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

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GLH 34-17-1335
Speaker Benjamin J.F. Cruz

November 17, 2017

DEC 20 2017
Time: 2:30 [ ] AM [H] PM File No. 34-13
Received By:

To: Office of the Speaker of the Guam Legislature
Guam Congress Building
Hagatna, GU

From: Planning Division
Department of Land Management

Hafa Adai:

Pursuant to 5 GCA Chapter 8, Section 8113.1, submitted herewith for your perusal is the Minutes from the last GLUC hearing of **Tuesday, November 28, 2017**.

Thank you.

Received by: _____
(Please Print Clearly)

Date received: _____

2017 DEC 21 PM 3:05

1335

GOVERNMENT OF GUAM – Department of Land Management
Office of the Recorder

File for Record is Instrument Number 916126

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Deputy Recorder: Jane Yamasaki
JANE T YAMASAKI

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COPY

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Tuesday, November 28, 2017
1:36 p.m. to 5:00 p.m. (GLUC)
1:45 p.m. to 3:00 p.m., (Recessed, HLUC)

GUAM LAND USE COMMISSION
Regular Meeting
Tuesday, November 28, 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

Mr. Tae S. Oh, Commissioner

Mr. Hardy T. Vy, Commissioner

Mr. Michael Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

Hybrid Commission:

Mayor Louise Rivera, Tamuning-Tumon-Harmon

Mayor Melissa Savares, Dededo

Mayor June Blas, Barrigada

Mayor Jessy Gogue, Chalan Pago-Ordot

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Penmer Gulac, Case Planner

Mr. Frank Taitano, 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:	TUESDAY, NOVEMBER 28, 2017		X	GLUC	X	HLUC
			X	Regular	X	Regular
Time of Meeting:	GLUC: 1:36pm	GSPC:		Special		Special
Hybrid:	HLUC: 1:45pm		✓	Quorum		Quorum
				No-Quorum		No-Quorum

COMMISSION MEMBERS	SIGNATURE
Chairman John Z. Arroyo	
Vice Chairman Victor F. Cruz	
Commissioner Conchita D. Bathan	excused
Commissioner Tae S. Oh	
Commissioner Hardy T.I. Vy	
HYBRID COMMISSION; LZ COMPANY, APPLICATION NO. 2017-25 (MCoGDLM 2018-01 @ 1:45pm to 3:00pm Recess	
Mayor Louise Rivera, Tamuning	
Mayor June Blas, Barrigada	
Mayor Melissa Savares, Dededo	
Mayor Jessy Gogue, Ordot-Chalan Pago	
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: 5:00pm HLUC: 3:00 pm – Recess

GLUC Form 19 - GLUC Commission Attendance Sheet

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: TUESDAY, NOVEMBER 28, 2017

[✓] HLUC [ ] Special Time: 1:36pm

[✓] Quorum [ ] No Quorum Adjournment: 5:10pm / HLUC - Recess 3:10p

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Robert Perez		483-6201

GLUC Form 21 - GLUC Public Attendance Record Form - APRIL 2010

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:	TUESDAY, NOVEMBER 28, 2017
[✓]	HLUC	[ ]	Special	Time:	1:34pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	HLUC - 3:00pm Recess GLUC - 5:00pm

(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.
MARK BALDYGA	SandCastle.	646 6800.
~~FRANKIE DIAMON~~		
Mark Zhao	LZ Company	688-8038
DAN SWANELY	LEOPALACE RESORT	688-8029
RAY BENAVENTE	PIC HOTEL	[illegible]
Kirsti Baldemor		
PETER LOMBARD	LZ COMPANY	777-5055
HARRY GUERRERO		

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

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

Tuesday, November 28, 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 November 21st and November 24th, 2017]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, October 26, 2017

III. Old or Unfinished Business [None]

IV. New Business

Zone Change

A. Application No. 2017-12 Applicants, Rosalina E. Werkkunen and Leonora E. McGeough represented by Harry D. Gutierrez; Zone Change request from "A" (Rural) to "C" (Commercial) zone, on Lots 1-3-R1 and 1-2, Tract 1141, in the Municipality of Dededo.
Case Planner: Penmer Gulac

Zone Variance

B. Application No. 2017-48 Applicant, Sandcastle Inc. represented by Mark Baldyga; Zone Variance request for a front yard setback, on Lot 5078-5-R1, in "H" (Hotel/Resort) zone, in the Municipality of Tamuning.
Case Planner: Marvin Aguilar

C. Application No. 2017-25 Applicant, LZ Company represented by Mark Zhao; Height and Use Zone Variance request, on Lot 5147-3-3NEW-6, in an "R-2" (Multi-Family Dwelling) zone, in the Municipality of Tamuning.
Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

Master Plan Amendment

D. Applicant, Leo Palace Resort represented by Daniel D. Swavely; a request for an amendment to Leo Palace Resorts' previously approved "PDD" (Planned District Development) Master Plan, on Tract 2511, in the Municipality of Yona.
Case Planner: Frank Taitano

Tentative Development Plan

E. Application No. 2012-42B Applicant, Guam Reef Hotel, Inc. represented by FC Benavente, Planners; a request to amend its previously approved Tentative Development Plan, on Lots 5060-1NEW, 5060-A AND 5059-1NEW-A, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning.
Case Planner: Frank Taitano

VI. Adjournment

GUAM/HYBRID COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Tuesday, November 28, 2017 • 1:36 p.m. to 5:00 p.m.

I. Attendance

Chairman Arroyo called the regular meeting of the Guam Land Use Commission for Tuesday, November 28, 2017 to order at 1:36 p.m., noting a quorum.

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

Hybrid Commission: Mayor Louise Rivera, Mayor Melissa Savares, Mayor June Blas
Excused: Commissioner Conchita Bathan

II. Approval of Minutes

Chairman Arroyo first item on the agenda is the approval of Minutes from the GLUC meeting of Thursday, October 26, 2017. Commissioners have had the opportunity to read/review the Minutes; Chairman Arroyo requested for a motion.

Vice Chairman Cruz makes a motion to approve the GLUC Minutes of Thursday, October 26, 2017.

Commissioner Oh seconds the motion.

Chairman Arroyo motion on the floor made by Vice Chairman Cruz, seconded by Commissioner Oh. [No discussion noted]

All in favor of the motion to approve say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh and Commissioner Vy], all opposed say "nay."

[Motion passed unanimously; 4 ayes, 0 nay]

Chairman Arroyo proposed a change to the agenda under New Business, Zone Variance Application No. 2017-25 to be moved to the top of the agenda. There were no objections noted from the GLUC board members.

III. Old or Unfinished Business

Chairman Arroyo noted that there was no old and/or unfinished business, and moved onto the next item on the agenda.

Chairman Arroyo explained that the application about to be heard exceeds the three-million-dollar construction mark; and therefore, the hybrid commission needs to be convened, and noted a quorum. **[Hybrid Commission convened at 1:45 p.m. MCoG DLM 2018-01]**

Present for the Hybrid Commission: Mayor Louise Rivera (Tamuning), Mayor Melissa Rivera (Dededo), Mayor June Blas (Barrigada) and Mayor Jessy Gogue (Ordot-Chalan Pago)

IV. New Business

Zone Variance

C. Application No. 2017-25 Applicant, LZ Company represented by Mark Zhao; Height and Use Zone Variance request, on Lot 5147-3-3NEW-6, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning. Case Planner: Frank Taitano **[MCoG DLM 2018-01]**

Marvin Aguilar (Chief Planner) reads staff report to include purpose, facts, public hearing results, staff analysis/discussion, conclusion, recommendation and conditions. [For full content/text, see attached report]

[Attachment C – Staff Report dated November 22, 2017]

Chairman Arroyo questions for staff.

Commissioner Oh asked for clarification on Condition 3 which states "No Occupancy Permit agreement with DPW's Building Permit Administrator until high improvements to Route 14B are in place," and does this condition mean the applicant cannot obtain an occupancy permit until Route 14B construction is done.

Marvin Aguilar responded that the intent of this condition was to narrow down the timelines between the development of this building and that of the road.

[Discussion ensues]

Mayor Jessy Gogue (Ordot-Chalan Pago) in the ARC summary of position statements, Public Works has not submitted an official position statement commenting on this application and any timelines directly related to the improvements of Route 14B, and input is needed from DPW regarding Route 14B. He further added that there is no receipt of an MPC resolution from the Municipal Mayor.

Mayor Louise Rivera (Tamuning) at the October 5, 2017 MPC meeting this application was discussed. It was the recommendation of the Tamuning MPC not to support this application until improvements to YPao Road is done. At a meeting held at the Governor's Office yesterday, DPW confirmed that the road improvements to Route 14B will move forward and will begin in March 2018. Having received this information from DPW and the Governor, Mayor Rivera comments that she was to happy to support this application.

Michael Borja (Executive Secretary) met today with Joaquin Blaz, Highway Division of Public Works regarding YPao Road. The improvements to be made to Route 14B is 100-percent federally funded and all land with the exception of one parcel has been acquired to move forward with the improvements. Once the "friendly condemnation" is finalized for this particular lot, action to obtain bonds will be done and put the construction out for bid proposal.

[Discussion ensues on road design, water design, etc.]

Chairman Arroyo in discussion with DPW, was anything mentioned about the intersection of YPao Road and San Vitores because that is also a major problem. Unless this intersection is improved or possibly re-time the traffic lights, the traffic will still exist.

Mayor Rivera currently working on the timing of the traffic signal lights because it has been an issue.

Mayor Gogue if this is a recent discussion with Public Works, Mayor Gogue would like the Commission to consider tabling this application until a statement from Public Works committing to the roadwork is received.

Chairman Arroyo agreed with Mayor Gogue that obtaining an official position statement from DPW is important; however, would like to continue on with hearing this application. And at the end of the presentation the Commission can then decide whether or not the application should be tabled/continued or be put to a vote.

Asked Chief Planner Marvin Aguilar on clarification on a second public hearing, and if that meeting that Mayor Rivera had mentioned will count as a second public hearing.

Mayor Gogue responds "no." When you look at the law that requires public hearings, these public hearings have to meet the conditions of the Sunshine Law. The question of Chairman Arroyo was can an MPC meeting count as a public hearing required for these applications.

Marvin Aguilar the second requirement seems to focus on the MPC. Planning Division conducts one and the MPC conducts their hearing, and this is how it is interpreted by Planning.

Mayor Gogue disagreed and interprets it as two public hearings plus an MPC meeting.

Chairman Arroyo was the MPC meeting publicly announced and did it meet the requirements of a public hearing.

Mayor Rivera it is published in the community news section that is offered free, and there was no paid advertisement. Mayor Rivera added that she was not aware of a second public hearing that was required. The applicants had been invited to attend the meeting, but were not in attendance.

Chairman Arroyo asked Legal Counsel for his comments.

Nick Toft (Legal Counsel) under the definition, the Open Government law applies to meetings of public agencies, and was not certain that this would fall under this category. This meeting is conducted by the Mayor's Office and would be totally different.

Chairman Arroyo would it be okay for the Commission to continue with hearing of this application.

Nick Toft the Commission should continue to entertain the application, and perhaps table the voting until such time he can conduct further research, and DPW can provide their written statement.

Chairman Arroyo and the Resolution.

Mayor Rivera referring to Condition 3 noted on the staff report. Talo Verde was also conditioned that no occupancy permit would be issued until such time the road is fixed. Talo Verde fixed the road, but only in front of their development. Mayor Rivera supports this condition for this application. She further added that the resolution was not done because she needed the information from the Governor and the Director of DPW.

Chairman Arroyo it was mentioned that you would hope that the developer will do something to help improve YPao Road. Are you suggesting that the developer go above and beyond what DPW's plans are.

Mayor Rivera anything for improvement of the road.

Vice Chairman Cruz if Talo Verde was given the opportunity to improve the road other developers should be given the same opportunity, and suggested that the developer fix and repair the road to the end of their property going out to Route 14.

Chairman Arroyo are there any other questions of staff.

Marvin Aguilar the recommendations that are being made are a set of recommendations forwarded to the Commission for their consideration, and in no way, should be construed as set in stone.

Commissioner Oh at the public hearing, traffic was mentioned. Was it mainly traffic or are there additional concerns.

Marvin Aguilar it was mainly traffic and the issue of flooding was also brought up.

Mayor Gogue comments that he did not see a statement from GWA with regards to low water pressure in that area or the whole community.

Commissioner Oh the minutes of the public hearing stated that the applicants have met with GWA on water demand.

[Discussion ensues]

Chairman Arroyo welcomed the applicants to the meeting, and asked that they state their names for the record.

[Before the Commission was Mr. Mark Zhao, Dr. Peter Lombard, Architect Frank Diamzon, and Engineer Ernie Baldeviso.]

Peter Lombard the vision he has had since returning to the island is build a world-class eye facility. Dr. Lombard's first goal is to build an eye care facility which will take about a quarter to half of the commercial space for the eye clinic and possibly a small surgical center. Additionally, a sub-specialty care for other medical services to expand the capabilities on Guam for specialty care. Secondly, the developer also wants to provide living space for recovering convalescent patients, and this was the primary goal for the living spaces. They would like to be able to provide these services, to include accommodations at a lower cost. Service such as this does not exist on Guam.

Peter Lombard (cont'd) Dr. Lombard stated that they are not large corporate developers, there are no off-island investors, and that they are limited to their own personal resources and land available to them. He added that they believe that this is the best use for this land and for their goals. The first two floors will be utilized as medical space and the remaining four floors of extended hotel accommodations with two to four units per floor. They are requesting from the GLUC a height variance for six-floors. The height variance will not negatively impact the community. They believe that these services will benefit Guam business and Guam tourism.

Mark Zhao addressed a few concerns that were raised by the Commission. Mr. Zhao explained the following points.

- Before the ARC meeting, he had met with all the agencies and in particular, Guam Waterworks. GWA confirmed that there is low water volume in this area, and that a possible solution to alleviate this problem is to have a water tank.
- Main concern at the public hearing was the traffic issue. The goal is not to add additional burden to the existing problem to the road. The project will start after the government has started the road construction to YPao Road.
- Mr. Zhao comments that he was not aware of the second public hearing, and inquired about other applications that may or may have not had the second public hearing.

Chairman Arroyo on the requirement of a second public hearing, this will get the Commission off-track if other situations are brought up, and would like to focus on this application only.

Mark Zhao we agree that we can start the project after the road construction starts.

Chairman Arroyo there is a requirement to obtain a clearing/grading permit within 12-months of the approval of the NOA, and if the construction of the road starts outside of that 12-month period the developer will have to come before the Commission to request for an extension.

Mark Zhao his understanding was that if a clearing/grading permit is obtained a request for an extension is not needed. He further added that they would secure the permit prior to the beginning of road construction. At this point, we would like to start on the plans and drawings and then to start with the building permit.

Peter Lombard even with the permit, Dr. Lombard comments that he did not want to get a business loan if the building cannot be occupied until the road construction is completed.

Chairman Arroyo how long would it take to finish construction.

Mark Zhao a year and a half.

Commissioner Oh if the variance is granted and within a year a clearing/grading permit is acquired, then clearing/grading is complete/done. If there is a delay in the project, and they do not move forward in obtaining a building permit will the variance approval expire.

Marvin Aguilar it does not expire because a permit is secured.

Vice Chairman Cruz reiterated his recommendation of the developer fixing the road first that is front their project.

Mark Zhao we agree to this recommendation, and further added that water, power, and sewer will not impact the community. The issue is the traffic.

Commissioner Oh the plan is to have a clinic and to lodge patients; is it safe to assume that these patients will be off-island patients.

Peter Lombard would be happy to take either on-island and/or off-island patients, and thinks that it would be a nice place to convalesce even if you live on Guam. If the service is extended to include additional surgical services, then we can market it a little bit more as a medical/tourism destination as well.

[Discussion ensues on the unit designs.]

Commissioner Oh trying to understand the viability of the facility, and asked Dr. Lombard if he had patients that come on island seeking his services and seek lodging elsewhere.

Peter Lombard sees patients on Saipan once every two months, and has patients who would like to have surgery here on Guam. Patients are typically advised that one to two-week stay is appropriate, for example, cataract surgery.

Commissioner Oh there is 20,000 square feet dedicated to commercial space, and as mentioned previously there are plans to occupy about half of this space.

Peter Lombard there is a need for about 4,000 to 5,000 square feet for the clinic/optical space and the other half would be for the surgical center if he proceeds with the surgical center. They have a short list of people who they can talk to to see if they are interested in renting space on the second floor.

Chairman Arroyo can I stay at one of the units if I was a tourist vacationing on Guam or do you have to be a patient at the facility to stay in a unit.

Mark Zhao we really could not say "no."

Chairman Arroyo there are 26 units and the units will turn-over. Is there a market large enough to keep the units occupied as the units turnover. Would you consider offering the units to visiting tourists.

Mark Zhao it is two-bedroom units with 900-square feet of living space with a kitchen. It is designed to accommodate caregivers or family of patients.

[Discussion ensues]

Chairman Arroyo is your target basically for your patients to convalesce as mentioned or is there a secondary market that you are looking at.

Mark Zhao the units will be designed for medical purposes. In cases where families/tourists want to come it we cannot say no to them.

Commissioner Oh will there be long-term leases if there is not enough of a demand for the units.

Mark Zhao we will try not to do long-term leases because it will not make money.

Vice Chairman Cruz you will charge by the day.

Mark Zhao responds "no."

[Discussion ensues on how charges for the room would be applied.]

Mayor June Blas (Barrigada) how many parking stalls for the facility.

Mark Zhao there is a total 108 parking stalls, and this is for the reason for going high. There is once underground parking facility and other located outside.

Mayor Blas because this is a high-volume traffic area, patients/customers should not be allowed to park on the easement.

Mayor Gogue it is mentioned two to four-bedroom units.

Mark Zhao there are only two, four-bedroom units on the top for very important customers who can pay more for a room. We are trying to stay within the allowed density.

Commissioner Oh (question for the Architect) if all 26-units are rented as long-term leases meaning it is not a hotel/motel because parking configuration is different for hotel/motel versus an apartment complex. Is there sufficient parking to meet the commercial space parking requirement plus long term lease parking requirements.

Frank Diamzon based on the computations there will be ample parking for commercial and residential use.

[Lengthy discussion ensues on parking calculation and requirements.]

Chairman Arroyo why this location. What makes this location special that you have to get a variance.

Mark Zhao when we first started looking for property for this facility this was the property that was available.

Chairman Arroyo that does not make it special for this facility. You are asking for a variance for a specific reason which leads me to indicate that you cannot find another property to do what you want to build that would not necessarily require you to obtain a variance.

Mark Zhao the property has been unoccupied and for sale for many years.

Chairman Arroyo recently the Commission entertained applications from Docomo Pacific who was seeking the Commission's approval to construct monopole towers. They do scientific studies to determine locations. They pick these spots because they are ideal for signals to cover blind spots and they cannot do it anywhere else but that particular lot because that provides the best extension of coverage, and the Commission understands that. You say you need a six-story building to do what you want to do.

Mark Zhao stated that they did not say they wanted to do a six-story building. The property was purchased and then they went through the planning process. And it was decided that in order to build the facility that it was best to build up.

Chairman Arroyo why this particular lot. For example, is it close proximity to the SDA Clinic that you need to be close to it. There are specific questions that need to be addressed for the variance request and they are not being addressed, and an ARC member commented that you are not sufficiently addressing the need for a variance. I am giving you the opportunity to address the five points as to why you need a variance.

Mark Zhao at the time we were looking for property there were not too many available in Tamuning.

[Discussion ensues ---]

Mayor Gogue as indicated by Dr. Lombard they are looking at medical tourism as the root purpose of this proposal.

Peter Lombard whether I get two medical tourism out of it that is great, but space is needed for my clinic. We got the land and grateful we had something and finally have some land that I can build on someday. It was not like we had this idea from the get-go to build a six-story facility.

Chairman Arroyo chances are we will not make a decision on this project today. If you are committed to building the six-story structure that needs a variance, then you need to address the elements needed for a variance. The law states that these elements have to be addressed to the Commission's satisfaction before a variance is granted. If you are unable to justify, perhaps you may want to look at building a structure that is compliant and you would not necessarily need the variance and there would be no need for the Commission to render a decision.

Commissioner Oh why is there a need to build six stories and why not three-stories. What is the hardship. Bureau of Statistics recommends disapproval based on the agency's belief that the applicants' failure to meet the four steps of hardship. You need to explain the hardship and why the variance is needed.

Mark Zhao if three stories is built then you need to take down one story, but take down two or three stories and that is not something that is ideal. We would rather go high then low. If you are a developer you would think the same way too.

Commissioner Oh reiterated that clarification is needed on the justification for a variance.

Peter Lombard based on the size of the lot and maximize use of the lot and to be able to incorporate the idea of specialty clinics with the ability for medical stay units requires a certain amount of footprint. Anything less than that would not be the best use of the lot.

[Discussion ensues]

Chairman Arroyo agreed with Commissioner Oh that additional justification is needed for the variance, and that he cannot see granting the variance unless there is a real need behind it and the Commission needs to have that.

[No additional comments and/or questions noted for the applicants, Chairman Arroyo opened the floor for public comments.]

Public Comments seeing none, Chairman Arroyo closed the public comment period.

Chairman Arroyo what is the Commission's pleasure for this application. Mayor Gogue is requesting for comment from DPW, Mayor Rivera, second public hearing and resolution and Legal Counsel will clarify that for the Commission.

Does the Commission feel that there is sufficient information to make a decision on this application today.

Vice Chairman Cruz what is the hybrid commissions' decision.

Mayor Gogue his position on tabling the application remains, and that a statement from DPW is needed.

Chairman Arroyo it is the order of the Chairman to continue with the hearing of this application until such time all information that was discussed at today's hearing are received.

If there are no further comments and/or questions, the Hybrid Commission is recessed, and we will reconvene once the information is available for the Commission.

[The Hybrid Commission recessed at 3:00 p.m. and will reconvene at a later date to be advised.]

Chairman Arroyo before moving onto the regular GLUC agenda, Chairman Arroyo called for a 10-minute recess.

[Recessed at 3:05 p.m. and reconvened at 3:20 p.m.]

Chairman Arroyo we are reconvened. Next item on the agenda under New Business –

Zone Change

A. Application No. 2017-12 Applicants, Rosalina E. Werkkunen and Leonora E. McGeough represented by Harry D. Gutierrez; Zone Change request from "A" (Rural) to "C" (Commercial) zone, on Lots 1-3-R1 and 1-2, Tract 1141, in the Municipality of Dededo. Case Planner: Penmer Gulac

Penmer Gulac reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion and recommendation. [For full content/context, please see attached report]

[Attachment A – Staff Report dated November 3, 2017]

Commissioner Oh disclosed that he is in the middle of a business transaction with the applicants and asked to be recused from hearing/approving this application.

[Commissioner Oh was recused from participating in the review of this application.]

Chairman Arroyo it does not indicate in DoAG's Agriculture Impact Statement that they have no objection the project. Unless you can indicate where in the AIS that DoAG's has addressed the three issues, the Commission will have to continue the hearing of this application.

[Discussion ensues]

[It was the order of Chairman Arroyo to continue the hearing of this application pending receipt of a revised Agricultural Impact Statement.]

Michael Borja stated that on the survey maps that the two properties that are being rezoned there is a MUT-10 easement which is located near the Route 3 road; this is a Navy easement that is "live."

Zone Variance

B. Application No. 2017-48 Applicant, Sandcastle Inc. (Baldyga Group) represented by Mark Baldyga; Zone Variance request for a front yard setback, on Lot 5078-5-R1, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planner: Marvin Aguilar

Marvin Aguilar reads staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions. [For full content/context, see attached report]

[Attachment B – Staff Report dated October 28, 2017]

Chairman Arroyo noted for the record that the Commission has received copies of the Tamuning-Tumon-Harmon MPC regular meeting minutes held on October 5, 2017. Under Section 7, New Business a motion was made to issue a Resolution to the Department of Land Management stating that they have no objection to the application. Mayor Rivera did indicate that the resolution will be submitted at a later date.

Questions for staff.

Vice Chairman Cruz is a new restaurant.

Marvin Aguilar it is an extension of the Sandcastle operations.

Vice Chairman Cruz this will require parking requirements since more tables/chairs are being added.

Chairman Arroyo to clarify, the Commission is only looking at the zero-lot line variance, and the Commission will not have to deal with the encroachment; DPW will handle the permit for encroachment. The Commission should only concentrate on the zero-lot line request.

Commissioner Oh the structure will be built above the sidewalk that will be encroaching into public easement.

Chairman Arroyo it will be extending beyond the zero-lot line, and encroaching onto government property.

[No additional comments and/or questions noted, Chairman Arroyo welcomed the applicant]

Mark Baldyga (owner of Sandcastle) walked the Commission through images of the project (displayed on monitor)

- Image 1 – shows the extension. It is a 60,000-square foot building and the extension is 3,000 square foot footprint; five percent of the existing building.
- Image 2 – neighboring businesses who have zero-setbacks. The Sandcastle was not at zero-set back because when it was opened 30-years ago the Hyatt, Outrigger, DFS did not exist. There was a valet parking drop-off that is no longer used.
- Image 3 – the extension will have a roof over the top of it. One third will be tables/chairs, one third will be entrance, one third is open for rain protection for passer-byers.
- Image 4 – shows where the extension would look like if they kept with the required setback.

Chairman Arroyo it was mentioned that one third will be tables and chairs. When the encroachment permit is requested from DPW, will that one third tables and chairs be exclusive to your customers.

Mark Baldyga it would be the same way that it is for our neighbors. [Continues with presentation.]

- Images 5 – photo of building design. The first floor will be an all glass restaurant, second floor is open air beer garden. The stairs to the Globe will be relocated outside.
- Typhoon shutters will not be needed. The glass will be one-inch laminated glass which is superior to typhoon shutters or comparable.
- On conditions noted on ARC position statements we would appreciate the opportunity to see the reasonability before we agree with all conditions. Some agencies tend to be reasonable and some do not. Mr. Baldyga stated that he did not want to be locked into conditions without the opportunity of having to had dialogue with the agencies.
- Shows the actual structure; there is a separate bolt on connection that can be unbolted and removed if need be.
- Since the Initial preliminary bids for the project are "through the moon" it is being proposed to do this in two phases; the first phase will lay down the foundation, civil work, structure will be up to here (per display) and pergola type of terrace roof over the top but without windows and without the second story expansion. The project will be under three-million for the expansion. Footprints will be the same, foundation would be the same, other than the windows.
- Parking – when Sandcastle was approved 30-years ago, the company did not own the parking across the street. Parking was approved for on-site parking using the driving and the lot behind the building. Generally speaking, there has been no parking problems since most customers are bussed to the facility. The land across the street was purchased 10-years after the initial approval of the Sandcastle.
- Image shows modification to the existing original master plan that does not require the land across the street. For clarity, square footage is added but there is also swapping; the second floor behind this is currently (1,000 square feet) public space and becomes back of house.
- There are 200 parking stalls located across the street.

Vice Chairman Cruz requested for parking site plan.

Commissioner Oh Phase I is laying of foundation and civil work.

Mark Baldyga steel structure, civil work, tie into utilities; everything up to the elevation. Instead of a concrete roof it will be a trellis eventually. The first floor will be open air, no windows or glass. It was an idea that came to me yesterday because of the cost of construction. It will be sidewalk café, open air.

Chairman Arroyo how will flooding be prevented in this area.

Mark Baldyga flooding occurs in this area (referring to drawing). Water will go into driveway on Hyatt side (low point), flows down that driveway and comes into the back of the building, backflows back to the front.

Vice Chairman Cruz will there be any affect to the exit for Dusit Thani exit.

Mark Baldyga image shows the Dusit Thani driveway as it exists. The curb stays where it is and will be filled in with a bit of landscaping. Bollards can be installed if needed.

Michael Borja for pedestrian security and safety and with terrorist events around the world where the weapon of choice is a vehicle. Are safeguards in place to prevent this.

[Discussion ensues on bollards]

Chairman Arroyo additional questions and/or comments.

Vice Chairman Cruz drawing for the parking –

Mark Baldyga as part of the conditions of approval that parking is provided and we will submit a drawing of parking site.

Chairman Arroyo there were no other questions noted, Chairman Arroyo opened the floor for public comment.

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

Chairman Arroyo are there any additional questions.

Commissioner Oh it is important for the Commission to consider new applications, but also consider the compliance with certain laws. I drove by Tumon the other day and noticed that the LED sign was on at the Sandcastle. There are issues with LED signage. The Commission asks that you come into compliance with LED/sign variance law.

Mark Baldyga the LED sign replaced a previous sign that actually got approval years ago. The time the law was drafted moving lights did not mean LED they meant flashing lights like marquee signs and that was what was up there 20-years ago. It was taken down and relocated the LED to its location where they were under the assumption that it was okay because it was approved previously. It was turned on about 7-months ago and the next day received notice and it was shut off. In discussion with the new General Manager, he raised the question as to why the sign was not on and it was explained to him that due to current law it was not allowed. He suggested that a static image be displayed, and it was turned back on thinking it was in compliance with current law. The next day received notice from DPW. DPW advised that a sign cannot be replaced with another sign without going through the process; it was shut off.

Nick Toft agreed with Mr. Baldyga's analysis that if you have a static image, even if it is an LED, it is non-moving. It was Mr. Toft's opinion that the LED sign could be turned on because it is a static image.

[Lengthy discussion ensues on sign laws, billboards, LED]

Chairman Arroyo there were no other comments and/or questions noted. Chairman Arroyo reminded Commissioners that it is only the setback variance that the Commission is entertaining; encroachment issue will be handled by another agency.

Commissioner Oh makes a motion to approve Application No. 2017-48, Sandcastle, Inc. represented by Mark Baldyga; for a zone variance request for front yard setback on Lot 5078-5-R1, in an "H" zone, Tamuning with conditions. [Please see Attachment B staff report for listing of all conditions.]

Commissioner Vy seconds the motion.

Chairman Arroyo motion made by Commissioner Oh, seconded by Commissioner Vy. Discussion.

Vice Chairman Cruz made a motion to amend the main motion to add an additional condition that the applicant must provide a drawing of the parking lot located across the street, and that the parking lot has to be compacted coral to prevent ponding of water to be submitted to the Chief Planner for review/approval.

Chairman Arroyo that would be a new condition "C" as opposed to "E" under "B". Discussion on the amended motion. [None]

Commissioner Vy seconded the amended motion.

Chairman Arroyo on the motion to amend; all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Oh and Vy], all opposed say "nay."

[Amended motion approved with a vote of 4 ayes, 0 nay.]

Chairman Arroyo on the main motion; discussion.

Mark Baldyga on adherence to ARC conditions, Mr. Baldyga asked if he is required to comply to all conditions without not knowing what the conditions are. He further added that the time allotted for agencies to submit their comments has passed.

Marvin Aguilar at the time the staff report was prepared only comments was received from DPW.

[Discussion ensues. Mr. Baldyga respectfully asked of the Commission that adhering to the ARC conditions not be included as a condition of the approval for the variance.]

Chairman Arroyo the Commission has to address the concerns of the ARC, they are part of the whole process. There are options. If some time is needed to review the ARC concerns, you can address that directly with the agency, and that agency (who you have concerns with) can come back with a modified position statement, or the Commission can move forward with a vote with the caveat that if the applicant negotiates with the ARC agency (agency that there is an issue with) and the agency wants to modify their conditions. They will come back to the Commission and then we can modify.

We can table or we move forward and you can come back if needed. [It was noted that the applicant was in agreement with the second option proposed by Chairman Arroyo.]

Back to the discussion on the motion. The conditions under "B" (A thru D). Is this discussing the encroachment, overhang, etc. Is this relative to that.

Marvin Aguilar yes, it is.

Chairman Arroyo does the Commission want to put conditions on the encroachment since it is not being discussed.

Marvin Aguilar all liabilities will rest with the developer who will be working with DPW.

[Discussion ensues. Chairman Arroyo would like to leave the conditions on encroachment to the Department of Public Works. Give the applicant the flexibility to work with the ARC agencies' conditions and work with the agencies to adjust the conditions.]

Chairman Arroyo Commissioner Oh, with respect to condition B that it is directed strictly to the construction of the structure as opposed to the overhang and the encroachment that would be granted by DPW.

Commissioner Oh if the applicant needs to go DPW for an encroachment permit, will there be conditions at DPW that relieves GovGuam of the liabilities that may occur. We are allowing them to go zero lot line and that zero-lot line is also allowing them to go further and encroach onto public easement.

Chairman Arroyo the Commission does not have the authority to approve an encroachment. Given that, the Commission does not have the authority to place conditions on the encroachment. If DPW has the authority it is best left with that agency.

[Under Condition B and all sub-conditions dealing with any possible encroachment on construction and the encroachment permit obtained from DPW will have a different set of conditions.]

There was no additional discussion noted. Motion was to put to a vote –

Chairman Arroyo all in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Oh and Vy], all opposed say "nay."

[Motion passed unanimously; 4 ayes, 0 nay]

Next item on the agenda ---

V. Administrative & Miscellaneous Matters

Master Plan Amendment

D. Applicant, Leo Palace Resort represented by Daniel D. Swavely; request for an amendment to the Leo Palace Resorts' previously approved Planned District Development Master Plan, on Tract 2511, in the Municipality of Yona.
Case Planner: Frank Taitano

Frank Taitano reads Commission Brief to include purpose, assessment, and recommendation. [For full content/context, see attached report.]

[Attachment D – Commission Brief dated October 30, 2017]

Chairman Arroyo there no questions noted; Chairman Arroyo invited the applicant/consultant to provide his presentation.

Dan Swavely (representing Leo Palace Resort) several months ago when Leo Palace decided that they needed more parking space and decided to turn the tennis courts into a parking lot, the contractor went to Land Management, and Land Management advised him that the tennis court could not be turned into the parking without the Commission's approval.

Secondly, when discussing this with Leo Palace it was a good time to take care of any other operational shortcomings that has been discovered over the last 28, 29 years; and, that is where the stock pile issue came up. There was no area to put the stock pile. The need for a stock pile area rolled on as the second technical amendment into this application. Both are important and looking forward to having this parking lot operable by the Governor's Cup in February 2018.

Chairman Arroyo no questions and/or comments noted from the Commission, Chairman Arroyo opened the floor for public comments.

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

Chairman Arroyo I am ready to entertain a motion on this application.

Commissioner Oh makes a motion to amend the Master Plan for the applicant Leo Palace Resort represented by Dan Swavely; a request for an amendment to the Leo Palace's previously approved PDD Master Plan, in order to accommodate allowable accessory uses on Tract 2511, in the Municipality of Yona.

Commissioner Vy seconds the motion.

Chairman Arroyo discussion on the motion [None]. On the motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Vy], all opposed say "nay."]

[Motion passed unanimously; 4 ayes, 0 nay]

Tentative Development Plan

E. Application No. 2012-42A Applicant, Guam Reef Hotel, Inc. represented by FC Benavente, Planners; a request to amend its previously approved Tentative Development Plan, on Lots 5060-1NEW, 5060-A, and 5059-1NEW-A, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planner: Frank Taitano

Chairman Arroyo asked if the cost of the construction for this request exceeding three-million dollars.

Frank Taitano it was not declared by the applicant.

Chairman Arroyo is the cost of construction for this project exceed three-million dollars.

Ray Benavente no, it does not.

Frank Taitano summarized staff analysis/discussion, recommendation and conditions. [For full content/context, see attached report.]

[Attachment E – Staff Report dated November 20, 2017]

Chairman Arroyo asked for clarification on Condition E in reference to adherence to sign regulations.

Frank Taitano the application did not include specification designs on the signs. If approved, the signs will have to meet the sign regulations.

Chairman Arroyo what is known about the monument that says "GUAM." There is no size, where it will be located; but simply because it says "GUAM" makes it a non-conforming sign.

Marvin Aguilar it is located at the front corner of the property.

Frank Taitano Public Works will assess the size of each letter ....

Chairman Arroyo nothing else is known about the sign other than the fact that it says "GUAM." It is not identifying the occupant of the property, no address noted and would not be compliant with the sign law.

Nick Toft depends on whether it is seen as a sign.

Chairman Arroyo it is described as a monument sign; and the law says pedestal, monument, etc. If it is a sculpture it would be different, but if is being proposed as a sign then it may not adhere or conform to the sign law.

Comments and/or questions of staff.

Commissioner Oh is the amendment to the TDP due to the sign.

Marvin Aguilar there is an original site plan and they are adding all these additional elements to the plan which requires approval of the Commission.

Nick Toft was not convinced that the "GUAM" monument would be considered as a sign. The Commission should view it separately as a monument and get information on the scope of the design and chose to approve or disapprove based off of that consideration. To make clear, Mr. Toft commented that he did not think that a GUAM monument sign would fall a foul of the sign law.

Chairman Arroyo okay. Please state your name for the record.

Ray Benavente the Reef Hotel has been in business for over 25-years. The hotel is always trying to improve and update their facility to meet the demands of their guests. The sign is a four-letter word spelling out "GUAM." It is about 3 to 4 feet high where tourists can take pictures. It is currently located in front of the hotel. It is made out of hard plastic and no higher than 5-feet.

Commissioner Oh asked if the sign had lights.

Ray Benavente replied that it had no lights.

Chairman Arroyo this can be considered more like artwork as opposed to being a sign. If it is promoted as artwork then you get beyond the sign issue.

Nick Toft that would be separate research, but it would be fine.

[Discussion ensues on what is considered artwork versus signs]

Ray Benavente other improvements include ADA access to the beach, bathrooms/showers, installation of new elevators in the parking garage.

Chairman Arroyo there were no other questions noted from the Commissioners. Chairman Arroyo opened the floor for public comment.

Public Comment [Seeing none, public comment period was closed by Chairman Arroyo.]

Chairman Arroyo before we make a motion, it is important to discuss the two commercial signs you are talking about.

Ray Benavente at this time, the plan is to revamp because of the latest sign laws. There has been discussion with DPW and Frank Taitano to ensure it is in compliance.

Chairman Arroyo I am willing to consider a motion subject to specs, location, and signs would be subject to the sign law and will need to see that as well.

Commissioner Oh makes a motion to accept the amendment to an existing tentative development plan for Application No. 2012-42A for the applicant Guam Reef Hotel Inc. represented by FC Benavente, Planners and their request to amend its previously approved TDP on Lots 5060-1NEW, 5060-A, AND 5059-1NEW-A, in an "H" zone, in the Municipality of Tamuning; with the following conditions:

a) Applicant adhere to all ARC conditions and requirements as stipulated in the official position statement;
b) Any future additional development or changes to the approved site plan shall require the applicant to submit an amended TDP for review and approval the GLUC;
c) Applicant shall provide a landscaping plan pursuant to Section 5G of the Interim "H" Hotel/Resort Rules and Regulations for review and approval by the Chief Planner;
d) Applicant shall provide an as-built site master plan for review and approval of the Chief Planner, and,
e) The proposed signs adhere to the sign regulations of Section 61541 to 61546, Chapter 61, Title 21 GCA with plans to be submitted for review and approval by the Guam Chief Planner.

Commissioner Vy seconds the motion.

Chairman Arroyo motion by Commissioner Oh, seconded by Commissioner Vy. Any discussion on the motion. [None]

On the motion, all in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh and Commissioner Vy], all opposed say "nay."

[Motion passed unanimously; 4 ayes, 0 nay]

Chairman Arroyo anything else for discussion.

Michael Borja the Office of Attorney General is offering training on the Open Government Law for all Commissioners under Land Management on Tuesday, December 5, 2017 from 9:00 a.m. to 11:00 a.m., OAG Training Room.

Chairman Arroyo asked if there were any updates on the Save Southern Guam case.

Nick Toft there is a hearing on December 1st, and will report at the next meeting.

Chairman Arroyo discussed the meeting dates for December. There is a scheduled meeting for December 14th, and if there are no agenda items for December 28th the Commission will meet in January. Chairman Arroyo also noted that his term as Chairman for GLUC expires in March of 2018.

Vice Chairman Cruz also advised that his term is up March 2018.

Marvin Aguilar reported that he has been in contact with the representatives of Pago Bay Resort who is asking to come before the Commission in January to discuss issues with their extension or clarification on what carries over with the new extension.

Chairman Arroyo the Commission does not need to entertain this request. The Chief Planner could simply advise them that there were no amendments to the NOA; nothing taken away and nothing added. Everything that they had to comply with prior to the extension will still have to be complied with now.

[Discussion ensues to include delay in submission of the six-month status report that is due to the Commission this month.]

There being no further business for discussion, Chairman Arroyo entertained a motion for adjournment.

VI. Adjournment

Vice Chairman Cruz makes a motion to adjourn today's meeting, and seconded by Commissioner Oh.

The regular meeting of the Guam Land Use Commission for Tuesday, November 28, 2017 was adjourned at 5:00 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Land Use Commission

Date approved: 12·15·2017

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
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November 3, 2017

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-12, Zone Change, Lots 1-3-R1 & 1-2, Tract 1141, NCS, Dededo.

1. PURPOSE:

a. Application Summary: The Applicants, Rosalina E. Werkunnen & Leonora E. McGeogh represented by Harry D. Gutierrez, is requesting approval of a Zone Change from "A" (Agricultural) to "C" (Commercial) Zone for the proposed construction of commercial buildings on each lot to be used for retail, office spaces, with materiel storage warehouse as an accessory structure with vehicular and equipment parking, on each lot, and other uses permitted within an "C" zone, located on Lots 1-3-R1 & 1-2, Tract 1141, NCS, Municipality of Dededo.

b. Legal Authority: Title 21, Guam Code Annotated, Chapter 61, Title 21, Article 6, Part 3 (Changes of Zones), Sections 61630 thru 61638, Zoning Law.

2. FACTS:

a. Location: The two lots and site are fronting Route No. 3, and near a U.S. Navy Petroleum Oil Lubricant (POL) utility pipeline/easement at the rear of the lots. The lots are approximately 500-600 feet west of Ukudu High School **(See ATACHMENT 1).**

b. Present Zoning: "A" (Agricultural) Zone

c. **Lot Areas to be rezoned are as follows:**
   i. **Lot 3-1-R1:** Area: 2,308 Square Meters or 24,843 Square Feet or .62 Acres

   ii. **Lot 1-2:** Area: 3,237 Square Meters or 34,842 Square Feet or .87 Acres
   iii. **Total Areas of Lots: 27,401 square meters or 295,023 square feet or 1.4975 acres**

d. **Field Description:** The proposed development site and lots are vacant with overgrown vegetation. The topography of both lots are fairly flat and slopes toward Route No. 3. On the southern border abutting Lot 1-3-R1, Lot -4 was recently rezone to "C" by the GLUC for similar development and abuts a single-family dwelling. There are a few residential duplexes to the east and single-family dwellings as well within the eastern boundary within 500 feet. A U.S. Navy (POL) utility line/easement abuts Lot 1-2 on the eastern lot lines. Sporadic residential homes, vacant lots and small farming (subsistence) still exist. All utility infrastructures are within 100-200 feet of the subject lots.

e. **Masterplan:** Residential – Agricultural

f. **Community Design Plan:** Conservation

g. **Previous Commission Action:** None.

3. **APPLICATION CHRONOLOGICAL FACTS:**

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

b. **Public Hearing Results of:** October 24, 2017 (See Attachment)

4. **STAFF ANALYSIS:**

A Zone change must address **Public Necessity, Public Convenience and General Welfare** criteria. The applicant provides the following:

Public Necessity

The applicant purports this area is developing into more commercial and light industrial activities, was in response to the initial military build-up assumptions and to develop commercial activities along the major thoroughfare (Route No. 3). There will be expected population growth in the north and support activities for the military build-up. The proposed uses on the sites and activities will provide the community with more retail, office spaces and special commercial services in the coming years and beyond. There will be greater demand for all goods and services on the island that will serve the island community;

Public Convenience

The applicant provides that the proposed commercial, retail and offices and proposed uses on the property would be consistent with the current land uses near Dos Amantes and nearby area within 500-1,000, to 2,000 feet in the NCS/UKUDO area. The location is central and convenient to areas with large population, and is very near the airport and commercial districts requiring retail, goods and services; and

General Welfare

With respect to protecting the general welfare of the area, the applicant states that the proposed rezoning and uses will protect the general public, the immediate surroundings and properties by being consistent for commercial activities that is on-going at the present time and for future uses and requirements that is permitted in a commercial zone. The owners/applicant will ensure that all permitting requirements and conditions of the land use commission and all government are adhered to as well as to minimizing impacts to the immediate surroundings and to the general public and specially our environment and the water lens below (part of the Northern Recharge Area). Development on the sites will provide employment of local residents and contribute positively to improving the island's growing economy. Department of Agriculture has not submitted its Agricultural Impact Assessment (AIS), their recent assessments of other lots nearby were assessed with no significant impacts to nearby agricultural activities or proposed commercial and light industrial development.

Our analysis is as follows:

We concur with findings provided by the applicant with respect to a clear and present change of community overlay within the general area. In light of ongoing interest in the development of commercial activities to support the expansion of military facilities and our long-standing position to encourage non-residential land uses along routed roads, we find that within such areas, and particular those straddling along Route 3 and across the Dos Amantes master plan area, serve as prime locations to support eminent growth of support services to military facilities and growing residential development on its outskirts.

We remain cognizant of the fact however, development sprawl in the area remains in its infancy, thus presents an opportunity for the government to consider appropriate land use master planning efforts to control sprawling of both commercial and residential activities in the immediate and foregoing areas.

Regardless of our position of concurrence, as of preparation of this staff report, an Agricultural Impact Statement has yet to be officially submitted for our assessment and inclusion into this report. Pursuant to §61637 of the zoning code, "No additional land may be established as a rural zone and no land presently zoned "A" may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

a. The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.
b. Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.
c. The Director's opinion whether said rezoning should be approved and reasons therefore.

As is the case, we have no recourse but to recommend this request for a change of zone be **TABLED** until such document is provided for further consideration.

Marvin Q. Aguilar
Guam Chief Planner

CASE PLANNER: PC Gulac

Attachments: ARC Memo to GLUC Members

Attachment:

Public Hearing Results of :

October 24, 2017; GLUC Application No. 2017-12

Public Hearing Called to Order at 6:05 pm; A total of 5 persons were in attendance. Mayor Savares, neighbors and abutting lotowers and consultant and Planning Staff

The Case Planner presented the proposed project and read the positions statements from Department of Public Works, Guam Waterworks Authority, Guam Power Authority, Bureau of Statistics and Plans, Guam Power Authority and Parks and Recreation--Historical Preservation Office. Mr. Harry Gutierrez highlighted details of the application; discussed the time frame of the application process, construction and completion time and other pertinent information on the proposed development as well as infrastructure requirements; access to the site and area of development near Route No. 3..

Public comments and concerns that were noted are as follows:

Mr. and Mrs. Los Banes, (property owner and neighbor):

Question addressed to Case Planner: Is the Government of Guam addressing any improvements to public sewer connections in the area since the lots will be developed for commercial uses, offices, etc..

Response (from Case Planner):

GWA has submitted its position and comments that there is public sewer along Route No. 3, the Applicant must work with GWA in addressing any requirements for the proposed development. GWA engineers advised DLM planning staff there will be capital improvement projects to commence, such as upgrades to the water distribution lines and also upgrade the northern public sewer treatment plant in Finegayan (Harmon Annex). These mandated projects would improve water pressure and distribution and sewer treatment support facilities that also serve the Harmon, Dededo customers and new developments near the new hospital and along Route No. 3. There may be a requirement for sewer connections/extension that may be within 150-200 feet of the nearby residences to hook up, subject to GWA assessments and consideration for a public sewer service manhole and fire hydrant extensions.

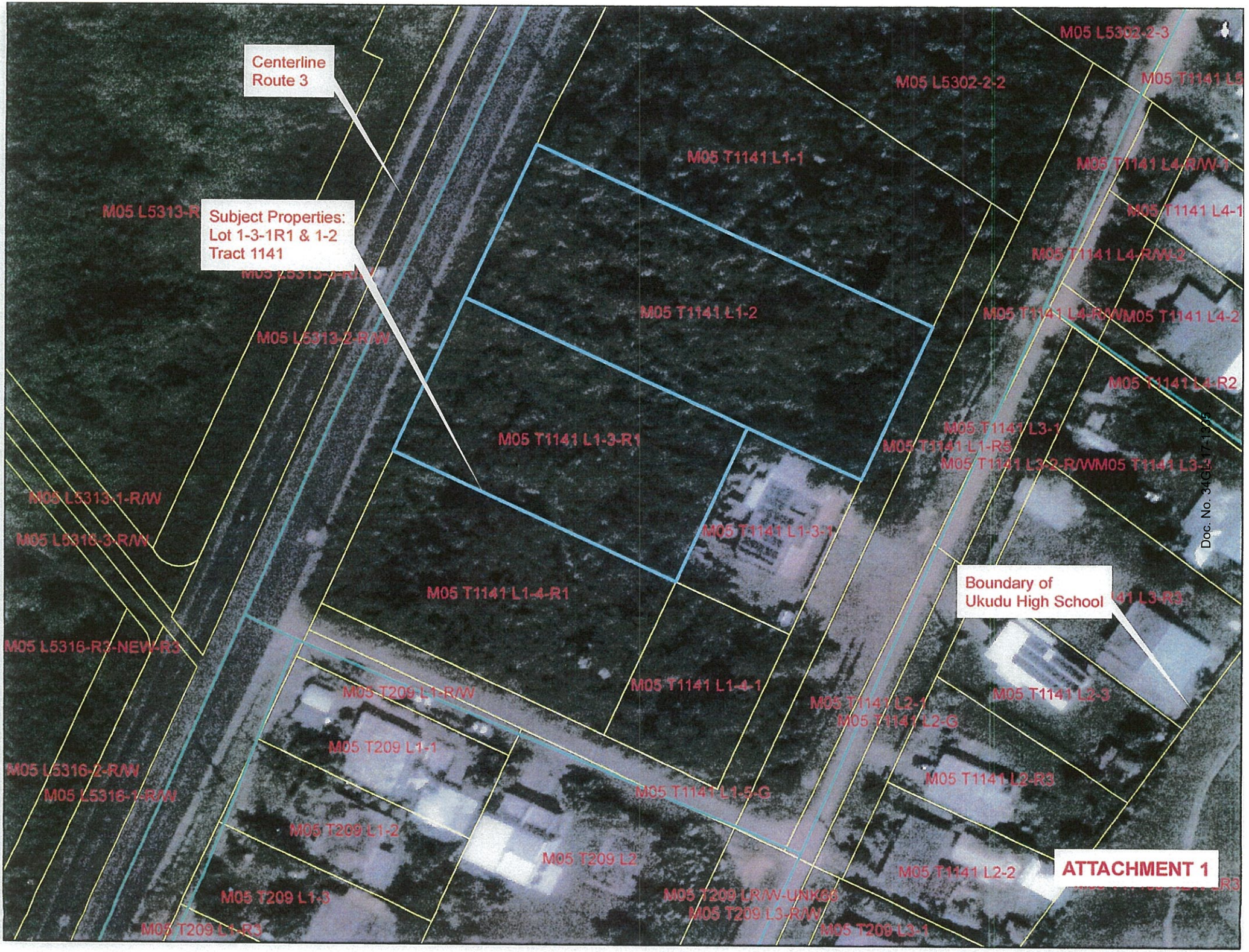
Response from Mr. Harry Gutierrez (representative):

He further informed the Attendees that all requirements for water supply will be assessed and coordinated with GWA Engineering and that detailed engineering plans will be provided for review during permitting process, the owners will place all civil works on each site; location of ponding basin and water catchments will be coordinated with GEPA so that water runoff can be channeled to it. New sewer and water lines will be required and will be connected to Route No. 3, he further stated that he will assist and recommend a sewer stub-out connection be located at the rear of the lots so that its accessible to the neighborhood for connection near the utility easement.

Mayor Melissa Savaress:

Informed those in attendance that the project is co-located near residences and that the commercial activities be fenced and landscape the development site. She further started she will be having a meeting with her MPC on the rezoning application.

There were no major concerns or objections on the application. The hearing was adjourned at 6:55 p.m.


Centerline
Route 3
Subject Properties:
Lot 1-3-1R1 & 1-2
Tract 1141
Boundary of
Ukudu High School
M05 L5302-2-3
M05 L5302-2-2
M05 T1141 L5
M05 T1141 L1-1
M05 T1141 L4-R/W-1
M05 L5313-R
M05 T1141 L4-1
M05 T1141 L4-R/W-2
M05 T1141 L1-2
M05 T1141 L4-R/W
M05 T1141 L4-2
M05 L5313-2-R/W
M05 T1141 L4-R2
M05 T1141 L3-1
M05 T1141 L1-3-R1
M05 T1141 L1-R5
M05 T1141 L3-2-R/W
M05 T1141 L3-3
M05 L5313-1-R/W
M05 T1141 L1-3-1
M05 L5316-3-R/W
M05 T1141 L1-4-R1
M05 L5316-R3-NEW-R3
M05 T1141 L1-4-1
M05 T209 L1-R/W
M05 T1141 L2-1
M05 T1141 L2-3
M05 T1141 L2-G
M05 T209 L1-1
M05 L5316-2-R/W
M05 T1141 L2-R3
M05 L5316-1-R/W
M05 T1141 L1-5-G
M05 T209 L1-2
M05 T209 L2
M05 T1141 L2-2
M05 T209 L1-3
M05 T209 LR/W-UNK66
M05 T209 L3-R/W
M05 T209 L1-R3
M05 T209 L3-1
ATTACHMENT 1
Doc. No. 34GL-17-1255

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

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Director

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671-649-LAND (5263)

Facsimile:
671-649-5383

November 1, 2017

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC

REF: **Zone Change, Application 2017-42**
GLUC Hearing, November 9, 2017

Listed below is the compilation of Positions received from various ARC Member Agencies as submitted to Planning Division. The conditions as imposed by the ARC Member Agencies are listed when applicable.

1. **DEPARTMENT OF LAND MANAGEMENT (DLM):**
Recommends approval; however, MUST BE TABLED PENDING RECEIPT OF AGRICULTURAL IMPACT STATEMENT.

2. **DEPARTMENT OF PUBLIC WORKS (DPW):**
No Objections, with permitting requirements noted. (See Attached)

3. **GUAM WATERWORKS AUTHORITY (GWA):**
No Objections, with permitting requirements noted. (See Attached)

4. **GUAM POWER AUTHORITY (GPA)**
No Objections, with permitting requirements noted. (See Attached)

2. **BUREAU OF STATISTICS AND PLANS (BoPS)**
The Bureau has comments with recommendations with no objection (See Attached)

3. **DEPARTMENT OF PARK AND RECREATION/HISTORICAL PRESERVATION OFFICE (DPR/HPO)**:
DPR/HPO have determined that the proposed project WILL NOT AFFECT historic properties within or around the subject lots. They have no objections to approving the Zone Change application. (See Attached)

6. **ENVIROMENTAL PROTECTION AGENCY (GEPA):**
No Position Statement Received as of Staff Report Date.

7. **DEPARTMENT OF AGRICULTURE (DoAG):**

No Agricultural Impact Assessment received as of report date

EX OFFICIO

1. **GUAM FIRE DEPARTMENT (GFD):**
No Position Statement Received as of Staff Report Date

2. **GUAM ECONOMIC DEVELOPMENT AGENCY (GEDCA):**
NO OBJECTIONS.

3. **DEPARTMENT OF EDUCATION (DOE):**
Has not submitted a Position Statement as of Staff Report date.

4. **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPHSS):**
Has not submitted a Position Statement as of Staff Report date.

Marvin Q. Aguilar
Guam Chief Planner

Case Planner: Penmer Gulac
ATTACHMENTS: Position Statements as noted

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

RECEIVED
JUN 0 1 2017
Department of Land Management
Time 4:19
RECEIVED
5.31.17

MAY 3 0 2017

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 2017-12; Tract 11141, Lots 1-3-R1 and 1-2 in the Municipality of Dededo Ukudu-NCS. Zone change application from "A" Rural zone to "C" Commercial zone. Applicants: Mrs. Rosalina Werkkunen & Mrs. Lenora McGeough represented by Mr. Harry D. Gutierrez

Håfa Adai! Applicants, Mrs. Rosalina Werkkunen & Mrs. Lenora McGeough represented by consultant Harry D. Gutierrez seeks to rezone two lots located in the Ukudu, NCS Municipality of Dededo, from "A" Rural zone to "C" Commercial zone. Tract 11141, Lots 1-3-R1 and 1-2 fronts Route No. 3 in the Ukudu-NCS just off the Route 3 and Marine Drive intersection. The properties are currently forested and is a combined 59,685 square feet or approximately 1.49 acres. The vacant properties are located just before the Guam Ukudu High school which is located at approximately 800 feet away.

The applicant proposes to construct commercial, retail, office spaces and accessory storage, and warehouse with parking and loading on site for the proposed uses. The Bureau of Statistics and Plans (Bureau) has completed its review of Application 2017- 12 to rezone Tract 1141 Lot 1-3-R1 and 1-2 from "A" Rural zone to "C" Commercial zone and provides the following comments and recommendations.

The Bureau has noted that this proposal is based on a zone change concept only. In light of the two properties, consideration needs to be made whether a consolidation of the properties will occur thereby developing a single commercial building with full amenities or 2 separate properties will remain which would include one building per property with full amenities such as parking and loading zones and drainage management for stormwater runoff. The purpose for these considerations is to insure that the development meets the minimum requirements that a commercial development must meet as set out in the zoning law. Most especially should the 2 properties remain apart, developed as one unit, and possibly sold separately thereby rendering the commercial establishment noncompliant.

The Bureau has also noted that there was no site or building plan so our office was not able to see a conceptual plan in advance.

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 identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

> *"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."*

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

Agricultural District. Tract 1141 Lot(s) 1-3-R1 & 1-2 is located in an "A" Rural zone in the municipality of Dededo. Guam's zoning law, 21 GCA Real Property, Chapter 16, §61637, states:

> *"No additional land may be established as a rural zone and no land presently zoned "A" may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:*
>
> *(a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.*
> *(b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.*
> (c) *The Director's opinion whether said rezoning should be approved and reasons therefore."*

The Bureau recommends the applicants, Rosalina Escamilla Werkkunen and Lenora Escamilla McGeough to submit an agricultural impact statement addressed to the Director of the Department of Agriculture as required by Guam's zoning law.

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 Agency (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 Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality.

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.

The Bureau is concerned that once impervious surfaces are installed, commercial waste are easily absorbed into the aquifer. If not managed, this activity can adversely impact Guam's

drinking water source and surrounding neighbors.

The Bureau recommends the property owner 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.bsp.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 develop a commercial retail, office spaces with the accessory storage and warehouse with parking and loading/unloading on site for the proposed uses. The Bureau finds that the zone change from Rural Zone to Commercial Zone is consistent with the North and Central Guam Land Use Plan "Mixed Use" designation. The Bureau also encourages the property owners to avoid types of commercial activities which may not be in line with the surrounding neighborhood environment and may be considered ethically questionable.

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 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

GUAM POWER AUTHORITY

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

March 10, 2017

MB 3/16 MAR 16 2017

955

MEMORANDUM

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

From: General Manager

Subject: Lots 1-3-R1 & 1-2, Tract 1141, Ukudu, Municipality of Dededo, (Rosalina Escamilla Werkkunen & Lenora Escamilla McGeough); Zone Change Application from "A" (Agricultural) to "C" (Commercial) to construct a commercial building on each lot. **Application No. 2017-12**

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 document number **38547**.

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.

JOHN M. BENAVENTE, P.E.

ASG/arp

Doc. No. 34GL-17-1335 .

06

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Rosalina Escamilla Werkkunen & Lenora Escamilla McGeough
Location: Lots 1-3-R1 & 1-2, Tract 1141, Dededo
Type of Application: Zone Change
GLUC/GSPC Application No. 2017-12
Brief Project Description:
"A" to "C" to construct a commercial building on each lot.

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.

for JOHN M. BENAVENTE, P.E.
General Manager

3/15/17
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

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

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

In reply refer to:
RC2017-0142

May 9, 2017

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DLM Application No. 2017-12, Zone Change
Lots 1-3-R1, & 1-2, Tract 1141, Municipality of Ukudu/NCS, Dededo
Applicant's; Rosalina E. Werkunnen & Lenora E. McGeough
c/o Harry D. Gutierrez, Case Planner: Penmer Gulac

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

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO

GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE
Deputy Director

RECEIVED
APR 14 2017
Department of Land Management
Time 9:40 Int

RECEIVED
4.13.17

April 7, 2017

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director

APPLICATION: 2017- 12

APPLICANT: Rosalina Escamilla Werkkunen & Lenora Escamilla Mc Geough

SUBJECT: Rezone from ("A") Agricultural to ("C") Commercial, (Ukudu- NCS), Dededo

Buenas yan Hafa Adai! The applicant is requesting to rezone subject property from "A" to "C" with the intent to construct a commercial, retail, office spaces with storage including parking and loading on site.

Lots to be rezones are as follows: a) Lot 1-3-R1, Tract 1141 (Area) 2,308 Square Meters or 24,843 Square Feet b) Lot 1-2, Tract 1141 (Area) 3,237 Square Meters or 34,842 Square Feet (See attached property map).

The Department of Public Works (DPW) has completed its review with the following requirements to be submitted to DPW - Division of Capital Improvement Projects (CIP).

- provide a site development plan;
- provide a storm drainage disposal (must be shown in detail and be supported with calculations);
- parking layout and detail of parking stalls (compact, standard and accessible) which must meet the American Disability Act (ADA);
- if the owner chooses to use GSWA disposal or any private services, the location of the trash or bin container should be situated in an area that will not hinder the public rights of way;
- comply with all the geotechnical requirements related to site preparations; and
- road (entrance, exit, sidewalks and pedestrian) must be wide enough for public access.

DPW recommends approval, subject to the comments after review by the Application Review Committee (ARC) with conditions that a complete set of design drawings incorporating all the engineering disciplines are provided for building permit. The plans shall be in conformance with the latest building code edition and must be signed by a registered engineer or architect.

If you have any questions, please call Mr. John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III at Division of Capital Improvement Projects (CIP) at 646-3189 or 646-3224. Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

jfc

542 North Marine Corps Drive, Tamuning, Guam 96913 • Tel (671) 646-3131 • Fax (671) 649-6178
Doc. No. 34SL-17-135

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

RECEIVED
MAY 23 2017
Department of Land Management
Time 1:24 Intl

MEMORANDUM

May 16, 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. 2017-12 for Lot 1-3-R1 & 1-2, Tract 1141, in the Municipality of Dededo.

APPLICANT(S): Rosalina E. Werkkunen & Lenora E. McGeough

The Guam Waterworks Authority (GWA) has reviewed the applicant's request on Lot 1-3-R1 and Lot 1-2 for a zone change from "A" (Agriculture) to "C" (Commercial) zone to construct a commercial building on each lot for retail, office spaces, a material storage warehouses accessory structure with vehicular parking and equipment parking.

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 development. There are existing water and sewer mains fronting the subject lots along Route 3. 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 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 or when a development will be served by a master meter.

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

7. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.

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

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.

ATTACHMENT B

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

October 28, 2017

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2017-48, Zone Variance
Lot No. 5078-5-R1, Tumon, Municipality of Tamuning.

1. PURPOSE:

a. **Application Summary:** The applicant, Mr. Mark Baldyga, representing the Baldyga Group, requests a Zone Variance (Height) approval to accommodate a restaurant expansion of the Sandcastle Dinner Theater on Lot No. 5078-5-R1, Tumon, Municipality of Tamuning. If approved, the requested variance will allow the proposed expansion up to the property front yard at zero-lot line from the allowable ten (10) front yard setback requirement.

b. **Legal Authority:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances).

2. FACTS:

a. **Location:** Lot No. 5078-5-R1 is located at the heart of the "Pleasure Island" portion of Tumon, currently hosting the well-known Sandcastle, a dinner theater facility.

b. **Lot Area:** 7,829 Square Meters or 84,265 Square Feet.

c. **Present Zoning:** "H" (Hotel-Resort) Zone per Public Law 14-41, as amended by Public Law 14-82.

d. **Field Description:** The subject lot contains improvements to include the dinner theater, landscaping, a parking valet service area, and material designs for proper egress and ingress.

e. **Masterplan:** "H" (Hotel-Resort)

f. **Community Design Plan:** High-Density (Hotel)

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** August 2, 2017

g. **Date Heard By ARC:** August 17, 2017

h. **Public Hearing Results:** October 3, 2017**(See Attachment 2)**

4. DISCUSSION and STAFF ANALYSIS:

The requested variance if approved will allow the proposed building to exceed general front yard setback requirement of ten feet within an "H" zone to the zero-lot line. The proposed building is designed to provide complimentary tourist-related services by expansion to accommodate a restaurant and bar.

It is important to note this request focuses on the confines of section 61617 (Variance Requirements) of the zoning code, where the Commission's authority allows consideration of a variance from established yard setback requirements. From the zero-lot line the proposed design is intended to span by cantilever onto the public easement at its second-storey level. The encroaching structure will apparently expand up to a portion of the abutting sidewalk. It is from that point no government authority exists to allow structures beyond property lines except for certain structures, normally utilities, permitted onto and within a public easement provided an *encroachment permit* is secured from the Department of Public Works (DPW). From our understanding.

Pursuant to section 61617, variances may be granted by the Commission, provided the applicant can:

a. Justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law;
b. that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone;
c. that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood;
d. that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan; and
e. that 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 owner's or the public right to untrammeled use of the beach and it's natural beauty.

The applicant provides the following responses:

a. *That the strict application of the provisions of Section 61617, 21 GCA would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law.*

The applicant provides that, "the existing Sandcastle building is 29 feet from the property line. It was set back to accommodate a valet parking driveway which is no longer used. This vacant area is now prime frontage and the proposed restaurant will be built within this area.

Starting at the existing building and then maintaining a 10-foot setback would mean that the restaurant would only be about 15 feet wide after allowing for setback and structure. Not only would this look very odd but, more importantly, the limited aisle widths and tight circulation could pose public health and safety concerns. Limited circulation between tables especially for those with accessibility issues could pose potential egress and safety issues in case of a fire, earthquake, or other emergencies".

b. *That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone.*

The applicant provides, "the fact there is existing building 29 feet from the property line creates an exceptional circumstance and unique condition that does not exist or apply to other property in the same zone. Pleasure Island is unique. It was developed as a dense, urban pedestrian zone. Neighboring restaurants such as Dolce Frutti, Beachin Shrimp, Eat Street Grill, and others have existing setbacks of less than two feet. In fact, even after the requested setback, (the expansion) will maintain a wider public sidewalk than these adjacent properties".

c. *That the granting of Variances will not be materially detrimental to the public welfare or injurious to the property improvements in the neighborhood in which the property is located.*

The applicant provides, "The project will not be detrimental. The project will include a level, improved and safer sidewalk beautiful public landscaping, public seating and pedestrian rain shelter available to the public. The project will compliment what is already in place in the neighborhood".

d. *The granting of such Variances will be contrary to the objectives of any part of the Guam Master Plan:*

The applicant provides, "granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan adopted by the Legislature. It perfectly matches the Tourism 2020Plan adopted by the Guam Visitors Bureau".

e. That, as to Variance(s) from the restrictions of Section 61617, 21 GCA, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach are upon which the building is to be constructed and that such building shall not interfere with adversely affect the surrounding property owners or the public right to an untrammeled use of the beach and its natural beauty.

The applicant provides, "the proposed building will substantially enhance recreational, aesthetic, and commercial value of the neighborhood and will not interfere with or adversely affect the surrounding property owners or the public's right to untrammeled use of the beach".

To date the only government agency submitting a position statement is that of DPW. DPW's position statement is important since its concurrence to the applicant's request is caveat to securing associated permits for building and encroachment. Albeit, other agencies' input is important, this project must be sensitive to accommodating those agencies engaged in public utilities with focus in ensuring access to such utilities remain unhindered for the purpose of conducting maintenance, upgrade, or repair of harden and fixed utilities (i.e. power lines, underground water and sewer lines, etc.). Although we are confident the applicant shall comply accordingly to requirement to avoid such hinderance, we believe such requirement should be further embedded in and government instrument such as issuance of a variance.

Our assessment of responses as provided by the applicant were based on interpretation of criterion as noted under Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), Title 21 GCA. We agree with the applicant's justification with respect to the general uniqueness of the Tumon Hotel area, as may be consistent with the intent to encourage the development that supports Guam's main economic industry. Further Public Law 14-041 as the law asserts a zoning designation intended on encouraging high density urban development. Likewise, the applicant articulates his justification based on and for the purpose of accommodating an industry standard, to which he has expressed as one of the few establishments having a significantly wide front yard setback as opposed to adjacent establishments. We further find the applicant has provided adequate justification to all caveats relative to the understanding that the proposed building will not adversely affect the surrounding properties and/or public health, safety, and general welfare of the community.

To further this point, the applicant provides a letter from the President and CEO of the Guam Visitors' Bureau, Mr. Jon Jonathan Denight provides a letter of support stating, "the (GVB) supports this project and the requested setback variance. The project as proposed will enhance Tumon and improve Guam's image as a quality tourist destination. The project matches the surrounding Pleasure Island neighborhood, which already includes restaurants with near-zero setbacks. The project integrates closely with the public sidewalk and this pedestrian friendly integration is not only acceptable but desirable....".

Based on this, we provide the following recommendation.

5. **RECOMMENDATION:** Recommend **APPROVAL** with conditions as follows:

A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement. We concur with the DPW, particularly with regards to structural design requiring to be well-engineered to withstand all wind, vibration forces of 210 MPH and all glass windows at the front area of the structure must be protected with typhoon shutters.
Generally, the proposed restaurant and bar extension must adhere to all building requirements.

B. For any structure relative to this request for a variance and on behalf of the Baldyga Group intended to occur within the confines of a public easement, as a result of an issued Encroachment Permit:

a. the applicant and his agents engaged in this project shall be solely responsible and to hold harmless any liability against any government of Guam entity for any damage incurred to life or property resulting from the construction and/or use of such structure. The applicant must attest to this intent in writing, provided in appropriate form for recordation at the Department of Land Management;

b. That the applicant shall further attest and acknowledge in writing, in proper form for recordation at the Department of Land Management, that any such structure or building occurring within the confines of a public easement is deemed temporary as a stipulation of an issued Encroachment Permit to be issued by the DPW; and that,

c. Such structure, or portion of structure, shall be designed to be removed in the event the government of Guam finds such action necessary to protect the surrounding properties and/or the public health, safety, and general welfare of the immediate community.

d. The applicant shall comply with removal any encroaching structure or portion thereof in the event a government utilities entity requires its removal for the purpose of upgrading, maintaining, or repairing utilities.

B. That the Applicant shall also ensure compliance to the 1-year time restriction that states a ***"grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5"***.

Marvin Q. Aguilar
Guam Chief Planner

CASE PLANNER: MQ Aguilar

Attachments: ARC Memo to GLUC Members

ATTACHMENT 2

PUBLIC HEARING RESULTS
Zone Variance Application No. 2017-48
Lot 5075-8-R1, Tumon Municipality of Tamuning
October 3, 2017
TAMUNING SENIOR CENTER

Meeting was called to order at 6:00 PM.

Planning staff called the meeting to order regarding the Zone Variance for a zero lot line side yard request by Sandcastle, Inc. represented by Mark Baldyga.

Mr. Baldyga began by explaining that the request was so that the Sandcastle can expand its operations and include a restaurant, utilizing the same kitchen for the "America Rocks" Restaurant. The proposed expansion will be where the valet driveway to the Globe exists today. The two-level restaurant and bar will add approximately 2,500 square feet of floor space on each level of this two story structure.

Question (Paul Vibar): Will this new structure be able to stop cars from driving down the sidewalk?
Response: The Sandcastle will be requesting a Highway Encroachment Permit since the proposed structure will be encroaching into the easement above ground level. The project involves improvement to the existing sidewalk; the existing sidewalk slopes and we intend to blend into the existing walkway leading to the Plaza. We will be also putting in new landscaping and that will also blend into the activities of the Plaza. We believe that the landscaping will provide some type of barrier from the street and the proposed restaurant activities.

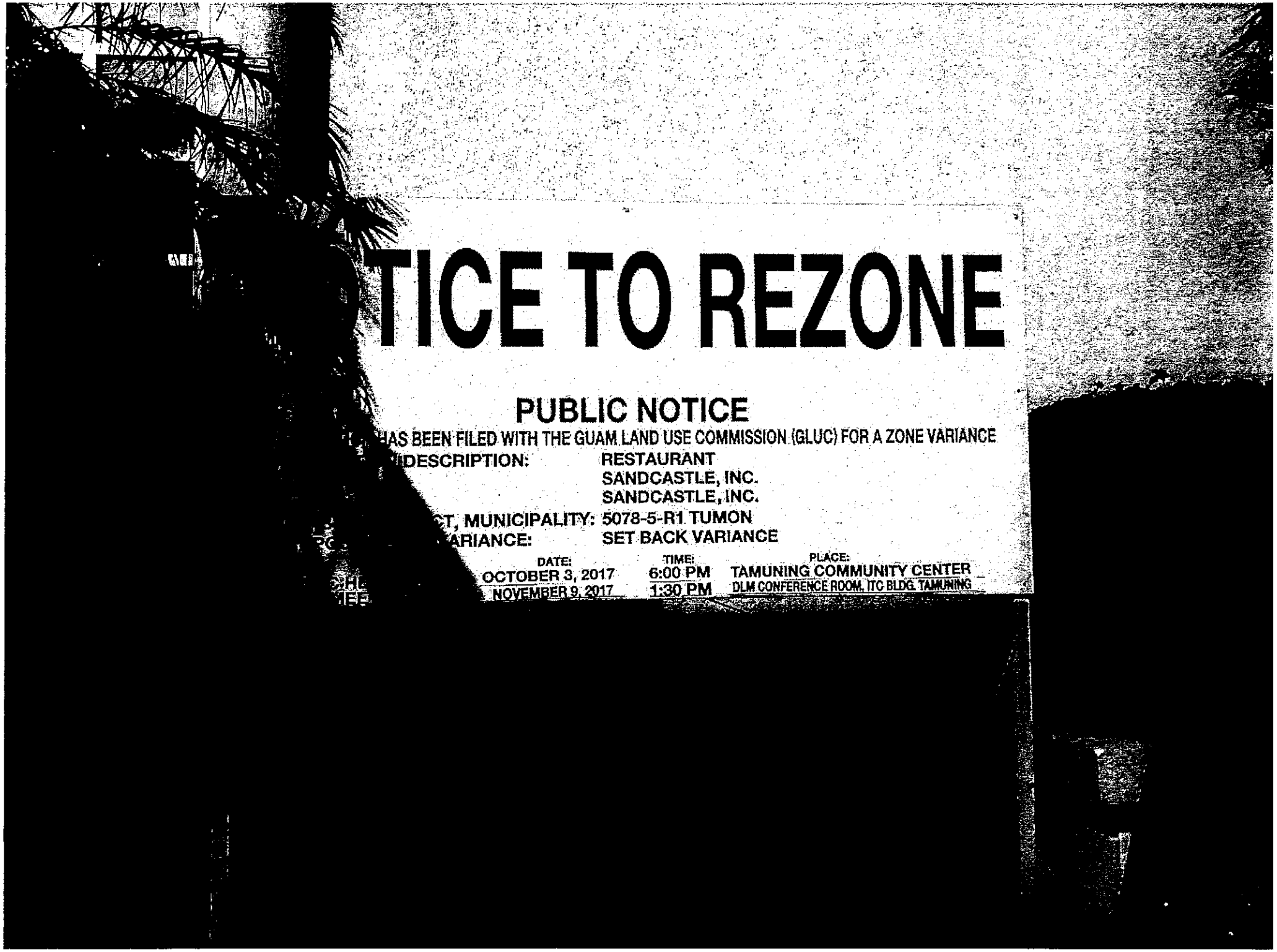
Question: I am with the Hyatt Hotel and we are in full support of the development. We know that there is infrastructure to support this. We are primarily concerned with the current flooding situation and want to ensure that this project does not make the problem worse.
Response (M. Baldyga): 10 years ago flooding in this particular area was not a problem. We will have the proper infrastructure in place to collect water and maintain it on our property.

Question (Aurora Ada-Vibar): Do your plans show how drainage will be disbursed?
Response (M. Baldyga): We have our Civil and Mechanical Plans with us to show how drainage is addressed.

Question (Milton Morinaga): Who owns the parking across the street from the Sandcastle? Will this area be used to support the patrons of the restaurant? Can that area be paved?
Response (M. Baldyga): We own the lot and plan to develop it at a later date. This is the first phase of our planned expansion. We don't want to have it paved now only to have it dug up when we are ready for the next phase which will be shortly after this project starts operation.

Question (Milton Morinaga): Will there be signage?
Response (M. Baldyga): We want to put up an LED sign on the side wall of this new structure. It will be only to advertise the activities associated with the Sandcastle. The sign will be matter of later discussion and consideration

There were no other questions and the **meeting was adjourned at 6:24 PM.**


TICE TO REZONE
PUBLIC NOTICE
HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A ZONE VARIANCE
DESCRIPTION: RESTAURANT
SANDCASTLE, INC.
SANDCASTLE, INC.
CT, MUNICIPALITY: 5078-5-R1 TUMON
ARIANCE: SET BACK VARIANCE
DATE: TIME: PLACE:
OCTOBER 3, 2017 6:00 PM TAMUNING COMMUNITY CENTER
NOVEMBER 9, 2017 1:30 PM DLM CONFERENCE ROOM, ITC BLDG. TAMUNING

GUAM POWER AUTHORITY

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

RECEIVED
AUG 2 3 2017
Department of Land Management
Time 1:40 Intl.

August 16, 2017

MEMORANDUM

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

From: General Manager

Subject: Lot 5078-5-R1, Municipality of Tamuning, (Mark Baldyga, SandCastle Inc.); Zone Variance Application for a restaurant expansion on a zero lot line setback variance. **Application No. 2017-48**

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.

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.

JOHN M. BENAVENTE, P.E.

ASG/arp

Doc. No. 34GL-17-1335 .

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Mark Baldyga, SandCastle Inc.
Location: Lot 5078-5-R1, Tamuning
Type of Application: Zone Variance
GLUC/GSPC Application No. 2017-48
Brief Project Description:
A restaurant expansion on a zero lot line setback variance.

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

8/21/17
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

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

MB 10/4

RECEIVED
345 PM

public works
DIPATTAMENTON CHE'CHO' PUBLEKO

GLENN LEON GUERRERO
Director
ARLEEN U. PIERCE
Acting Deputy Director

MEMORANDUM

TO: Director, Department of Land Management

RECEIVED
10.3.17

FROM: Director, Department of Public Works

SUBJECT: Applicant: Sandcastle Inc.
Application: 2017-48
Zoned "H" Setback Variance, Expansion of Restaurant and Bar
Lot # 5078-5-R1, Tumon

Buenas yan Hafa Adai! Applicant, is requesting for the expansion of an existing restaurant including the bar area. The project is a two- story building addition to the existing Sand Castle building, fronting Pale San Vitores Road. The 1st floor total area, is approximately 2,512 sq. feet and planned as a casual restaurant which is air conditioned and named ("America Rocks") and on the 2nd floor total area, is approximately 2,468 square feet which is an open air garden called the ("Rock Garden").

The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the requests with the following conditions:

A. installation of canopy must be well engineered that can withstand all wind, vibration forces of 210 MPH; and
B. all glass windows at the front area of the structure must be protected with typhoon shutters.

DPW recommends approval, subject to comments as reviewed by the Application Review Committee (ARC) with conditions that prior to building permit application, a complete set of design drawings must be submitted with all the engineering disciplines that are needed in the project and must comply with all the applicable rules and regulations. Design drawings must also conform to the latest building code requirements prior to issuance of building permit.

Should you have any question, please contact Linda Ibanez, In- Charge of CIP or Maryrose M. Wilson, at the Division of Capital Improvement Projects (CIP) at 646-3209 or 646-3224.

GLENN LEON GUERRERO

Libanez/ MRWilson

ATTACHMENT C

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

EDDIE BAZA CALVO
Governor of Guahan

RAY TENORIO
Lieutenant Governor of Guahan

MICHAEL JB BORJA
Director

DAVID V. CAMACHO
Deputy Director

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Website:
http://land.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

November 22, 2017

MEMORANDUM

TO: Chairman, Hybrid Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report – Application No. 2017 - 25
Variance - Height
Lot 5147-3-3NEW-6, Municipality of Tamuning

A. PURPOSE:

1. **Application Summary**: The Applicant, LZ Company, requests consideration to allow a twenty-six (26) unit condominium/apartment complex with 20,000 square feet of commercial space to exceed the minimum structural height requirement of thirty (30) feet to sixty-four (64) feet or six (6) floors on the described property.

2. **Authority**: Title 21, GCA (Real Property), Chapter 61 (Zoning Law), Sections 61617-61624.

B. FACTS:

1. **Location:** The property is located along Route 14B or Ypao Road and nestles between the latest Talo Verde Townhomes development and Ypao Townhomes.

2. **Lot Area:** Gross lot area is 3,764± square meters as depicted on the latest recorded Subdivision Map No. 076FY2015 (under Document No. 876133).

3. **Compliance with Public Law 33-219:** Project cost will exceed $3 million dollars, less the value of the subject lot and therefore requires the empanelment of the Hybrid Land Use Commission.

4. **Present Zoning:** "R-2" (Multi-Family Residential) Zone.

5. **Field Description:** The property remains un-developed and is currently overgrown with secondary vegetation throughout. The topography on the site is fairly flat with a gradual slope from the south boundary to the north boundary. Significant sloping occurs at the northeast corner of the property. from east to west towards more sloped conditions outside of the property. The property is considered a corner lot as it fronts Route 14B on its west boundary and a public Right-of-Way on its southern boundary.

6. **Surrounding Land Uses:** The immediate area consists of predominantly townhomes, condominiums, and rental and/or government-subsidized housing apartments. To its south the property straddles a public easement that serves the Ironwood Height Apartments complex (government-subsidized). The 7th Day Adventist Medical Clinic is approximately 450 feet to the north of the property.

7. **Master Plan:** Medium to high density housing development.

8. **Community Design:** Commercial/Medium Density Residential

9. **Previous Commission Action:** None.

C. **APPLICATION CHRONOLOGICAL FACTS:**

1. **Date Application Accepted: April 13, 2017**

2. **Date of ARC: May 04, 2017**

3. **Date of Public Hearing: September 26, 2017**
(Public Hearing Results are provided on Attachment 2)

4. **Compliance with §61623** (Review by Municipal Planning Council)

   a. The Municipal Planning Council of each municipal district to be affected by a proposed variance shall review the request and express its support or opposition thereon by resolution adopted by a majority of its members, and submit such resolution to the Commission within twenty (20) days from the date of its public hearing thereon for the Commission's consideration thereof pursuant to §61620.

   As of preparation of this report, no MPC resolution has been submitted to the Department of Land Management.

   b. For each proposed variance involving land in Guam, the relevant Municipal Planning Council of Guam's respective villages shall conduct a minimum of two (2) separate public meetings, pursuant to the requirements of Chapter 8, Division 1, Title 5, Guam Code Annotated.

As of preparation of this report, a public hearing was held pursuant to §61619. However, no information has been provided relative to a MPC hearing by the Tamuning Municipal Planning Council.

D. **DISCUSSION and STAFF ANALYSIS:** The applicant requests a variance to exceed the maximum height limit of thirty (30) feet or three stories. to accommodate a six-storey building. On the first two floors the applicant intends to provide a combined medical facility with commercial activities such as a pharmacy in support of medical services. The remaining four floors will be dedicated to apartment units.

The applicant discussed both medical facilities[1] and apartments are intended to complement each other and to market its service local and off-island needs. LZ Company intends to focus on ophthalmology (eye), otolaryngology (ears, nose, throat) and other specialized services. It is the company's intent to provide housing for recovering off-island patients, thus achieving a level of convenience currently not available on the island.

Prior to any consideration by the Guam Land Use Commission any use variance request must first be justified pursuant to Title 21GCA, Ch. 61, §61617 (a) (1-5). The applicant provides following justification *(sic)*:

1. **That there are practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Law. The applicant provides,** "the property is unusual in shape and (is) affected by physical features and property constraints creating practical difficulties for development of high-end hotel condominium with adequate commercial/medical space to serve the area. Granting of these variances will secure an appropriate building in keeping with the general welfare of the adjacent neighbors- appropriate infrastructure and parking requirements, while the appropriate utilization of the site and a well-designed building will permit the project to be financially viable".

2. **That there are exceptional circumstances or conditions applicable to the property or the intended use that do not apply generally to other properties in the same zone.** The applicant provides, "the property is best to be developed into hotel condo with commercial/medical spaces. Adequate infrastructure allocation and a big amount of parking spaces are key requirements that must be met".

3. **That the granting of the variance will 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 applicant provides, "by constructing a taller building with commercial/medial spaces at the bottom and residential hotel condominium units above, the benefits of scale with mixed

[1] The proposed medical clinic is considered as an "institution", thus also permitted within "R-2" zones per section 61306(a)(4) of Title 21Guam Code Annotated.

uses are achieved, while smaller footprints allow for adequate infrastructure allocation, landscaping and much more sufficient amount of parking spaces.

4. **That the granting of such variance will not be contrary to the objectives of any part of the master plan adopted by the Commission or Legislature.** The applicant provides, "no master plan is in place for this area. The area is in a typical mixed-use zone with many residential and commercial establishments. This project, by providing well-designed hotel condominium with commercial/medical spaces will establish sample for similar desirable uses and projects. Though mostly zoned R-2, as the area has so many residents, a mixed-use building will best satisfy the needs".

5. **That as to variances from the restrictions of Section 61504 of the zoning law, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach are upon which the building is to constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or public's right of untrammeled us of the beach and its natural beauty.** This criterium is **"NOT APPLICABLE"** The subject property is located over 3100 linear feet from the nearest or on any public beach area whereby it will affect, hinder, obstruct the ocean beach access for both private residents and the public at large.

During consultation with the applicant we recommended a variance to deviate from allowable land uses was not necessary since both a combined medical services activity (i.e. medical clinic) and multi-family residential development are permitted in such zone. With respect to the intent to apply commercial uses, the applicant has been advised that any commercial activity must compliment both medical facilities and apartment complex[2]. Therefore, any approval consideration for commercial use within the confines of the building *shall* be complimentary where for example, a pharmacy compliments the clinic accordingly. Likewise, both a sundry shop or a restaurant may compliment a hotel or condominium. Small retail stores along Ypao Road currently exists under this allowance as provided in the zoning code.

This report notes a public hearing was held at the Tamuning Senior Citizens' Center. Three concerned raised included:

1. Route 14B (aka Ypao Road) in its current condition cannot support the project due to increase in traffic;
2. The proposed use of the structure as a hotel condominium; and
3. Potential of increasing flooding to surrounding areas.

[2] Throughout the application, the applicant references the term "condominiums". The applicant has been advised of the requirement of converting residential units to condominiums via securing an accepted Horizontal Regime (HPR) report by the Guam Land Use Commission (see Title 21GCA, Ch. 45). Likewise, hotels and complimentary accessory uses thereof are permitted in "R-2" zone.

With respect to traffic, citizens' concerns noted a significant increase in traffic due to the road's dual use as access to residence within Ypao Road and alternate route from Route 1 Marine Corps Drive and lower Tumon. Traffic conditions are exacerbated by the road's current two-lane design and deteriorated condition.

However un-opposed to a medical clinic and apartment complex, members of the public implied the need to restrict further development along Ypao Road until road improvements are completed. We understand Rt. 14B is slotted for immediate improvements to include widening to its fullest width and inclusion of a center lane to accommodate left turns along its corridor. In discussion with the applicant, LZ Company is confident of an aligned timeframe of completion of its project and that of road improvements.

With respect to the proposed use of the structure for hotel-condominium use, such uses are permitted in an "R-2" zone along with complimentary or accessory uses. Caveat to such uses however, is the need to comply with all requirements per each use as may be applicable to elements of operation. For example, if the applicant in fact wishes to convert the entire building or portions thereof for condominium use, each element of the building must be identified prescriptively when applying for acceptance of a Horizontal Property Regime by the GLUC. Likewise, operational uses will be limited to the number of parking space available. Each residential unit will require a minimum of one parking stall. The clinics' individual work areas, customer-patient services, and operational needs will as well be limited to the availability of parking.

With respect to potential of increasing flooding to surrounding areas, the applicant and audience were advised that under current permitting requirements all surface runoff must be contained within the confines of the property.

ASSESSMENT OF ARC DISSENTION: The Bureau of Plans & Statistics recommends disapproval based on the agency's belief of applicant's failure to meet the "4 tests of hardship". The Bureau further references other multi-family development within the immediate area exists under the three-storey threshold.

The Bureau's North and Central Guam Land Use Plan (NCGLUP) is founded on conserving land resources by applying smart growth concepts and methodologies. The plan encourages flexibility and mixed uses that appears to be the basis for reducing adverse effects such as thermal pollution, inefficient groundwater recharge, and loss of space for landscaping. The plan also asserts "limited building and parking footprints and use alternative/paving designs" as means to achieving a multitude of positive effects of land development. The plan further notes "growth within urban areas is encouraged to develop in a clustered manner, rather than in a sprawling suburban pattern, (yet) no specific regulations to implement this philosophy are offered". The Bureau's position statement appears contradictive wherein it seemingly encourages a sprawled footprint approach as opposed to the primary objective of a plan that was crafted by the same agency.

The zoning laws states, its purpose is "to establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements".

Albeit those opinions that certain parts of the code remain obsolete or archaic, the zoning law contains mechanisms to capture the very intent of the law as assessment of development, wherein such may be achieved by imposing restrictions and conditions approval. The philosophy of "smart development" or its integration into government standards of permitting may be applied under the authority of the Commission. Thus, we are of the position to provide the following recommendation.

E. <u>RECOMMENDATION</u>: Planning Recommends <u>APPROVAL WITH CONDITIONS AS FOLLOWS:</u>

1. That the Applicant comply with all Commission and ARC conditions and all permitting requirements;

2. The applicant must assert a landscaping plan that expresses open space to encourage open space and shade cover. The plan must also be prepared by certified/licensed landscape design to institute best management practices for the containment of storm water runoff, improving surface water percolation by methods such as installing pervious pavements. Further such landscaping plan must be submitted to and approved by the Guam Chief Planner.

3. The applicant shall accept a "No Occupancy Permit" agreement with the Department of Public Work's Building Permit Administrator until highway improvements to Route 14B are in place. Appropriate infrastructure and use thereof, must in place to include but not limited to road improvements to Route 14B, water, power, public sewer services and serviceable to the extent of avoiding any potential adverse impacts to the surrounding community.

4. The applicant shall secure approval from appropriate agencies regarding proper storm-water retention/ drainage design and planning to prevent any contribution to current flooding issues in the immediate area.

Marvin Q. Aguilar

Case Planner: Frank P. Taitano

NOTHING FOLLOWS ON THIS PAGE

ATTACHMENT 2

The meeting was called to order at 6:02 PM by Planning Division staff. The applicants' representative, Mr. Mark Zhao of LZ Corporation began with a letter from his business partner, Dr. Peter Lombard, who was unable to attend as he was off island. Mr. Zhao also had with him Ernie Baldevisio, the engineer of the project and Mr. Frank Diamzon, the architect of the project.

Mr. Vince Camacho, member of the Tamuning Municipal Planning Council and a resident of Ypao was concerned that this project would be a hindrance and that the statement that this project will not impact the community is not correct. He stated his concerns that this will cause more traffic and that presently, the area that this development is at has an issue of flooding. It is called by the residents that live in the area as Ypao Lake. He stated that there must be a limit or threshold for new development along Ypao Road. He would like to know why the developers plan to address these issues.

Mark Zhao stated that they considered many things before they started the project such as traffic, water and sewer. As far as traffic, there is a plan for the expansion of Ypao road, this has funding and it is his understanding that the Department of Public Works project will start in April 2018. As far as water and sewer, the developers have met with GWA, right now the plan is to have a water tank to support the water demand of the building and pump water into the tank during off peak hours. The developers have been advised that there are sufficient lines to support the project and that plans are being developed to address and solve issues all within the project boundaries. He is also aware that there will be an increase in traffic; but the government is working on the road expansion design that will support 20 years of growth in the area.

The Guam Chief Planner, Mr. Marvin Aguilar added that the research for land acquisition for the expansion of Ypao road is completed, but that it is unknown when the acquisition will take place or if acquisition has been completed.

Vince Camacho expressed his frustration that the road expansion was supposed to be done 4 years ago. He expressed that the impacts to the community would be too great and that they cannot bear any additional burden as residents of the area.

Mark Zhao stated that there are discussions ongoing with the Mayor, DPW and DLM. He believes the main issues is the land acquisition, but that funding is in place and that he anticipates this project, if approved, to be under construction simultaneously with the expansion of Ypao road.

Mr. Camacho also added that SDA has always had plans for their lot to be a medical campus, that is something that the planning council has to include when it considers new projects. There are also pedestrian issues and infrastructure issues.

Mr. Zhao stated that not much has changed in the area but people know there is something coming, this will be an opportunity to modernize the building and area.

Mr. Randy Cundiff was in attendance representing Mr. Pedro Pangelinan and wanted to remind the developers that they must ensure that storm water does not flow from the development into the interior lot that Mr. Pangelinan owns. Also, that portions of the road are private property and that it is the governments' obligation to ensure that issue is resolved.

Mr. Jay Arriola, a resident of Ypao, Tamuning, wanted to say that before allowing any further variances and zone changes, the current issues must be addressed. The land acquisition process will take years, and the road will not necessary be expanded to three lanes with sidewalks. There should be follow up pf past variances and zone changes that were granted. Talo Verde was approved with the condition that the road be improved. Has Tower 70 complied with their conditions?

He added that there is no doubt that this will be a hotel, this will impact the community greatly and bring issues to this area. Ironwood Heights is the highest crime area in Tamuning. Also, the sign is too far in.

Mr. Zhao responded that the sign is within the property, right up to the boundary, but it is set back from the road because the government has taken some property for the road.

Meeting was adjourned at 6:49 PM.

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
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Facsimile:
671-649-5383

November 22, 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. 2017-25 (Zone Variance)

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):
DLM recommends approval with the following conditions;

1. That the Applicant comply with all Commission and ARC conditions and all permitting requirements;

2. The applicant must assert a landscaping plan that expresses open space to encourage open space and shade cover. The plan must also be prepared by certified/licensed landscape design to institute best management practices for the containment of storm water runoff, improving surface water percolation by methods such as installing pervious pavements. Further such landscaping plan must be submitted to and approved by the Guam Chief Planner.

3. The applicant shall accept a "No Occupancy Permit" agreement with the Department of Public Work's Building Permit Administrator until highway improvements to Route 14B are in place. Appropriate infrastructure and use thereof, must in place to include but not limited to road improvements to Route 14B, water, power, public sewer services and serviceable to the extent of avoiding any potential adverse impacts to the surrounding community.

4. The applicant shall secure approval from appropriate agencies regarding proper storm-water retention/ drainage design and planning to prevent any contribution to current flooding issues in the immediate area.

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

GUAM WATERWORKS AUTHORITY (GWA):
This memorandum shall serve as GWA's position statement to the above zone variance 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 the 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 are conditions for GWA's position in favor of the approval of this zone variance application:

1. The applicant must provide GWA with site development plans to construct the proposed development. 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 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 or when a development will be served by a master meter.

2. New development is subject to water and/or sewer system development charges.
3. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.
4. Stormwater discharge to the sanitary sewer system is prohibited.
5. 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's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response (May 24, 2017).

GUAM POWER AUTHORITY (GPA):

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 CPA'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.

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.

DEPARTMENT OF PARKS AND RECREATION (DPR):

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

However, during the permitting process our office will work with the applicant to resolve any issues in regards to the protection of historical resources.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau has completed its review of the subject application and provides the following comments and recommendations.

Land Use. The Bureau finds that the proposed project is within the mixed use category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as "Mixed Use" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (b).

> ***Mixed Use:*** *The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space.*

The Bureau has determined that the applicant's multi family dwelling proposal is in line with the surrounding mixed uses found within the Upper Tumon village and recommends that all conditions be addressed by the Agencies/Departments on the Application Review Committee (ARC).

Aquifer Protection. The subject property is located within the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA) so any groundwater contamination can be impacted directly. 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.

It is with the above in mind that the Bureau remind the land owner that the proposed activities be carefully considered and approved by the ARC and TLUC committees prior to any development occurring.

Erosion Control. The alteration from vegetated areas to impervious surfaces such as buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground greatly increases runoff during heavy rains or storm events. Studies show that runoff and subsequent erosion and flooding can be directly be correlated to increased impervious surfaces. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water and other natural resources.

The applicant is required to implement best management practices on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs. These practices may include but are not limited to the following:

1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the residential property.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.
3. Stabilize construction entrance and install necessary perimeter controls and diversions.
4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
6. Where feasible, schedule construction during dry season.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp.guam.gov under the Guam Coastal Management Program.

Low Impact Development (LID). The project site lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than 5.17% according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and decreased water quality and in order to minimize negative impacts best management practices should be incorporated.

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.

The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property.

The applicant is abutting an undeveloped property and strongly recommends that caution be exercised and that any stormwater drainage carrying pollutants may occur causing a negative impact to the abutting property and the NGLA.

The Bureau recommends the applicant 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 and pride 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.bsp.guam.gov.

Historical and Archaeological Resources. The Bureau recommends that the applicant provide 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.

Zone Variance consideration: According to Ref: BP 84-0242 of the Attorney General Opinion all the requirements contained in section 17502 must be met before a variance can be granted.

Section 17502 of the zoning law provides that no variances may be granted by the TPC unless it finds, in all five areas:

(a) That the strict application *of the provisions of* this *Title would result* in *practical difficulties or unnecessary hardships inconsistent* with *the general purpose and intent of the law:*
The applicant has not demonstrated a difficulty nor a hardship inconsistent with the general purpose and intent of the law that all other properties have also been required to meet. The applicant did state during the ARC meeting that the land is flat and contained no obstruction to the property and will meet all zoning code requirements.

(b) That *there are exceptional circumstances or conditions applicable to the property* involved *or to the intended use thereof* that *do not apply generally to other property in the same zone;*

The applicant has not demonstrated that there exists exceptional circumstance or a condition that has set the property apart from other properties within the upper Tumon area.

(c) That the granting of the variance will 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 upper Tumon Route 14b area is devoid of other properties above a third floor structure so the request for a height variance should be considered out of character in this location. The possibility that 6 floors above all others may in fact be materially detrimental to the neighbors within the area.

(d) That *the granting of* such *variance* will *not be contrary to the objectives of any part of the "Master Plan" adopted by the Commission or Legislature; and*
The applicant is developing a proposed 26 unit multiple family dwelling and the North and Central Guam Land Use plan calls for mix uses. The applicant's proposal is in line with the concept.

(e) That, as to variances from the restrictions of Section 17203 of this Title, 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.
The Bureau believes there will be no significant impacts associated with this proposal regarding beach areas, therefore, the applicant has met the variance test.

The Bureau believes that the applicant's variance has not met the 4 tests of hardship that is required before a variance is to be granted in accordance to this specific Attorney General's Opinion dated February 27, 1984. The applicant has not demonstrated that there are unnecessary hardships, exceptional circumstances or practical difficulties that the applicant is faced with that does not apply to other properties within the same area.
Based on the variance test, The **Bureau recommends disapproval** for the Height variance for an additional 3 floors above the accepted 3 stories as set out in the zoning code of Territory of Guam.
The Bureau however does not object to the use of multi-family dwellings and has noted that there are other nearby properties that have managed to incorporate minor commercial and multi-family-dwelling activities in one property and have managed to meet the zoning law requirements. Similar developments such as the Ramada Inn and Suites and Hunters Inn have managed to develop properties and did not exceed the height over the required 3rd floor requirement including the recently built Ironwood affordable multi - family dwelling units.
The Bureau has also noted that based on the size of the property, the applicant seems to have oversaturated the property with activities including 2 floors specific to medical activities and 26 condos out of a maximum 32 allowable by zoning standards for a one acre property . The Bureau believes that if the applicant follows the zoning standard, then the 32 condos could still be built without a need for the variance.

The Bureau believes the applicant needs to properly identify whether the property will be for dwelling units or commercial activity in order to identify the requirements needed to operate the intended proposal. An example is the need to have a loading/unloading zoned area for commercial activities where one is not required of dwelling units. Another would be employee and open space parking is different from residential parking requirements. These seemingly minor considerations can and would be the difference between a good versus bad property development.

Aside from the height variance request, the location incorporates similar activities and believes the dwelling unit request will not detract nor be out of character with the proposal as presented. Moreover, if this application is approved, the applicant must be required to comply with established laws and the recommendations stipulated above.

The Bureau, however, has also taken into account the surrounding residence's building height standards and acknowledges that there are no buildings higher than 3 floors along the entire Route 14b roadway. The Bureau believes that the applicant's proposal to develop a 6 storey structure would adversely impact the surrounding neighborhood properties if approved and developed.

As government officials, it is our primary responsibility to ensure that the proposal 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. Si *Yu'os Ma'ase.*

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
DEPARTMENT OF AGRICULTURE (DoAg):
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.
GUAM FIRE DEPARTMENT (GFD):
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

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

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

SEP 13 2017

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RECEIVED
RECEIVED
SEP 14 2017
DEPARTMENT OF LAND MANAGEMENT
CLTC/GALC/GLUC

MEMORANDUM

TO: Chairman, Guam Land Use Commission

VIA: Executive Secretary, Department of Land Management

FROM: Director, Bureau of Statistics and Plans

SUBJECT: DLM **Application No.** 2017-25; **Location:** Lot 5147-3-3NEW-6 Upper Tumon; **Applicant:** Ypao LZ Plaza (Represented by Mr. Mark Zhao, Managing Director); **Proposed Use:** Zone Variance for Height and Use in an "R-2" (Multi Family Dwelling) Zone

Håfa Adai! The applicant, Mr. Mark Zhao, is requesting for a zone variance for the Height and also for the Use in an "R2" Multi-Family Dwelling Zone on Lot 5147-3-3NEW-6 Ypao Road Tumon within the Municipality of Tamuning. The applicant is proposing to develop a 6 storey condominium of which the first 2 (two) floors will be specifically for commercial/medical spaces.

The undeveloped "R-2 zoned property is located abutting the new Ironwood Estates dwelling units and just before the Seventh Day Clinic in upper Tumon. The undeveloped property is approximately 3,764 square meters or 40,516 square feet which is approximately 1 (one) acre. The activity and general composition of the surrounding location is a mixture of single and multi-family dwellings including apartments, and condominiums, various small retail stores, and a medical clinic nearby. Also, less than a mile away there are other mixed uses such as the Hilton Hotel, Ypao Beach Park, and other regularly associated activities in the "H" zone.

The Bureau of Statistics and Plans (Bureau) is aware of the traffic congestion within the entire Route 14b right-of-way. This route continues to be a major concern due to the existing activities and the continued growth of additional activities to date. Consideration to address this situation must be taken into account at the public, private, and governmental level.

The Bureau has completed its review of the subject application and provides the following comments and recommendations.

Land Use. The Bureau finds that the proposed project is within the mixed use category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as "Mixed Use" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (b).

> ***Mixed Use:*** *The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space.*

The Bureau has determined that the applicant's multi family dwelling proposal is in line with the surrounding mixed uses found within the Upper Tumon village and recommends that all conditions be addressed by the Agencies/Departments on the Application Review Committee (ARC).

Aquifer Protection. The subject property is located within the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA) so any groundwater contamination can be impacted directly. 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.

It is with the above in mind that the Bureau remind the land owner that the proposed activities be carefully considered and approved by the ARC and TLUC committees prior to any development occurring.

Erosion Control. The alteration from vegetated areas to impervious surfaces such as buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground greatly increases runoff during heavy rains or storm events. Studies show that runoff and subsequent erosion and flooding can be directly be correlated to increased impervious surfaces. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water and other natural resources.

The applicant is required to implement best management practices on site to control erosion and sediment before, during and after construction of the project. The applicant is advised

to consult with Guam EPA for effective implementation of BMPs. These practices may include but are not limited to the following:

1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the residential property.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.
3. Stabilize construction entrance and install necessary perimeter controls and diversions.
4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
6. Where feasible, schedule construction during dry season.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp.guam.gov under the Guam Coastal Management Program.

Low Impact Development (LID). The project site lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than 5.17% according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and decreased water quality and in order to minimize negative impacts best management practices should be incorporated.

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.

The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property. The applicant is abutting an undeveloped property and strongly recommends that caution be exercised and that any stormwater drainage carrying pollutants may occur causing a negative impact to the abutting property and the NGLA.

The Bureau recommends the applicant 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 and pride 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.bsp.guam.gov.

Historical and Archaeological Resources. The Bureau recommends that the applicant provide 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.

Zone Variance consideration: According to Ref: BP 84-0242 of the Attorney General Opinion all the requirements contained in section 17502 must be met before a variance can be granted.

Section 17502 of the zoning law provides that no variances may be granted by the TPC unless it finds, in all five areas:

(a) That the strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law:

The applicant has not demonstrated a difficulty nor a hardship inconsistent with the general purpose and intent of the law that all other properties have also been required to meet. The applicant did state during the ARC meeting that the land is flat and contained no obstruction to the property and will meet all zoning code requirements.

(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;

The applicant has not demonstrated that there exists exceptional circumstance or a condition that has set the property apart from other properties within the upper Tumon area.

(c) That the granting of the variance will 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 upper Tumon Route 14b area is devoid of other properties above a third floor structure so the request for a height variance should be considered out of character in this location. The possibility that 6 floors above all others may in fact be materially detrimental to the neighbors within the area.

(d) That the granting of such variance will not be contrary to the objectives of any part of the "Master Plan" adopted by the Commission or Legislature; and

The applicant is developing a proposed 26 unit multiple family dwelling and the North and Central Guam Land Use plan calls for mix uses. The applicant's proposal is in line with the concept.

(e) That, as to variances from the restrictions of Section 17203 of this Title, 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.

The Bureau believes there will be no significant impacts associated with this proposal regarding beach areas, therefore, the applicant has met the variance test.

The Bureau believes that the applicant's variance has not met the 4 tests of hardship that is required before a variance is to be granted in accordance to this specific Attorney General's Opinion dated February 27, 1984. The applicant has not demonstrated that there are unnecessary hardships, exceptional circumstances or practical difficulties that the applicant is faced with that does not apply to other properties within the same area.

Based on the variance test, The **Bureau recommends disapproval** for the Height variance for an additional 3 floors above the accepted 3 stories as set out in the zoning code of Territory of Guam.

The Bureau however does not object to the use of multi-family dwellings and has noted that there are other nearby properties that have managed to incorporate minor commercial and multi-family-dwelling activities in one property and have managed to meet the zoning law requirements. Similar developments such as the Ramada Inn and Suites and Hunters Inn have managed to develop properties and did not exceed the height over the required 3rd floor requirement including the recently built Ironwood affordable multi - family dwelling units.

The Bureau has also noted that based on the size of the property, the applicant seems to have oversaturated the property with activities including 2 floors specific to medical activities and 26 condos out of a maximum 32 allowable by zoning standards for a one acre property . The Bureau believes that if the applicant follows the zoning standard, then the 32 condos could still be built without a need for the variance.

The Bureau believes the applicant needs to properly identify whether the property will be for dwelling units or commercial activity in order to identify the requirements needed to operate the intended proposal. An example is the need to have a loading/unloading zoned area for commercial activities where one is not required of dwelling units. Another would be employee and open space parking is different from residential parking requirements. These seemingly minor considerations can and would be the difference between a good versus bad property development.

Aside from the height variance request, the location incorporates similar activities and believes the dwelling unit request will not detract nor be out of character with the proposal as presented. Moreover, if this application is approved, the applicant must be required to comply with established laws and the recommendations stipulated above.

The Bureau, however, has also taken into account the surrounding residence's building height standards and acknowledges that there are no buildings higher than 3 floors along the entire Route 14b roadway. The Bureau believes that the applicant's proposal to develop a 6 storey structure would adversely impact the surrounding neighborhood properties if approved and developed.

As government officials, it is our primary responsibility to ensure that the proposal 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. *Si Yu'os Ma'ase'.*

CARL V. DOMINGUEZ

GUAM POWER AUTHORITY

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

RECEIVED
JUN 02 2017

May 23, 2017

MEMORANDUM

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

From: General Manager

Subject: Lot 5147-3-3NEW-6, Municipality of Tamuning, (LZ Company); Zone (Use & Height) Variance Application to construct a Six (6) Storey Commercial/Residential Building. **Application No. 2017-25**

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.

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.

JOHN M. BENAVENTE, P.E.

ASG/arp

Doc. No. 34GL-17-1335 .

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: LZ Company
Location: Lot 5147-3-3NEW-6, Tamuning
Type of Application: Zone Variance
GLUC/GSPC Application No. 2017-25
Brief Project Description:
To construct a Six (6) Storey Commercial/Residential Building.

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

5/31/17
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

Department of Agriculture
Dipåttamenton Agrikottura

Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

Director's Office	300-7970 / 7969 / 7966
Agricultural Development Services	300-7973 / 7972 / 7967
Plant Nursery	300-7974
Aquatic & Wildlife Resources	735-3955/56; Fax 734-6570
Forestry & Soil Resources	300-7975/6
Plant Inspection Station	475-1426/27; Fax 477-9487
Animal Health	300-7965 Fax 734-6569

Matthew L.G. Sablan
Director

Jessie B. Palican
Deputy Director

RECEIVED
JUL 25 2017
Department of Land Management
Time 2:15 Intl

July 18, 2017

Memorandum

To: Director, Department of Land Management

Attn: Executive Secretary, Guam Land Use Commission and Guam Seashore Protection Commission

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for a "Zone Varience request on Lot 5147-3-3NEW-6 Located on Ypao road Tamuning in an "R2" zone. (LZ Company).**

Agriculture has reviewed the subject lot for a "Zone Varience" request to allow for a mixed commercial and residential use development. Our agency finds no major impacts to any agricultural activity as no current agricultural production is located in this area. Our agencies main concern lies with the actual earthen work that will be performed on the site. Before any of the clearing and grading work is to be performed a permit must be obtained from the Department of Public Works with all the pertinent agencies giving their approval of the permit to perform any construction work on the site. Our agency will require that should the project proceed into the construction phase we require that silt screens must be installed prior to any clearing and grading work. As the location of the site is near coastal zones it is vital that protective measures are taken to prevent any erosion and debris from entering the coastal zones areas. The Ypao coastal area is also a federally protected site and any development in or around this area must therefore take all the important steps to prevent any damage and destruction of any of the species and habitat that occupy this site. In addition any refueling of heavy equipment must be done at an OSHA approved site to prevent any spillage of fuel and other chemicals from entering into coastal zones and federally protected sites.

Agriculture recommends **"Best Manangement Pracitices"** be incorporated into the project to mitigate the loss of flora of the area we recommend that the developer incorporate a landscaping plan that uses indigenous tree species from this area as they are adapted for the environment. Along with the native species, fruit trees can also be used to further enhance the project.

By incorporating these practices the trees will aid in providing windbreaks, shading, erosion control, food sources and improvement on aesthetics for the neighborhood. As well as providing the trees root system to prevent contaminants from flowing into Guam's Northern Aquifer System.

Please contact our **Agricultural Development Services & Forestry** divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our **Department of Agriculture Organic and Environmentally Demonstration Farm.**

For questions or concerns regarding Agriculture's position please contact our office at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN
Director

GUAM WATERWORKS AUTHORITY

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

RECEIVED
AUG 0 4 2017
1235

MEMORANDUM

May 24, 2017

TO: Michael Borja, Director, Department of Land Management

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

SUBJECT: Position Statement on Zone Variance Application No. 2017-25 for Lot 5147-3-3NEW-6, in an "R-2" (Multi-Family Dwelling) Zone, in the Municipality of Tamuning

APPLICANT(S): LZ Company represented by Mark Zhao

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height and use for the proposed construction of a six-story residential/commercial structure consisting of twenty-six (26), two to four-bedroom condo/hotel units and sixteen (16) commercial bays.

This memorandum shall serve as GWA's position statement to the above zone variance 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 the 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 are conditions for GWA's position in favor of the approval of this zone variance application:

1. The applicant must provide GWA with site development plans to construct the proposed development. 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.

Rec'd 8/3/17
P Butler
Land Plan

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 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 or when a development will be served by a master meter.

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

7. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.

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's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

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.

Eddie B. Calvo
Governor
Ray Tenorio
Lt. Governor

Department of Parks and Recreation
Government of Guam
490 Chalan Palasyo, Agana Heights, Guam 96910
Director's Office: (671) 475-6288
Parks Division: (671) 475-6291
Guam Historic Resources Division: (671) 475-6294/5
Facsimile: (671) 477-2822

William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to:
RC2017-0568

August 2, 2017

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DLM Application No.2017-025, Zone Variance Application
Lot 5147-3-3NEW-6, Ypao Road, Municipality of Tamuning
Applicant: LZ Company; Owners: Mark Zhao and Peter Lombard

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

However, during the permitting process our office will work with the applicant to resolve any issues in regards to the protection of historical resources.

Should you have any concerns, please do not hesitate to contact our office.

William N. Reyes

TAMUNING-TUMON-HARMON MUNICIPAL PLANNING COUNCIL
REGULAR MONTHLY MEETING
6:30 P.M. Thursday October 05, 2017
Tamuning Senior Community Center

MINUTES

I. CALL TO ORDER

- Meeting was called to order at 6:35 pm by Chairperson Louise C. Rivera

II. ROLL CALL

- A sign-in sheet was circulated for attendance. J. Atalig, V. Camacho, J. Camacho, L. Casil, A. Charfauros, J. Estella, M. Lasiste, R. Lastimoza, G. Perez, R. Taitano, D. Tinsay, Vice-Mayor Ken Santos and Mayor Louise Rivera. A total of thirteen (13) members were in attendance for the meeting. A Quorum was established.

III. RECITATION OF THE PLEDGE OF ALLEGEIANCE AND *INIFRESI*

- All members present recited the Pledge of Allegiance and the *Inifresi*.

IV. APPROVAL OF MINUTES

This was changed from Secretary's report to Approval of Minutes.

- **Motion to approve the Minutes of September 06, 2017 as is was made by G. Perez and seconded by A. Charfauros. All were in favor. Motion carries.**

V. MAYOR'S REPORT

- Mayor Rivera reported that we will having special presentations by Rosie Zabala from Public Health, Tanisha Aflague with UOG Extensions and Outreach Services and Captain Jeffrey Grimes, COS JRM & Col Brent Bien, OIC MCAG regarding the Military Buildup. to be held on October 18, 2017.
- Mr. Greg Martin, the new General Manager for Solid Waste Authority mentioned that he would work hard in helping us bring down the illegal dumping. They are working on enforcement to have residents apply. Even the low cost residents need to apply for the service because it is a health issue. His cell number has been made available to us. A. Charfauros mentioned that there is a debate regarding the rates.
- Mayors Council of Guam Picnic will be on Nov. 04, 2017 at the Port Authority Beach
- Christmas Party will be on December 07, 2017 at the Leo Palace.
- We have been actively removing junk and abandoned vehicles together with DPW. Heavy discussion was made among members regarding the fees and the recycling fund. G. Perez suggested that we impose the fees on the owners. The Mayor's Council is working with Senator San Agustin for Legislation for owners that do not respond in a timely manner, to have their vehicles be allowed to be registered by a new owner.

VI. OLD BUSINESS

- Ongoing issue regarding people leaving their vehicles on Government easement in front of private homes. It becomes a nuisance because they block mailboxes and trash containers.
- The sound of the sirens: we need to know where we need to place more sirens. Many did not hear it. J. Camacho mentioned that if they hear the sirens, they may not know what to do.

- Installation of Streetlights. One requested to be on Tun J. Crisostomo St. and one on Tumon Heights Road.
- TATUHA Incorporated will not be taking care of the Bingo at the Greyhound. Heavy Discussion was made. Many indicated that it is a lot of work and responsibility. Her lease expires on 10/07/17. A plan of action needs to be made.

VII. NEW BUSINESS

LZ Plaza - Application for a 6 Story Condominium. G. Perez made a motion to have a resolution to not support the LZ Plaza until such time Ypao Road is improved. Seconded by M. Lasiste. All were in favor except for V. Camacho who abstained. Motion carries.

Baldyga Group - America Rocks - Dan Tinsay made a motion to have a Resolution by our MPC go to Land Management stating that we have no objection towards their application.

VIII. COMMITTEE REPORTS

- **Land Use:**
- **Environmental:**
- **Finance:**
- **Legal:**
- **Crime Watch:**
- **Sunshine:**

IX. ANNOUNCEMENTS / UPCOMING EVENTS

a. Strides for a cure - 10/07/17
b. 180 Mini Concert at TATUHA Outdoor Courts 10/07/17
c. Annual Community Halloween Party 10/31/17
d. Next MPC meeting will be on Wednesday - 11/08/17
e. Ducks for Charity - 10/28/17
f. Lunch plate orders for MCOG X-mas Party.
g. Javier Atalig's 50th Birthday Party - 10/21/17 - 6pm - Royal Orchid

X. ADJOURNMENT

Motion to adjourn by A. Charfauros second by R. Taitano, all were in favor, meeting adjourned at 8:40 p.m.

RESPECTFULLY SUBMITTED BY:

JEROME TOMAGAN
Administrative Assistant
Tamuning-Tumon-Harmon Mayor's Office

CONCURRED BY:

DANILO TINSAY
Secretary
TATUHA Municipal Planning Council

ATTACHMENT D

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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dlmdir@land.guam.gov

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671-649-LAND (5263)

Facsimile:
671-649-5383

October 30, 2017

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: **Commission Brief - Request for Amendments to Leo Palace Resort's Approved PDD Master Plan, Tract 2511, Municipality of Yona**

The applicant Leo Palace Resort represented by Mr. Dan Swavely, is requesting to amend the existing Leo Palace Resort's PDD's *(Planned District Development)* Master Plan to create a new parking area for the newly renovated Leo Palace Hotel's increased patronage, particularly during special events and to establish an on-site area to stockpile golf course top dressing and bunker sand.

To accommodate the proposed 116 stall parking area the resort request to locate it on the site of an existing and unutilized grass tennis court, directly across from the hotel's entrance and to accommodate the proposed on-site golf course top dressing and bunker sand stockpile area, the resort request to locate it on the site of an existing baseball field which is no longer used.

The PDD was approved in 1988 to accommodate facilities for hotel, golf, sports and residential development spread throughout the 1,000 acre site and we agree with the applicant that since the PDD was approved Leo Palace Resort has built and retained status as a top tourism, sports, hotel and residential destination and that the overall balance of its approved uses in 1988 are still intact. We also agree that the proposed uses are operational accessory uses in nature and are designed to augment the resort's master plan as well as remain harmonious with its overall intent, and that, the proposal to create the parking area and to locate an onsite stockpile area, are cost saving elements to Leo Palace Resort's marketing and growth strategies.

In our assessment of the proposal, we find that, the addition of 116 parking stalls in proximity to the hotel, addresses the probability of traffic congestion and poor traffic circulation, created from the lack of required parking and the location of the golf course's stock pile area onsite, eliminating the daily offsite travel of Leo Palace's maintenance vehicles clearly promotes the protection of the public's health, safety and general welfare.

In conclusion, we do not expect any negative adverse impact to the surrounding uses either inside or outside of the master plan and we are inclined to concur with the applicant's justification and recommend favorable consideration of their request.

Marvin Q. Aguilar
Guam Chief Planner

Attachment: Request Package

ATTACHMENT E

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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590 S. Marine Corps Drive
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dlmdir@land.guam.gov

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671-649-LAND (5263)

Facsimile:
671-649-5383

November 20, 2017

Memorandum

To: Chairman, Guam Land Use Commission

From: Acting Guam Chief Planner

Subject: Staff Report - Application No. 2012-42A, Tentative Development Plan for Lots 5060-1NEW, 5060-A and 5059-1NEW-A, Tumon, Municipality of Tamuning

1. PURPOSE:

a. **Application Summary:** The applicant, represented by FC Benavente Planners, is requesting for a Tentative Development Plan approval to amend the existing Guam Reef Hotel Site Plan (Master Plan) and site amenities. Tumon, Municipality of Tamuning.

b. **Legal Authority:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61311 ("H" (Hote/Resort) Zone) and Section IV (Procedures for Development within an "H" Zone) of the Interim "H" (Hotel-Resort) Zone Rules and Regulations.

2. FACTS:

a. **Location:** The subject site is along the northern side of Pale San Vitores Road directly across the Japan Plaza Hotel complex and is adjacent to "The Plaza" commercial complex.

b. **Lot Area:** 25,858 Square Meters or 278,333 Square Feet.

c. **Present Zoning:** "H" (Hotel-Resort) Zone.

DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÅHAN
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Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
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GL-34-17-1335
Speaker Benjamin J.F. Cruz

November 17, 2017

DEC 20 2017
Time 2:30 [ ] AM [X] PM File No. 34-13
Received By

To: Office of the Speaker of the Guam Legislature
Guam Congress Building
Hagatna, GU

From: Planning Division
Department of Land Management

Hafa Adai:

Pursuant to 5 GCA Chapter 8, Section 8113.1, submitted herewith for your perusal is the Minutes from the last GLUC hearing of **Tuesday, November 28, 2017**.

Thank you.

Received by: _____
(Please Print Clearly)

Date received: _____

2017 DEC 21 PM 3:05

1335

d. **Field Description:** The 6.6 acre site accommodates a fully developed Hotel/Resort Complex consisting of two main towers with an arcade, a parking garage, on grade parking, beach access, landscaping and various accessory amenities for onsite recreational, commercial and guest accommodations.

e. **Masterplan:** "H" (Hotel-Resort)

f. **Community Design Plan:** "H" (Hotel-Resort)

g. **Previous Commission Action:**

1. June 22, 1972 (Zone Variance for height and setback to construct an 18-story hotel).
2. October 5, 1972 (Zone Variance to reduce approved 55 foot setback to 45 feet).
3. May 16, 1974 (Zone Variance for the construction of covered amphitheater).
4. January 13, 1983 (Conditional Use for the construction of Tennis Courts).
5. October 23, 1986 (Condition Use to relocate an existing storage room within the hotel complex).
6. January 28, 1988 (Conditional Use and Zone Variance to construct 172 room tower,120 feet in height and a 200 Car parking structure).
7. October 25, 2012 (Tentative Development Plan to amend the existing Guam Reef Hotel Site Plan (Master Plan) and site amenities).

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** July 17, 2017

b. **Date Heard By ARC:** August 3, 2017

c. **Public Hearing Results:** Not Required

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the Tentative Development Plan is to amend the Guam Reef Site (Master) Plan in order to:

1. Install a free standing "GUAM" monument sign in the covered pedestrian plaza area, facing San Vitores Road.

2. Install three (3) tenant free standing signs in the covered pedestrian plaza area, facing San Vitores Road.

3. Replace an existing garage elevator in the Infinity Tower, which serves all three (3) garage levels, the pool, and the lobby.

4. Install a new exterior elevator to provide ADA- compliant access to the beach, at the west (beachside) end of the Infinity Tower to provide access from the lobby and pool levels down to the beach level. In addition, a ramp is to be installed to link to an existing path that leads to the beachfront and an outdoor shower is to be installed at the beach level to serve as a convenient rinse-off area for beach goers returning to the hotel and landscaping improvements to the area will also be included.

Note: In our discussion with Mr. Laguana concerning the replacement of the existing garage elevator (number 3 above) we have informed him that the replacement does not need Commission approval just as long as the replacement does not increase the footprint of the structure (Infinity Tower) housing the elevator.

In our assessment of the proposed amendments, we agree with the applicant, that the proposal will not increase demand on the hotels' amenities or infrastructure, exp. parking, water, wastewater disposal, etc., that the proposed exterior elevator will enhance accessibility to the beach and other hotel amenities located at the beach level. We also agree with the applicants' Statement of compatibility with adjacent and Neighborhood Developments as they exist, where it states, "The new amenities will enhance and complement the existing resort-hotel uses and will not detract from the surrounding area. The Guam Reef Hotel development is a compatible arrangement of structures within the project site in a unique setting located between San Vitores Road frontage and Tumon Bay. The Guam Reef Hotel has re-arranged itself to promote a superior level of convenience, comfort and amenities within its property. This is encouraged and desired in the "H" zone development requirements. The internal pedestrian circulation system forms a unique, convenient and coordinated network throughout the buildings, parking areas and landscaped open space. Development signage is compliant, lighting will be appropriately installed, and open storage is prohibited.

Reference the proposed signs. Absent any descriptive documents/plans submitted with the application package and considering that, the proposed Guam Sign is, in accordance to the applicant, in line with GVB's effort to promote the Island and the three free standing signs are for commercial tenants of the Hotel-Resort, we find it appropriate to the proposed signs be subject to the sign regulations of the Zoning Code.

Based on the above, it is our position that the proposed amendment is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations whereby the development is compatible with the surrounding existing uses and therefore, proper that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Recommend Approval with conditions as follows:

A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and

B. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission; and

C. That Applicant shall provide a Landscaping Plan pursuant to Section 5 G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner; and

D. That the applicant shall provide an as-built Site (Master) Plan for review and approval by the Guam Chief Planner; and

E. That the proposed signs adhere to the sign regulations of Section 61541 to 61546, Chapter 61, Title 21 GCA.

Marvin Q. Aguilar

CASE PLANNER: F.P.TAITANO

Attachments: ARC Memo to GLUC Members

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590 S. Marine Corps Drive
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Tamuning, GU 96913

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Facsimile:
671-649-5383

DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÅHAN
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EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

November 20, 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. 2012-42A (Tentative Development Plan)

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):

A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and

B. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission; and

C. That Applicant shall provide a Landscaping Plan pursuant to Section 5 G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner; and

D. That the applicant shall provide an as-built Site (Master) Plan for review and approval by the Guam Chief Planner and;

E. That the proposed signs adhere to the sign regulations of Section 61541 to 61546, Chapter 61, Title 21 GCA.

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

GUAM POWER AUTHORITY (GPA):

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.

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.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR has reviewed the subject application by FC Benavente Planners for conditional use of subject Lots and have no objection to the approval of the amended plan. However, subject lots will be subject to their position statement dated September 28, 2012 for all four stipulations mentioned pertaining to Guam Reef Hotel Inc. Tentative Development Plan as follows;

1) A site inspection of the areas proposed Co ne site additions identified in the Proposed Site Accessory Uses/Amenities Site Plan (Exhibit C), will be conducted by our office in coordination with the applicant's co-representative, Felix C. Benavente. Boundary markers of Lot 5060-A and Lot 5060-R3 along San Vitores Street must be clearly marked prior to the inspection of the areas.

2) Any new visual and audible elements that diminish the integrity of the Guam and National Register site, the Father San Vitores Martyrdom Monument, must be addressed and mitigated in coordination with the Guam Historic Resources Division, DPR.

3) The potential impact to the existing public beach access must be discussed with our office and mitigated in accordance with the public beach access requirements *(Public Law 19-05, Public Access to the Ocean Shore)* and will be inspected during the site visit.

4) Archaeological mitigation requirements will be determined based on our review of the proposed development construction plans, yet to be submitted to our office.

Our approval of subject application will be based upon the applicant's compliance to the above requirements.

DEPARTMENT OF PUBLIC WORKS (DPW):

The Department of Public Works ("DPW") has completed its review of subject application and has no objection to the request provided that the following conditions be in place:

A. Access Area: The entrance`exit should be wide enough for public access and shall be in conformance to the Guam Highway Master Plan. Access area must be coordinated with DPW, Division of Highways, Rights-of-Way Section.
B. Signage: Under *21GCA Real Property, Chapter 61 Zoning Law (S. Erection of Signs:All permitted signs in such a manner as not to create a hazard to public safety or property and shall be resistant to wind, typhoon and earthquake and other natural disaster and it shall be based on engineering design on applicable section of the building Law of Guam.*
C. Elevator: Must be installed by a certified installer who has license to do business on Guam.

DPW recommends approval, subject to comments as reviewed by the Application Review Committee with conditions that prior to the building permit application, a complete set of design drawings must be submitted with all the engineering disciplines that are needed in the project and must comply with all the applicable rules, regulations and design drawings. Drawings must also conform to the latest building code requirements prior to issuance of the building permit.

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

BUREAU OF STATISTICS AND PLANS (BSP):
Has not submitted Position Statement as of Staff Report date.

GUAM WATERWORKS AUTHORITY (GWA):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF AGRICULTURE (DoAg):
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.

GUAM FIRE DEPARTMENT (GFD):
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
Guam Chief Planner

Attachments: ARC Position statements
CC: Executive Secretary, GLUC

GUAM POWER AUTHORITY

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

RECEIVED
Aug 23 2017
Department of Land Management
Time 1:40 Intl
FRANK T.

August 15, 2017

VMB 8/24

MEMORANDUM

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

From: General Manager

Subject: Lots 5060-1NEW, 5060-A and 5059-1NEW-A, Municipality of Tamuning, (Guam Reef Hotel, Inc.); Tentative Development Plan Application for a "GUAM" monument sign and a new exterior elevator. **Application No. 2012-42A**

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.

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-17-1335 .

VMB 8/24

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Guam Reef Hotel, Inc.
Location: Lot 5060-1NEW, 5060-A and 5059-1NEW, Mangilao
Type of Application: Tentative Development Plan
GLUC/GSPC Application No. 2012-42A
Brief Project Description:
For a "GUAM" monument sign and a new exterior elevator.

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, MAY NOT BE 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

8/21/17
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

The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO PUPBLEKO
Glenn Leon Guerrero
Director
Felix C. Benavente
Deputy Director

MB 9/22

RECEIVED
SEP 21 2017
245 PM
DEPARTMENT OF LAND MANAGEMENT
GUAM/GALU/GIAC

MEMORANDUM

To: Director, Department of Land Management

From: Director, Department of Public Works

Subject: Applicant: Guam Reef Hotel, Inc.
Position Statement: 2012-42A, Tentative Development Plan to Amend Site Amenities in an "H" Zone, Lot Nos: 5060-1NEW, 5060-A and 5059-1NEW-A

Buenas yan Hafa Adai! The above-named applicant is requesting to amend site plan and amenities. Site amenities are part of the guest package that centers on hotel accessory usage and activities that the hotel must provide for guests. The Guam Reef Hotel wishes to re-arrange and expand their guest amenities to include 2 (two) additional improvements.

The Department of Public Works ("DPW") has completed its review of subject application and has no objection to the request provided that the following conditions be in place:

A. Access Area: The entrance/exit should be wide enough for public access and shall be in conformance to the Guam Highway Master Plan. Access area must be coordinated with DPW, Division of Highways, Rights-of-Way Section.
B. Signage: Under *21GCA Real Property, Chapter 61 Zoning Law (S. Erection of Signs:All permitted signs in such a manner as not to create a hazard to public safety or property and shall be resistant to wind, typhoon and earthquake and other natural disaster and it shall be based on engineering design on applicable section of the building Law of Guam.*
C. Elevator: Must be installed by a certified installer who has license to do business on Guam.

DPW recommends approval, subject to comments as reviewed by the Application Review Committee with conditions that prior to the building permit application, a complete set of design drawings must be submitted with all the engineering disciplines that are needed in the project and must comply with all the applicable rules, regulations and design drawings. Drawings must also conform to the latest building code requirements prior to issuance of the building permit.

Should you have any questions, please contact Linda Ibanez in Charge or Maryrose Wilson at Division of Capital Improvement Projects ("CIP") at 646-3209 or 646-3224.

9/19/17

GLENN LEON GUERRERO

P. Carlos 9/21/17 Land Planning

LIbanez/MWilson
9/19/17

Department of Parks and Recreation
Government of Guam
490 Chalan Palasyo, Agana Heights, Guam 96910
Director's Office: (671) 475-6288
Parks Division: (671) 475-6291
Guam Historic Resources Division: (671) 475-6294/5
Facsimile: (671) 477-2822

Eddie B. Calvo
Governor
Ray Tenorio
Lt. Governor

William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to:
RC 2012-10508

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 19 2017
CLTC/GALC/GIUC

9/19

September 11, 2017

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2012-42A: Tentative Development Plan to Amend Site Plan and Site Amenities in an "H" Zone: Lot 5060-1NEW, 5060-A, 5059-1NEW, Tumon, Guam

We reviewed the subject application by FC Benavente Planners for conditional use of subject Lots and have no objection to the approval of the amended plan. However, subject lots will be subject to our position statement dated September 28, 2012 for all four stipulations mentioned pertaining to Guam Reef Hotel Inc. Tentative Development Plan. See attached position statement.

Should you have any questions, please do not hesitate to call us.

Sincerely,

William N. Reyes