recommendations made by DLM were addressed and was almost smooth sailing all the way through the process.

The applicants are looking into developing large warehouses. He added that the owners had warehouses located at Hamburger Road which were eventually sold to Quality Distributors. Mr. Seo then built another warehouse and saw the value of having warehouses; and more so because of the impending buildup, and knows that there is a market for warehouses.

A fire hydrant will be put in place in the vicinity which is non-existent. Manholes are available on the main Bello Road and has been discussed with GWA. Even with the zone change we will still have to go through what is required by EPA, Public Works and all permitting agencies.

Chairman Arroyo when you go through the permitting process you will have to meet the requirements. With a warehouse there, are you anticipating any impact to the traffic, the existing traffic.

Frank Roberto responded; we will have a catchment from the sewer that then pumps it up to the main sewer line. For people to come up there and it being a distribution center and currently the owner has a fabricating machinery and a welding shop. But, Mr. Seo is looking more towards rental, and not a distribution center.

Vice Chairman Cruz you mentioned something about the sewer, can you explain it again.

Frank Roberto in front of the property there are 3 manholes and you can tell that is where the sewer is at and will not be an issue. There will be a catchment then that shoots that up to the sewer line, and this has been discussed.

Vice Chairman Cruz the elevation of the property is lower than the sewer.

Frank Roberto it is the same with the exception of the back portion of the property because that slopes down towards the church. I advised Mr. Seo and Mrs. Min that having positive drainage and all that stuff to make sure that the runoff water that those are taken care of and addressed.

Vice Chairman Cruz the owner will be building a lift station.

Frank Roberto it is part of that because on the bottom there is the church and to the right of that is the dog grooming facility.

Vice Chairman Cruz asked if the church was connected to the sewer to which Mr. Roberto responded that he was not sure.

Marvin Aguilar the church was not connected to the sewer. Part of our analysis was what would be permitted under the current zone versus what is being proposed. Under the agriculture zone single family dwellings and duplexes can be built; proper density must be ensured, and if the density is to be reduced there has to be some sort of public sewer connection that is needed. That is where it becomes critical that a pump lift station is incorporated into the development plan. With commercial, industrial uses, it is my understanding is not as stringent and have allowed in the past to permit such operations to have septic holding tanks.

[Discussion ensues on sewer.]

Commissioner Bathan can you tell us more about the light industrial activities that you will have on the property once approved as an M-1 zone.

Frank Roberto the only thing discussed with the applicant is the warehouse business; he would like to put two warehouses on the property.

Commissioner Bathan you have no information on the light industrial activities because you specified in the application that the warehouses will be rentals, but no indication on the type of light industrial activities.

Vice Chairman Cruz what I am hearing is it will be leased.

Commissioner Bathan I understand that, but for the light industrial activities.

Frank Roberto it would still need to meet the requirements on whatever is decided for the use of the warehouses.

Chairman Arroyo I think what Commissioner Bathan is asking is, what will the warehouses be used for. Do you know?

Frank Roberto at the moment I do not know. They have warehouses for storage and machinery fabrication shop. The applicants have indicated that they may stay at the current location or move to the new Bello location.

Michael Borja (Executive Secretary) why is the applicant requesting for an "M1" zone if all he wants is a warehouse. The question is what is the applicant going to use the warehouses for.

Frank Roberto people have been asking or looking for warehouses, and discussion has always been for storage use only.

Vice Chairman Cruz is the applicant just looking to be compatible with the surrounding lots that are M-1.

Marvin Aguilar the area is predominantly M-1.

Commissioner Oh this area is a bit of concern to me considering that I have driven in the area several times. There are residential homes sitting next to a trash company and beyond that apartment units.

[Discussion ensues on the various companies situated in the vicinity which are predominantly M-1 businesses, AICUZ zoning, area not being conducive for residential homes.]

Vice Chairman Cruz how many residential houses in the area.

Frank Roberto only residential home is across the street from the property; I think there are two houses and Mr. Larsen's dog grooming facility and at the bottom area is the church.

[Lengthy discussion ensues on radius and vicinity maps and zoning of properties within the subject property which is predominantly M1 zoned; homes located across the street from subject property are the last remaining homes in the area.]

Frank Taitano (Case Planner) added that when the major rezoning of the Bello Road occurred years ago, the basic lot of 5224-5 and a portion of 5224-6, basically within that core there, the two

brothers were the only ones that were never rezoned to M1. The laws created and passed basically rezoned everything else. On both sides of Bello there are various landowners who have come in and rezoned their property to M-1.

Marvin Aguilar it was really the Guam Legislature that changed the characteristics of the area; majority of the properties were rezoned for major industrial uses. The most critical issue that we were looking at was AICUZ (Air Installation Compatible Use Zone); there was more focus on this.

Commissioner Bathan on the 750-radius map of the subject lot are there any properties zoned R1 or R2.

Marvin Aguilar only A and M1.

Commissioner Oh previous trends of the area seem like it is going more towards industrial, and I am in full support of the request. But, there is a requirement within the zone change application that there has to be a map drawn to scale showing the existing zoning within a 1000-feet radius. Does the Commission want to wait for this map or move forward without the map.

Chairman Arroyo Chief Planner answered the zones within the area; however, the applicant has to ensure that the application that is submitted is complete. If you could submit that map to the Chief Planner or Case Planner to make sure that the application is complete.

Commissioner Oh I do want to ask a few questions about some of the properties that are surrounding the subject lot. From the radius view, it does not seem that there are any residential immediately in the vicinity.

[Discussion ensues on businesses within radius of the subject lot. Mr. Aguilar points out where residential homes are located as well as companies within the area.]

Commissioner Bathan this area is going towards M1 zone which I believe is the most appropriate zone rather than agricultural because of the nature of the property. Commissioner Bathan's concern was not really pointing out this application, but as a whole, it seems the direction is really more towards M1 zone and was not really sure if the road which will be used as a major thoroughfare will be able to support the activities that goes with an M1 zone. Commissioner Bathan further added that she did not see a position statement from Department of Public Works.

Marvin Aguilar explained that if you look at the subdivision map, it identifies a 50-foot easement and there is a reservation beyond that. They are going 40-feet and a reservation of 5-feet on both sides.

[Discussion ensues on the easements]

Chairman Arroyo asked of the Commissioners if they had any other questions of staff and the applicant. Seeing none, Chairman Arroyo opened the floor for public comments.

Public Comments [Seeing none, Chairman Arroyo closed the public comment period.]

Chairman Arroyo asked of Mr. Roberto if there was anything else he would like to add before the Commission makes a decision.

Frank Roberto responded that he had nothing further and thanked the Commission for their time.

Chairman Arroyo it has been discussed that the area that the general tendency is moving towards an M1 zoning because of the issues the Commission has discussed with the flight paths, AICUZ. In spite of the fact that they do not have an intended use for the warehouse at this point in time, the application is kind of spelling out that they want to make it compatible to the surrounding zones in the area.

If there are no other comments, I am happy to entertain a motion.

Commissioner Oh Mr. Chair, I would like to introduce a motion to approve the applicants, Jung Min Seo and Won Sun Min represented by Frank C. Roberto; their request for a zone change from "A" to "M1" zone for the proposed construction of warehouses and other permitted uses within an "M1" zone, on Lots 5224-5-2 and 5224-5-3, in the municipality of Barrigada, Application No. 2017-11, with the following condition that the approval is subject to the ARC conditions and requirements as stipulated in the official position statements.

Chairman Arroyo there is a motion on the floor by Commissioner Oh, is there a second.

Commissioner Vy second.

Chairman Arroyo seconded by Commissioner Vy. Any discussion on the motion? [None noted] On the motion, all in favor say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Oh, Vy and Bathan], all opposed say "nay."

[Motion passed; 5 ayes, 0 nay]

V. Administrative and Miscellaneous Matters

Request for Extension

B. The Applicant, Agana Shopping Center; request for consideration for the continued operation of the Agana Shopping Center's four (4) electronic video wall signs, on Lot 82-1-5-R10-NEW-3, in the Municipality of Agana, in a "C" (Commercial) zone, under Application No. 2012-22. Case Planner: Penmer Gulac

Chairman Arroyo the next item on the agenda brings us with a little bit of hesitancy. I would like to ask Legal Counsel to give us guidance on how to proceed with this application.

Commissioner Oh before Legal Counsel gives us guidance on this application, I would like to inform the Board that there is a conflict of interest for me because I am in the same industry. I would like to be as fair as possible towards the applicant; but, I feel that I should not be present for discussion. If it is okay with the Chairman and Commission members, I would like to be recused and exit the room.

Chairman Arroyo there is no objection from the Commission, and you are recused. Nick, if you can provide us some guidance.

Nick Toft (Legal Counsel) as the Commissioners are well aware, an opinion by the Attorney General was issued earlier this year that voided many of the Commissions variances for electronic signage along Marine Corps Drive. In reviewing this application, it looks like the same issues apply with the electronic signage as far as the Commission's inability to use a variance to get around the basic legal hurdle of the ban on signs that have moving or flashing lights on them. However; in reviewing the application, it looks like the rest of the signage does comply with the law, and it is just the motion and the blinking components that are problematic. If the applicant turns off the motion and blinking parts of their electronic signs they would not even need a variance at all to operate the signs and to just have it on and motionless.

The only other option they have is to go to the Legislature. There is that one piece of legislation that validated two of the variances that this Council granted; but, there are no other existing legislation that is already in place. Although there is some proposed, it may be in their interest to approach the Legislature to push that through on their behalf as far as legitimizing any sort of motion or blinking lights that is associated with those particular electronic signs.

Chairman Arroyo provided that there is no motion or blinking lights on the sign, the sign would be in compliance with the existing sign law.

Nick Toft correct, and would not need a variance.

Chairman Arroyo and would not need a variance; there would be no need for us, if that were the case, for us to even entertain this application.

Nick Toft right, but either way it is outside of the Commission's ambit at this point because either it is motionless and without blinking that they do not need the variance at all or if that is what they want, it is not in this Commission's power to grant the request. They would have to go to the Legislature.

Chairman Arroyo what I would like to do then is to invite the applicant up. Please state your name for the record.

Charles McJohn, II (Assistant General Manager for ASC)

Chairman Arroyo you heard the opinion of Legal Counsel.

Charles McJohn, II absolutely.

Chairman Arroyo will your signs have blinking lights and motion.

Charles McJohn, II it depends on what you mean on motion.

Chairman Arroyo moving objects, animation, things of that nature.

Charles McJohn, II in that instance that is something that we could adapt to. But, you have to remember just like a slideshow screens change unless we keep one screen.

Chairman Arroyo it has to be static.

Charles McJohn, II well, static also means if you are to pull one slide with graphics or words and would swipe or fade to a second slide with words or graphics. It is not conducive ... it will be static....

Chairman Arroyo I am sorry to cut you off, but I think the Commission has to follow the letter of the law. What I think it basically means is a painted sign that nothing moves or something that has no lights and it doesn't move. But, if that is the direction that you are moving on I don't want to get into second guessing your interpretation of motion and what not. I think the best we can say is that as long as your signs conform to the existing sign law, you do not even need to see us. But if it doesn't, then you need to go to the Legislature and ask for an exception.

Charles McJohn, II I agree with you, and with all due respect I am not going to sit here and argue what motion is or not. My opinion doesn't matter, it is not a legal opinion as Mr. Toft's is. We have been operating for two years in full compliance of everything that was requested of us upon the initial variance. The debate of course and the topic has gotten heated with signs that were at Marine Corps Drive erected right near the roadside. But in all fairness, the shopping center signs are erected on our building, they are in our parking lot. The closest sign to any road is Route 4, and is not within 300-feet of a traffic light.

Nick Toft where you have one advantage over those other signs is that without any sort of variance or law passed, those other signs would not be able to advertise what they do because the Agana Shopping Center is advertising businesses that are in the Agana Shopping Center property. So, you have that option just to keep the static sign there and it won't be a problem versus those other ones would have a problem because they would be advertising businesses that aren't on the premises where the sign is located.

Charles McJohn, II one of the conditions upon this request for extension, the paperwork that was filed with Mr. Gulac states that we have never advertised any business that is not located within our shopping center. We have offered it to the government for amber alerts, for Homeland Security announcements, etc. Like I said, in all fairness, we have been one-hundred percent complete with what we needed to be in compliance with. Being that it is a sensitive topic especially with this Commission, we understand where you guys stand as well. We are just looking to continue the operation of the electronic signs.

Mr. McJohn continues to explain that the company has been five years in; three of the signs changed for the variance, two years of complete compliance with the Commission's standards, within the Legislature's standards, and within Guam sign laws. ASC would like to continue on that road without being brought in to the other mass medias' struggle with the law. He adds that their signs are different from those located at the side of the road. Mr. McJohn feels that as a shopping center that they are outside of that struggle that other media companies have where they are advertising peoples' business right by the roadside.

Vice Chairman Cruz the way their signs come up and have various vendors and it will show Agana Shopping Center and then it might show Payless, and so forth. Is that okay of a sign?

Nick Toft we are getting into the definition of moving again as far as that goes, and I am on the same page as Chairman Arroyo that any sort of motion at all is going to be considered moving. Even if it is shifting from one business to another; it doesn't really matter how long you delay the pattern on it, whether it is a ten second, thirty second, or twenty-minute delay for a shift, it really doesn't affect the definition of it. I know this Commission is frustrated because there are businesses that are trying to do the right thing and don't have what seems to have a visible impact on anything around it. The problem is that we are dealing with a law that may seem to us kind of archaic, but we are bond by it at the same time and that was what the AG's opinion was.

[Discussion ensues on definition of motion versus static]

Chairman Arroyo I think you are preaching to the choir; and I wish there was something more that we can do to help you, but our hands are tied. There are alternatives, you can put up more signs rather than flashing. I understand what that means for you, the cost and cluttering your building with tons of signs.

Commissioner Bathan or you can change the sign on a daily basis. For instance, Payless today and following day is another company.

Chairman Arroyo yes, that is not moving.

Charles McJohn, II I respect your opinions, but that defeats the whole purpose of having electronic video walls.

Chairman Arroyo as Legal Counsel pointed out the law is old and needs updating, and I think among the powers that be they are recognizing that. And as I mentioned earlier that there are some bills being drafted, and hopefully they come quickly so that you can do the things that you need to do.

[Discussion ensues]

Chairman Arroyo we do appreciate for the years that you have been adhering to the terms of the NOA, and for being here today, and I am sorry we are unable to help you.

Charles McJohn, II I completely understand and thank you for your time. We know where we need to go and that is to the Legislature.

Chairman Arroyo thank you. Is there anything else that we need to bring up for discussion.

Michael Borja reminded the Commissioners of an upcoming public hearing on Friday, September 22nd on the proposed bill introduced by Senator Aguon regarding the composition of the Guam Land Use Commission.

[Commission briefly discussed upcoming GLUC meetings scheduled for September 28th and in October.]

VI. Adjournment

Chairman Arroyo if there is nothing else to be discussed, I will entertain a motion to adjourn.

Vice Chairman Cruz motion to adjourn.

Commissioner Bathan second.

Chairman Arroyo motion to adjourn by Vice Chairman Cruz, seconded by Commissioner Bathan. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Bathan, and Vy]

The regular meeting of the Guam Land Use Commission for Thursday, September 14, 2017 was adjourned at 2:50 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Land Use Commission

Date approved: 10/12/17

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
Planning Division, DLM

ATTACHMENT A

DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÅHAN
(Government of Guam)

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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Hagåtña, GU 96932

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E-mail Address:
dlmdir@land.guam.gov

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

September 1, 2017

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2017-11

1. PURPOSE:

a. **Application Summary:** The applicant, Jung Min Seo and Won Sun Min, represented by Mr. Frank C. Roberto is requesting approval for a Zone Change from "A" (Agricultural) Zone to "M-1" (Light Industrial) Zone of lots 5224-5-2 & 5224-5-3 for the construction of warehouses and to engage in light industrial uses, Municipality of Barrigada.

b. **Legal Authority:** Sections 61630 to 61638 (Changes of Zones) of Chapter 61 (Zoning Law), Title 21, GCA (Real Property)

2. FACTS:

a. **Location:** The subject site is located along Bello Road at the western corner of the junction of Bello Road and a paved public road that leads to the Jesus Baptist Church of Guam and an animal kennel facility.

b. **Lot Area:** (Lot 5224-5-2) 5,424± SM + (Lot 5224-5-3) 5,423± SM = 10,847± Square Meters or 21,064.97± Square Feet in total.

c. **Present Zoning:** "A" (Agricultural) Zone.

d. **Field Description:** The site is presently vacant and covered with various ground cover vegetation, small bushes, midsize trees, a large breadfruit tree and two large ironwood trees, slope is gradual at around 5% towards the northern boundary of the site.

e. **Masterplan:** Undesignated

f. **Community Design Plan:** Conservation-Open Space

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** April 3, 2017

b. **Date Heard By ARC:** March 16, 2017

c. **Public Hearing Results:** ~~June 14, 2016~~ Aug. 23, 2017
(See Attachment "A")

Note: During the Public Meeting the Mayor and Vice Mayor of Barrigada submitted a copy of a response letter attached as Attachment "B".

4. DISCUSSION and STAFF ANALYSIS:

As proposed by this application, the request is to change the existing designated "A" (Rural) zone of the subject lot to "M-1" (Light Industrial) for the construction of warehouses and to engage in light industrial uses

Pursuant to Section 61630 (Requirements For Changes) of Chapter 61 (Zoning Law) 21GCA, where it states; **"The Commission may, with the approval of the Governor, change the zones established under this Chapter whenever it finds that the public necessity, convenience and general welfare justify such action"**.

The applicant in response for the Zone Change submits the following justification:

The properties' existing zoning is not in line with the majority of uses in the immediate and surrounding area. Although certain properties in the area are zoned agricultural, predominant land uses show light industrial or light industrial-related uses occur along Bello Road and extended areas.

Single family homes and duplex still exists in the area, however, this is outweighed by various industrial uses. Immediately to the west and south, properties within 500 feet have been rezoned to "M-1" by the Guam Land Use Commission.

The properties are directly in the flight path of the Guam International Airport and within an Air Installation Compatibility Use Zone or AICUZ so much so that the property owners were discouraged from considering a small residential subdivision or any other type of residential development.

We believe that because of these two characteristics public necessity is achieved by allowing the properties to best fit through a change to "M-1" and to be consistent with predominant uses in their immediate and surrounding area and without raising the concern of adversely changing the land use characteristics of the area. General welfare is achieved because a change of zone will occur in an area consistent with such a use and will discourage residential development by allowing a consistent use of industrial activities to span into these properties. Public convenience is achieved by avoiding "spot zoning" and remaining within predominant land use characteristics.

We do not anticipate the re-zoning of these properties will cause an adverse effect to the surrounding community but instead will compliment occurring activities that exist due to the predominant industrial use overlay.

The properties remain vacant with no past or ongoing development other than vegetation clearing that has occurred recently. We do not anticipate any adverse impacts to agricultural uses in the immediate or extended areas of the properties. An overview of the surrounding area shows no signs of any uses familiar to agricultural activities such as subsistent or commercial farming. The zoning law allows for residential use in an "A" zone, specifically single family dwellings and duplexes. If the property owners wish to apply this use with available sewer, they would be entitled to a density of approximately 6 duplex units or a total of 12 residential units. We strongly believe these uses will have a greater impact on water and sewer utilities from that of the proposed warehouse.

In our analysis planning staff finds that the lots are adjacent to light industrial-zoned properties. There are also, existing commercial/light industrial activities within the area along Bello Road and the artery roads that junction Bello Road, which are compatible and support the proposed use of the requested zone change. The development trend shows growth from rural residential to commercial/light industrial uses within the area, and future commercial/light industrial growth is foreseeable along Bello Road and the artery roads that junction Bello Road. This and the existence of adequate infrastructure will accommodate and serve the growth of this area.

Another land use element considered in our analysis is the impact of the AICUZ (Air Installation Compatible Use Zone) generated by aircraft activities utilizing the Guam International Air Terminal. Based on the existing AICUZ, the subject property falls within an area designated as Ldn (noise level) of 65-70 decibels. Any type of activity within the surrounding area will be affected by noise levels not conducive to residential use within this area but can be addressed through appropriate soundproofing. The AICUZ requirements normally do not favor residential development within the area as opposed to commercial/industrial, agricultural, golf courses or open space. As such, it is the position of Planning Staff that the area is best suited for industrial type uses followed by commercial activities/uses.

Any development on the site will accommodate wastewater and storm water drainage to protect the surrounding properties and the groundwater in the area. The zone change will not reduce any zoning standards in the immediate vicinity, but rather, the improvements to the subject lot will create a more stable environment that will provide for an orderly development scheme within the area. The applicants are aware and will comply to all permitting requirements and conditions to be imposed by the government agencies in the permitting process of their development plans.

This request has received no objection Position Statements from ARC members with conditions and the Department of Agriculture (DoAg), pursuant to Chapter 61, Section 61637 has submitted an Agricultural Impact Statement (AIS) stating that, DoAg does not oppose the zone change request granted all the steps, requirements and recommendations as noted on their position statement have been followed and addressed. In addition, the results of the community public hearing, was positive and the Mayor responded with a letter. In conclusion, we find the above and the context of the application provides justification that the public necessity, convenience and general welfare, supports a positive action on the zone change request.

5. **RECOMMENDATION:** Planning staff recommends Approval with the following condition:

   A. That the approval is subject to the ARC conditions and requirements as stipulated in their Official Position Statement.

Marvin Q. Aguilar
Guam Chief Planner

Attachments: ARC Position Statement Summary

Case Planner: F. Taitano

Minutes of Public Hearing

Application No. 2017-11, Zone Change from "A" (Agricultural) to "M-1" (Light Industrial) of Lot Nos. 5224-5-2 & 5224-5-3, Municipality of Barrigada

On August 23, 2017 - 6:05 P.M. a public hearing was conducted at the Barrigada Community Center, present was the applicant's representative, Mr. Frank Roberto, the Mayor, Ms. June Blas, the Vice Mayor Mr. Jessie Bautista, Mr. Joseph Mafnas, MPC member, Mr. James Castro, MPC member, Mr. Joseph Borja, MPC Member, The Guam Chief Planner, Mr. Marvin Aquilar and the Case Planner.

Case Planner called the meeting to order, introduced himself, the application and explained the purpose of the public hearing. He then introduced Mr. Roberto who would present and explain the purpose of the application.

Mr. Roberto introduced himself, explained the location and description of the proposed development and a brief history of the applicant.

The floor was open for comments:

Comments and Questions:

Mr. Borja asked how close is the kennel to the property?
Mr. Roberto responded that the kennel is at the end of the side street that leads down to the Jesus Baptist Church, located across the street from the lower end of the applicant's property.

Mr. Borja asked, was the property cleared recently?
Mr. Roberto responded that it was but, the property is now overgrown with vegetation.

Mr. Borja asked, what is the owner planning to do with his property?
Mr. Roberto responded that the owner is to construct warehouses.

Mr. Mafnas asked if the owner going to occupy the warehouses?
Mr. Roberto responded that the owner is not relocating from his present location at the Harmon Industrial Park along Adrian Sanchez Street (hamburger road).

Mayor Blas commented that she has no concerns, but the applicant needs to meet the requirements to address on-site. storm water, water, power, sewer, setbacks and parking.

Mr. Borja commented that he is concern about the water pressure in the area.
Mr. Roberto responded that they are presently consulting with GWA and one of the requirements that we agreed to, is the installation of a fire hydrant

Attachment "B"

BARRIGADA

Office of the Mayor & Vice Mayor
124 Luayao Lane, Barrigada, Guam 96913

8-23-2017
RECEIVED
Frank Cutaran
Planning Dept.
COPY

August 23, 2017

Mr. John Z. Arroyo
Chairman, Guam Land Use Commission
590 S. Marine Drive, ITC Building
Tamuning, Guam 96913

Re: Application No. 2017-11 seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial), by the Applicant Jung Min Seo and Won Sun Min, represented by Frank C. Roberto.

Mr. Chairman, Members of the Guam Land Use Commission, *enkuenta de i segundu mayot, guahu kumo mayot, yan i membros i konsehelon municipat Barigada, Buenas yan Saludu para todos hamyu ginen i komunidåt Barigada.* On behalf of Vice Mayor Jessie P. Bautista, myself as Mayor, together with members of the Barrigada Municipal Planning Council, greetings to all of you from the community of Barrigada.

With regards to Application No. 2017-11, we present the following:

1. The Applicant, Jung Min Seo and Won Sun Min, represented by Frank C. Roberto, is seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial), for the purpose of constructing warehouses, and to have the opportunity to engage in light industrial activities.

2. These properties are located in an area that has been subjected to Legislative Rezoning from "(A) Agriculture to "M1" Light Industrial.

3. Lot No. 5224-5-3 is a corner lot and is serviced by two (2) easements: the main 60-foot wide public easement known as "Bello" Road and a 50-foot wide arterial road along its east boundary that provides a front easement for the adjacent property Lot No. 5224-5-2.

4. Both easements are paved and maintain utility structures for water and power for immediate service.

In justifying the zone change contained in the Application, the criteria of Public Necessity, Public Convenience and General Welfare must be satisfactorily addressed. Our review is as follows:

PUBLIC NECESSITY AND CONVENIENCE

1. The requested zone change from "Agriculture" to "Light Industrial" is a more prudent zone designation for the area. The fact that the area is in the Accident Potential Zone (APZ) Zone requires a shift from residential to commercial or industrial uses notwithstanding the fact that residential uses are permitted in the current zone.

2. The surrounding parcels have also been zoned to "Light Industrial" and find that industrial activities in operation have not been a detriment to other current residential or competing commercial or industrial uses.

3. In our initial inspection, we find that Lot Nos. 5224-5-2 and 5224-5-3 are adjacent to light commercial/light industrial activities within the area which are compatible and support the proposed use of the requested zone change.

   The proposed warehouse, sales and marketing facilities is considered a light industrial use on the subject lot and would be consistent with current land uses and activities in the immediate area.

GENERAL WELFARE

The "Health, Safety and General Welfare" issues, in a community's comprehensive Plan divides these categories and mandates the various governmental entities to develop plans to address such factors.

In doing so, it defers the specific issues to the specific government entity mandated to oversee the technical review of a proposed plan such as for GEPA/GWA for sewer requirements (a health issue), DPW on access (a safety issue) and so forth, thus ensuring that the overall General Welfare of the community is not compromised.

The Guam Land Use Commission's interest is the responsibility to regulate zoning; while at the same time watching out for the **"health, safety and welfare"** of the community, from a zoning perspective.

Application 2017-11, is in our opinion, a suitable zone and location for commercial or industrial uses for the primary reason that the area is overshadowed by the Air Installation Compatible Use Zone (AICUZ) and in which an Accident Potential Zone (APZ) factor exist.

With regards to **Water Quality Standards, Soil and Sedimentation Control Regulations, Surface Water Runoff, and Water Source Protection from Industrial Waste** the Vice Mayor and I, together with the Municipal Planning Council express our concerns on the following:

(1) **Water Quality Standards.** We are concerned because we don't see any mention that the Guam Water Quality standards, §5101.C.1.d, as practical, storm water disposal systems is being designed and operated to terminate in close proximity to, or within project boundaries, to facilitate groundwater recharge. **Note:** applicable to property within the Northern Aquifer protection.

(2) **GEPA Soil and Sedimentation Control Regulations.** Section 10105.B.5.b; of the "Guam Environmental Protection Agency Guam Soil and Sedimentation Control Regulations" [P.L. 25-152] provides that "Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloped surfaces of a fill. Positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies or similar depressions.

(3) **Surface Water Runoff.** It also provides that "all drainage facilities shall be designed to carry surface water runoff to a storm drain that will discharge to a catchment facility within the project site." More importantly, it provides that "the flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property."

(4) **Protection of the Adjoining Properties**. Section 10106 of the Guam Environmental Protection Agency Guam Soil and Sedimentation Control Regulations addresses part of our concern that deal with the

protection of the adjoining properties. We believe that any person performing or causing to be performed any excavation or fill shall, at his own expense, provide the necessary means to prevent the movement of earth to the adjoining properties, and to maintain the existing natural grade of adjoining properties.

(5) **Water Source Protection from Industrial Waste:** Lot No. 5224-5-2 and Lot No. 5224-5-3, Barrigada, are located in and around the Northern Watershed, which is home to the Northern Guam Lens Aquifer. The aquifer is an essential resource for our island and is the primary source of drinking water for the island's population.

6. **Erosion:** Controlling erosion and sediment flow is a high priority. The applicant must ensure that erosion and stormwater does not the impact and neighborhood, therefore, we advise the Applicant to consult with Guam EPA on the effective implementation of erosion methods and to ensure that the best management practices are maintained.

Municipal Planning Council: Exercising its rights and review privileges, the Barrigada Mayor and Vice Mayor, together with the Municipal Planning Council hereby submits its comments on Application 2017-11, seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial), by the Applicant Jung Min Seo and Won Sun Min, represented by Frank C. Roberto.

Thank you for your time and please note that a resolution from the Barrigada Municipal Planning Council will be submitted once formal action is taken for inclusion as part of your official records.

Sinseramente,

JUNE U. BLAS
Mayor

JESSIE P. BAUTISTA
Vice Mayor

ATTACHMENT B

BARRIGADA

Office of the Mayor & Vice Mayor
124 Luayao Lane, Barrigada, Guam 96913

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 07 2017
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CLTC/GALC/GLUC

MB 9/7

September 6, 2017

Mr. Michael Borja
Director
Department of Land Management
Tamuning, Guam 96911

Dear Mr. Borja:

Transmitted herewith is a copy of Resolution Nos. 2017-013 which was duly and regularly adopted by the Barrigada Municipal Planning Council on the 29th day of August 2017.

> Resolution No. 2017 – 013; "Relative to expressing the approval, support and endorsement of the Barrigada Municipal Planning Council on Application No. 2017-11 seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial), by the Applicant Jung Min Seo and Won Sun Min, represented by Frank C. Roberto.

Sinseramente,

THERESE B. MAZZEI
Council Secretary

Attachments:

cc: Applicant Jung Min Seo, Won Sun Min & Frank C. Roberto
Executive Secretary, Guam Land Use Commission
Executive Director, MCOG

R. Gulac Land Plng Div 9/7/17

P.O. Box 786, Hagåtña, Guam 96932 * Tel: (671) 734-3737/3859 * Fax: (671) 734-1988 * Email: bmoadmin@teleguam.net
Doc. No. 34GL-17-1123

BARRIGADA

MUNICIPAL PLANNING COUNCIL
Tuesday, August 29, 2017

Resolution No. 2017 – 013

Introduced by: Chairman and all members of the Barrigada Municipal Planning Council

Relative to expressing the approval, support and endorsement of the Barrigada Municipal Planning Council on Application No. 2017-11 seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial), by the Applicant Jung Min Seo and Won Sun Min, represented by Frank C. Roberto.

BE IT RESOLVED BY THE MUNICIPAL PLANNING COUNCIL OF BARRIGADA:

WHEREAS, Application 2017-11, was submitted to the Guam Land Use Commission by Mr. Frank C. Roberto, representing the applicants, Jung Min Seo and Won Sun Min. The Application was accepted on April 3, 2017, and

WHEREAS, on Tuesday, August 8, 2017, the Mayor's Office officially received a copy of the Application and informed that a public hearing will be conducted on Wednesday, August 2, 2017; and

WHEREAS, with regards to Application No. 2017-11, the Vice Mayor, together with the Mayor and Municipal Planning Council present the following:

1. The Applicant, Jung Min Seo and Won Sun Min, represented by Frank C. Roberto, is seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial), for the purpose of constructing warehouses, and to have the opportunity to engage in light industrial activities.
2. These properties are located in an area that has been subjected to Legislative Rezoning from "(A) Agriculture to "M1" Light Industrial.
3. Lot No. 5224-5-3 is a corner lot and is serviced by two (2) easements: the main 60-foot wide public easement known as "Bello" Road and a 50-foot wide arterial road

along its east boundary that provides a front easement for the adjacent property Lot No. 5224-5-2.

4. Both easements are paved and maintain utility structures for water and power for immediate service.

and

WHEREAS, the Municipal Planning Council opines the following:

1. The requested zone change from "Agriculture" to "Light Industrial" is a more prudent zone designation for the area. The fact that the area is in the Accident Potential Zone (APZ) Zone requires a shift from residential to commercial or industrial uses notwithstanding the fact that residential uses are permitted in the current zone; and
2. The surrounding parcels have also been zoned to "Light Industrial" and find that industrial activities in operation have not been a detriment to other current residential or competing commercial or industrial uses; and
3. In our initial inspection, we find that Lot Nos. 5224-5-2 and 5224-5-3 are adjacent to light commercial/light industrial activities within the area which are compatible and support the proposed use of the requested zone change; and

WHEREAS, with regards to the "Health, Safety and General Welfare" of the Community, we find that the following government departments and agencies [Guam Power Authority; Bureau of Statistics and Plans; Department of Parks and Recreation; the Department of Agriculture and Guam Waterworks Authority] have submitted their positions statements supporting the Application; and

WHEREAS, Application 2017-11, is in our opinion, a suitable zone and location for commercial or industrial uses for the primary reason that the area is overshadowed by the Air Installation Compatible Use Zone (AICUZ) and in which an Accident Potential Zone (APZ) factor exist; and

WHEREAS, with regards to Water Quality Standards, Soil and Sedimentation Control Regulations, Surface Water Runoff, and Water Source Protection from Industrial Waste we express our concerns on the following:

(1) **Water Quality Standards.** We are concerned because we don't see any mention that the Guam Water Quality standards, §5101.C.1.d, as practical, storm water disposal systems is being designed and operated to terminate in close proximity to, or within

project boundaries, to facilitate groundwater recharge. **Note:** applicable to property within the Northern Aquifer protection.

(2) **GEPA Soil and Sedimentation Control Regulations.** Section 10105.B.5.b; of the "Guam Environmental Protection Agency Guam Soil and Sedimentation Control Regulations" [P.L. 25-152] provides that "Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloped surfaces of a fill. Positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies or similar depressions.

(3) **Surface Water Runoff.** It also provides that "all drainage facilities shall be designed to carry surface water runoff to a storm drain that will discharge to a catchment facility within the project site." More importantly, it provides that "the flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property."

(4) **Protection of the Adjoining Properties**. Section 10106 of the Guam Environmental Protection Agency Guam Soil and Sedimentation Control Regulations addresses part of our concern that deal with the protection of the adjoining properties. We believe that any person performing or causing to be performed any excavation or fill shall, at his own expense, provide the necessary means to prevent the movement of earth to the adjoining properties, and to maintain the existing natural grade of adjoining properties.

(5) **Water Source Protection from Industrial Waste:** Lot No. 5224-5-2 and Lot No. 5224-5-3, Barrigada, are located in and around the Northern Watershed, which is home to the Northern Guam Lens Aquifer. The aquifer is an essential resource for our island and is the primary source of drinking water for the island's population.

now, therefore, be it

RESOLVED, that the Barrigada Municipal Planning Council having reviewed the Application and exercising its rights and privileges, does hereby express its approval and support and does hereby endorse Application No. 2017-11, seeking a zone change on Lot No. 5224-5-2 and Lot No. 5224-5-3, Municipality of Barrigada from "A" (Agriculture) to "M-1" (Light Industrial); and be it further

RESOLVED, that the Chairperson of the Council, certify to and the Vice Mayor and the Secretary of the Council attest to the adoption hereof, and that copies of the same be thereafter transmitted to the Applicant Jung Min Seo and Won Sun Min, represented by Frank C. Roberto; to the Executive Secretary of the Guam Land Use Commission; to the Director of the Department of Land Management; to the Executive Director of the Mayors Council of Guam; to the Honorable Benjamin J.F. Cruz, Speaker of the 34th Guam Legislature and to the Honorable Edward J.B. Calvo, *I Maga'lahen Guåhan.*

DULY AND REGUARLY ADOPTED ON THE 29TH DAY OF AUGUST 2017.

JUNE U. BLAS
Mayor and Chairman

JESSIE P. BAUTISTA
Vice Mayor

THERESE B. MAZZEI
Council Secretary

HAMI BÅRIGÅDA
MUNISIPAT BARIGADA
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DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÅHAN
(Government of Guam)

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

September 1, 2017

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2017-11 (Zone Change)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DEPARTMENT OF LAND MANAGEMENT (DLM):
Planning staff recommends Approval with the following condition:

A. That the approval is subject to the ARC conditions and requirements as stipulated in their Official Position Statement.

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections

GUAM POWER AUTHORITY (GPA):
GPA has reviewed the application and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:

   a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;

b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;
c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
e. Provide scheduling and magnitude of project power demand requirements for new loads;
f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
g. GPA reserves its easement rights established at the Department of Land Management under map 881FY72.

2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations;
3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities;
4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments:
GPA has no objection to the request subject to the conditions cited above.

BUREAU OF STATISTICS AND PLANS (BSP):
The Bureau of Statistics and Plans (Bureau) has completed its review of Application 2017-11 to rezone Lot 5224-5-2 and Lot 5224-5-3 from "A" Rural zone to "M-1" Light Industrial zone and provides the following comments and recommendations.

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is in an **"Industrial"** designation in the Future Land Use Map of the NCGLUP Policy LU-1 (G), which states:
*"**Industrial.** industrial lands are those lands designated for a variety of industrial uses and agricultural, commercial and non-residential uses compatible with industrial uses. Typical uses include manufacturing and processing, wholesaling, large storage and transportation facilities, light industrial and industrial commercial uses. The Industrial area also includes the Guam International Airport, which serves as* the international *transportation* hub *for both passenger and freight service. A separate Airport Plan ensures compatibility with aviation* facilities, *for the protection of runway safety and clear zones,* and the *protection of public safety. Mineral extraction* is *also permitted in the* industrial *designation. Prior to development, mineral resource uses* must *demonstrate the quality, type, available quantity, development and environmental constraints, and other quantitative* assessment *considerations. Residential development is limited to* uses *such as caretaker facilities and accessory dwelling* units."

The Bureau finds that the proposed Industrial activity is consistent with uses in accordance with the North and Central Guam Land Use Plan.

Aquifer Protection from Commercial Waste. The subject property is in the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that activities from the proposed commercial zone will adversely affect Guam's sole source aquifer. The Bureau recommends that the property owner, comply with the following:

1. Implement practices for managing waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976."

2. Comply with an Aquifer Protection Review pursuant to the Federal Safe Drinking Water Act, §1424 and Guam Safe Drinking Water Act, 10 GCA Chapter 53. The property owner must work closely with Guam Environmental Protection Agency (EPA) for this review and for implementation of best management practices (BMPs) in preventing runoff from contaminating Guam's sole source aquifer in accordance with the CNMI Guam Stormwater Management Manual.

3. Coordinate with the Guam Environmental Protection Authority (GEPA) for water resource conservation and water pollution prevention in protection of the Northern Guam Lens Aquifer pursuant to the *"Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-87, and the* Guam *Water Resource Development & Operating Regulations.*

Low Impact Development (LID). The subject property is also located in the Northern Guam Watershed. The LID approach works with nature to manage stormwater as close to its source as possible.LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

29.42% of Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent.

The Bureau is concerned that once impervious surfaces are installed, commercial waste are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors.

The Bureau is also concerned that there are no site plans or drawings included in the application and therefore strongly recommend that LID principles be included in the engineering design for this project.

The Bureau recommends the property owner to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook *"Island Stormwater Practice Design Specifications" is* available on the Bureau's, Guam Coastal Management Program's website www.bsp3.guam.gov.

Historical and Archaeological Resources. The Bureau recommends coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to *"Historical Objects* and *Sites", 21 GCA, Chapter 76.*

The **Bureau recommends approval** to the Zone Change in order to construct and operate warehouses that would be in conformance to activities and other compatible uses as permitted in a light industrial zoned property. The Bureau finds that the zone change from Rural Zone to light Industrial Zone is consistent with the North and Central Guam Land Use Plan "Industrial" designation.

However, and most especially due to the Aquifer directly below, the activities can detrimentally affect Guam's sole source aquifer and surrounding neighbors if best management measures are not in place to control stormwater runoff and prevent contaminants from entering the aquifer. Subsequently, if this application is approved, the property owner is highly encouraged to implement best management and LID practices during pre and post construction for the management of stormwater protection, and any other concerns by all the Application Review Member agencies/department as stipulated. Moreover, the applicant must be required to comply with established laws and the recommendations stipulated above.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR reviewed the subject application and determined that the Zone Change will not affect historic properties within or around the subject lot. Therefore, they have no objection to the approval of the Zone Change Application.

GUAM WATERWORKS AUTHORITY (GWA):
The Guam Waterworks Authority (GWA) has reviewed the applicant's request on Lot 5224-5-2 and 5224-5-3 for a zone change from "A" (Agriculture) to "MI" (Light Industrial) zone to construct a warehouse.

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments explain GWA's position to support approval of this zone change application:

1. The applicant must provide GWA with site development plans to construct the proposed commercial building. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.

2. GWA requires the applicant to coordinate with the GWA Engineering Department well in advance of the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.

3. If off-site water and sewer infrastructure improvements are installed by the developer, they will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy will be contingent upon the completion of offsite improvements.

   The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management (DLM) and provide copies to GWA.

4. The applicant shall install GWA water meters in the public right of way or easement.

5. Backflow prevention devices are required for non-residential activities.

6. New development is subject to water and/or sewer system development charges (SDC).

7. Grease traps or interceptors are required for food service establishments.

8. Storm water discharge to the sanitary sewer system is prohibited.

9. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account classification and utility service requirements.

Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance establishments.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures.

DEPARTMENT OF AGRICULTURE (DoAg):

Agriculture has reviewed and inspected the subject lots for a zone change from an **Agricultural** to an M1-Light **Industrial** and finds that there has been no major agricultural activities on these lots for at least 10 plus years, so any adverse impacts to any agricultural activity is minimal. However, just to the north east of the property there is currently a large scale agricultural greenhouse production farm that is actively farming in the immediate area. This poses serious concerns with regard to chemicals that may be associated with M1-Light Industrial facilities and other products that will have an adverse impact to these nearby crops either through wind drift, seepage and cross contamination should water supplies become tainted with industrial chemical compounds. The developer must insure that proper mitigation measures are in full effect if this application passes the GLUC review process.

With other major **"Environmental Impacts"** to the area as a whole would also present other concerns for an M1 development slated for the two lots. As a result our agency must require further information as to the activity that will be proposed for the area to better understand and to help implement any **Best Management Practices** that will help prevent, limit and control any adverse impacts to **"Northern Aquifer and the Coastal Zones"** that are all connected and in proximity to the Bello area of Barrigada as a whole.

Such **Best Management Practices** that our agency will require should the **MI zone** and subsequent usage be approved will be **1. protective geo-lining** to handle chemical spills and other liquids common to industrial usage.

2. filtration systems to further protect from spillage and percolation of contaminants into the **Aquifer and Coastal Zones. 3.Comprehensive Landscaping Plan** that incorporates and re-introduces native tree species that once served to prevent erosion and absorb and prevent contaminants from entering **Guam's Northern Aquifer and Coastal Zones. 4. Buffer Zones** that will act as a barrier from the general public should any such development of the area involve chemical drift and other hazardous materials associated with MI- Light Industrial usage.

Please be aware that before any earthen work of the area is to be done, any type of development must have the proper permitting documents in order, with all the regulating agencies signed off and approved for any clearing and grading work.

Should any developers decide to proceed with MI development of the site(s) the **Department of Agriculture** will require a complete **Biological Assessment Report** that determines if any **Federally Listed Protected Endangered Species** have developed any colonies and habitat.

This report will be required only if the sites are to be developed after any zone change requests have gone through approved or not and before securing any Clearing and Grading/Building permits from the Department of Public Works. This is to ensure the continuation of protected species here on Guam.

With regards to the **Landscaping Plan;** Agriculture would like to recommend the implementation and incorporation of the plan to reflect the use of **Native Indigenous Tree Species and or Fruit Trees.** The reason being as stated above is for these species to serve in protecting the **Northern Aquifer, Coastal Zones and the Environment as a Whole.** These species have the important benefit of preventing absorption of contaminants into the drinking supply as well as holding the soils in place to prevent erosion issues further down the road to development, provide a natural buffer to winds and rain especially from Guam's frequent Typhoons and periods of drought. For assistance in developing the plan please contact our **Agricultural Development Services and Forestry Division's** here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native species should you choose to incorporate them into any project slated for development. Please be aware that increased loss of habitat here on Guam contributes greatly to the diminished capacity to sustain and support a healthy island community as well as the re-charging of our water lens.

It is vital that all land developers take a pro-active step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used, visit our **Department of Agriculture's Organic and Environmentally friendly Demonstration Farm** where many of these practices are showcased for the benefit of the public and to encourage the spread of these methods for the preservation and sustainability of the island.

The Department of Agriculture does not oppose the zone change request granted all the above steps, requirements and recommendations have been followed and addressed.

DEPARTMENT OF PUBLIC WORKS (DPW):
Has not submitted Position Statement as of Staff Report date.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
Has not submitted Position Statement as of Staff Report date.

GUAM FIRE DEPARTMENT (GFD):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):
Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):
Has not submitted Position Statement as of Staff Report date.

Marvin Q. Aguilar

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

GUAM WATERWORKS AUTHORITY
Gloria B. Nelson Public Service Building
688 Route 15, Mangilao, Guam 96913

RECEIVED
MAY 23 2017
Department of Land Management
Time 1015 Intl

MEMORANDUM

May 18, 2017

TO: Michael Borja, Director, Department of Land Management

FROM: Miguel C. Bordallo, P.E. General Manager

SUBJECT: Position Statement on Zone Change Application No. 2017-11 for Lot 5224-5-2 & 5224-5-3, in the Municipality of Barrigada.

APPLICANT(S): Jung Min Seo (Trustee of M.J. Ling Trust) and Won Sun Min

The Guam Waterworks Authority (GWA) has reviewed the applicant's request on Lot 5224-5-2 and 5224-5-3 for a zone change from "A" (Agriculture) to "M1" (Light Industrial) zone to construct a warehouse.

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments explain GWA's position to support approval of this zone change application:

1. The applicant must provide GWA with site development plans to construct the proposed commercial building. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.

2. GWA requires the applicant to coordinate with the GWA Engineering Department well in advance of the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.

3. If off-site water and sewer infrastructure improvements are installed by the developer, they will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy will be contingent upon the completion of offsite improvements.

   The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management (DLM) and provide copies to GWA.

4. The applicant shall install GWA water meters in the public right of way or easement.

5. Backflow prevention devices are required for non-residential activities.

6. New development is subject to water and/or sewer system development charges (SDC).

7. Grease traps or interceptors are required for food service establishments.

8. Stormwater discharge to the sanitary sewer system is prohibited.

9. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance establishments.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.

Department of Agriculture
Dipåttamenton Agrikottura

163 Dairy Road, Mangilao, Guam 96913

Director's Office	300-7965/66; Fax 734-6569
Agricultural Dev. Services	300-7972/73
Animal Health	300-7965
Aquatic & Wildlife Resources	735-3955/56; Fax 734-6570
Forestry & Soil Resources	300-7975/76; Fax 300-3201
Plant Nursery	300-7974
Plant Inspection Facility	475-1426/27; Fax 477-9487

Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

Mathew L.G. Sablan
Director

Jessie B. Palican
Deputy Director

RECEIVED
MB 5/24 MAY 23 2017
Department of Land Management
Time 10:15 Intl

May 16, 2017

Memorandum

To : Executive Secretary, Guam Land Use Commission

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for a Zone Change for application 2017-11 Jung Min Seo & Won Sun Min c/o Frank C. Ropberto request from an "Agricultural Zone" to an "M1-Light Industrial" on Lots 5224-5-2 & 5224-5-3 located in the Municipality of Barrigada.**

Agriculture has reviewed and inspected the subject lots for a zone change from an **Agricultural** to an **M1-Light Industrial** and finds that there has been no major agricultural activities on these lots for at least 10 plus years, so any adverse impacts to any agricultural activity is minimal. However, just to the north east of the property there is currently a large scale agricultural greenhouse production farm that is actively farming in the immediate area. This poses serious concerns with regard to chemicals that may be associated with M1-Light Industrial facilities and other products that will have an adverse impact to these nearby crops either through wind drift, seepage and cross contamination should water supplies become tainted with industrial chemical compounds. The developer must insure that proper mitigation measures are in full effect if this application passes the GLUC review process.

With other major **"Environmental Impacts"** to the area as a whole would also present other concerns for an **M1** development slated for the two lots. As a result our agency must require further information as to the activity that will be proposed for the area to better understand and to help implement any **Best Management Practices** that will help prevent, limit and control any adverse impacts to **"Northern Aquifer and the Coastal Zones"** that are all connected and in proximity to the Bello area of Barrigada as a whole.

Such **Best Management Practices** that our agency will require should the **M1 zone** and subsequent usage be approved will be 1. **protective geo-lining** to handle chemical spills and other liquids common to industrial usage, 2.**filtration systems** to further protect from spillage and percolation of contaminants into the **Aquifer and Coastal Zones, 3.Comprehensive Landscaping Plan** that incorporates and re-introduces native tree species that once served to prevent erosion and absorb and prevent contaminants from entering **Guam's Northern Aquifer and Coastal Zones, 4. Buffer Zones** that will act as a barrier from the general public should any such development of the area involve chemical drift and other hazardous materials associated with M1- Light Industrial usage.

CG 5/24

Please be aware that before any earthen work of the area is to be done, any type of development must have the proper permitting documents in order, with all the regulating agencies signed off and approved for any clearing and grading work.

Should any developers decide to proceed with M1 development of the site(s) the **Department of Agriculture** will require a complete **Biological Assessment Report** that determines if any **Federally Listed Protected Endangered Species** have developed any colonies and habitat. This report will be required only if the sites are to be developed after any zone change requests have gone through approved or not and before securing any Clearing and Grading/Building permits from the Department of Public Works. This is to ensure the continuation of protected species here on Guam.

With regards to the **Landscaping Plan**; Agriculture would like to recommend the implementation and incorporation of the plan to reflect the use of **Native Indigenous Tree Species and or Fruit Trees**. The reason being as stated above is for these species to serve in protecting the **Northern Aquifer, Coastal Zones and the Environment as a Whole.** These species have the important benefit of preventing absorption of contaminants into the drinking supply as well as holding the soils in place to prevent erosion issues further down the road to development, provide a natural buffer to winds and rain especially from Guam's frequent Typhoons and periods of drought. For assistance in developing the plan please contact our **Agricultural Development Services and Forestry Division's** here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native species should you choose to incorporate them into any project slated for development. Please be aware that increased loss of habitat here on Guam contributes greatly to the diminished capacity to sustain and support a healthy island community as well as the re-charging of our water lens.

It is vital that all land developers take a pro-active step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used, visit our **Department of Agriculture's Organic and Environmentally friendly Demonstration Farm** where many of these practices are showcased for the benefit of the public and to encourage the spread of these methods for the preservation and sustainability of the island.

The Department of Agriculture does not oppose the zone change request granted all the above steps, requirements and recommendations have been followed and addressed. For questions and concerns regarding our agencies position please contact our office at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN

GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

RECEIVED
APR 10 2017
Department of Land Management
Time 1040 Int

April 5, 2017

MEMORANDUM

To: Chairman, Guam Land Use Commission
Executive Secretary, Guam Land Use Commission

From: General Manager

Subject: Lots 5224-5-2 & 5224-5-3, Municipality of Barrigada, (Jung Min Seo and Won Sun Min); Zone Change Application from "A" (Agricultural) to "M-1" (Light-Industrial) to construct a warehouse. **Application No. 2017-11**

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
   - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
   - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
   - Provide scheduling and magnitude of project power demand requirements for new loads.
   - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
   - GPA reserves its easement rights established at the Department of Land Management under map **881FY72.**

2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.

3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.

4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments
GPA has no objection to the request subject to the conditions cited above.

for **JOHN M. BENAVENTE, P.E.**

ASG/arp

Doc. No. 34GL-17-1123 .

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Jung Min Seo and Won Sun Min
Location: Lots 5224-5-2 & 5224-5-3, Barrigada
Type of Application: Zone Change
GLUC/GSPC Application No. 2017-11
Brief Project Description:
"A" to "M-1" to construct a warehouse.

For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: **power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities.**

1. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **AVAILABLE AND IN PLACE** to support this project:
   Yes ☒ No ☐

2. If the answer to #1 above is YES, then:
   I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **ADEQUATE** to support this project:

   Yes ☐ No ☒

3. If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are **NOT AVAILABLE** or they are **AVAILABLE, BUT NOT ADEQUATE,** itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure:

Services, Facilities and Infrastructure Needed	Cost of Upgrades	Funds Available	Date Available	Funds Identified
Please see comments below				

I hereby certify that the foregoing is true and correct to the best of my knowledge.

JOHN M. BENAVENTE, P.E.
General Manager

4/6/17
Date

Comments:
Based on a preliminary inspection of the site, the electrical facilities may require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.

ASG/arp

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS
SAGAN PLANU SIHA YAN EMFOTMASION
Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

William C. Mcdonald
Acting Director
Manuel Q. Cruz
Deputy Director

MAY 09 2017

6-10-17
RECEIVED
Frank Taitano
Planning Div, GLUC

RECEIVED
MAY 12 2017
Department of Land Management
Time 10:50a Intl

MEMORANDUM

TO: Chairman, Guam Land Use Commission

VIA: Executive Secretary, Department of Land Management

FROM: Acting Director, Bureau of Statistics and Plans

SUBJECT: Position Statement on Application 2017-11; Lot 5224-5-2 & 5224-5-3 Municipality of Barrigada, Guam from "A" Rural Zone to "M-1" Light - Industrial Zone; Applicant: Mr. Jung Min Seo & Mrs. Won Sun Min c/o Frank C. Roberto

Håfa Adai! The applicant(s), Mr. Jung Min Seo and Mrs. Won Sun Min represented by consultant, Frank C. Roberto seeks to rezone their property located in the Municipality of Barrigada, from "A" Rural zone to "M-1" Light-Industrial zone. The applicant is proposing to constructing warehouses and engaging in light industrial activities as permitted in the light industrial zone in a total of 10, 847 square meters or 116,765.14 square feet of property.

Lot 5224-5-2 and lot 5224-5-3 is located in the area known as Bello road off Route 16 in Barrigada behind the Department of Revenue and Taxation Office. The property is currently forested and slightly sloping is 136,856 square feet or approximately 3.1 acres and is surrounded by various activities such as the Cloud K9 Groom and Board, The Jesus Baptist Church of Guam, and other nearby light industrial activity businesses as well as residential dwelling units.

The Bureau of Statistics and Plans (Bureau) has completed its review of Application 2017-11 to rezone Lot 5224-5-2 and Lot 5224-5-3 from "A" Rural zone to "M-1" Light Industrial zone and provides the following comments and recommendations.

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is in an

"Industrial" designation in the Future Land Use Map of the NCGLUP Policy LU-1 (G), which states:
*"**Industrial.** Industrial lands are those lands designated for a variety of industrial uses and agricultural, commercial and non-residential uses compatible with industrial uses. Typical uses include manufacturing and processing, wholesaling, large storage and transportation facilities, light industrial and industrial commercial uses. The Industrial area also includes the Guam International Airport, which serves as the international transportation hub for both passenger and freight service. A separate Airport Plan ensures compatibility with aviation facilities, for the protection of runway safety and clear zones, and the protection of public safety. Mineral extraction is also permitted in the industrial designation. Prior to development, mineral resource uses must demonstrate the quality, type, available quantity, development and environmental constraints, and other quantitative assessment considerations. Residential development is limited to uses such as caretaker facilities and accessory dwelling units."*

The Bureau finds that the proposed Industrial activity is consistent with uses in accordance with the North and Central Guam Land Use Plan.

Aquifer Protection from Commercial Waste. The subject property is in the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that activities from the proposed commercial zone will adversely affect Guam's sole source aquifer. The Bureau recommends that the property owner, comply with the following:

1. Implement practices for managing waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976."

2. Comply with an Aquifer Protection Review pursuant to the Federal Safe Drinking Water Act, §1424 and Guam Safe Drinking Water Act, 10 GCA Chapter 53. The property owner must work closely with Guam Environmental Protection Agency (EPA) for this review and for implementation of best management practices (BMPs) in preventing runoff from contaminating Guam's sole source aquifer in accordance with the CNMI Guam Stormwater Management Manual.

3. Coordinate with the Guam Environmental Protection Authority (GEPA) for water resource conservation and water pollution prevention in protection of the Northern Guam Lens Aquifer pursuant to the *"Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended*

by P.L. 17-87, and the Guam Water Resource Development & Operating Regulations.

Low Impact Development (LID). The subject property is also located in the Northern Guam Watershed. The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

29.42% of Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent.

The Bureau is concerned that once impervious surfaces are installed, commercial waste are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors.

The Bureau is also concerned that there are no site plans or drawings included in the application and therefore strongly recommend that LID principles be included in the engineering design for this project.

The Bureau recommends the property owner to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook *"Island Stormwater Practice Design Specifications"* is available on the Bureau's, Guam Coastal Management Program's website www.bsp3.guam.gov.

Historical and Archaeological Resources. The Bureau recommends coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to *"Historical Objects and Sites", 21 GCA, Chapter 76.*

✓ The **Bureau recommends approval** to the Zone Change in order to construct and operate warehouses that would be in conformance to activities and other compatible uses as permitted in a light industrial zoned property. The Bureau finds that the zone change from Rural Zone to light Industrial Zone is consistent with the North and Central Guam Land Use Plan "Industrial" designation.

However, and most especially due to the Aquifer directly below, the activities can detrimentally affect Guam's sole source aquifer and surrounding neighbors if best management measures are not in place to control stormwater runoff and prevent contaminants from entering the aquifer. Subsequently, if this application is approved, the property owner is highly encouraged to implement best management and LID practices during pre and post construction for the management of stormwater protection, and any other concerns by all the Application Review Member agencies/department as stipulated. Moreover, the applicant must be required to comply with established laws and the recommendations stipulated above.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

WILLIAM C. MCDONALD
Acting Director

Department of Parks and Recreation
Government of Guam
490 Chalan Palasyo, Agana Heights, Guam 96910
Director's Office: (671) 475-6296/7; Fax (671) 477-0997
Parks Division: (671) 475-6288/9
Guam Historic Resources Division: (671) 475-6294/5
Facsimile: (671) 477-2822

Eddie B. Calvo
Governor

Ray Tenorio
Lt. Governor

William N. Reyes
Acting Director

In reply refer to:
RC2017-0183

RECEIVED
MBS/12 MAY 12 2017
Department of Land Management
Time 10:50 Intl

May 10, 2017

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DLM Case No. 2017-11, Zone Change
Lot(s): 5224-5-2 & 5224-5-3, Municipality of Barrigada
Applicant: Jung Min Seo & Won Sun Min, c/o: Frank C. Roberto
Case Planner: Frank Taitano

We reviewed the above subject and determined that the Zone Change will not affect historic properties within or around the subject lot. Therefore, we have no objection to the approval of this Zone Change Application.

If you have any questions, please do not hesitate to contact our office.

William N. Reyes
Acting

Street Address:
590 S. Marine Corps Drive
Suite 733 ITC Building
Tamuning, GU 96913

Mailing Address:
P.O. Box 2950
Hagåtña, GU 96932

Website:
http://land.guam.gov

E-mail Address:
dlmdir@land.guam.gov

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383



ATTACHMENT B
DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÅHAN
(Government of Guam)

DEPARTMENT OF LAND MANAGEMENT

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

September 8, 2017

MEMORANDUM

TO: Chairman and Commissioners, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: **Supplemental Staff Report – Application No. 2012-22B**
Request Consideration to continue operations of four (4) electronic video wall signs on key locations within the Agana Shopping Center shopping complex, in a commercial zone, Lot 82-1-5-R10-New-3, Municipality of Hagatna

1. PURPOSE:

a. Application Summary: The applicant, Ms. Therese H. Kamm on behalf of Agana Shopping Center (ASC) requests consideration to continue operations of previously approved (Zone Variance) for signage, for four (4) electronic video wall signs located on key locations within the ASC shopping complex on Lot 82-1-5-R10-New-3 , Municipality of Hagatna.

b. Legal Authority: 21 GCA (Real Property), Chapter 61 (Zoning Law), Sections 6116 to 61623, Part 5 (Sign regulation and applicable subsections).

2. FACTS:

a. Location: The project site is located within the ASC facility at the corner of Route No. 4 and Route No. 33 (West O'Brien Drive).

b. Lot Area: 63,378 square meters or 682,195 square feet

c. Present Zoning: "C" (Commercial) Zone

d. Masterplan: Commercial

e. **Previous Commission Actions(s):** On April 25, 2013, the applicants were granted approval by the Guam Land Use Commission (GLUC) for a Zone Variance four (4) electronic video wall signs on the above subject lot (see attached NOA). Conditions attached to approval required the applicant comply with the conditions imposed by the Commission and the Application Review Committee and insertion of a 2-year renewal requirement.
Conditions also included a two-year review and renewal timeline from date of issuance of Certificate of Occupancy. At the end of this period the applicant was instructed to submit a request for consideration to continue operations. The purpose of the timeline was to assess operations of these signs against possible impedance or hazard to traffic. In the event this was to occur, the applicant would be ordered before the Commission to show cause to continue operations, to which the Commission may consider the option to revoke the issued Notice of Action (NOA).

3. **DISCUSSION:** During the period, and as verified by a staff inspection on September 5, 2017, the applicants/operators have complied with all ARC and GLUC conditions. They continue to remain in good standing in the surrounding community. As of date of the report, we have been advised of an upcoming letter from the Mayor of Hagatna in support of the signs.

We note the continued use electronic video signage appears to be acceptable at its present location within each designated location of the shopping center. Since being installed we have not received any complaints or police reports of accidents related to the signage at the present location.

Per applicant's report and meeting with the applicants, they have met with the Mayor of Hagatna, Guam Public Works/Highways, Guam Police, Fire Department, Homeland Security/Civil Defense for providing free public announcement on the electronic media.

4. **RECOMMENDATION:** It is our recommendation that the Sign Variance be renewed and the operation be allowed to continue. Based on the applicant's letter, Mayor's support and having complied to all conditions, we further recommend the term be made permanent (without any time constraints on the approved variance or activity).

Marvin Q. Aguilar
Guam Chief Planner

Case/Project Planner: Penmer C. Gulac, Planner IV
Attachments: Letter of Request for Renewal & Supporting Documents
Case No. 2012-22B; NOA's as noted

Agana Shopping Center

July 26, 2017

John Z. Arroyo
Chairman
Guam Land Use Commission
Government of Guam
Department of Land and Management
590 S. Marine Corps Drive
Suite 733 ITC Building
Tamuning Guam 96913

RECEIVED 7/26/17 Land Plng Div

SUBJECT: Request for consideration to continue operation of Agana Shopping Center's (4) electronic video wall signs on Lot 82-1-5-R10 New-3, Municipality of Hagatna

Dear Sir:

We would like to request for consideration to continue operation of Agana Shopping Center's (4) electronic video wall signs on Lot 82-1-5-R10 New-3, Municipality of Hagatna.

We have not had any operational shortfalls with the electronic signage and our records indicate that zero incidences have occurred in regards to highway safety or the safety of the customers utilizing our parking lot.

Please let me know if you have any questions regarding this matter.

Sincerely,

Therese H. Kamm
General Manager

Doc. No. 34GL-17-1123 .

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

public works
DIPATTAMENTON CHE'CHO' PUBLEKO
Carl V. Dominguez
Director
Jesse B. Palican
Deputy Director

OFFICE OF BUILDING INSPECTION & PERMIT
TERRITORY OF GUAM

BUILDING PERMIT

DATE: February 7, 2014 PERMIT NO: B14000042

APPLICANT: FUTURE WORLD CORP. CONTRACTOR LIC. NO: 8155

ADDRESS: 954 RT. 15, BARRIGADA

PERMIT TO: INSTALL ( ) STORY PROPOSED USE: SIGN ( ) UNITS

LOCATION: AGANA ZONING DISTRICT: C

TRACT: _____ LOT: 82-1-5-R10 NEW 3 BLOCK: _____

BUILDING DIMENSIONS: _____ FT. WIDE, BY _____ FT. LONG, BY _____ IN HEIGHT

TYPE: _____ USE GROUP: MISC. FOUNDATION: _____

REMARKS: TO INSTALL VIDEO SIGN AT AGANA SHOPPING CENTER

AREA OR VOLUME: _____ COST: $83,998.00 PERMIT FEE: $1,307.63

OWNER: AGANA SHOPPING CENTER

ADDRESS: 302 S. MARINE DRIVE RT. 4
HAGATNA

BUILDING OFFICIAL: _____
Mr. Joseph D. Guevara
Building Inspection & Permit Administrator

BUILDING PERMIT SHALL EXPIRE IF THE WORK AUTHORIZED IS NOT COMMENCED WITHIN THREE (3) MONTHS OR IS SUSPENDED OR ABANDONED FOR A PERIOD OF THREE (3) MONTHS AFTER WORK HAS BEEN COMMENCED.

542 North Marine Corps Drive, Tamuning Guam 96913 • Tel (671) 646-3131 • Fax (671) 649-6178

DEPARTMENT OF LAND MANAGEMENT
LAND PLANNING DIVISION
SITE INSPECTION REPORT - FIELD WORK

Planner/Staff: P. Bolac	Date of Request: Sept 5, 2017
Date of Inspection: Sept 5, 2017	Time of Inspection:
Project Name: Agana Shopping Ctr	
Lot Number: 82-1-5-R10-New-3	Municipality: Hagatna

Description: Four (4) Video Wall Signs (Electronic)
Per Case 2012-22 Zone Variance

Type of Inspection: [ ] Occupancy [ ] Site [✓] Other Request for Continue operations

Contact Person: Charles McDhar	Phone: 472-8077/777-3897

Findings: Subject Electronic Video Signs (4) all operational. Observed No unusual distractions of active video screen presentations / projections, lighting. Traffic flow within shopping complex was normal. No effects to motorists along Route 4 & Route 33.

OCCUPANCY INPECTION ONLY: [ ] IN COMPLIANCE Complies to DOA Conditions

[ ] NOT IN COMPLIANCE

ATTENTION: All inspection must be approved three (3) days in Advance by Guåhan Chief Planner.

Recommend Approval for continue operations.

Applicant: 9/5/17

Approved [ ]

Case Planner: P. Bolac

Guåhan Chief Planner

Revised: March 2010

851539

Island of Guam, Government of Guam
Department of Land Management Officer of the Recorder

File for Record is Instrument No. 851539

On the Year 13 Month 05 Day 10 Time 3:40

Recording Fee DE-OFFICIO Receipt No.

Deputy Recorder

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change*."**

GUAM LAND USE COMMISSION

Department of Land Management
Government of Guam
P.O. Box 2950
Hagåtña, Guam 96932

ORIGINAL

NOTICE OF ACTION

April 19, 2013
Date

To: **Agana Shopping Center & Therese H. Kamm**
Represented by Richard Rosario
P.O. Box 1534
Hagatna, Guam 96932

Application No. 2012-22

The Guam Land Use Commission, at its meeting on **April 25, 2013.**

___Approved ____Disapproved **XX Approved with Conditions**

your request on **Lot 82-1-5-R10 New-3, Municipality of Hagatna**, to allow the construction and erection of four (4) electronic video wall signs on key locations within the Agana Shopping Center complex, in a "C" (Commercial) Zone.

NOTICE OF ACTION **Application No. 2012-22**

Agana Shopping Center & Therese H. Kamm
Represented by Richard Rosario
Lot 82-1-5-R10-New-3, Municipality of Hagatna
GLUC Meeting of: April 25, 2013
Date of Preparation of NOA : May 1, 2013.

ZONING

____/ Zone Change***

____/ Conditional Use

XX / Zone Variance for Signage];
To allow the construction & erection of four (4) electronic video wall signs on key locations within Agana Shopping Center Complex, in a "C" (Commercial) Zone

SUBDIVISION

___/ Tentative

___/ Final

___/ Extension of Time

___/ PL 28-126, SECTION 1(A)

NOTE ON ZONE CHANGE

*****Approval by the Guam Land Use Commission of a ZONE CHANGE DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Applicant shall be notified upon action taken by the Governor. [Reference 21 GCA (Real Property), Chapter 61(Zoning Law), Section 61634 (Decision by the Commission).]**

SEASHORE

___/ Wetland Permit

____/ Seashore Clearance

HORIZONTAL PROPERTY REGIME

___/ Preliminary

___/ Final

___/ Supplementary (Specify)

MISCELLANEOUS

___/ Determination of Policy and/or Definitions

NOTICE OF ACTION **Application No. 2012-22**

Agana Shopping Center & Therese H. Kamm
Represented by Richard Rosario
Lot 82-1-5-R10-New-3, Municipality of Hagatna
GLUC Meeting of: April 25, 2013
Date of Preparation of NOA : May 1, 2013.

APPLICATION DESCRIPTION: The applicants request for a Zone Variance for (Signage) for proposed construction and erection of four (4) electronic video wall signs on key locations within the Agana Shopping Center complex, in a "C" (Commercial) Zone;

Video Wall Sign # 1 – Dimensions of 17'-5" in length and 18'-3" in height at 317.92 square feet face area, at 9'3" clearance above the ground level (above Tokyu Mart & Salon Fusion) facing Route No. 4;

Note: the last three signs will wrap a 4-post corner structure above Yogurtland), all signs will not exceed the roof line of the shopping complex.

Video Wall Sign #2 -- Dimensions of 14'-1" in length and 6'-1" in height and at 97.43 square feet face area, at 12'-4" clearance above the ground level above Yogurtland and facing Route No. 33 East O'Brien Drive.

Video Wall Sign #3 -- Dimensions of 14'-1" in length and 6'-1" in height and at 97.43 square feet face area, at 12'-4" clearance above the ground level above Yogurtland and facing Route No. 4.

Video Wall Sign #4 -- Dimensions of 6'-11" in length and 6'-6" in height and at 44.98 square feet face area, at 12'-7" clearance above the ground level above Yogurtland and facing hillside Route No. 4 and Sinajana

CONDITIONS: The Guam Land Use Commission **Approved** the applicant's request for a Zone Variance for (Signage) for proposed construction and erection of four (4) electronic video wall signs on key locations within the Agana Shopping Center complex, in a "C" (Commercial) Zone; with the following conditions:

1. Applicant to provide the Chief Planner a copy of the building and occupancy permits for the construction of any structures on site;

2. Operations of signs shall be afforded an operational timeline of two years from date of occupancy. At end of this time period, applicant shall submit a request for consideration to continue operation. During this timeline, should evidence avail to the fact that such sign serves as an impedance or hazard to traffic, the applicant shall be ordered before the Commission to show cause to continue operations, to which time the Commission may consider the option to revoke the issued Notice of Action;

NOTICE OF ACTION **Application No. 2012-22**

Agana Shopping Center & Therese H. Kamm
Represented by Richard Rosario
Lot 82-1-5-R10-New-3, Municipality of Hagatna
GLUC Meeting of: April 25, 2013
Date of Preparation of NOA : May 1, 2013.

3. Within one (1) year from date of completion, the applicant shall submit before the Commission a report of any operational shortfalls inclusive of a report as endorsed by GPD and DPW's Highway and Safety Division;

4. Advertisements shall be restricted to activities, services and products sold within the ASC premises;

5. The applicant shall at their expense, provide emergency public announcements on status of typhoons, tsunamis, earthquakes, Homeland Security Information and alike; and

6. Video Wall #3 will reduced to fifty percent (50%) as per condition of the HRAA.

Marvin Q. Aguilar 5/3/13
Guam Chief Planner, Acting **Date**

Lawrence S. Rivera 5-3-13
Acting Chairman, Guam Land Use Commission **Date**

Case Planner: Penmer C. Gulac
Attachment(s): Findings of Facts
Cc: Building Permits Section, DPW (Attn: Bldg Official)

NOTICE OF ACTION
Agana Shopping Center & Therese H. Kamm
Represented by Richard Rosario
Lot 82-1-5-R10-New-3, Municipality of Hagatna
GLUC Meeting of: April 25, 2013
Date of Preparation of NOA : May 1, 2013.

Application No. 2012-22

CERTIFICATION OF UNDERSTANDING

I/We THERESE H. KAMM / Richard Rosario
(Applicant [Please print name]) (Representative [Please print name])

Understand that pursuant to Section 5 of Executive Order 96-26, that a building or grading permit must be obtained for the approved GLUC/GSPC project within one (1) year of the date of recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire.

The Commission may grant two (2) one-year extensions of the above approval period at the time of initial approval.

This requirement shall not apply for application for a Zone Change***

I/We, further **AGREE** and **ACCEPT** the conditions above as a part of the Notice of Action and further **AGREE TO ANY AND ALL CONDITIONS** made a part of and attached to this Notice of Action as mandated by the approval from the Guam Land Use Commission or from the Guam Seashore Protection Commission.

Signature of Applicant 10 May 2013 Date — Signature of Representative 5-10-2013 Date

Signature of Applicant Date

ONE (1) COPY OF RECORDED NOTICE OF ACTION RECEIVED BY:

Applicant(s) Date — Representative Date

ACKNOWLEDGMENT

Filed with the Department of Land Management on the 6th day of MAY, 2013, in accordance with Title 21, GCA, Section 61620.

David V. Camacho
Acting Director of Land Management
or Designee

ACKNOWLEDMENT

Filed with the Department of Public Works on the 3rd day of May, 2013, in accordance with Title 21, GCA, Section 61620.

Joseph Guevara
For: Director, Department of Public Works or
Designee

A DECISION OF THE GLUC GRANTING A VARIANCE IS NOT FINAL UNTIL FIFTEEN (15) WORKING DAYS AFTER FILING OF THE DECISION WITH DPW AND DLM. PERMITS SHALL NOT BE ISSUED TO THE APPLICANT BEFORE IT BECOMES FINAL. (TITLE 21, GCA, SECTION 61621)

Decision Granting Variance with Findings;

Cont.

advertisement, which are more competitive to shop. It will benefit businesses in Hagatna if the electronic signs are up and installed to welcome visitors, tourists and guests to shop at Agana Shopping Center showing them different stores or shops with more informative and excellent advertisement. We want Hagatna to be the Shopping Center of Guam especially in the evening hours and weekends. Therefore, the Commission, finds, that this and other approved land uses will result in unnecessary hardship inconsistent with the general purpose and intent of the law to the property.

b. THAT THERE ARE EXCEPTIONAL CIRCUMSTANCES OR CONDITIONS APPLICABLE TO THE PROPERTY INVOLVED OR TO THE INTENDED USE THEREFORE THAT DOES NOT APPLY GENERALLY TO OTHER PROPERTY IN THE SAME ZONE. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:

Other typical advertising billboards are considered as eyesores along Hagatna Loop to Marine Corps Drive or along Route No. 4. Several signs along Marine corps Drive do not meet the current regulatory requirement for commercial signs, with variety of entertainment and eating establishments marketed through its large and varying neon signs, however, no one can dispute the very tasteful but yet effective results of their respective images. The Agana Shopping Center intends to compliment Hagatna with its own tasteful image with lighting that will be programmed to provide soft light with high-resolution graphics and more effective advertising signs that will not be disruptive to the eye or traffic concerns.

The main purpose of these signs is to provide shopping opportunities with quality products from individual stores and eating establishments to visitors and residents alike. However, the wall sign from the inner, center of the building cannot be seen because the signs are too far distance from the main road. Large trees, parking area with vehicles are also blocking the signs of existing signs from a distance. These proposed signs will located facing outward directly to its driveways and to the main roads, which will not be blocked from any trees and vehicles from the parking area. The electronic signs will help show its high resolution graphic on a distance because of its soft light with excellent advertisements. This variance allows for reasonable expansion of the existing allowances of the existing zoning law. These circumstances do not apply to other properties in the same area. Therefore, the Commission finds that the neighboring land use is consistent with the proposed use that it does not apply to the other property in the same zone.

Decision Granting Variance with Findings;

Cont.

The members of the commission, after due consideration, voted to approve the application by granting the Zone Variance with conditions.

The vote of the members were as follows:

4 Ayes 0 Nayes 1 Abstentions

This decision was adopted this **25th** day of **April 2013** and shall be filed with the Department of Land Management and the Department of Public Works as mandated under Title 21, GCA, Section 61616 to 61617 and 61501.

Lawrence S. Rivera
Acting Chairman, GLUC

Decision Granting Variance with Findings;

Cont.

c. THAT THE GRANT OF VARIANCE WOULD NOT BE MATERIALLY DETRIMENTAL TO THE PUBLIC WELFARE, OR INJURIOUS TO THE PROPERTY OR IMPROVEMENTS IN THE ZONE OR NEIGHBORHOOD IN WHICH THE PROPERTY IS LOCATED. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:

The electronic video signs are designed to withstand typhoon strength winds and will be mounted up on flat surface wall, secured during the periods of high winds. All precautions have been taken to ensure that the signs does not adversely impact their neighboring properties and no potential environmental problems from the proposed signs location. Therefore, the Commission finds the proposed signage and demand on infrastructure is not expected to burden the existing customers in the neighborhood.

d. THAT THE GRANT OF SUCH VARIANCE WILL NOT BE CONTRARY TO THE OBJECTIVES OF ANY PART OF THE MASTER PLAN ADOPTED BY THE COMMISSION OR LEGISLATURE:

The Guam Master Plan as showing the Zoning Map allows the location of commercial uses in this area of Hagatna. This request is in reasonable accordance and will not be contrary to the objectives of any part of the plan of Hagatna area. Therefore, the Commission finds that, granting the variance will not be contrary to the objectives of any part of the Master Plan, with adherence to the zoning law, building code and building permitting processes.

e. THAT AS TO VARIANCES FROM THE RESTRICTIONS OF TITLE 21, GCA, SECTION 61504, THE PROPOSED BUILDING WILL SUBSTANTIALLY ENHANCE THE RECREATIONAL, AESTHETIC, OR COMMERCIAL VALUE OF THE BEACH AREA UPON WHICH THE BUILDING IS TO BE CONSTRUCTED, AND THAT SUCH BUILDING WILL NOT INTERFERE WITH OR ADVERSELY AFFECT THE SURROUNDING PROPERTY OWNERS' OR THE PUBLIC'S RIGHT TO AN UNTRAMMELED USE OF THE BEACH AND ITS NATURAL BEAUTY. FACTS WHICH SUPPORT THIS CONCLUSION ARE AS FOLLOWS:

This section is not applicable as it is not within a shoreline property.