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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

May 7, 2018

GL#34-18-1857
Speaker Benjamin J.F. Cruz

MAY 07 2018
Time: 248 [ ] AM [ ] PM File No.
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 are the Minutes from the last GLUC hearings of

1. Guam Land Use Commission; Thursday, February 22, 2018;
2. Guam/Hybrid Land Use Commission; Thursday, February 22, 2018; and,
3. Guam Land Use Commission; Thursday, March 8, 2018

Please call our office at 649-5263, extension 375 if you have any questions and/or require additional information.

Thank you.

Macrina Gortunez

2018 MAY -7 PM 4:00

1857

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

File for Record is Instrument Number 919516

on the Year 20 18 Month 03 Day 21 Time 10:10

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Janet Yamasaki
JANET YAMASAKI

Above Space for Recorder's Use only

COPY
Legislature

GUAM HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, February 22, 2018 – Hybrid Commission
1:40 p.m. to 5:12 p.m.

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning, Guam
Thursday, February 22, 2018

GLUC MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman
Mr. Victor F. Cruz, Vice Chairman
Ms. Conchita D. Bathan, Commissioner
Mr. Tae S. Oh, Commissioner
Mr. Hardy I.T. Vy, Commissioner

HYBRID MEMBERS PRESENT:

Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon
Ms. Melissa Savares, Mayor of Dededo
Mr. Jessy Gogue, Mayor of Ordot-Chalan Pago

STAFF PRESENT:

Mr. Michael J.B. Borja, Executive Secretary
Mr. Marvin Aguilar, Guam Chief Planner
Mr. Frank Taitano, Planner IV
Mr. Penmer Gulac, Planner IV
Ms. Celine Cruz, Planner IV
Ms. Grace Vergara, Planner II
Ms. Cristina Gutierrez, Recording Secretary

Excused: Legal Counsel Nicolas Toft

HYBRID LAND USE COMMISSION

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

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

AGENDA

Regular Meeting

Thursday, February 22, 2018

Department of Land Management Conference Room
590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning
[As advertised in the Guam Daily Post on February 15th and February 20th, 2018]]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, January 25, 2018

III. Old or Unfinished Business

Zone Variance

A. **Application No. 2017-25** Applicant, LZ Company represented by Mark Zhao; Height and Use Variance request, on Lot 5147-3-3NEW in an "R-2" (Multi-Family Dwelling) zone, in the Municipality of Tamuning. **[MCoG_DLM 2018-01] [Continuation – GLUC Hearing of December 14, 2017]**
Case Planner: Frank Taitano

IV. New Business

Zone Variance

B. **Application No. 2017-30**; Applicant, NPLJ, LLC represented by TRM Architects; request for a Zone Variance for Height for the proposed construction of six, seven-story multi-family residences (Dos Amantes Residences), on Lots 5040-11 and 5040-12, in "M-1" (Light Industrial) zone, in the Municipalities of Dededo & Tamuning.
[MCoG DLM 2018-03] Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

VI. Adjournment

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, February 22, 2018 • 1:40 p.m. to 5:12 p.m.

I. Attendance

Chairman Arroyo called the regular meeting of the Hybrid Land Use Commission for Thursday, February 22, 2018 to order at 1:40 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Mayor Louise Rivera (Tamuning), Mayor Melissa Savares (Dededo), Mayor Jessy Gogue (Ordot-Chalan Pago), Executive Secretary Michael Borja, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Penmer Gulac, Celine Cruz, Grace Vergara and Recording Secretary Cristina Gutierrez.

[Excused: Legal Counsel Nicolas Toft]

Chairman Arroyo the Commission is reconvening the Hybrid Commission MCoG DLM 2018-01.

II. Approval of Minutes

Chairman Arroyo noted that the first item on the agenda is the approval of the January 25, 2018 minutes. Members have received the Minutes; Chairman Arroyo was ready to entertain a motion.

Commissioner Bathan made a motion to approve the Hybrid Land Use Commission meeting minutes of January 25, 2018; subject to corrections of minor edits to be submitted to Cristina by close of business today.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo motion by Commissioner Bathan, seconded by Vice Chairman Cruz. There being no discussion, Chairman Arroyo puts the motion to a vote. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh and Vy, Mayors Rivera, Savares and Gogue], all opposed say "nay."

[Motion to approve the HLUC Minutes of January 25, 2018 was passed; 8 ayes, 0 nay]

III. Old or Unfinished Business

Zone Variance

A. Application No. 2017-25 Applicant, LZ Company represented by Mark Zhao; Height and Use Variance request, on Lot 5147-3-3NEW, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning. **[MCoG DLM 2018-01, Continuation from meeting of December 14, 2017]**

Chairman Arroyo asked of staff if there was any new information submitted for this application.

Marvin Aguilar refers to the last supplemental report dated December 7, 2017. There was direction from the Commission to Planning staff to inquire on capital improvement work that was to be done for Route 14B. Mr. Aguilar continues to read the supplemental staff report. [For full content/context, refer to attached report.]

On the inquiry as to whether the public notification was served accordingly, Mr. Aguilar presented a Supreme Court ruling to Mr. Toft where the Supreme Court overturned the lower the Court's determination that public notification was specific to the Zoning Law; it was specific to variances and did not apply to zone changes or conditional use applications. Therefore, notice to landowners within the 500-ft radius from the project site was properly satisfied.

[Attachment A – Supplemental Staff report dated December 7, 2017]
[Exhibit 1 – Supreme Court Ruling]

Chairman Arroyo in the Minutes of the Tamuning MPC meeting of October 5, 2017, it notes that the MPC does not support the development.

Questions for staff.

Commissioner Oh for clarification; on the notification requirements, the Court ruling states that for any zone variances for conditional use public notification is not required.

Marvin Aguilar public notification with respect to notifying property owners within 500-ft is not necessary for use variances as opposed to a conditional use permit or zone change.

Chairman Arroyo [no additional question of staff] Chairman Arroyo opened the floor to the applicants, and asked that they state their names for the record.

Mark Zhao (with Dr. Peter Lombard)

Chairman Arroyo a couple of issues that came up have been addressed. Where the Commission left off was the applicants' justification for the height/use variances based on the law, and the need for the applicants to strengthen that. Some of the answers provided did not seem to be strong enough to justify the request being made. There are certain conditions under which the Commission can grant a use and height variance to include special conditions regarding the property, issues with the property that makes it unique.

Mark Zhao explained to the Commission that the property is long, narrow and rectangular in shape. It is difficult to place the building on the lot. Mr. Zhao explained that if they stayed with the 3-stories, more land space will be taken up. This will be a problem for proper ingress/egress; secondly, the issue of parking. Mr. Zhao stated that they want to ensure that sufficient parking is provided for the project. A total of 108 parking spaces has been identified in a land area of less than an acre. Thirdly, to ensure that all utility requirements from the government agencies are met and addressed. They will be placing a water tank and creating drainage within the property. Mr. Zhao strongly feels that building up was the only way to make this work.

Dr. Peter Lombard the location of the property is ideal for the purposes of the business, and to be able to provide long, temporary hotel stay for medical patients is an ideal location; close to the airport, close to the hospital. They are limited in their resources, and if they wanted to make best use of the land, preservation of green space and aesthetics it requires them to have a modest height variance for that purpose.

Chairman Arroyo one of the other issues had to do with the construction of the road, and what the applicant had requested was that the construction of this project coincide with the road construction. There was discussion on whether or not that was feasible and/or beneficial to the residents that live in the area and use that road on a daily basis. Chairman Arroyo asked Mr. Zhao if they received a copy of the MPC's resolution.

Mark Zhao responded that they did not receive a copy of the resolution; but, Dr. Lombard was in attendance at the last MPC meeting.

Chairman Arroyo asked Mayor Rivera to mention the concerns of the MPC members.

Mayor Rivera the applicants were invited to the meeting to state their case on overturning the decision that had been made by the MPC. Invited to the same meeting was the Director of Public Works and the planners for the road construction. The information received from DPW at this meeting was not enough for the members of the MPC to overturn their decision; DPW did not provide any information as to when road construction will begin. Council members have stated that all development has to stop until the government fixes YPao Road. Mayor Rivera adds that many promises have been made in the past to resolve the issues with the road, but never kept. This is a good development for the services that they will be providing; but, the MPC is firm on stopping all development until the road is repaired. Mayor Rivera conveyed, on behalf of the MPC and residences of YPao Road, not to move forward with this application.

Chairman Arroyo asked Mayor Rivera if this was a federally funded project, and what type of problems was the MPC anticipating.

Mayor Rivera it is a federally funded project; but, it also goes back to acquiring the properties. Now, that the condemnation is complete they can move forward. The majority of the MPC was not to support the project.

Chairman Arroyo it seems there really isn't any roadblocks to prevent the repairs to YPao Road; it is federally funded, the government now owns the properties needed, there is a start date. Is there anything out in the horizon that the Commission is not aware of that may cause the project not to proceed or for the construction not happen or delayed.

Mayor Rivera not that she was aware of. Mayor Rivera reiterated that it was the Governor and the Director of DPW that stated that the project will move forward; but, the residences do not trust the word of the government because it has been promised before, and for this reason it not being supported at this time. Mayor Rivera asked if the Chairman would allow one of their advisors and a community member as well, to speak on this project.

Chairman Arroyo public comment period was closed at the last meeting; however, because of the new information received, Chairman Arroyo will reopen for public comments.

Any other questions?

Commissioner Oh before the Commission are private property owners who wish to bring a great service to the island. It is a great idea what they are trying to do; but, because of failures that is present within the government's system, we are holding a private citizen hostage to a project that they wish to move forward on. Commissioner Oh stated that he was not comfortable with this. Secondly, is the MPC aware that the applicants are not asking for a density variance. The applicants can currently build what they are planning on building, within three-stories, and this will dramatically increase the footprint. If the footprint is increased egress/ingress would be worse.

Mayor Rivera the MPC is well-aware of this.

Mayor Jessy Gogue asked if it was common for the GLUC to hold meetings without the presence of Legal Counsel.

Chairman Arroyo there was a period in time when Legal Counsel was not assigned to the Commission, and not uncommon that Legal Counsel is not represented at meetings.

Mayor Gogue secondly, is there a reason why the court ruling on Sablan versus GLUC was brought up. The whole idea of notification was because the approval of this Younex project was done by the Legislature; some of the standard requirements for an application for variances, for notification versus something that is approved by the Legislature.

Marvin Aguilar you are referring to the Legislature .....

Mayor Gogue the Legislature handled the request from the landowners to grant the variance.

Marvin Aguilar no, they made reference to the Legislature with respect to them granting or approving the Zoning Law.

Mayor Gogue understands Mayor Rivera and the MPC's concern. He expressed that he tends to be very critical of applications that come in and may have a potential impact to the surrounding community; and, trying to ensure that the health, safety and welfare of the community is not at risk when large projects are proposed. Mayor Gogue added that this is a rare case where he agreed with the Commission. His concern is that the applicant is limited to three-stories high, and they have not asked for an increase in density. The applicant is authorized up to 32 units but proposing only 26 units and using the balance for commercial space. By keeping it down to three-stories they will have less green space, less footprint for parking; the applicants can build up to three stories without the approval of the GLUC. Potentially what could happen is once their customers have exhausted all available parking on the property they will begin parking on the shoulders of YPao Road making the situation even worse for the residents who traverse the road on a daily basis. By building up, this provides the applicants with the means of maintaining more green space and additional parking. The question he asked was what will residents say in 10 years from now when the clinic is doing well with road-side parking due to lack of parking.

Mayor Rivera this is already happening in the community. Mayor Rivera wants to know who is the enforcing authority is to ensure that conditions placed by the GLUC are followed. The MPC will not improve any new improvements on YPao Road until the road is fixed. At the last meeting, the applicants were invited to the MPC meeting; Dr. Lombard was in attendance and brought the request up before the Council, however, again, the Council voted not to support the project.

[Lengthy discussion ensues on development in Tamuning and the development before the Commission]

Chairman Arroyo the Commission takes the MPC's comments into very serious consideration; however, the decision ultimately lies with the Commission who will make a decision today.

Commissioner Oh the MPC's opinion has been put out, but ultimately, that is why this Board exists to make that decision whether to follow the MPC's decision.

Mayor Melissa Savares (Dededo) at the very first meeting for this application, the question that was asked was the position of DPW, and how far along they were on the plans for the expansion of this roadway. Since then, information has been received; plans are eighty-percent complete, not ready for bidding but the design is completed.

Mayor Gogue the creation of the hybrid commission was to allow Mayors to interject. If the MPC is not in support of a project, he as a Mayor will support what the village of Tamuning wants.

Chairman Arroyo did not believe that the MPC was saying no to the variance application, rather they are saying no to the simultaneous start of the road construction and of the project. Chairman Arroyo asked of Mayor Rivera if the MPC was not going to support the project until after the road construction was completed, and that the MPC will not support any other projects along that road until the road construction is completed.

Mayor Rivera until the road work has begun.

Chairman Arroyo the MPC did not say no to the variance request, but they said no to the start of the construction until construction begins for road repairs.

Mayor Gogue in the proposed Notice of Action it notes that should this project be approved; the applicant will not break ground until the project was placed for bid. This was discussed at the MPC meeting and their decision was still no to the project. And was not sure that the statement Chairman Arroyo made was completely accurate.

Chairman Arroyo explained that he was inferring from what he had read in the resolution that it did not directly say no to the applicant's request for the variance.

Vice Chairman Cruz it will take approximately eight-months to start clearing for building permits if this project is approved today. Vice Chairman Cruz stated that he was not totally supportive of the MPC's decision to stop everyone who will have projects in Tamuning, Tumon. How will it be stopped; how will it be controlled. As a member of the Commission, Vice Chairman Cruz stated that he will not accept the decision of the MPC because it will hold eighteen villages hostage at

the same time if the Commission chooses to accept the MPC's decision on this project. Developers hands will be tied, and reiterated that he was not in support of the Council's decision.

Mayor Rivera the Council is aware of this, and that the MPC's Resolution is a tool that this Commission uses to decide on a project. Mayor Rivera asked that the Commission takes into consideration the concerns of the Tamuning MPC and its residents.

Chairman Arroyo there being no additional comments and/or questions, Chairman Arroyo reopened the floor for public comments.

Jay Arriola (Resident of YPao Road) in a number of occasions where there are developments proposed for Ypao Road, and the residents of Ypao Road have attended the various meetings that the Mayor has hosted, the residents have been informed on what is happening with this proposal. Mr. Arriola made it clear that the residents are unanimous in their opposition to a height variance for this project site, and for this development. Not now, nor when Ypao Road starts construction nor when Ypao Road project is completed. A six-story hotel, commercial development does not belong in this area. How will this developer bring in the trucks, materials at the same time DPW is trying to pave this road. The villages of Yona and the south are very capable of making loud noises to this Commission when their air spaces are invaded; the people of Tamuning can be just as loud. Mr. Arriola is very grateful to the Mayor of Tamuning for presenting the position of Tamuning residents before the Commission. He stressed that the decision of the residents have always been unanimous at all meetings. The only residents who are in support of this project is their neighbor who is proposing it. Even if the road is fixed it will not resolve the issue of congestion in that area; the road is overburdened; it is overly "densified." Mr. Arriola states that the problem is, who allowed it to be so, who allowed all this development to be approved without the roads being fixed. He states that it was this Commission who caused the problems. In Governor Felix Camacho's first term in office, sixteen years ago, his priority for road improvement was Ypao Road; and sixteen years later, it still has not been improved. The whole development of Ypao Road and the permission to present this development should not be contingent on if and when Ypao Road is developed. The development does not fit it, it is a sore-thumb, it is a six-story hotel; drive along this road and there are only two and three-story buildings. Mr. Arriola stated it does not fit in. Why does the developer want a hotel at this site? It is because *"they want to tower over Talo Verde and look at the ocean!"* He goes on to say that the developers bought this property knowing the zoning, the size, and everything else about the property. "*If the property was bought contingent on building a six-story and only by my way or the highway, six story hotel, we don't want to listen to the residents, and just comply and build three stories." If this is really a commercial complex, medical complex/condominiums/hotel, whatever it is, we all know it's really a hotel."* He feels that there are enough hotels in the area and these hotels do not have enough parking at these hotels and this the reason for people parking on the street.

He represents a number of residents because it is discussed all the time. They are in support of development, thanks all developers for the taxes and all the jobs that it brings; but, when it comes to things like this where you knew the issues with the property, "*please don't come here and hood-wink us, and think that his all we can do with it."* For the developer to make claims that they are restricted with their property rights by the MPC or Land Use Commission is simply a falsity statement. The property was bought knowing what can or cannot be done. Change the plans. The most significant point that Mr. Arriola wanted to make was it was this Commission that

promised the residents ever since that an occupancy permit will not be issued until the road is done. A six-story hotel simply does not fit in, it will stick out like a sore-thumb. The worse thing is that with other projects that move on they become concrete, abandoned structures that make their homes worthless. In closing, Mr. Arriola asked that the Commission seriously consider the position of the residents whose homes, lives and height is impacted by this height variance application.

Chairman Arroyo seeing no additional public comments, Chairman Arroyo closed the public comment period. Invited the applicants back to the table.

Mark Zhao commented on the following:

1. When the property was purchased they did not expect to build a six-story structure. Dr. Lombard and Mr. Zhao's daughter were trying to lease clinic space, and it was Mr. Zhao's idea to develop a clinic and lease other portions of the space. Mr. Zhao studied the area and next to this property towards Talo Verde, a flooding issue was already present and further back was a big ditch, and this was the only property available for development. The original size of the property was bigger; however, the owners wanted to re-subdivide the lot and the owners gave them this very narrow portion of the re-subdivided lots. Mr. Zhao noted that the frontage was still about 100-feet and agreed to the purchase because he felt they can still develop. This was the true situation and not because they had originally intended to build a six-story structure. The restraints from various areas forced them into this situation.
2. It was the developer's intent to build a clinic and not a hotel. The hotel idea came in after discussion with Dr. Lombard and the type of surgical service he provides not only to Guam, but to off-island patients. The idea was to allow for space in the structure for patients to stay after surgery. It was a small project that expanded to a larger project.
3. Regarding the Mayor's, MPC, Mr. Arriola and residents' concerns; DPW has already issued an RFP for the engineering and construction management contracts. What this tells them is that the repairs to Ypao Road is starting.
4. Mr. Zhao does not agree with the statement that the building will be an eye-sore. The building will be built with a good design and it will increase the value of homes in the area.
5. On the view – the design that is being proposed will not block view corridors; to the back are single family homes; Ironwood is to the other side of the property and this building will not block them; and to the front of the property are all two-story structures. View corridors will not be blocked.
6. This is development is for the purpose of a clinic, create value for the development and this is not so much to ask.
7. It is an honest project. In closing, Mr. Zhao did not agree with the MPC's decision. This decision is hard to accept and *"this kind of attitude, I think, is not good."*

In closing, Mr. Zhao did not feel that they are doing any "harmful" to the community by building this development, and asked for the Commission's consideration.

Dr. Peter Lombard all the great points have all been brought up and did not have anything to add to this. Dr. Lombard states that he makes regular visits to Saipan and has some patients who wish to be treated here on Guam, are at loss without a place to stay. As Mr. Zhao stated, it

was not the intent to find a property and to build a hotel. They did not think that the zoning for this area for the types of businesses that are allowed there, and all they can do is to try to mitigate the impact as much as possible. This is their true and humble intent. Dr. Lombard thanks the Commission for their time and defers to the Commission's judgement today.

Chairman Arroyo any questions or comments.

Commissioner Oh mentions that he is a resident of Ypao Road. In his opinion, he did not feel that this development will not be an eye-sore. At a recent annual homeowners' association meeting that was held. Commissioner Oh brought this project was brought to gage the opinions of the residents of Talo Verde; no one was against the project, and it seemed like a lot of the residents supported the project. Commissioner Oh stated that on behalf of some of the residents at Talo Verde, he thinks that this is a great project. This project will add value to the area, and supports this project. When it comes to the use of the lot, the Commission has to consider whether or not this will be a benefit to the community. If the Commission denies this project, how will it impact the community, will it negatively impact the community and this was discussed sufficiently enough today. The Commission members have to consider all these factors.

Mayor Gogue part of the zone law requirements is that when projects like such as this take place, heard and commented by the community; the Mayors are supposed to consult with their MPCs. Mayor Gogue would like to think that the Council is not just residents of Ypao Road, but should come from every corner of that district so that there is a good representation of intelligent people sitting on councils and advising them on the current state of the village and the way they would like to see their village evolve. Mayor Gogue states that he scrutinizes projects very carefully; but, the bottom line as Mayors, they do not put pen to paper and sign a resolution if it is not truly supported by what the community wants.

Mayor Rivera thanked Commissioner Oh on informing the members on the meeting with the homeowners. Many homeowners from Talo Verde have been invited to MPC meetings. And from what she has heard they are using this project as an experiment because many homeowners who live in Talo Verde, business owners, would like to do the same thing. Once this application is approved and it will become a domino effect, and for this reason Mayor Rivera states that is why it has to stop. Residents are against this application and asked that the Commission takes this into consideration.

Chairman Arroyo there being no further comments, Chairman Arroyo stated that there is an application on floor and needs action. Chairman Arroyo called for a 10-minute recess at this point.

[Commission recesses at 2:55 pm and reconvened at 3:05 pm]

Chairman Arroyo called the meeting back to order. Noting that there were no additional comments and/or questions, Chairman Arroyo asked for a motion to be put forward on the application.

Michael Borja (Executive Secretary) before a motion is made, Mr. Borja reminds the members that a quorum under an empaneled hybrid commission shall consist of five members; votes

needed for a hybrid commission is five affirmative votes is required for approval of any commission action in this land use matter.

Commissioner Oh Mr. Chair, I move to approve the applicant LZ Company represented by Mark Zhao; Height and Use Variance request on Lot 5147-3-3NEW, in an "R-2" (Multi Family Dwelling) zone in the municipality of Tamuning; with the following conditions:

1. Applicant complies with all Commission and ARC conditions and all permitting requirements;
2. Applicant must insert a landscaping plan that expresses open space to encourage green space and shade cover. The plan must be prepared by a certified, licensed landscape design to institute best management practices for the containment of storm water runoff and 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; and,
3. Applicant shall secure approval from appropriate agencies regarding proper storm water retention during the design and planning to prevent any contribution to current flooding issues in the immediate area.

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

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by the Vice Chair. Discussion on the motion.

Commissioner Bathan since the applicant indicated that the upper three stories of the project is going to be a hotel, will the applicant be required to add the ten-percent of the construction cost to be dedicated for landscaping.

Frank Taitano that provision only exists in the hotel zone. Mr. Taitano states that this provision is at the discretion of the Commission. Chief Planner Aguilar adds that in this case, the recommendation is that landscaping is required.

[Discussion ensues]

Mayor Savares the request was for a six-story height variance. The DPW memo states that they are at 80-percent complete on the road expansion project. And if this application is not approved for the six stories can they still build the three-story structure.

Chairman Arroyo if the vote does not pass they can build within regulation. Are there any other comments, discussion on the motion. [None noted]

On the motion, all in favor of the motion please raise your hand [Vice Chairman Victor Cruz, Commissioners Oh, Bathan and Vy], all opposed say "nay."

Chairman Arroyo states that there are only 4 ayes and 3 nay.

Mayor Gogue the Chairman can only vote on a tie ---

Chairman Arroyo I am sorry, there was not enough votes to pass the motion; so, the motion fails.

[Applicant's request was disapproved with a vote of 4 ayes, 0 nay]

Chairman Arroyo a request has been made to reconvene the regular Land Use Commission; then we will continue the next hybrid commission after.

[Chairman Arroyo reconvenes the second Hybrid Commission at 3:22 p.m.]

Present for Hybrid Commission MCoG DLM 2018-03 were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Mayor Louise Rivera, Mayor Melissa Savares, Mayor June Blas, Executive Secretary Michael Borja, Guam Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz, Grace Vergara and Recording Secretary Cristina Gutierrez.

Chairman Arroyo the next item on the agenda --

IV. New Business

Zone Variance

B. **Application No. 2017-30**, Applicant, NPLJ, LLC represented by TRMA; request for a Zone Variance for Height for the proposed construction of six, seven-story, multi-family residences (Dos Amantes Residences) on Lots 5040-11 and 5040-12, in an "M1" (Light Industrial) zone, in the Municipalities of Dededo and Tamuning. [MCoG DLM 2018-03]. Case Planner: Frank Taitano

Frank Taitano reads the staff report to include purpose, facts, staff analysis/discussion, public hearing results, recommendation, conditions. [For full content of report, see attached report]

[Attachment B – Staff Report dated February 9, 2018]

Chairman Arroyo questions for staff.

Michael Borja questions the number of visitors' and ADA parking available for the development. He notes that out of 853 parking stalls, only 10 are available for visitor's parking and 3 for ADA. Mr. Borja asks how many units for the entire complex.

Frank Taitano responds that as proposed by the applicant, yes; and, that there is a total of 420 units.

Chairman Arroyo there were no additional questions noted, Chairman Arroyo opened the floor to the applicant.

Michael Borja for full disclosure asked if there were any disclosures from members of the staff who are related to this project.

Frank Taitano notes that there is, and not present at this meeting.

Michael Borja the Chief Planner has direct interest in this project and is a member of his staff.

Frank Taitano stated that Mr. Aguilar has vacated his position for this application.

Chairman Arroyo noted for the record that Chief Planner was not present for the meeting. Also, for the record, PowerPoint presentation submitted by the applicant's representative.

Mike Makio thanks the Board for meeting with them today to present the application. Notes the points made by Mr. Borja on ADA and visitors' parking. Also with Mr. Makio today was Mr. David Leon Guerrero who is a Planner and Designer at his office. Mr. Makio continues with his presentation which includes the following:

1) Project background – the property is a total of 17.14 acres. The significance of this property is that it is part of a federal excess land return. Among one of the challenges were the finding of brownfield contamination;
2) Property map; Ariel views of the project site; this project is located in Ukkudu and not along the cliff line;
3) Mr. Makio explained that there are visitors' parking and the visitors' center parking and distributed; there are a total of 36 visitor's parking and 8 visitor's spaces in addition to this number;
4) Discussion on density;
5) Project characteristics; entrance view, isometric view, renderings including street view, plaza view. Mr. Makio explains smart growth/sustainable principles were applied in the masterplan to create a neighborhood environment with onsite services, recreation and exercise amenities;
6) Additional renderings of two rock gardens; playgrounds, pool, sports courts, and drawings of garage/ground level and the units;
7) Collaboration with agencies (for full content/context for this item, refer to attached Exhibit). GWA was clear that the developer would have to anticipate that the quality of the connections may not be great. The project can be built in phases and they will build as the infrastructure becomes available. Phase I would be setting up the infrastructure, the first building and the community center, bring in Phase II, etc. in order to keep in line the availability of the infrastructure. GWA has acknowledged that they have the amount of capacity to bring in this project; the entire Dos Amantes area is a drainage plateau and has to go somewhere. It the developer's responsibility to catch it, contain in, percolate it, and manage it onsite.
8) There are at least three viable entrances and exits to and from the project site. There is a 4th one that will lead out towards Route 3, NCS direction. All the agencies had no issues with the development as it has been proposed;
9) Summary on the need for height variance. There is one level of covered parking and remaining levels are the residential levels; it is a height variance and a request for additional floors.
10) Additional discussion on the request for height density.

[For full content/context of the power presentation, please refer to attached exhibit.]

Chairman Arroyo any questions or comments.

Vice Chairman Cruz is maintenance parking shown on the rendering.

Mike Makio it's in the total count for parking.

Vice Chairman Cruz complimented Mr. Makio on a very good presentation.

Mayor Savares appreciates Mr. Makio for providing his presentation. This gives the members a clear idea of what will be on the property. Mayor Savares met with the family a few weeks ago while discussing the GPA power plant. They are pleased with the project because development is needed in this area and it is not impacting any immediate villages. This project is acceptable with the MPC. They are still waiting for additional agency reports before the Council makes a decision.

Mayor Savares asked the question whether there were any plans on catchment and to reuse the water.

Mike Makio has done a lot of rainwater catchment all around the island. We are dealing with an ambitious landscape plan for this project. It should be absolutely part of the program.

[Discussion ensues]

Mayor Savares solar panels will be difficult for the seven story structures; but, perhaps solar panels can be used at the community center, pool area, or just to light up the lights. Can reusable energy be used rather than depending on the power plant.

Mike Makio absolutely.

Mayor Savares the road leading to Route 3, and in this particular on the property there are many roads that you cannot to. Will the development be expanding the road leading to the ranch or will DPW?

Mike Makio the word from DPW was that they were already planning on some expansion of the area.

Mayor Savares before making a decision on this application, Mayor Savares and the MPC require additional agency position statements.

Commissioner Bathan how wide are the roads going into the property.

Mike Makio there is a turnaround entrance and that is the road that will take you into the direction of Two Lovers' Point.

Vice Chairman Cruz how wide is the travel portion rather than the width of the easement.

Mike Makio for the first phase of the development they are looking at the 24 plus the landscaping buffers on the right and left sides; you will take up the full 40-feet. Ultimately down the line what will happen is that the strip that is adjacent to the road is actually the applicants for development as well.

Michael Borja the easement for the adjacent lot is much narrower. Inquired if all the lots surrounding this project site are zoned M-1 and owned by one family.

Mike Makio responded that he believed that they were all zoned light industrial and it's a group.

[Discussion ensues on road width.]

Vice Chairman Cruz when turning left it takes you to the next road, will that impede Lot 10 from accessing it.

Mike Makio page 4 of the application explains the traffic impact studies, and calculations are done. What is looked at is the various intersections points and determining how much each of those intersections can handle.

Vice Chairman Cruz how will you access for infrastructure.

Mike Makio infrastructure; Lots 11 and 12, domestic utility plan which will come along the easement. Waste water will use the easement located to the east of the property.

Vice Chairman Cruz will other landowners be able to connect to the system.

Mike Makio yes, GWA recommends the upsizing of capacity.

[Discussion ensues]

Commissioner Bathan will the two lots be consolidated.

Mike Makio yes.

Commissioner Oh this project will be built in phases. Has it been determined how many phases.

Mike Makio the first phase is primarily the infrastructure, community center and the first building. Those pieces together constitute the first part of the development.

[Lengthy discussion ensues on cost of Phase I, road improvements, selling/rental of the units, meters, utilities. It was explained that GWA has requested individual meters for all the units, bus shelters for the children.]

Chairman Arroyo your MPC is in support of this application.

Mayor Savares stated that the MPC supports the application, and has been asked by the Council to proceed with the approval of the application.

Chairman Arroyo if there are no other questions or comments, I will open the floor for public comments.

Public Comments seeing no public comments, Chairman Arroyo closed the public comment period.

Chairman Arroyo any other comments before we proceed with a vote.

Mike Makio talks about smart growth, and this development is a step in the right direction.

Chairman Arroyo noted that there were no other comments, Chairman Arroyo was ready to entertain a motion.

Mayor Savares the project does not impact the main village, and Mayor Savares thanked Mr. Makio and the applicants for their vision.

Chairman Arroyo with that being said Mayor Savares, are you ready to put forward a motion.

Mayor Rivera the second public hearing was at Tamuning along with the MPC members who unanimously are in favor, and fully supports the project.

Mayor Savares motions to approve Application No. 2017-30 for the applicant NPLJ, LLC represented by TRM Architects for a zone variance height request for the proposed construction of six, seven-story multi family residences (Dos Amantes Residences) on Lots 5040-11 and 5040-12, in an M1 zone in the municipalities of Dededo and Tamuning.

Chairman Arroyo would you like to place any conditions on your motion.

Mayor Savares no conditions at this time.

Chairman Arroyo there is a second.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by the Vice Chairman. Discussion on the motion.

Commissioner Oh suggested that the conditions as recommended by staff be applied to this application.

Chairman Arroyo you would like to amend the motion. Can I have your amendment –

Commissioner Oh the amendment with the following conditions:

1. The applicant shall adhere to all the ARC conditions and requirements as stipulated in their official position statements; and,

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

Chairman Arroyo there is a motion amend the motion.

Mayor Rivera seconds the motion.

Chairman Arroyo no discussion noted on the amendment, the motion was put to a vote; all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh and Vy, Mayor Savares and Mayor Rivera]

Motion to amend passes unanimously.

Chairman Arroyo on the main motion, any discussion. [Note noted] On the main motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Oh, Bathan, Vy, Mayor Rivera and Mayor Savares]

[Motion passed unanimously; 7 ayes, 0 nay]

V. Administrative and Miscellaneous Matters [None noted]

VI. Adjournment

Chairman Arroyo unless there are any other matters under the Hybrid Commission, can I get a motion to adjourn.

Commissioner Oh makes a motion to adjourn today's hybrid commission meeting, seconded by Commissioner Bathan; with all in favor.

The regular meeting of the Guam Hybrid Land Use Commission meeting for Thursday, February 22, 2018 adjourned at 4:40 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam/Hybrid Land Use Commission

Date approved:

March 8, 2018

Transcribed by:

M. Cristina Gutierrez, Recording Secretary

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

February 9, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2017-30, Zone Variance for Lot Nos. 5040-11 and 5040-12, Municipalities of Tamuning and Dededo.

1. PURPOSE:

a. **Application Summary:** The applicant, NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects is requesting for a Zone Variance approval for height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on Lot Nos. 5040-11 ad 5040-12, Municipalities of Tamuning and Dededo.

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

2. FACTS:

a. **Location:** The subject site is within the subdivision of Lot 5040 located along Route 14 (Tanguison Beach Road) approximately 2,000 feet from the junction of Route 14 and Route 1.

b. **Lot Area:** 34,696 SM (Lot 5040-11) + 34,696 SM (Lot 5040-12) = 69,392 Square Meters or 747,000 Square Feet.

c. **Present Zoning:** "M-1" (Light Industrial) Zone.

d. **Field Description:** The lots are presently vacant and fairly flat with small to medium size trees and ground cover as dominant vegetation.

e. **Masterplan:** Light Industrial as per Official Zoning Map F3- 67S52

f. **Community Design Plan:** Undesignated

g. **Previous Commission Action:** February 28, 2008 (Conditional Approval of the Dos Amantes Land Use Master Plan and Zoning Map)

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** May 9, 2017

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

c. **Public Hearing Results:** November 28, 2017 (Tamuning) and November 29, 2017 **(See Attachment "A")**

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the zone variance request for height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on the subject site. The variance requested is to construct six (6) multi-family residential structures 45 feet and 4 stories above the allowable 30 feet and 3 stories height. The proposed six (6) residential structures is to accommodate 70 dwelling units each for a total of 420 units. Two (2) parking stalls are to be provided for each dwelling unit and of the total 840 stalls, 312 stalls are to be covered parking stalls located on the ground (1^{st}) floor of each six residential structure at 52 stalls per structure. The development also proposes to provide 10 visitor parking stalls and 3 ADA accessible parking stalls for a total of 853 parking stalls on site.

Also included in the proposed development is an accessory commercial building to house a community center, a food service area, a day care, 4 small scale residential business areas, storage area and restrooms. In addition, a swimming pool, 4 pavilions, a basketball court, a tennis court, a playground area and bicycle racks are to be provided.
In reference to storm water, the proposed development will provide an approved storm water retention system and appropriate landscaping to address the onsite storm water runoff.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, 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, 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, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and 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.

In response to;

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 allowable density for the site is 598 dwellings. The Planning team laid 598 units on the site plan and found that the dwellings combined with the required parking would cover over 92% of the site. The design team determined that covering the majority of the site with concrete and asphalt would result in a poor precedent for subsequent projects. Further, a development that provides no open space, landscape or outdoor fitness and recreational facilities would provide poor character and poor quality of life. The variance application for height and for additional stories, resulted from designing numerous conceptual layouts aimed at increasing open space and providing recreational amenities.
Additional steps to improve the quality of life include reducing the number of dwellings to 432 units and by placing parking on the ground level of each building we increased the open space ratio even more . As presented the team is proud that we have exceeded 70% open space in the proposed multifamily neighborhood.
Additional, building height and number of stories for the residences allows us to capitalize on smart growth features such as maintaining open green space, properly gathering and treating storm water, using green space to mitigate heat buildup and provide amenities of pools, exercise areas, playgrounds etc.

The Ukudu area was Masterplanned with the intent to allow for multifamily and multiuse development. The benefits of this approach are the provision of more open, landscaped green spaces and areas for community interaction. Therefore our design includes taller structures to reduce the footprint of the multifamily homes on the property resulting in a much higher ratio of open space to developed space. Communal spaces will include playgrounds, play courts, pools, walk/ jogging paths, BBQ pits and shelters and a banquet hall.
Residence services will include barbershop, hair/nail salon, postal service, convenience store, pharmacy outlets, day care, business center and coffee/tea/pastry shop.

In response to;

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 that;

Because this is one of the first multi-family residential developments in Ukudu we are at the forefront of addressing issues on a remediated and a "returned" property site.

Because of the lack of existing development and the real need to establish efficient use of infrastructure and an environmentally responsible solution that preserves open space and mitigates the effects of erosion the property faces exceptional circumstances. The properties were part of a Record-of-Decision return of federal excess lands to original landowners and for years the land had been used for quasi-military purposes, some of which created contamination that required remediation.

The properties were in fact mitigated to the satisfaction of EPA and local governing authorities. However several design steps were taken to mitigate unforeseen environmental challenges that may occur in the future and to allow for further natural remediation of impacts to the site.

1. Raising the homes off the ground so that there was no direct contact between the homes and the ground.
2. These conditions contributed greatly to the decision to utilize the multi-family housing in a manner that allows the site to continue healing with fresh air moving between the residences and the ground.

3. To stack the residential floors in a taller configuration and using 6 structures so that driveways, sewer lines, waterlines, electrical and data/communication lines can be grouped efficiently and avoid creating a large (inefficient) web of utilities

It would have been a mistake to cover the site entire site with closely spaced homes and parking which traps environmental issues below the surface and exacerbate problems with a web of inefficient infrastructure, hard surfaces and unnatural erosion control.

The environmental remediation and the work from the Record of Decision related to the return of the property affected many of our planning decisions for this residential neighborhood. Including the desire to minimize the number of homes and direct contact with the ground level itself. Lifting the dwellings up off the ground reduced any possibility of latent or long term contamination by allowing fresh air to circulate through the ground floor helping to neutralize conditions like radon.

As there are no multifamily residential homes of this scale in Ukudu. We want to set a positive example in this regard

Landscaping and lighting will run along the entire green space promoting pedestrian friendly & safe sidewalks. Sustainable design features such as direct day lighting, passive ventilation, and will be incorporated into the design of the project. Each unit will have taller low-e windows allowing daylight penetration deeper into the space, minimizing the need for artificial lighting.

In response to;

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 that;

The request for the variance application is based on improving the quality of life for the public.

As mentioned earlier, the allowable density for the site provides for up to 598 homes. The multifamily residential neighborhood project is pursuing only 432 homes with this project.

Providing 598 homes would essentially cover the entire site with buildings and roads. If the homes were built with the conventional height limits, the quality of life for the residences would suffer and the project would serve as a poor example/precedent for future neighborhoods. Without the height variance infrastructure would be a dense web.

Multi-family housing as proposed provides much more efficient use and distribution of utilities when compared to low-density development. Multi-family housing allows for greater control of infrastructure and reduces the instances and cost of maintenance — where fewer lines result in few line repairs.

The proposed project does not abut any adjacent neighbors and conforms with all required setbacks as stated the Guam Code Annotated.

- Being one the first residential development in the Ukudu will make for safer locations with neighborhood residents monitoring activities in the area. Currently the area is undeveloped with numerous dark spaces at night, which, promotes crime and unwanted activities.
- The Dos Amantes Residences provides jobs and tax revenue to the GovGuam , helping to raise property values and the tax base. Property values for neighbors would benefit with the proposed project and spur community growth in a location previously under developed.
- This project approach enables easier connections to sewer, water and electricity infrastructure, with fewer lines serving more families.
  The plan for the multi-famiily residential neighborhood preserves open space for natural percolation of rainwater, helping to recharge the water lens.
- The proposed project is locally owned and its multi-use features which will support independent living for seniors and reduction on vehicle reliance and related problems from fossil fuel reliance and air pollution. Neighborhood scale businesses such as convenience stores, fitness spaces, daycares, pharmacies, mail service and established mass transit stops help seniors and the mobility impaired carry on their day to day activities.

In response to;

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

The applicant provides that;

Although our project site at Ukudu is an M-1 Light industrial site, it does have compatible intent with Tumon's H-zone. The intent of GCA Section 61311 could apply to Ukudu , wherein Commercial uses are allowed including hotels, motels and tourist accommodations. "This Zone provides for high intensity development in compatible arrangement of structures and uses in a unique setting. It shall be designed to promote a superior level of convenience, comfort, and amenity within the zone; to encourage safe and pleasant pedestrian circulation; to preserve existing attractions; assure beneficial relationship from principal viewpoints.

- Both Smart Growth Planning and the Northern and Central plans from BSP encourage taller multi level buildings to preserve open space and reduce built footprints on the ground. To protect and maintain recharge for our Northern Water lens.

- The multifamily residential development complies with the M-1 Light industrial Zone (and allowable commercial conditional uses).

- EPA & OSHA air pollution and erosion prevention standards will be met. Contractor will be required to comply with all standards before, during, and after construction.

- The outdoor signage will conform to the IBC 2009 and GCA Chapter 61, Part 5 Sign Regulations.

- Parking will comply with GCA Part 4 Section 61531 with 900 spaces that includes AQA & visitor parking.

- No public resources will be blocked from the project site.

- Local landscape will be incorporated in throughout the project.

- The plaza of the project will promote pedestrian circulation with the development.

- The 432 unit residential project will have a minimal noise, light, and traffic impact of the surrounding areas.

- Lighting will be dedicated to low levels along the sidewalk and noise will be kept within each residential unit. Rehabilitating a blighted property.

In response to;

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 that;

Public Access to beaches are unaffected by this development.

As presented in the application packet. the provisions for landscaping, outdoor amenities, sport and fitness amenities, play areas walking paths all greatly improve upon the site which currently lacks aesthetic recreational and commercial value.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provide adequate justification in reference to their request that there are practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, 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, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan, that the proposed structures will not adversely affect the surrounding properties or public right to an untrammeled use of the beach and its natural beauty.

In addition, the result of the public hearing shows support from those in attendance, and the submitted ARC position statements are with no objection and therefore conclude that their request is in proper form and context to 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 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"***.

For: Marvin Q. Aguilar

CASE PLANNER: F.P.TAITANO

Attachments: ARC Memo to GLUC Members


NOTICE TO REZONE
PUBLIC NOTICE
AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND COMMISSION (GLUC) FOR A ZONE VARIANCE FOR HEIGHT AND ADDITIONAL STORIES
APPLICATION DESCRIPTION: PROPOSED 5 CONDOMINIUM 432-UNIT MULTIFAMILY HOUSING AND PERSONAL SERVICE SHOPS
OWNER: NPLJ LLC
DEVELOPER: NPLJ LLC
LOT BLOCK TRACT MUNICIPALITY: LOT 40-11 & LOT 40-12 TAMUNING AND DEDEDO
PROPOSED ZONE VARIANCE: FOR ADDITIONAL HEIGHT AND ADDITIONAL STORIES
DATE
TIME
PLACE:
PUBLIC HEARING Dos Amantes Nov 28 2017 @ 6:00PM Tamuning Senior Center
GLUC MEETING Dos Amantes FEB 22 2018 @ 1:00PM DLM Conference Room - ITC Bldg.

Minutes of Public Hearing

Application No. 2017-30, Zone Variance for Height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on Lot Nos. 5040-11 ad 5040-12, Municipalities of Tamuning and Dededo.

On November 28, 2017 - 6:05 P.M. a public hearing was conducted at the Tamuning Senior Center, present was the applicant's representative, Mr. Michael Makio and staff with Taniguchi Ruth Makio Architects, the Mayor, Ms. Louise Rivera and staff, the Guam Chief Planner, Mr. Marvin Aquilar, the Case Planner and 11 public attendees.

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

Mr. Makio introduced himself, explained the purpose of the request, the location and description of the proposed development and a brief history of the property. Mr. Makio also explained their ongoing consultation with the various Gov't. of Guam permitting agencies/departments to address their requirements as it applies to the proposed development.

The floor was open for comments:

After a number of call to the attendees for any comments or concerns by both Mr. Makio and case planner and no further concern or question was put forth by the attendees case planner thanked those in attendance for taking the time to attend the public hearing.

There being no further questions or concerns the case planner adjourned the meeting at 6:35 P.M.

On November 29, 2017 - 6:32 P.M. a public hearing was conducted at the Dededo Senior Center, present was the applicant's representative, Mr. Michael Makio and staff with Taniguchi Ruth Makio Architects, the Guam Chief Planner, Mr. Marvin Aquilar, the Case Planner and 8 public attendees.

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

Mr. Makio introduced himself, explained the purpose of the request, the location and description of the proposed development and a brief history of the property. Mr. Makio also explained their ongoing consultation with the various Gov't. of Guam permitting agencies/departments to address their requirements as it applies to the proposed development.

Minutes of Public Hearing
Application No. 2017-30 (Zone Variance)
Lot Nos. 5040-11 and 5040-12
Municipalities of Tamuning and Dededo

The floor was open for comments:

After a number of call to the attendees for any comments or concerns by both Mr. Makio and case planner and no further concern or question was put forth by the attendees case planner thanked those in attendance for taking the time to attend the public hearing.

There being no further questions or concerns the case planner adjourned the meeting at 6:55 P.M.

Frank P. Taitano
Case Planner

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383



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

February 9, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2017-30 (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;

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

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"***.

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

DEPARTMENT OF PUBLIC WORKS (DPW):
DPW recommends approval, subject to the comments as reviewed by the Application Review Committee (ARC) with conditions that building permit application must incorporate all the necessary engineering disciplines needed in the design drawings.

Drawings must also conform to the latest building code edition and include the applicable rules , regulations and ADA requirements.

Attached requirements and conditions provided from the Department of Public Works ("DPW") are as follows:

A. Incorporate the design of the pool for kids and adults in the development plan. Pool must be ADA compliant.

The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the applicant's request provided the following conditions must be in place:

1. STORM WATER DISPOSAL
   Show storm drainage disposal with details in the final drawings and to be supported by calculations. No run off in the surrounding properties or the streets.
2. TRAFFIC GENERATIONS
   A traffic impact analysis study must be coordinated with DPW, Division of Highways (traffic management control section).
3. PARKING REQUIREMENTS
   Show parking lay out and detail of parking stalls (compact, standard and accessible stalls), and must meet the American Disability Act (ADA) requirements.
4. ACCESS ROAD
   The entrance/ exit, sidewalks and pedestrian must be wide enough for public access and shall be in conformance to the Guam Highway Master Plan. Must be coordinated with DPW, Division of Highways (rights of way section).
5. STREETLIGHTS
   The developer shall be responsible for the streetlights and must be coordinated with DPW, Division of Highways (traffic managemen: control section)
6. FLOOD ZONE
   The applicant is required to hire a professional engineer to perform hydrologic and hydraulic analysis which meet the current Federal I-mergency Agency (FEMA) for flood insurance study standards and must be licensed to do business in Guam.
7. PARKS AND PLAYGROUNDS
   The construction of parks and playgrounds including landscaping must be design in detail and make use of its physical and biological resources which will have a great impact to the environment.
8. SOLID WASTE
   Provide solid waste composition
9. TRANSPORTATION To coordinate with DPW, Bus Operations Divisions for the bus shelter designated location, and must not hinder the (entry/ exit) public access to the housing area.

10. OTHERS
    Comply with all the Geotechnical requirements related to site preparations. Ecological planning is needed to ensure the conservation of its resources.
    All structure, including accessory, structures, shall not cover more than 30% of the area.

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for the proposed construction of six, multi-family residential buildings (Dos Amantes Residences), in an "M-1" (Light-Industrial) zone.

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 applicant is responsible for the water and sewer main extensions necessary to provide service to 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 at least six months prior to 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 to increase capacity are necessary.
   The development might be required to provide a looped water system with connections to the water main along Route 3 and to the water main along Route 1, in order to provide sufficient water pressure to the development.
3. The off-site water and sewer infrastructure improvements 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. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.
5. A construction manager hired by the developer shall oversee water and sewer infrastructure construction. A quality control document containing construction records and pictures shall be provided to GWA, to document construction practices and installed materials. GWA shall be provided with construction schedules, so that inspections may be conducted during construction.

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

7. Backflow prevention devices are required for non-residential activities or when a development will be served by a master meter.
8. New development is subject to water and/or sewer system development charges
9. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
10. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system.
11. 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.
12. Only wastewater shall be discharged to the sanitary sewer system. Storm water, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.
13. 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 (Sept. 29, 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 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.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments.

Land Use. The Bureau finds that the proposed project is within the Tourist/Resort 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 "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

Tourist/Resort: *The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.*

The Bureau has determined that the applicant's multi-level dwelling is consistent with the North and Central land-use plan.

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 have adverse impacts. 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 applicant is required to comply with Chapter 10 Section 10100 -101114 of the Guam Soil, Erosion, and Sediment Control Regulation during both pre and post construction of the project and all other applicable regulations regarding the protection of the NGLA.

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 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 Bureau requires the applicant 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 Northern Watershed. This area has seen an increase in impervious surfaces throughout the years. Over twenty nine percent (29.42%) of Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent. In between the years 2005 and 2011, the impervious surface area increased by more than 5.58% according to National Oceanic Atmospheric Administration's (NOAH) Coastal Change Analysis Program (C-CAP). 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, pollutants 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 in an area that has seen minimal development 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 applauds the applicants attempt to include smart growth features into the site plans.

The Bureau acknowledges that the allowable uses and permitted density based on the zoning law would not be the most appropriate use of land and would not provide adequate open spaces and other natural and physical benefits. The Bureau recommends the applicant provide additional "green" features by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means achieve even greater stormwater management on their property.

These approaches will add great benefits such as low maintenance, energy savings, aquifer recharge, beautification, and neighborhood collaboration. 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 unless it meets the four test of hardships.

(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 purpose of the law 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." In this case, the Bureau recognizes and is concerned that a practical hardship will be placed on the environment if the applicant builds within the allowable density and permitted uses, which would result in the loss of open space of 92% of the subject lot. Thresholds of impervious surfaces has reached the tipping point in this watershed, in which maintaining 70% of open space within this property is a feature in line with the best use of this land and surrounding area.

The Bureau is believes there is adequate provisions for community services, water and parks. However, the applicant must assure they work with the Department of Education to forecast any potential increase in demand for education services in the surrounding school district.

(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 properties were previously part of a military installation and underwent a comprehensive environmental analysis and was mitigated under the EPA superfund, approved by the U.S. EPA, and accepted by the Government of Guam as having little to no contamination in its soil.

The immediate area itself was a part of single family housing so any soil contamination is minimal and poses no residential health hazards. Under Guam law, any lands returned from the military to the Government of Guam must be zone as Agriculture. As such, the designation of MI is highly questionable, however, the Bureau does not have the research at hand to understand the reasons leading up to the current zone designation. The Bureau has determined that the applicant faces exceptional circumstances as this area beyond the 1,000-foot radius lacks any coherent zoning patterns and the current zone designation does not encourage the most appropriate use of land.

(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;

This project can be deemed as precedence setting and has the potential to encourage other developers to follow similar proposals that may lead to various variances being sought. The Bureau is concerned to the impact to the skyline, and will discuss this effect further in variance test (e). **In** this situation, the entire area was a former military installation and not unique to the property alone. Mitigation was conducted and cleanups were done to the satisfaction of the U.S. EPA and acceptable to the Government of Guam. The Bureau hopes that this project can serve as an example for future development in surrounding areas to develop in a responsible manner that protects open spaces and natural resources such as our Northern Lens Aquifer.

(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

The applicant's proposal is to develop multi family dwelling units. The objective of all master plans is to build in an orderly manner that would be the basis for all future developments in the surrounding area. The North and Central Guam Land Use Masterplan calls for Tourist/Resort in which this project is consistent with the following land use vision of the Masterplan.

- Open space is provided through protection of valuable natural resource lands, conservation of sensitive natural features and provision of active open space for recreation and community gatherings.

- New development respects and protects Guam's cultural heritage, following compact, village-scaled patterns and walkable neighborhoods.

The project is consistent with the following Policy:

- Policy H-8 Adopt development standards that promote innovation in housing, such as small lot development, flexible setbacks, attached single family residential development, mid-rise development, mixed-use buildings, clustering and other measures that support design creativity.

The applicant will be required to comply with the following Policy

- Policy H-9 Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households.

(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.

Preservation of our island's natural resources and uses to include its view scape are important to our island and its economy. Bureau is concern over the height of buildings that will be located at Ukudu Dededo and potential visual impacts to the Dos Amentes cliff line. The Bureau as been consistent with protecting the natural beauty of the cliff line all along the western coast.

The Bureau is concerned that this development will have a cumulative impact on Guam's scenic resources. Guam's enforceable policy under Visual Quality state that visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significant views from scenic overlooks. Effects to the natural charm of the cliff line is likely to be seen from the Adelup Park and Hall of Governors overlook. Therefore, in order to preserve and maintain its visual quality, the Bureau recommends for the applicant 1) reduce height of buildings the while staying within the current design footprint; and/or 2) add appropriate vegetative native forest buffers to between the structures and the westward cliff line as to obscure these structures from sight.

The Bureau believes there will be no significant impacts associated with this proposal regarding beach areas and the untrammeled use of the beach, however, the Bureau is concerned of the incremental and cumulative development will have on visual quality.

Based on the variance test, The **Bureau recommends Conditional Approval** for the Height and additional floors variance request as set out in the zoning code of Territory of Guam based on the aforementioned requirements. Please do not hesitate to contact Mr. Edwin Reyes, GCMP Administrator or myself for any questions.

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR reviewed the subject application by Taniguchi Ruth Makio Architects for conditional use of subject Lots and have no objection to the approval of this application. However, subject project will need to be surveyed due to the fact that these lots may have potential to certain historic properties. The 1954 map show that part of the Harmon Air Force Base had encroached these lots from the northeast end and most of the lots there remained untouched. Dos Amantes Residence Plan will also need to be reviewed by the Department of Parks and Recreation Administrator to verify the adequacy of the recreation areas of Dos Amantes Residence.

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

NOV 2 7 2017

MB 11/28

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
NOV 28 2017
905 AM
GUAM/GAMAILIG

11/28/17

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.** 2017-30; **Location:** Lot(s) 5040-11 and 5040-12 Harmon; **Applicant:** NPLJ, LLC. (Dos Amantes Residence) Represented by Tanaguchi Ruth Makio Architects (TRMA); **Proposed Use:** Zone Variance for Height increase and the additional floors in the "M-1" Light Industrial Zone

Håfa Adai! The applicant, NPLJ, LLC represented by Mr. Michael Blas Makio, AIA, LEED AP of Tanaguchi Ruth Makio Architects (TRMA), is requesting a zone variance for Height in the "M-1" Light Industrial Zone on Lot(s) 5040-11 and 5040-12 in the Ukudu Harmon area within the Municipality of Dededo. According to Mr. Makio, the proposal is to exceed the allowed three (3) story floors to include another four (4) stories for a total of seven (7) floors. The allowable height is 30 feet and this project's requested height is 75 feet, which would be a variance of 45 feet over the allowable height limit.

In addition, each building will have 70 units total, with the level ground parking set at 52 stalls per building. The breakdown per building is as follows: the 1st floor will be for parking, the 2nd through 6th will have 12 units per floor (60 units total) and the 7th floor will include 10 (4 bedrooms). The proposed project also includes 950 total parking spaces and amenities such as a basketball court (half court), a tennis court, swimming pool, community center, and a children play area.

The subject lot is located westward of the Puntan Dos Amantes (Two Lovers Point) entrance within the area known as Ukudu-Harmon Village along Route 34. The subject lot had been cleared on at least two occasions (late 1940 and mid 1970) by the Air Force and its topography is fairly leveled. The applicant's property is approximately 69,392 square meters or 747,000 square feet, which is approximately 17.14 acres in size.

Historically these two properties were a part of the Harmon Annex and was included as part of the United States Air Force Installation Restoration Program. In July 2002 this property

was given back to the original landowners. According to the applicant, "the homes on the adjacent parcels were analyzed and were part of the return of excess lands. The subject properties were not included in the list of seven (7) areas of concern (ARC) for the Harmon Annex/ Harmon Village and therefore would not require mitigation work".

The Guam Environmental Protection Agency (GEPA) Environmental Impact Assessment dated October 1999 states in part that; "the project site is located on the former site of the Harmon residences which were military single family homes...." Also, that mitigation measures was taken into account and posed no current or future risks to human health and the environment (excerpt taken within the July 2002 Air Force Final Record of Decision).

The Bureau of Statistics and Plans (Bureau)has completed its review of the subject application and provides the following comments.

Land Use. The Bureau finds that the proposed project is within the Tourist/Resort 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 "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

Tourist/Resort: *The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.*

The Bureau has determined that the applicant's multi-level dwelling is consistent with the North and Central land-use plan.

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 have adverse impacts. 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 applicant is required to comply with Chapter 10 Section 10100 -101114 of the Guam Soil, Erosion, and Sediment Control Regulation during both pre and post construction of the project and all other applicable regulations regarding the protection of the NGLA.

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 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 Bureau requires the applicant 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 Northern Watershed. This area has seen an increase in impervious surfaces throughout the years. Over twenty nine percent (29.42%) of Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent. In between the years 2005 and 2011, the impervious surface area increased by more than 5.58% according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). 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, pollutants 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 in an area that has seen minimal development 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 applauds the applicants attempt to include smart growth features into the site plans. The Bureau acknowledges that the allowable uses and permitted density based on the zoning law would not be the most appropriate use of land and would not provide adequate open spaces and other natural and physical benefits. The Bureau recommends the applicant provide additional "green" features by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means achieve even greater stormwater management on their property. These approaches will add great benefits such as low maintenance, energy savings, aquifer recharge, beautification, and neighborhood collaboration. 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 unless it meets the four test of hardships.

(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 purpose of the law 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." In this case, the Bureau recognizes and is concerned that a practical hardship will be placed on the environment if the applicant builds within the allowable density and permitted uses, which would result in the loss of open space of 92% of the subject lot. Thresholds of impervious surfaces has reached the tipping point in this watershed, in which maintaining 70% of open space within this property is a feature in line with the best use of this land and surrounding area.

The Bureau is believes there is adequate provisions for community services, water and parks. However, the applicant must assure they work with the Department of Education to

forecast any potential increase in demand for education services in the surrounding school district.

(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 properties were previously part of a military installation and underwent a comprehensive environmental analysis and was mitigated under the EPA superfund, approved by the U.S. EPA, and accepted by the Government of Guam as having little to no contamination in its soil. The immediate area itself was a part of single family housing so any soil contamination is minimal and poses no residential health hazards. Under Guam law, any lands returned from the military to the Government of Guam must be zone as Agriculture. As such, the designation of M1 is highly questionable, however, the Bureau does not have the research at hand to understand the reasons leading up to the current zone designation. The Bureau has determined that the applicant faces exceptional circumstances as this area beyond the 1,000-foot radius lacks any coherent zoning patterns and the current zone designation does not encourage the most appropriate use of land.

(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;

This project can be deemed as precedence setting and has the potential to encourage other developers to follow similar proposals that may lead to various variances being sought. The Bureau is concerned to the impact to the skyline, and will discuss this effect further in variance test (e). In this situation, the entire area was a former military installation and not unique to the property alone. Mitigation was conducted and cleanups were done to the satisfaction of the U.S. EPA and acceptable to the Government of Guam. The Bureau hopes that this project can serve as an example for future development in surrounding areas to develop in a responsible manner that protects open spaces and natural resources such as our Norther Lens Aquifer.

(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

The applicant's proposal is to develop multi family dwelling units. The objectives of all masterplans is to build in an orderly manner that would be the basis for all future developments in the surrounding area. The North and Central Guam Land Use Masterplan calls for Tourist/Resort in which this project is consistent with the following land use vision of the Masterplan

- Open space is provided through protection of valuable natural resource lands, conservation of sensitive natural features and provision of active open space for recreation and community gatherings.

- New development respects and protects Guam's cultural heritage, following compact, village-scaled patterns and walkable neighborhoods.

The project is consistent with the following Policy:

- Policy H-8 Adopt development standards that promote innovation in housing, such as small lot development, flexible setbacks, attached single family residential development, mid-rise development, mixed-use buildings, clustering and other measures that support design creativity.

The applicant will be required to comply with the following Policy

- Policy H-9 Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households.

(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.

Preservation of our island's natural resources and uses to include its view scape are important to our island and its economy. Bureau is concern over the height of buildings that will be located at Ukudu Dededo and potential visual impacts to the Dos Amentes cliff line. The Bureau as been consistent with protecting the natural beauty of the cliff line all along the western coast.

The Bureau is concerned that this development will have a cumulative impact on Guam's scenic resources. Guam's enforceable policy under Visual Quality state that visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significant views from scenic overlooks. Effects to the natural charm of the cliff line is likely to be seen from the Adelup Park and Hall of Governors overlook. Therefore, in order to preserve and maintain its visual quality, the Bureau recommends for the applicant 1) reduce height of buildings the while staying within the current design footprint; and/or 2) add appropriate vegetative native forest buffers to between the structures and the westward cliff line as to obscure these structures from sight.

The Bureau believes there will be no significant impacts associated with this proposal regarding beach areas and the untrammeled use of the beach, however, the Bureau is concerned of the incremental and cumulative development will have on visual quality.

Based on the variance test, The **Bureau recommends Conditional Approval** for the Height and additional floors variance request as set out in the zoning code of Territory of Guam based on the aforementioned requirements. Please do not hesitate to contact Mr. Edwin Reyes, GCMP Administrator or myself for any questions.

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'.*

for MDS

CARL V. DOMINGUEZ

cc: GEPA
DPR
DPW
GWA
GPA

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:
RC 2017-0851

September 11, 2017

MB 9/19

RECEIVED
9005

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2017-~~39~~ 30 ~~5~~: Application for Conditional Use of Lot 5040-11 and 5040-12: Dos Amantes Residence, Guam

We reviewed the subject application by Taniguchi Ruth Makio Architects for conditional use of subject Lots and have no objection to the approval of this application. However, subject project will need to be surveyed due to the fact that these lots may have potential to certain historic properties. The 1954 map show that part of the Harmon Air Force Base had encroached these lots from the northeast end and most of the lots there remained untouched. Dos Amantes Residence Plan will also need to be reviewed by the Department of Parks and Recreation Administrator to verify the adequacy of the recreation areas of Dos Amantes Residence.

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

Sincerely,

William N. Reyes

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

RECEIVED
DEPARTMENT OF LAND MANAGEMENT
GUAM/CNMI

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE
Deputy Director

MEMORANDUM

RECEIVED
9.29.17

TO: Director, Department of Land Management

FROM: Director

SUBJECT: Applicant: NPLJ, LLC
Application: 2017-30
Lot: Lot 5040-11and 5040-12, (Tamuning & Dededo)

Buenas yan Hafa adai! Applicant, NPLJ, LLC is requesting a height variance for the proposed construction of six (6) multi- family residential units (Dos Amantes Residences), along Ukudu area. Each building is approximately 75 feet in height and to be constructed on Lot Nos. 5040-11 and 5040-12, east of Route 34, is within the municipalities of Dededo and Tamuning. The total area is 747,000 sq. feet (69,392 sq. meters). The proposed project is to design and build 6 (six) new seven- storey multi- family residential buildings with landscaping and recreational amenities that will also include business spaces (24,800 square feet) along with 432 dwelling units on six levels above a 52- stall parking garage.

Attached requirements and conditions provided from the Department of Public Works, ("DPW") are as follows:

A. Incorporate the design of the pool for kids and adults in the development plan. Pool must be ADA compliant.

✓ DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with conditions that building permit application must incorporate all the necessary engineering disciplines needed in the design drawings. Drawings must also conform to the latest building code edition and include the applicable rules, regulations and ADA requirements.

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

GLENN LEON GUERRERO

Attachments:
LIbanez/ MRWilson

The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the applicant's request provided the following conditions must be in place:

1. STORM WATER DISPOSAL.
   Show storm drainage disposal with details in the final drawings and to be supported by calculations. No run off in the surrounding properties or the streets.

2. TRAFFIC GENERATIONS
   A traffic impact analysis study must be coordinated with DPW, Division of Highways (traffic management control section).

3. PARKING REQUIREMENTS
   Show parking lay out and detail of parking stalls (compact, standard and accessible stalls), and must meet the American Disability Act (ADA) requirements.

4. ACCESS ROAD
   The entrance exit, sidewalks and pedestrian must be wide enough for public access and shall be in conformance to the Guam Highway Master Plan. Must be coordinated with DPW, Division of Highways (rights of way section).

5. STREETLIGHTS
   The developer shall be responsible for the streetlights and must be coordinated with DPW, Division of Highways (traffic management control section).

6. FLOOD ZONE
   The applicant, is required to hire a professional engineer to perform hydrologic and hydraulic analysis which meet the current Federal Emergency Agency (FEMA) for flood insurance study standards and must be licensed to do business in Guam.

7. PARKS AND PLAYGROUNDS
   The construction of parks and playgrounds including landscaping must be design in detail and make use of its physical and biological resources which will have a great impact to the environment.

8. SOLID WASTE
   Provide solid waste composition

9. TRANSPORTATION
   To coordinate with DPW, Bus Operations Divisions for the bus shelter designated location, and must not hinder the (entry exit) public access to the housing area.

10. OTHERS
    Comply with all the Geotechnical requirements related to site preparations.
    Ecological planning is needed to ensure the conservation of its resources.
    All structure, including accessory, structures, shall not cover more than 30% of the area.

GUAM POWER AUTHORITY

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

RECEIVED
8/24 AUG 23 2017
Department of Land Management
Time 1:40 Intl
Celine

August 15, 2017

MEMORANDUM

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

From: General Manager

Subject: Lots 5040-11 and 5040-12, Municipality of Dededo, (NPLJ, LLC); Zone Variance Application to develop 6 each 7-story, 72 unit condominium buildings. **Application No. 2017-30**

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-18-1857.

VCB 8/24

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: NPLJ, LLC
Location: Lots 5040-11 and 5040-12, Dededo
Type of Application: Zone Variance
GLUC GSPC Application No. 2017-30
Brief Project Description:
To develop (6) 7-storey, 72 unit condominium buildings.

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

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 06 2017
1230 PM
CLTC/GALC/GLUC

MEMORANDUM

September 29, 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. 2017-30 for Lot 5040-11 and Lot 5040-12, in the Municipality of Tamuning and Dededo

APPLICANT(S): NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for the proposed construction of six, multi-family residential buildings (Dos Amantes Residences), in an "M-1" (Light-Industrial) zone.

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 applicant is responsible for the water and sewer main extensions necessary to provide service to 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.

RECEIVED

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to 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 to increase capacity are necessary.

   The development might be required to provide a looped water system with connections to the water main along Route 3 and to the water main along Route 1, in order to provide sufficient water pressure to the development.

3. The off-site water and sewer infrastructure improvements 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. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.

5. A construction manager hired by the developer shall oversee water and sewer infrastructure construction. A quality control document containing construction records and pictures shall be provided to GWA, to document construction practices and installed materials. GWA shall be provided with construction schedules, so that inspections may be conducted during construction.

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

7. Backflow prevention devices are required for non-residential activities or when a development will be served by a master meter.

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

9. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.

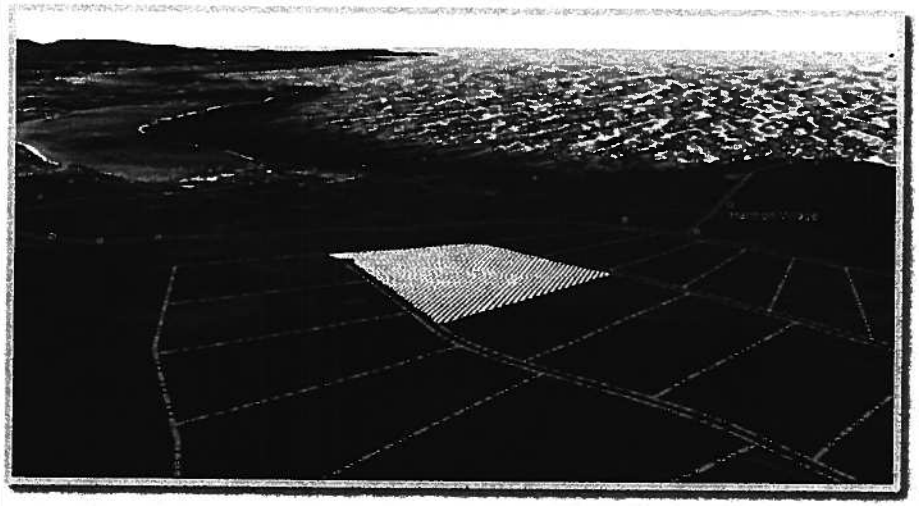
10. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system.

11. 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.

12. Only wastewater shall be discharged to the sanitary sewer system. Storm water, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.

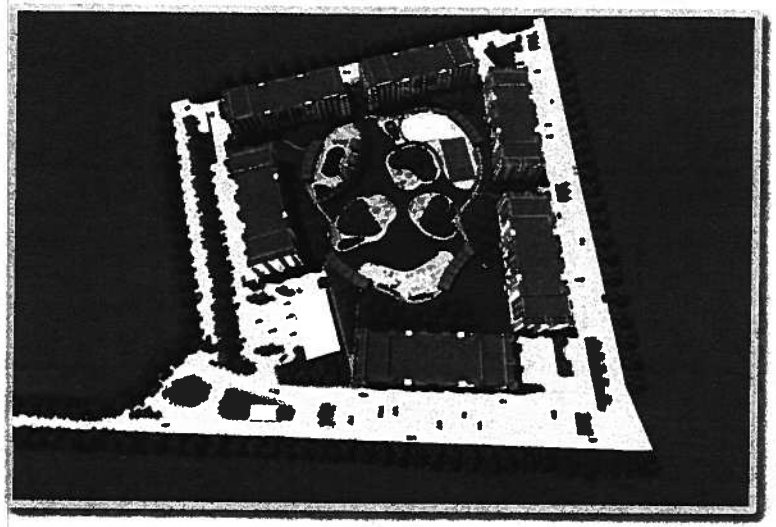
13. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance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





SI YU'OS MA'ASE





IV JUSTIFICATION ON HEIGHT VARIANCE

E. That, as to Variance from the restrictions of Section 61617, 21 GCA, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the location...

➨ As shown, the landscaping, outdoor sports and fitness amenities, play areas and walking paths provide a desirable residential character and establishes a strong precedent for future neighborhood development

➨The Dos Amantes Residences project will provide additional tax revenue to the Government of Guam for the 420 executive condo units, ***helping to raise property values and the tax base***. This will also ***enable easier connections*** to sewer, water and electricity infrastructure for neighboring properties.

➨ The only ***beach access*** near the property is Tanguisson Beach, which ***will not be affected*** by this development.

Doc. No. 34GL-18-1857.

IV JUSTIFICATION ON HEIGHT VARIANCE

D. The granting of such Variances will be not be contrary to the objectives of any part of the Guam Master Plan.

➨Our development is consistent with the M-1 Light Industrial zone which *allows for any use with or without condition in Commercial Zones ....which under item (5)of Conditional Uses allows Multi-family residences.*

➨Both Smart Growth Planning and the Northern and Central Masterplans from BSP ***encourage taller multi level buildings*** to preserve open space and reduce built footprints on the ground. This is intended to protect and maintain recharge for our Northern Water lens.

➨Again- consistent with Smart Growth and multi-use recommendations, this development occurs within walking distance of numerous job and work opportunities, healthcare, retail, market, entertainment and F&B, helping reduce reliance on cars and gasoline and its related environmental hazards.

IV JUSTIFICATION ON HEIGHT VARIANCE

C. That the granting of Variances will not be materially detrimental to the public ...

➨ The multifamily residences are spaced to preserve view corridors, prevailing winds and minimize shadows, while setting a positive precedent for the fabric of the community as intended by past masterplans.

➨Being one the first residential developments in this location will make the areas ***safer*** with neighborhood residents monitoring activities in the area. Bringing family friendly activity to counter crime and unwanted activities evening activities.

➨Amenities for the site include mass transit/bus access for residents helping to reduce reliance on vehicles and providing senior citizens and those without vehicles with transportation options.

Doc. No. 34GL-18-1857.

IV JUSTIFICATION FOR HEIGHT VARIANCE

B. There are exceptional circumstances or conditions applicable to the site.

➨As the first multi-family neighborhood in Ukudu, we face health & environmental issues on returned excess lands, with "remediated" contamination on nearby land. Although mitigated to EPA standards, we intend to keep the residents health a priority. Raising the residences above ground level ***reduces exposure to lingering contaminates*** underground & allows the land to continue ***healing naturally***.

➨The site is on a ***drainage plateau*** so storm water runoff must be managed on the site. Building vertically allows for ***more open/permeable space*** on the site to percolate storm water runoff.

➨Developing disturbed land follows smart growth principles -utilizing exist'g roads & infrastructure vs. developing on pristine land- compromising the Northern Aquifer, forests and plant life.

➨The site is surrounded by H-Zone which blocks sunlight, wind & view corridors.

➨The proximity to the WWTP and the upcoming secondary treatment facility potentially exposes us to chemical odors

Doc. No. 34GL-18-1857.

IV JUSTIFICATION FOR HEIGHT VARIANCE

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

➨ Zoning density allows for 598 units while the design only requests 420 units, 30% below the allowable. Without building reasonably taller, we would have to build over much more of the property, ***covering more of the green space*** *available.*

➨The building's height helps preserve the quality of greenery to the site while ***achieving smart growth goals by sharing infrastructure.***

➨Building taller will optimize the infrastructure by stacking the user loads in one area while using larger power, water and sewer lines. This ***increases the efficiency*** of the infrastructure and also lowers cost to the develop the site.

Doc. No. 34GL-18-1857.

IV JUSTIFICATION ON HEIGHT VARIANCE

The six proposed buildings heights are 75'-0", 45'-0" above the allowable height for M-1 zoning.

Each building = 7 stories

Floor 1	= Covered Parking		12'-0"
Floor 2-7	= Dwelling Levels	(6 x 10'-6")	63'-0"
Total			75'-0"

Below is a summary of justifications from the height variance application for the need to increase the vertical height of the project's buildings and the benefits resulting therein.

Doc. No. 34GL-18-1857.

III COLLABORATION WITH AGENCIES

GPA

- Existing OH power lines along the roads surround the proposed project site.
- GPA has announced they are adding a new Power plant adjacent to GRMC.

EPA

- No significant Flora or Fauna found within the site.
- A. Marquez, noted that most of Puntan Dos Amantes is located on a drainage plateau so we would have to properly contain storm water runoff onsite.

DPW

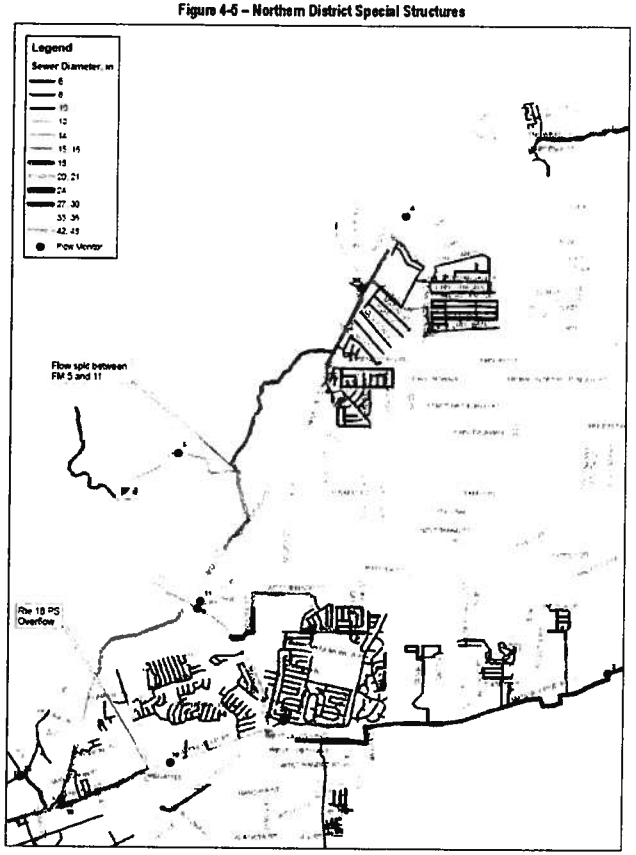
- Our engineer calculated that the additional traffic generated by the development will still be of a level of service that is acceptable on affected intersections.

AGENCY RESPONSES

- GWA, GPA, DPW, BSP and DPR issued position statements with no objection to the project.

III COLLABORATION WITH AGENCIES

GWA

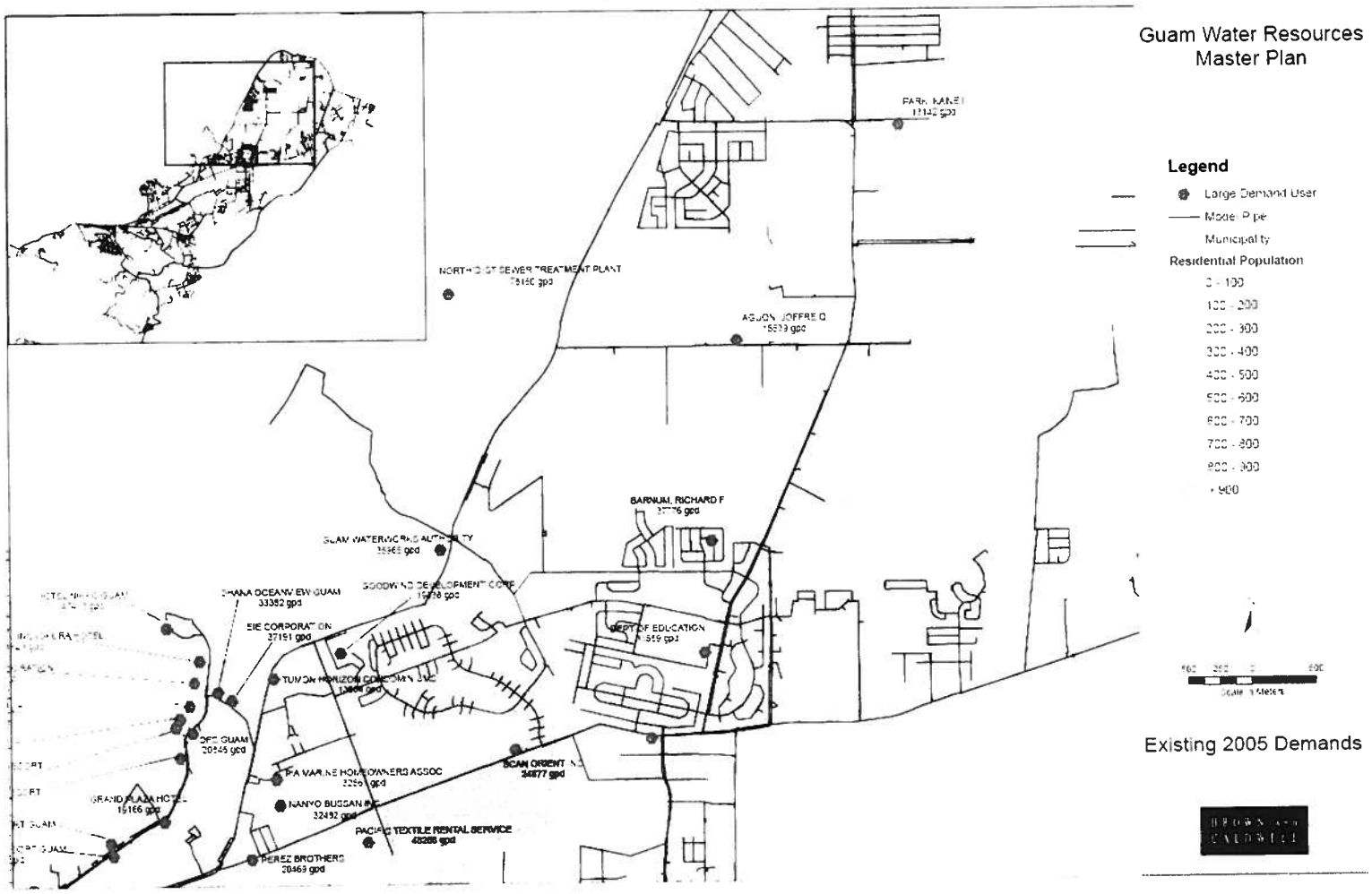


EXIST'G SEWERLINE DIAGRAM

- The civil engineer provided calculations for water and sewage use, included in the GLUC packet. GWA will verify capacities during the design process.
- There is a 6" water main coming from Route 3. Connection to the new 16" water main along Marine Drive maybe considered for improved water supply and pressure and/or looping the main.
- Project will be built in phases so that demand can be met gradually as infrastructure improves.
- There is an existing 30"dia. sewer main along Route 3 to the Northern District Wastewater Treatment Plant.
- GWA is augmenting and improving the wastewater treatment plant with a secondary plant.

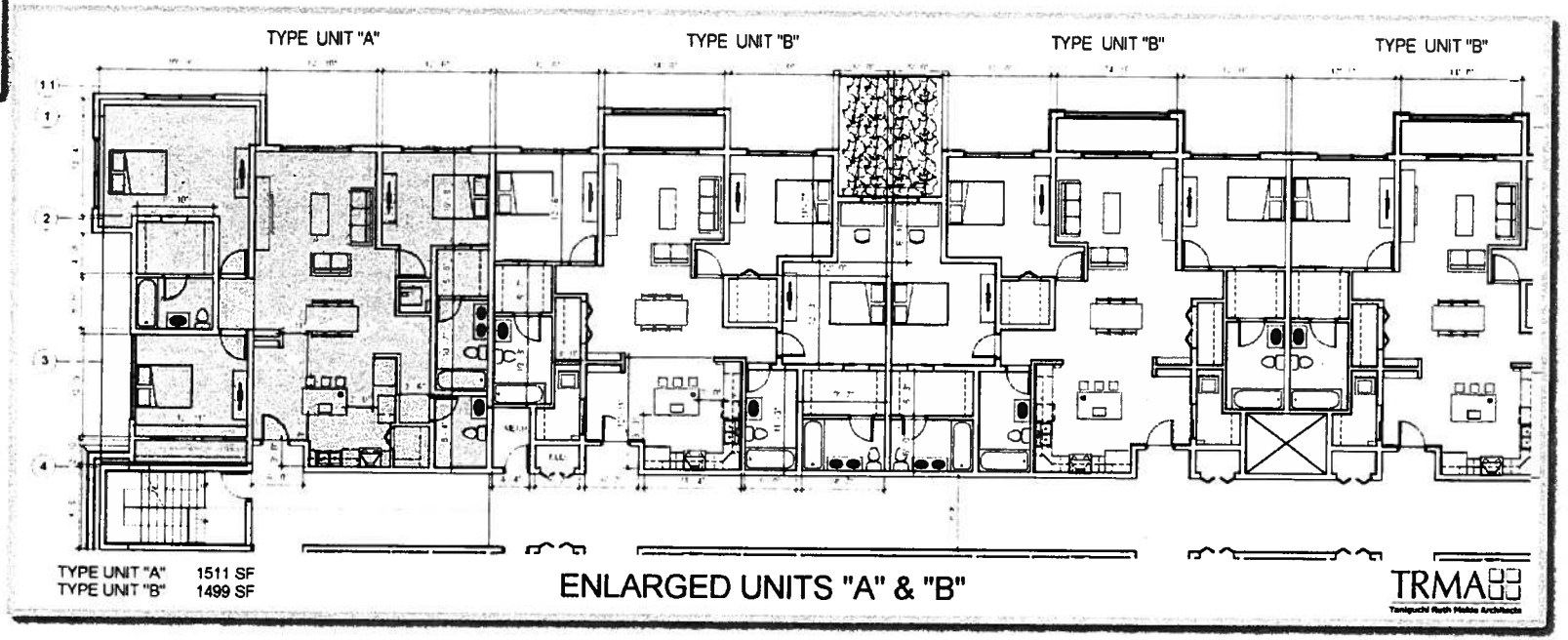
III COLLABORATION WITH AGENCIES

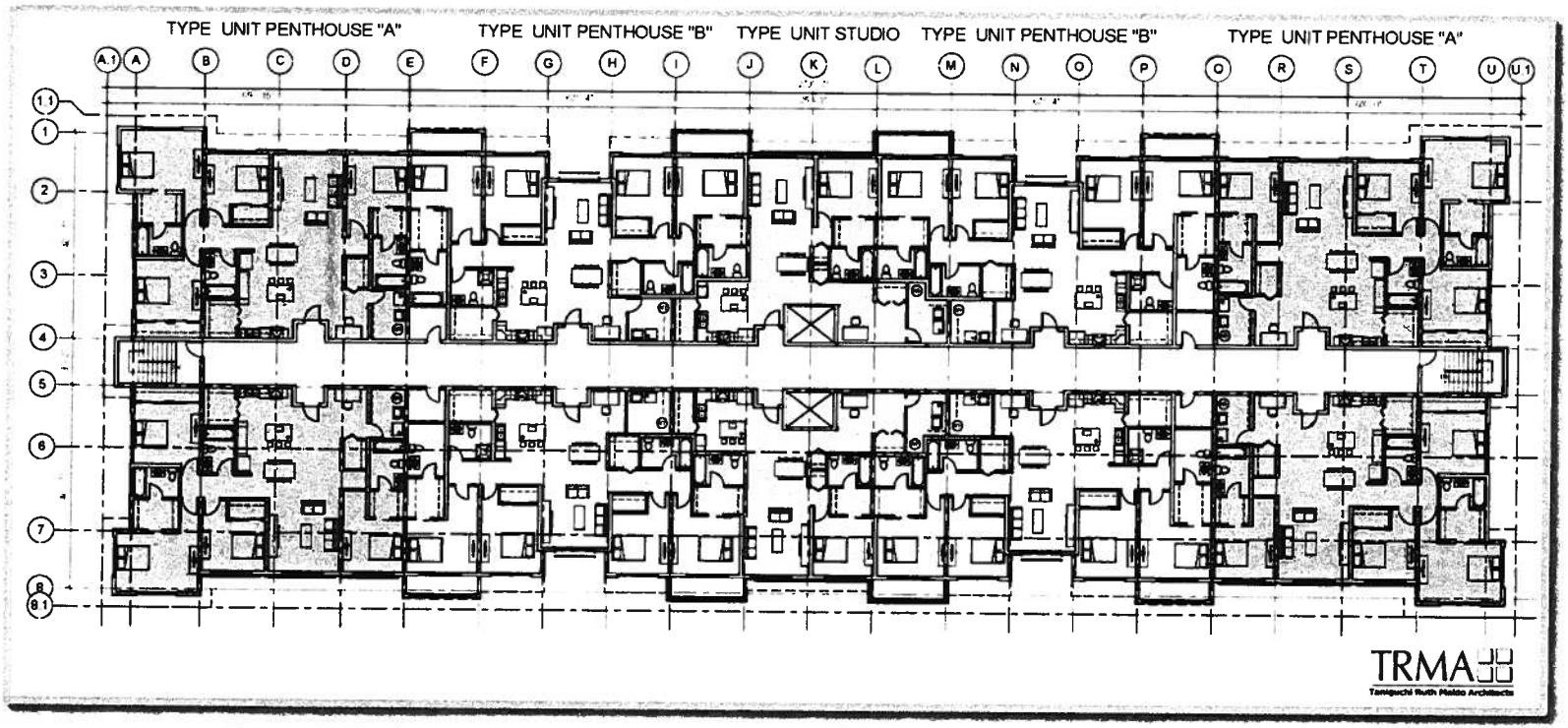
Figure 6-4 – 2005 Populations, Development Polygons and Large Water Users (North 2)



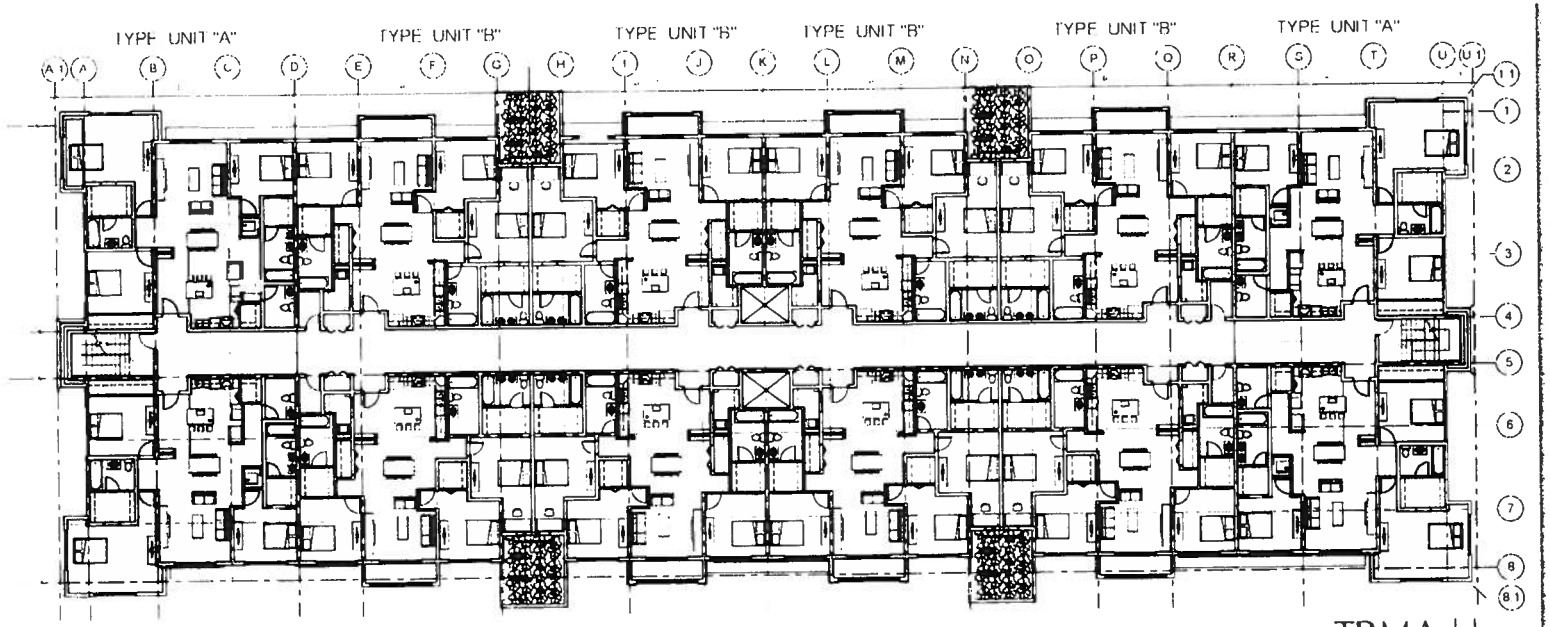
GUAM WATER RESOURCES MASTER PLAN

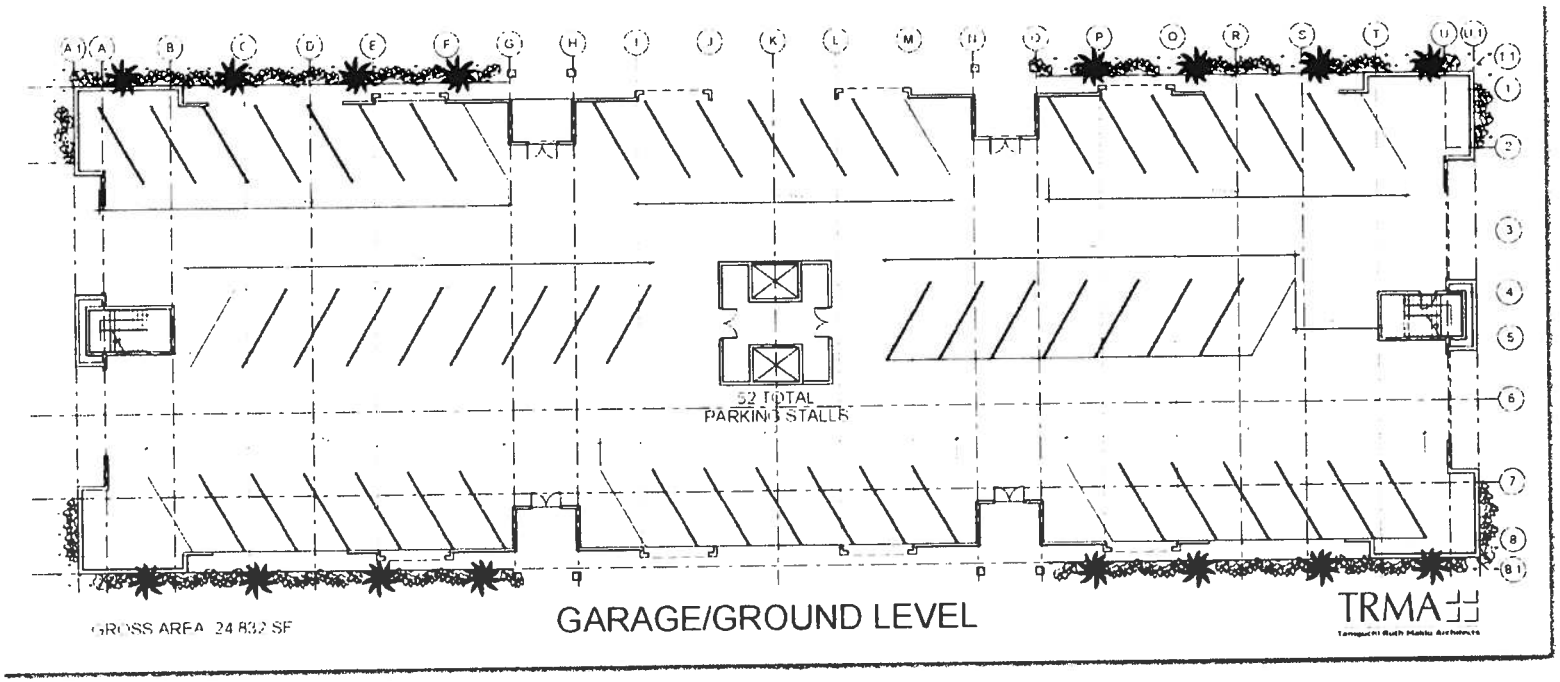
II

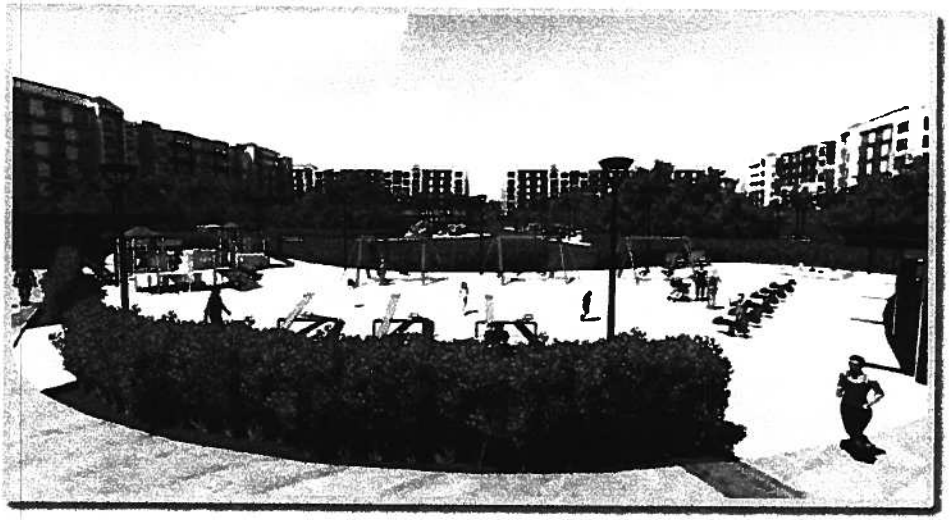

TYPE UNIT "A"
TYPE UNIT "B"
TYPE UNIT "B"
TYPE UNIT "B"
TYPE UNIT "A" 1511 SF
TYPE UNIT "B" 1499 SF
ENLARGED UNITS "A" & "B"
TRMA


TYPE UNIT PENTHOUSE "A"
TYPE UNIT PENTHOUSE "B"
TYPE UNIT STUDIO
TYPE UNIT PENTHOUSE "B"
TYPE UNIT PENTHOUSE "A"
TRMA

II


TYPE UNIT "A"
TYPE UNIT "B"
TYPE UNIT "B"
TYPE UNIT "B"
TYPE UNIT "B"
TYPE UNIT "A"
LEVEL 2 (LEVEL3-6 SIM)
TRMA


52 TOTAL
PARKING STALLS
GROSS AREA 24,832 SF
GARAGE/GROUND LEVEL
TRMA



Rendering –
Play Ground



Rendering –
Pool

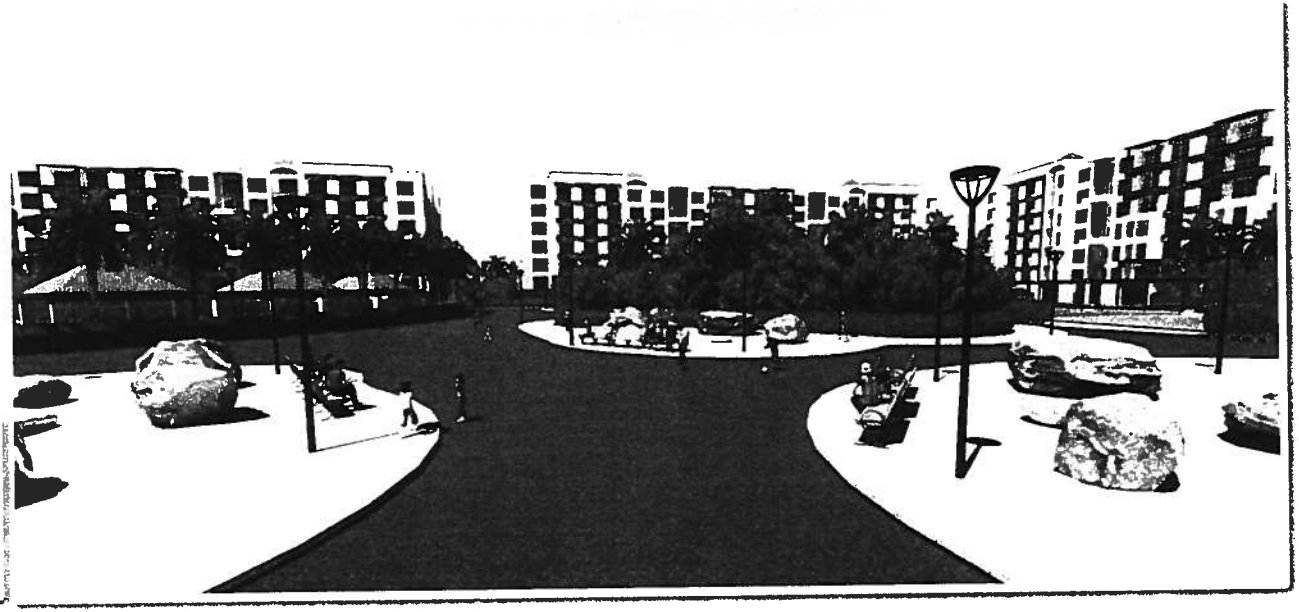


Rendering –
Sports Courts

Doc. No. 34GL-18-1857.

II

Rendering –
Rock Garden View 1





Rendering –
Rock Garden View 2



Rendering – Plaza View

Smart Growth / Sustainable growth principles are applied in the masterplan to create a neighborhood environment with onsite services, recreational and exercise amenities

II



Rendering – Building Street View

II



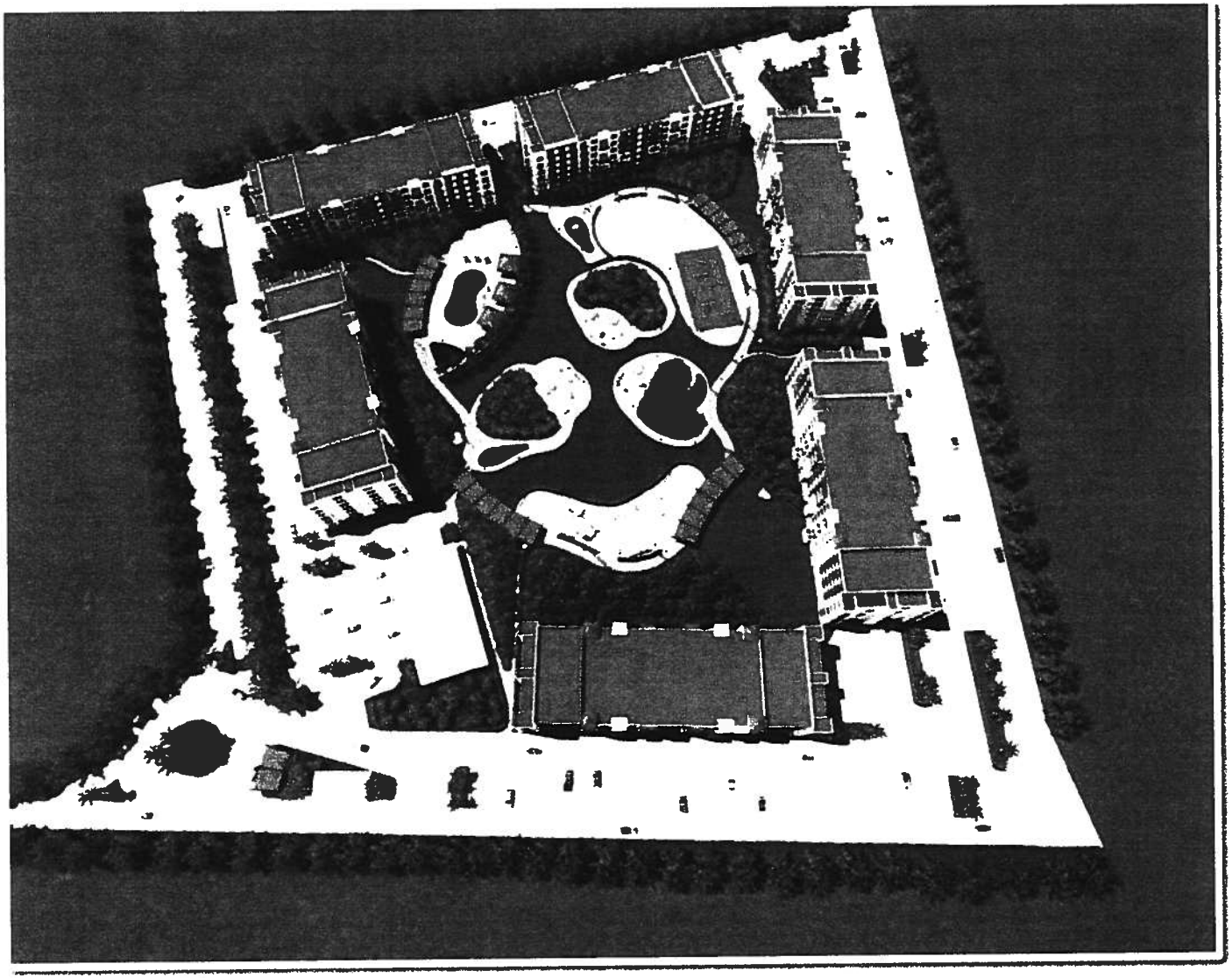
Entrance View



Isometric View

Doc. No. 34GL-18-1857.

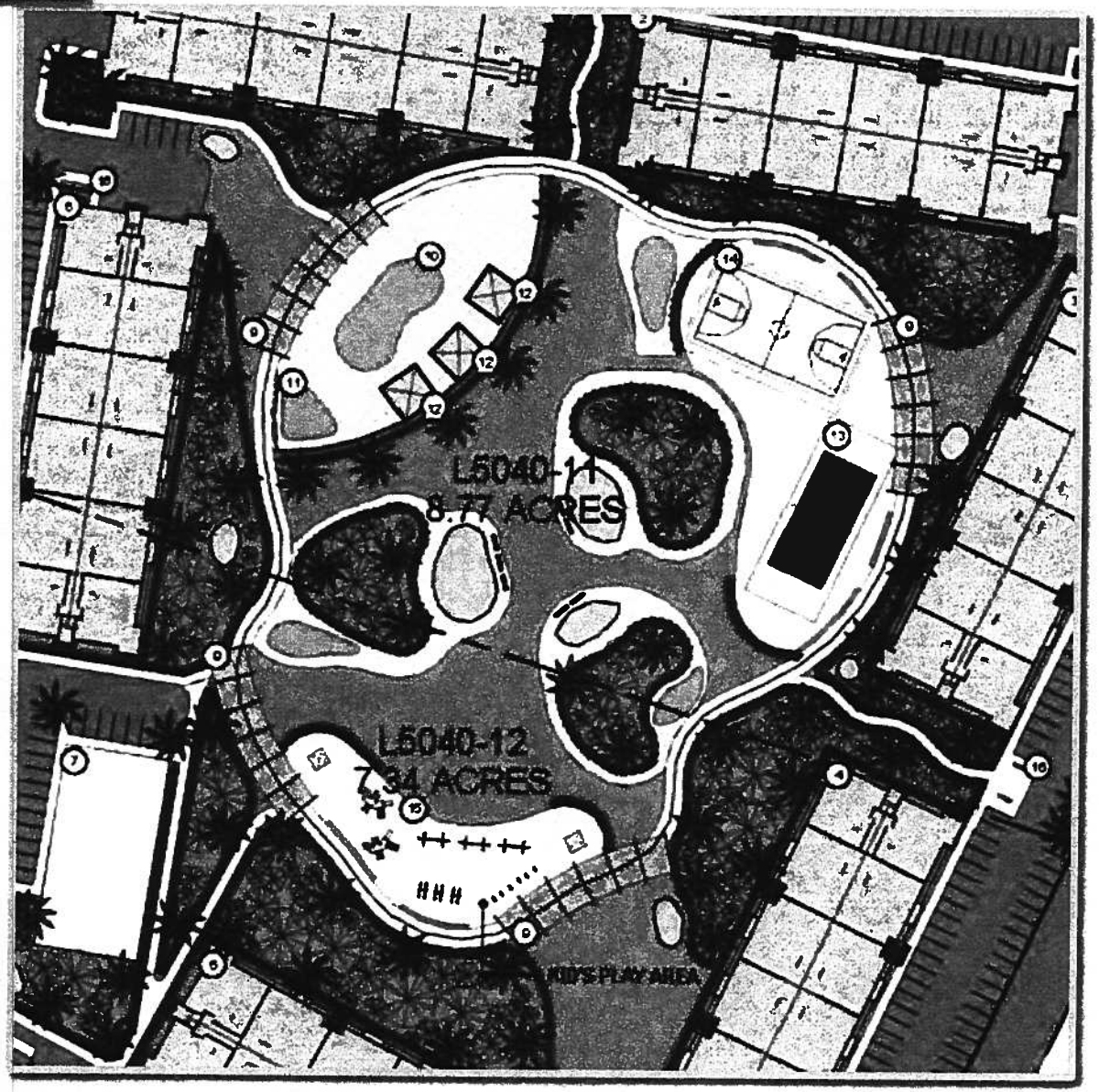
II



Density:

Allowable Density:	747,000 sf/1250 sf	= 598 units allowable
Density Provided:	70 units/building x 6 buildings	= 420 units

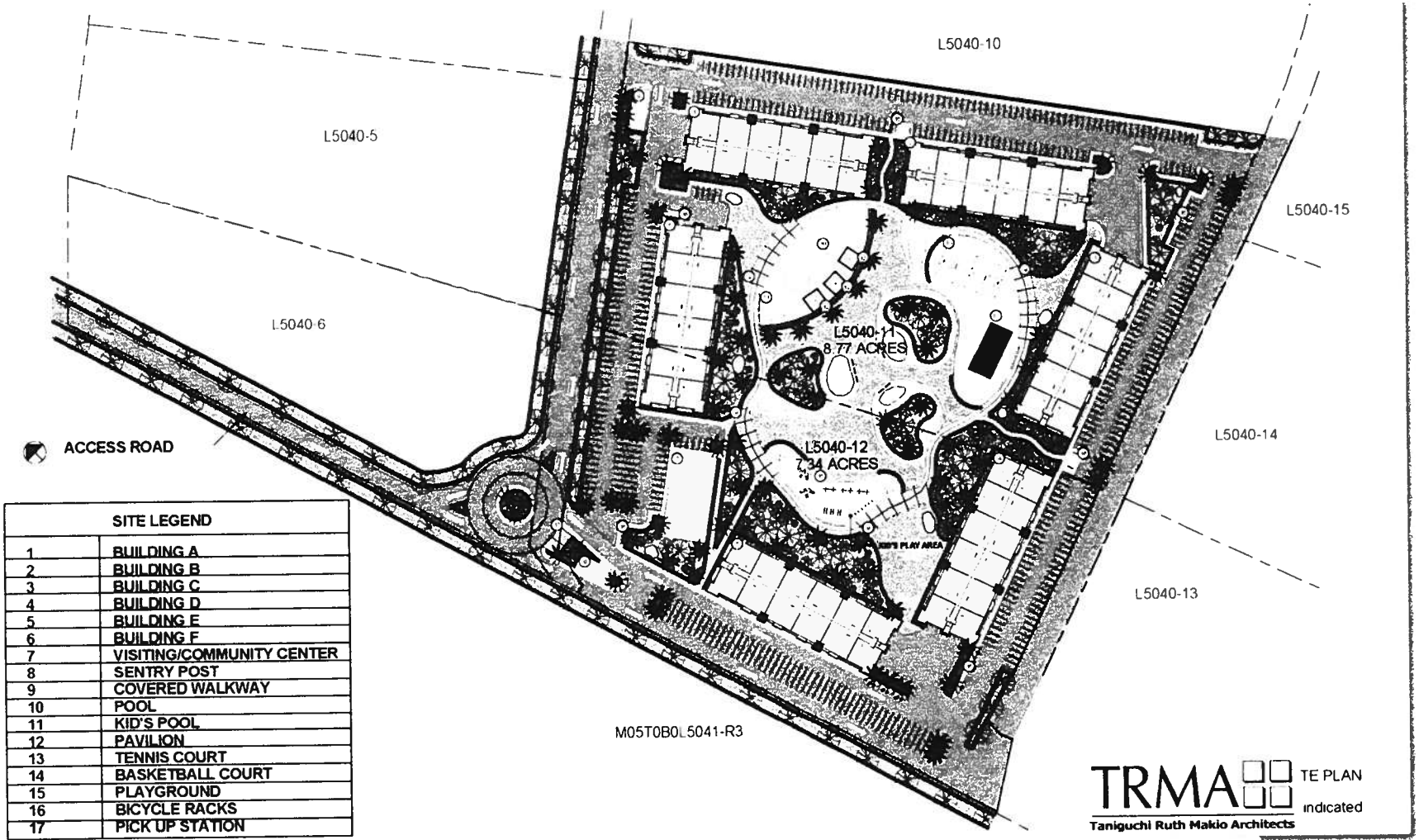
II



Amenities:

- Pool
- Kid's Pool
- Basketball Court
- Tennis Court
- Playground
- Community Garden
- Walking/Jogging Path
- Neighborhood Services
    - Daycare
    - Convenience stores
    - Hair/nail salon
    - Pharmacy
    - Coffee shop
- Community Center

II PROJECT CHARACTERISTICS



SITE LEGEND	
1	BUILDING A
2	BUILDING B
3	BUILDING C
4	BUILDING D
5	BUILDING E
6	BUILDING F
7	VISITING/COMMUNITY CENTER
8	SENTRY POST
9	COVERED WALKWAY
10	POOL
11	KID'S POOL
12	PAVILION
13	TENNIS COURT
14	BASKETBALL COURT
15	PLAYGROUND
16	BICYCLE RACKS
17	PICK UP STATION

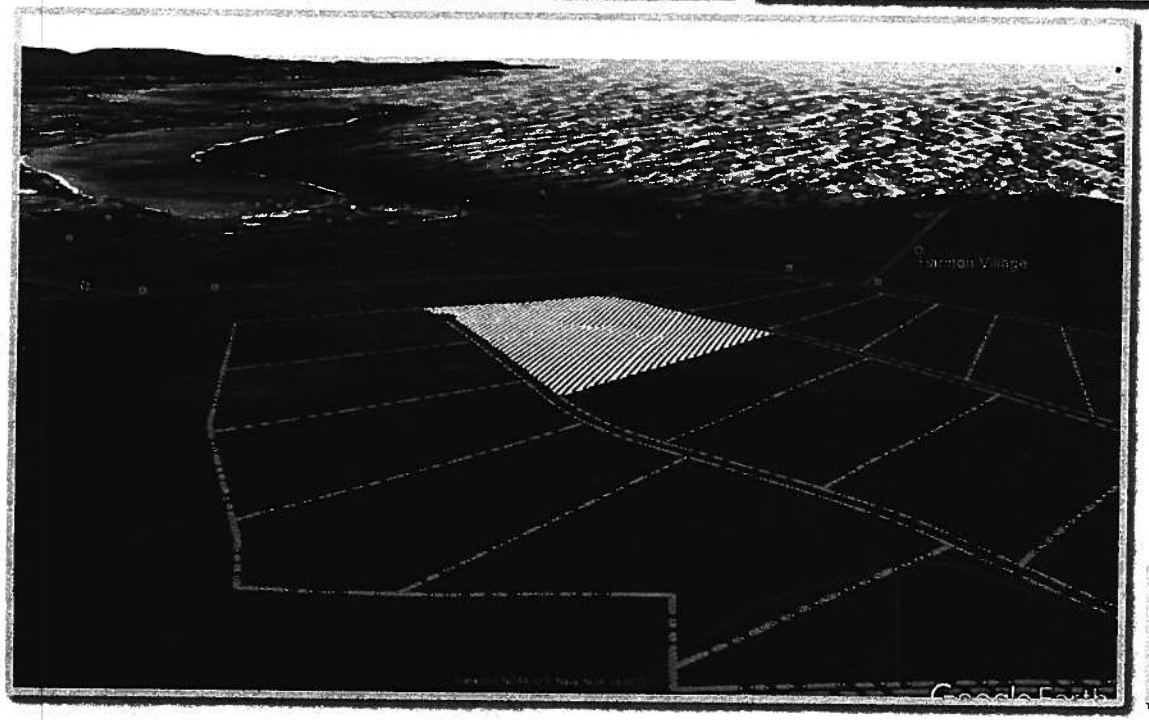
Parking:

Unit Parking:	420 dwellings at 2:1	= 840 spaces
Visitor Parking:	8 visitor spaces x 6 condos	= 48 spaces
Maintenance Parking:		= 2 spaces
Visitor Center Parking:		= 36 spaces
Total Parking Spaces:		= 926 spaces

I

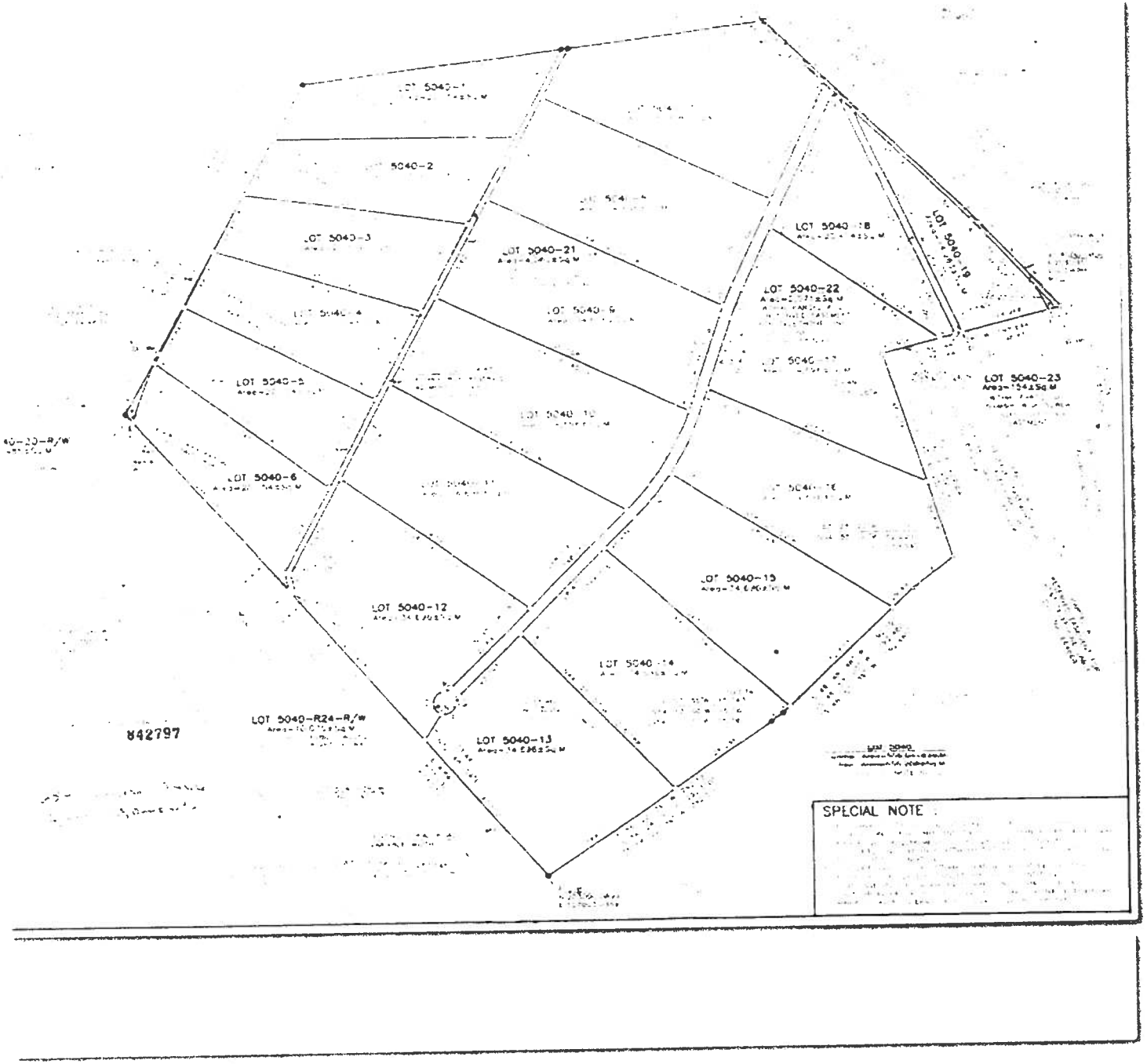


Ariel View 1



Ariel View 2

I



Doc. No. 34GL-18-1857.

I PROJECT BACKGROUND

➡The property is a total of 17.14 acres, located in Ukudu on Route 34 approximately 1000 m or 0.64 miles East from Two Lovers Point and is zoned M-1 Light Industrial.

➡ Our site was part of the Harmon Annex developed by the USAF in the mid-1940s for housing and admin facilities. In 2002, It was returned and the ROD report noted two nearby sites within the Harmon Annex were found to contain brownfield contamination.

➡ There is minimal to no development within the location besides some ranch houses.

➡Much of Rte. 34 is blighted with its lack of street lighting, overgrowth and its proximity to Tanguisson Beach (an area known for criminal activities and squatters, during night)

Doc. No. 34GL-18-1857.

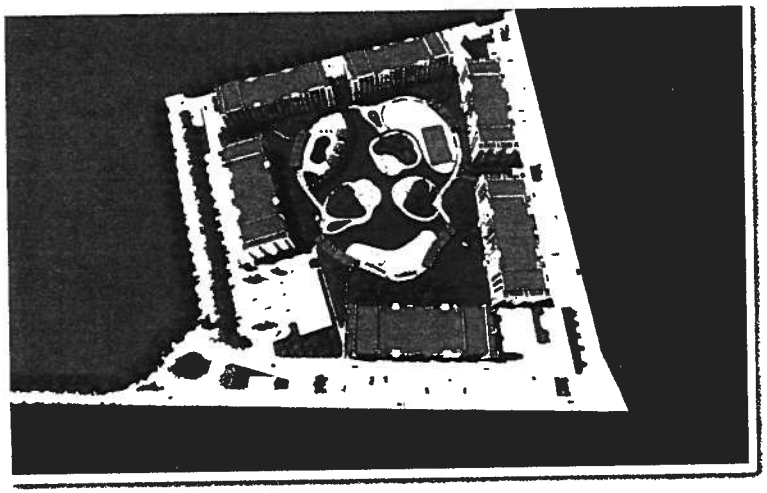
DOS AMANTES RESIDENCES

Request for Height Variance

LOT NUMBERS 5040-11 & 5040-12 M-1 Light industrial

Lot Area: LOT 5040-11 (34,696sm) + LOT 5040-12 (34,696sm) = 69,392 sm

I. Project Background
II. Project Characteristics
III. Collaboration with supporting agencies
IV. Justifications On Height Variance





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

File for Record is Instrument Number 921406

on the Year 20 19 Month 05 Day 04 Time 1:42

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANET YAMASAKI

Above Space for Recorder's Use only

COPY
Signature

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, February 22, 2018 (GLUC Mtg)
1:40 p.m. to 5:12 p.m.

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning, Guam
Thursday, February 22, 2018

GLUC MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman
Mr. Victor F. Cruz, Vice Chairman
Ms. Conchita D. Bathan, Commissioner
Mr. Tae S. Oh, Commissioner
Mr. Hardy I.T. Vy, Commissioner

HYBRID MEMBERS PRESENT:
Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon
Ms. Melissa Savares, Mayor of Dededo
Mr. Jessy Gogue, Mayor of Ordot-Chalan Pago

STAFF PRESENT:
Mr. Michael J.B. Borja, Executive Secretary
Mr. Marvin Aguilar, Guam Chief Planner
Mr. Frank Taitano, Planner IV
Mr. Penmer Gulac, Planner IV
Ms. Celine Cruz, Planner IV
Ms. Grace Vergara, Planner II
Ms. Cristina Gutierrez, Recording Secretary

Excused: Legal Counsel Nicolas Toft

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet

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

Date of Meeting:	Thursday, February 22, 2018	X	GLUC		GSPC
		X	Regular		Regular
Time of Meeting:	GLUC: 1:40pm / GSPC:		Special		Special
		✓	Quorum		Quorum
			No-Quorum		No-Quorum

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

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

ADJOURNMENT: GLUC: 5:12pm / GSPC:

GLUC Form 19 - GLUC Commission Attendance Sheet

GLUC/HYBRID LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet

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

Date of Meeting:	Thursday, February 22, 2018		X	GLUC	X	HLUC
			X	Regular	X	Regular
Time of Meeting:	GLUC: 1:40pm	GSPC:		Special		Special
Hybrid:	3:20pm — RECONVENED			Quorum		Quorum
				No-Quorum		No-Quorum

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

HYBRID COMMISSION; LZ COMPANY, APPLICATION NO. 2017-39 (MCoG DLM 2018-02)

Mayor Louise Rivera, Tamuning-Tumon-Harmon	
Mayor June Blas, Barrigada	ABSENT
Mayor Melissa Savares, Dededo	
Mayor Jessy Gogue, Chalan Pago-Ordot	
Michael J.B. Borja, Executive Secretary	
Nicolas E. Toft, Legal Counsel (OAG)	ABSENT
Marvin Q. Aguilar, Chief Planner	
Frank Taitano, Planner IV	
Penmer Gulac, Planner IV	
Celine Cruz, Planner IV	
M. Grace Vergara, Planner II	
M. Cristina Gutierrez, V	

ADJOURNMENT: GLUC: 5:12 HLUC: 4:45pm

GLUC Form 19 - GLUC Commission Attendance Sheet

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Speaker's Sign-In Record
Location: Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

[X]	GLUC	[X]	Regular	Date:	Thursday, February 22, 2018
[✓]	HLUC	[ ]	Special	Time:	1:40 pm CG
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:12 pm CG

(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.
MICHAEL MATSU	DOC AMENDED PROSECUTORS	475-8772
Malinda Swavely	Allegro Properties - Hilegro	646-1222
J.C. Arriola	2017-75	477-9431
HARRY Gutierrez	NCS	
PETER TOMSAWO	LZ PLAZA	777-5055
M Zhao	Lz Plaza	689-8028

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, February 22, 2018
[✓]	HLUC	[ ]	Special	Time:	1:46 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:12 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
[illegible]	Cocomo Taisho	6896828
Marina [illegible]	NPLJ	
Kagi-mas Camacho	NPLJ	
MICHAEL ILAKIO	IRMA+	475-8772
MATTHEW BEAZ	NPLJ	4872592
Tan Lum Lwin	TRMA	475 8772
JAY ARRIOLA	LZ PLAZA	
LOWELL LAPIZA	DCCMC JXCHC	6892707
ROBERT LIZAMA		685-1113

GLUC Form 21 - GLUC Public Attendance 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

Thursday, February 22, 2018 @ 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 February15th and February 20th, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, February 8, 2018

III. Old or Unfinished 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 **[Continuation – GLUC Hearing 02/08/2018]**

IV. New Business

Zone Variance

B. Application No. 2017-45, Applicant, Docomo Pacific, Inc. request for a Zone Variance Height and Use for the construction on a 100-foot telecommunication monopole tower, on Lot 7007-3-R3, in an "C" (Commercial) zone, under Application No. 2016-45.
Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

Horizontal Property Regime

C. Application No. 2014-07D, Applicant, Allegro Properties Corporation represented by Atty. Melinda Swavely, Esq.; requests issuance of its Second Supplementary Final Public Report for Avida Townhomes, on Lot 5360-R19NEW-4, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone, HPR No. 168.
Case Planner: Celine Cruz

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, February 22, 2018 • 3:15 p.m. to 5:12 p.m.

I. Notation of Attendance

Chairman Arroyo reconvened the regular meeting of the Guam Land Use Commission meeting for Thursday, February 22, 2018 at 3:15 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Executive Secretary Michael Borja, Guam Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz, Grace Vergara and Recording Secretary Cristina Gutierrez.

II. Approval of Minutes

Chairman Arroyo first item on the agenda is the review and approval of the February 8th, 2018 minutes. Commissioners have had a chance to review, Chairman Arroyo was ready to entertain a motion.

Commissioner Bathan makes a motion to approve the Minutes of February 8, 2018 subject to any minor edits to be submitted to Cristina by close of business today.

Chairman Arroyo motion is made by Commissioner Bathan. Is there a second.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo motion was seconded by Vice Chair Cruz, no discussion noted. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh, and Vy], all opposed say "nay."

[Motion passed to approve the February 8, 2018 GLUC Minutes; 5 ayes, 0 nay]

Chairman Arroyo the agenda that is before the Commission, are there any changes to the order of the agenda.

Commissioner Bathan requested to move Item C under Administrative and Miscellaneous Matters to the front of the agenda.

Chairman Arroyo had no problem with the request; and, no objections noted from the Commissioners.

Next item on the agenda –

V. Administrative & Miscellaneous Matters

Horizontal Property Regime

C. **Application No. 2014-07D**, Applicant, Allegro Properties Corporation represented by Atty. Melinda Swavely, Esq.; requests issuance of its Second Supplementary Final Public Report for Avida Townhomes, on Lot 5360-R19NEW-4, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone, HPR No. 168. Case Planner: Celine Cruz

Celine Cruz summarizes staff report for purpose, facts, staff analysis/discussion, recommendation and conditions. [For full content of staff report, please refer to attached report.]

[Attachment C – Staff Report dated February 13, 2018]

Chairman Arroyo questions for staff. None noted, Chairman Arroyo opened the floor to the applicant's representative.

Melinda Swavely (Attorney for Allegro Properties) Ms. Swavely stated that she had nothing to add to Ms. Cruz's report; and, ready to entertain any questions that the Commissioners might have.

Chairman Arroyo questions for the applicant. [None noted] Chairman Arroyo stated that since this is an issuance of a second supplementary public report, public comments are not necessary. Chairman Arroyo was ready to entertain a motion on the request.

Commissioner Oh moved to recommend the issuance of the second supplementary final public report for the applicant Allegro Properties Corporation represented by Melinda Swavely for Avida Townhomes on Lot 5360-R19-NEW-4, in the municipality of Mangilao, in an "R2" zone, under HPR No. 168; for a period of 13-months to expired on March 22, 2019.

Chairman Arroyo motion made by Commissioner Oh, is there a second.

Commissioner Bathan seconds the motion.

Chairman Arroyo motion is seconded by Commissioner Bathan. Noting no discussion, the motion was put to a vote. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Bathan, Commissioner Vy], all opposed say "nay."

[Motion passes; 5 ayes, 0 nay]

Chairman Arroyo recesses the regular meeting of the Guam Land Use Commission to reconvene the second Hybrid Commission.

Chairman Arroyo reconvened the regular meeting of the Guam Land Use Commission at 4:45 p.m.

III. Old or Unfinished 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. [Continuation – GLUC meeting of 2/2/2018]
Case Planner: Penmer Gulac

Chairman Arroyo for the record, Commissioner Tae Oh has left the meeting; he stated that he has a conflict with this application and the Docomo Pacific application following this application, and has recused himself. There are four commissioners remaining; Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan, and Commissioner Hardy Vy, and there is still a quorum.

Marvin Aguilar presented a brief chronology of events for this application. The application was first heard on November 28, 2017; and, could move forward due to the absence of an Agricultural Impact Statement. An AIS was received and was placed on the GLUC agenda for February 8, 2018; however, there was a technical issue with the billboard sign and was continued for a second time. The required billboard sign has been corrected, and the applicants' consultant is now before the Commission to request for approval. It was noted that the application was presented and previously discussed by the Commission.

Chairman Arroyo there were no questions and/or comments from the Commissioners, Chairman Arroyo opened the floor to Mr. Gutierrez.

Harry Gutierrez there are six lots involved, four have been rezoned commercial with the exception of these two lots before the Commission today. The rezoning of these two lots, if approved, will have the whole block zoned commercial.

Chairman Arroyo no additional questions noted, Chairman Arroyo opened the floor for public comments.

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

Chairman Arroyo no other comments noted, Chairman Arroyo requested for a motion.

Vice Chairman Cruz Mr. Chairman, I would like to make a motion to approve the Applicants, Rosalina E. Werkkunen and Leonora E. McGeough represented by Harry D. Gutierrez; Zone Change approval from "A" (Rural) to "C" (Commercial) for the proposed construction of a

commercial structure on each lot to be leased for retail, office space, storage warehouse as an accessory structure, on Lots 1-3-R1 and 1-2, Tract 1141, in the municipality of Dededo.

Chairman Arroyo motion on the floor by Vice Chairman Cruz, is there a second.

Commissioner Vy seconds the motion.

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

[Motion passed; 4 ayes, 0 nay, 1 recused (Commissioner Oh)]

Chairman Arroyo next item on the agenda –

Commissioner Vy stated that he had a personal conflict with the next item on the agenda and requested that he be recused from participating.

Chairman Arroyo noted for the record; Commissioner Vy was recused.

IV. New Business

Zone Variance

B. Application No. 2017-45, Applicant, Docomo Pacific, Inc.; request for a Zone Variance for Use and Height for the construction of a 100-foot telecommunication monopole tower, on Lot 7007-3-R3, in a "C" (Commercial) zone, in the Municipality of Yigo.
Case Planner: Frank Taitano

Frank Taitano reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions. [For full content/context, please refer to attached report.]

[Attachment B – Staff Report dated February 9, 2018]

Chairman Arroyo questions for staff? [None noted] Chairman Arroyo opened the floor to the applicants.

Diana Guzman (with Jowell Lapira) they are before the Commission today to seek approval for their ninth and final monopole project for Docomo. Ms. Guzman stated that this application was pretty much the same as the previous eight monopole applications that have been before the Commission and was ready to answer any questions that the Commission may have.

Chairman Arroyo questions.

Vice Chairman Cruz looking at the application (Part 3), asked which building was shown on the site plan.

Jowell Lapira it is the Church's social hall; when facing from Marine Corps Drive, the tower will be located to the left of the social hall.

Vice Chairman Cruz how close will the tower be to the building.

Jowell Lapira it will be about 10-feet from the pole. The contractor conducted a study on how to construct the foundation without affecting the integrity of the building. A retaining wall be erected during the construction of the pole. In addition, the way the foundation will not be done by normal digging; but, will be an ogre type digging, and the contractor has purchased the machine specifically for this project.

Vice Chairman Cruz is the furthest north that Docomo will go for towers.

Diana Guzman there are co-locations with I-Connect just before the Andersen front gate, and one inside the Base closest to the Commissary.

Jowell Lapira this will be the last pole for the north.

[Discussion ensues]

Vice Chairman Cruz is concerned that the towers are being located too close to buildings.

Diana Guzman within the vicinity of the church that was the only area that was available. When they looked at an area further towards the back portion of the church, according to Father Alvarez, he stated that there were issues and did not approve that corner of the church and suggested that it be located behind the social hall.

Vice Chairman Cruz are there any industry standards on how far poles are to a building.

Jowell Lapira there are none, provided that the poles are designed specifically for a location. For this pole, it will go deeper rather than a wider foundation.

Vice Chairman Cruz are there any other sites.

Jowell Lapira we had a restriction of 200-feet search radius. Beyond that, the signals will be overlapping.

Diana Guzman Gresco across the street from the church was approached; but there were safety issues because of Gresco's type of business being a gas company.

[Discussion ensues]

Commissioner Bathan asked how many more pending projects Docomo had for towers.

Diana Guzman one last application which is located in the YSengSong area. It is located across Park Market.

[Discussion ensues on the next location for the pending tower project.]

Chairman Arroyo there were no additional questions and/or comments, Chairman Arroyo opened the floor for public comments.

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

Chairman Arroyo no additional comments noted, Chairman Arroyo was ready to entertain a motion for this application.

Commissioner Bathan Mr. Chairman, I would like to make a motion to approve the request for a Zone Variance for Height and Use for the construction of a 100-foot telecommunication monopole tower on Lot 7007-3-R3, in a "C" (Commercial) zone, in the municipality of Yigo, under Application No. 2017-45; subject to the following conditions:

1. Applicant shall adhere to all the ARC conditions and requirements as stated in their official position statements; and,
2. Applicant shall ensure compliance with the one-year time restriction that states that a grading or building permit must be obtained from the date of recordation of the Notice of Action, otherwise the approval as granted by the Commission be NULL and VOID per E.O. 96-26, Section 5.

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

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by the Vice Chairman. Discussion.

Vice Chairman Cruz does Docomo have liability insurance for all pole locations.

Diana Guzman yes, and the amount has been increased from one-million to three-million dollars.

Chairman Arroyo (no additional comments) All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz and Commissioner Bathan], all opposed say "nay."

[Motion passed; 3 ayes, 0 nay, 2 recused (Commissioners Oh and Vy)

Chairman Arroyo that is it for the items on the agenda. Is there anything else to discuss.

V. Administrative and Miscellaneous Matters

Michael Borja Commissioners were reminded that the GEC forms on the Conflict of Interest Financial Disclosure that are due to GEC on Friday, April 20, 2018.

Chairman Arroyo no additional comments/discussion noted; Chairman Arroyo entertained a motion to adjourn.

VI. Adjournment

Commissioner Bathan makes a motion to adjourn today's meeting, seconded by Vice Chairman Cruz; with all in favor.

The regular meeting of the Guam Land Use Commission for Thursday, February 22, 2018 was adjourned at 5:12 p.m.

Approved by:

Date:

4/12/18

John Z. Arroyo, Chairman
Guam Land Use Commission

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
Planning Division, DLM

ATTACHMENT A

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://land.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile
671-649-5383

January 31, 2018

MEMORANDUM

TO: Chairman and Commissioners, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: **Supplemental Staff Report – Continuation for review** , Ref, Application No. 2017-12, Zone Change, Lots 3-1-R1 & 1-2, Tract 1141, NCS, Dededo; **GLUC Meeting of February 8, 2018**

1. **For Commission's review of above said application; reference revision of required Agricultural Impact Assessment (AIS) to support the zone change application; Note: Commission's last review of December 14, 2017; and**
2. **Planning Division has received the revised AIS and is acceptable for further consideration as an attachment for review by the Commission.**
3. **Recommendation: Planning further Recommends Approval**

Marvin Q. Aguilar
Guam Chief Planner

Case/Project Planner: Penmer C. Gulac, Planner IV
Attachments:

Dipattamenton 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

December 11, 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 Change" request from an "Agricultural" to a "Commercial" for application 2017-12 on Lots 1-3-R1 Tract 1141(Workkunen) & 1-2 Tract 1141(McGeough) Located in Dededo. (Rosalina E. Werkkunen & Lenora E. McGeough c/o Harry D. Gutierrez).

Agriculture has reviewed the subject lot for a "Zone Change" request from an **Agricultural to a Commercial zone** and has no opposition to the proposed zone change. Our agency will recommend approval of the zone change with the following statements, conditions and requirements set forth in *21 GCA Chapter 61 Section 61637* as our preliminary inspection of the site found no adverse impact to Agricultural activity and to any **Endangered Species** and other protected **Coastal Zones, Wetland habitat and Watersheds.**

The proposed zone change for the two, **Lots 1-3-R1 Tract 1141(Workkunen) & 1-2 Tract 1141(McGeough)** are located in an area that has been used in the past for various farming and ranching activities. However, currently no such "Agricultural" activity has been identified for the 2 lots with only sparse and subsistence small scale gardening occurring on surrounding lots. Therefore based on the preliminary inspection no adverse impact to any agricultural activity and to native habitats where observed either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place. Firstly, should the proposed zone change be approved and the project moves into any proposed build phase be aware that the proper **"Clearing and Grading permits"** must be obtained and registered with the Department of Public Works One Stop section with all the regulatory agencies signed off on the permit in order to proceed with mass clearing and grading of the site. **No land clearing activity is to occur prior to securing the proper permit.**

As rapid development occurs in the most heavily populated area of the island the destruction and removal of native tree species increases the potential for pollution and the loss of Guam's Northern Aquifer the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to this zone change and any proposed development of the sites. Agriculture recommends that the lots designated for build will have elements of a green zone dedicated to it, as part of the overall landscaping plan. If this includes parking and green zones not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply re-planting of native trees in a dedicated section of the lot(s) or allowing the existing fauna to remain as is, is vital in maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The Department of Agriculture has several programs and personnel that can assist you in developing a plan to address this issue.

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 Environmental Demonstration Farm. The demonstration farm displays various planting techniques that will aid in the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment by erosion and leeching. The planting of native trees will add to the aesthetic appeal of the development as it uses the trees that were once abundant in this part of NCS Dededo. The trees will also serve to provide shading for its residents, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development that takes into account Guam's vital natural resources.

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

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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.

Doc. No. 34GL-18-1857.

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.

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

February 9, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2017-45, Zone Variance for Lot No. 7007-3-R3 NEW, Municipality of Yigo.

1. PURPOSE:

a. **Application Summary:** The applicant, Docomo Pacific, Inc. Guam is requesting for a Zone Variance approval for use and height to construct, operate and maintain a 100 feet telecommunication monopole tower on Lot 7007-3-R3 NEW , Municipality of Yigo.

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

2. FACTS:

a. **Location:** The subject site is located along Marine Corps Drive, within the Yigo, Santa Lourdes Catholic Church complex, directly behind the left corner of the social hall building.

b. **Lot Area:** 7,631 Square Meters or 82,109 Square Feet.

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

d. **Field Description:** Presently vacant with maintained grass ground cover

e. **Masterplan:** Commercial - Neighborhood

f. **Community Design Plan:** Public Institutions

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** September 5, 2017

b. **Date Heard By ARC:** September 21, 2017

c. **Public Hearing Results:** December 19, 2017
(See Attachment "A")

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the zone variance request for use and height to construct, operate and maintain a 100 feet telecommunication monopole tower on the subject site is intended to enhance the wireless coverage and improve services for the residents of Yigo.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, 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, 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, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and 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.

In response to;

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;

DOCOMO Pacific, Inc. seeks to improve its telecom infrastructures to provide quality services across the island of Guam, most especially in underserved areas with less robust signal coverage. The proposed tower location is critical to ensure the widest and best coverage. Guam enacted the Executive Order 2016-01/2001-36 to allow Guam Telecommunications companies to develop competitive, safe & efficient mobile communications services. This Variance request is consistent with the general purpose and intent of the law, and further, if not granted, will impose significant delays and logistical hardship, not least of which will be the necessity of selecting an inferior alternative site.

In response to;

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 that;

The Company performed extensive radio frequency (RF) simulation & testing conducted at several locations, the results of which indicated that the site in question is ideal for improving coverage in the area, and also that alternative sites in the area were inferior from a coverage and/or logistical standpoint.

In response to;

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 that;

All equipment installed and maintained by the Company is licensed and regulated by the Federal Communications Commission (FCC), which regulations include operating frequencies, range, and power levels consistent with public safety and industry best practices. Further, the Company maintains a Comprehensive General Liability Insurance policy, which requires a minimum of $1,000,000 liability policy for each site constructed. All sites are registered and recorded with the FCC.

In response to;

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

The applicant provides that;

This Telecommunication site is being constructed to fulfill both the current and future demands of the Community for state-of-the-art coverage island-wide, a goal that is consistent with Executive Order 2016-01 / 2001-36 enacted to benefit the people of Guam.

In response to;

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 that;

Yes.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provide adequate justification in reference to their request that there are practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, 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, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan, that the proposed structure will not adversely affect the surrounding properties or public right to an untrammeled use of the beach and its natural beauty.

In addition, the result of the public hearing shows support from those in attendance and the submitted ARC position statements are with no objection and therefore conclude that their request is in proper form and context to 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 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

CASE PLANNER: F.P.TAITANO
Attachments: ARC Memo to GLUC Members

Minutes of Public Hearing

Application No. 2017-45, Zone Variance for Use and Height
Lot 7007-3-R3NEW, Municipality of Yigo

On December 19, 2017 - 6:10 P.M. a public hearing was conducted at the Yigo Senior Center, present was the applicant's representatives, Ms. Diana Guzman, Mr. Kyung Kim and Mr. Jun Baysa, the case planner and 5 public attendees.

Case Planner called the meeting to order, introduced himself, the application and explained the purpose of the public hearing. He then introduced Ms. Guzman representing the applicant, Docomo Pacific Inc. who would present and explain the purpose of the application.

Ms. Guzman introduced herself and her co-representatives and presented the application. She explained why the applicant decided to erect the proposed 100 feet tower on the subject location, how the site was chosen and that a chain link fence will be installed along the boundaries of the site.
Ms. Guzman then opened for comments and/or questions:

Comments/Questions:

Mr. Robert Lizama asked, does Docomo have an alternative to the monopole?
Ms. Guzman responded, yes, we do have other types and the monopole is the type to provide the best service on this site.

Mr. Lizama asked, is there an alternative site, considered to locate the monopole?
Ms. Guzman responded, yes, to include the LPG store across Marine Drive.

Mr. Lizama then commented, that based on location, the property owners near the pole are not benefiting, my concern is that the pole is not really going to benefit me but, I do understand the two components and that is capacity & coverage and being close to the pole, service will improve.

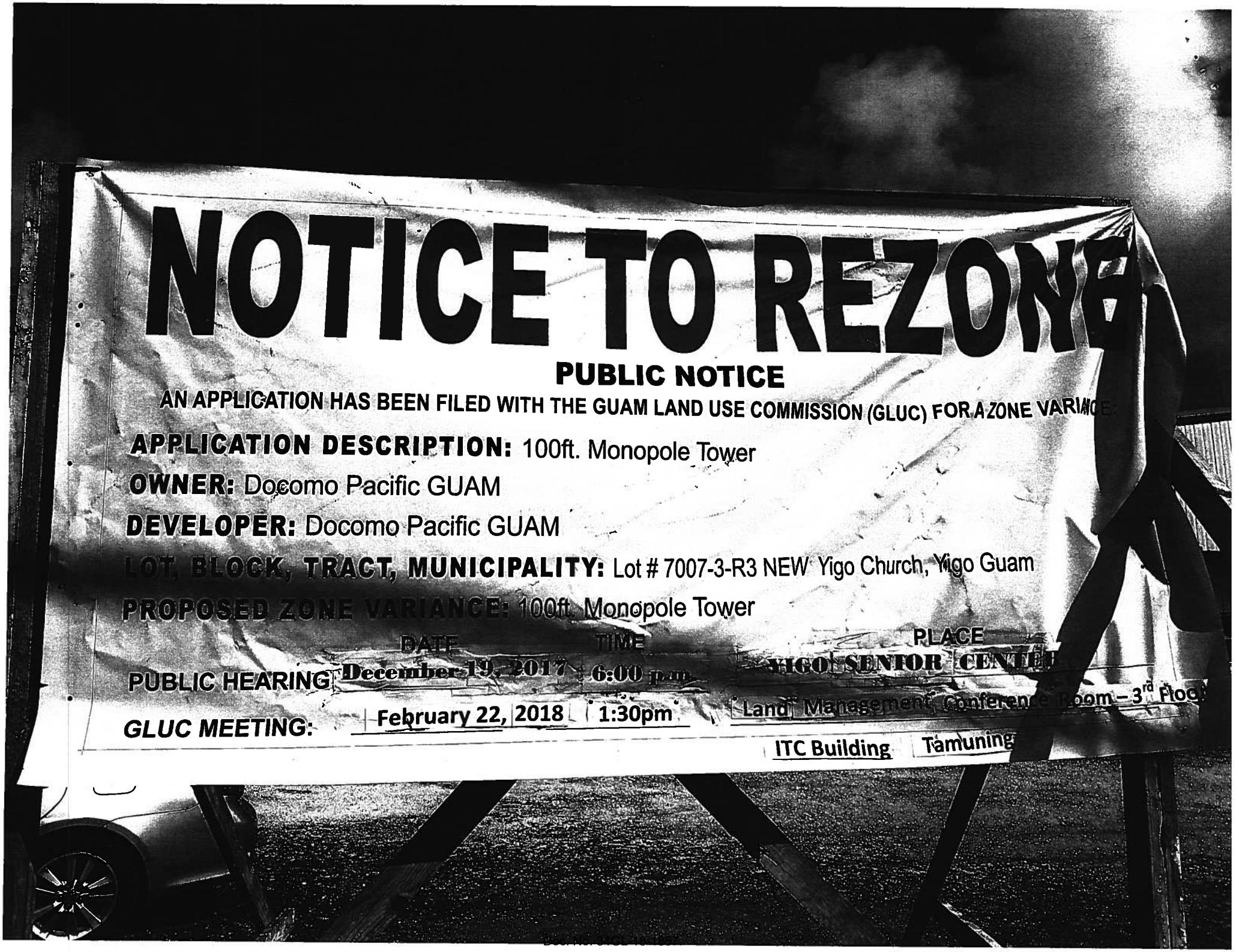
Mr. Lizama asked, will there be interference with the other carriers?
Ms. Guzman responded, no

Mr. Lizama asked, If the pole is up then, will I have a problem with my service? since presently, I do experience interference as a GTA customer.
Ms. Guzman responded, no, you should not have any interference problem from our pole.

Mr. Lizama asked, if there is another pole nearby?
Ms. Guzman responded, yes, I-Connect has a pole located north, just past the last store before AAFB.

Mr. Lizama asked, how long have Docomo being putting up this type of poles?
Ms. Guzman responded, 12 years.

Mr. Lizama asked, have there been any incident since then?
Ms. Guzman responded, no


NOTICE TO REZONE
PUBLIC NOTICE
AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A ZONE VARIANCE.
APPLICATION DESCRIPTION: 100ft. Monopole Tower
OWNER: Docomo Pacific GUAM
DEVELOPER: Docomo Pacific GUAM
LOT, BLOCK, TRACT, MUNICIPALITY: Lot # 7007-3-R3 NEW Yigo Church, Yigo Guam
PROPOSED ZONE VARIANCE: 100ft. Monopole Tower
DATE
TIME
PLACE
PUBLIC HEARING December 19, 2017 6:00 p.m.
YIGO SENIOR CENTER
GLUC MEETING: February 22, 2018 1:30pm
Land Management Conference Room – 3rd Floor
ITC Building Tamuning

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

February 9, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2017-45 (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;

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

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"***.

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

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works (DPW) recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the following conditions:

A. to provide detail drawings (structural, electrical and civil) as a supplemental to the application; and
B. the installation of the Monopole Tower must be well engineered that can withstand all wind, vibration forces at 210 MPH;

DPW recommends approval, subject to comments as reviewed by the Application Review Committee (ARC) with conditions 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 rules and regulations. Design drawings must also conform to the latest building code requirements prior to issuance of building permit.

GUAM WATERWORKS AUTHORITY (GWA):
The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for a permitted 100-foot telecommunication monopole tower on Lot 7007-3-R3 NEW in a "C" (Commercial) Zone, in the Municipality of Yigo.

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 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 comment is GWA's position in favor of the approval of this zone variance application:

The applicant's request for a zone variance for height will not require an increase in water and wastewater services and there are no GWA utilities that will be impacted following the approval of this zone variance request. Therefore, GWA has no objection to this application request.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response (Oct. 9, 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.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (Bureau) has completed its review of the application and provides the following comments and concerns.

1. **Land Use.** The site is located within the "C" (Commercial) Zone in the Northern portion of the island and will situated behind the Yigo Social Hall.

2. **Safety Precaution.** According to Docomo Pacific Guam representatives, the 100 ft. monopole tower will be nearby developed structures so it has the potential for damages due to natural hazards and damaging winds over 210 miles per hour. The Bureau does however recommend the applicant implement safety measures to ensure the protection of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

The Bureau Recommends Approval to the proposed 100 ft. Docomo Tower. Although the proposal is considered an accessory structure all regulatory compliance requirements and/or conditions still must be considered and adhered to in its entirety including any other applicable local and federal statutes.

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR has reviewed the subject application by Docomo Pacific Inc. for zone variance for use and height of subject Lot and have no objection. Therefore, DPR have no objection to the approval of the zone variance application.

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

GUAM POWER AUTHORITY

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

September 26, 2017

MEMORANDUM

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

From: General Manager

Subject: Lot 7007-3-R3 NEW, Municipality of Yigo, (Docomo Pacific Inc.); Zone Variance Application for a Telecommunication 100ft. Monopole Tower. **Application No. 2017-45**

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-18-1857.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Docomo Pacific Inc..
Location: Lot 7007-3-R3 NEW. Yigo
Type of Application: Zone Variance
GLUC GSPC Application No. 2017-45
Brief Project Description:
A 100ft. Telecommunication Monopole Tower.

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

9/29/17
Date

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

ASG/arp

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS

SAGAN PLANU SIHA YAN EMFOTMASION

Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

NOV 2 9 2017

MB 11/30

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
NOV 29 2017
1215
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: Position Statement on Application No. 2017-45
Applicant: Docomo Pacific Inc. Guam
Location: Yigo, Lot 7007-3-R3 NEW
Purpose: 100ft. Telecommunications Monopole Tower

Hafa Adai! The applicant, Docomo Pacific Guam requests a zone variance on Lot 7007-3-R3 NEW in the Municipality of Yigo. In accordance to Executive Order (EO) 2001-36, Docomo proposes to install a 100 foot telecommunications monopole tower on a portion of the property, which is approximately 8,568 square meters, 92,225 square feet, which is 2.3 acres in size. The subject property is "C" (Commercial) zoned and can be accessed just off Route 1 in Yigo immediately after the Gayinero Drive entrance.

A telecommunications antenna site agreement indicates that the property is leased to Docomo Pacific Guam by the Archdioce of Agana-Yigo Catholic Church Our Lady of Lourdes Church (Registered Owner) for a term of twenty-five (25) years. Docomo Pacific Guam seeks to improve its telecommunication infrastructure in order to provide services throughout the island including underserved areas with less signal coverage.

The Bureau of Statistics and Plans (Bureau) has completed its review of the application and provides the following comments and concerns.

1. **Land Use.** The site is located within the "C" (Commercial) Zone in the Northern portion of the island and will be situated behind the Yigo Social Hall.

2. **Safety Precaution.** According to Docomo Pacific Guam representatives, the 100ft. monopole tower will be nearby developed structures so it has the potential for damages due to natural hazards and damaging winds over 210 miles per hour. The Bureau does however recommend the applicant

implement safety measures to ensure the protection of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

The **Bureau Recommends Approval** to the proposed 100 ft. Docomo Tower. Although the proposal is considered an accessory structure all regulatory compliance requirements and/or conditions still must be considered and adhered to in its entirety including any other applicable local and federal statutes.

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. *Si Yu'us Ma'ase'.*

MANUEL Q. CRUZ
Acting

cc: GEPA
DOAG
DPR
DPW
GPA
GWA

GUAM WATERWORKS AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 17 2017
335
CLTC/GALC/GLUC

MB 10/17

MEMORANDUM

October 9, 2017

TO: Director, Department of Land Management

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

SUBJECT: Position Statement on Zone Variance Application No. 2017-45 on of Lot 7007-3-R3-NEW in a "C" (Commercial) Zone, in the Municipality of Yigo.

APPLICANT(S): Docomo Pacific Guam

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for a permitted 100-foot telecommunication monopole tower on Lot 7007-3-R3-NEW in a "C" (Commercial) Zone, in the Municipality of Yigo.

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 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 comment is GWA's position in favor of the approval of this zone variance application:

The applicant's request for a zone variance for height will not require an increase in water and wastewater services and there are no GWA utilities that will be impacted following the approval of this zone variance request. Therefore, GWA has no objection to this application request.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact the 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.

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO

GLENN LEON GUERRERO
Director
ARLEEN U. PIERCE
Acting Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 25
1:25 PM
CLTC/GALC/GLUC

10/25/26

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Director of Public Works

SUBJECT: Applicant: DOCOMO Pacific, Inc.
Application: 2017-45
Height Variance
Lot 7007-3-R3NEW, Yigo, Guam

Buenas yan Hafa Adai! Applicant, Docomo Pacific, Inc. intent is to construct and install a one hundred (100') feet Monopole Tower on a flat surface of 25 x 25 feet, located at the rear side area of the social hall building at Yigo, Catholic Church. The main purpose is to improve its tele communications system and provide quality services within the vicinity of the northern area. It will also help in the enhancement of 911 and Homeland Security during an emergency situation.

The Department of Public Works (DPW) recommends approval, subject to the comments review ed by the Application Review Committee (ARC) with the following conditions:

A. to provide detail drawings (structural, electrical and civil) as a supplemental to the application; and
B. the installation of the Monopole Tower must be well engineered that can withstand all wind, vibration forces at 210 MPH;

DPW recommends approval, subject to comments as reviewed by the Application Review Committee (ARC) with conditions 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 rules and regulations. Design drawings must also conform to the latest building code requirements prior to issuance of building permit.

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

GLENN LEON GUERRERO

LIbanez/ MRWilson

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:
RC 2017-0887

October 17, 2017

MB 10/26

1225 A

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2017-45: Application for Zone Variance for Use & Height on Portion of Lot 7007-3-R3 NEW, Yigo, Guam

We reviewed the subject application by Docomo Pacific Inc. for zone variance for use and height of subject Lot and have no objection. Therefore, we have no objection to the approval of the zone variance application.

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

Sincerely,

William N. Reyes

ATTACHMENT C

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

February 13, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report -Application No. 2014-07D, Request for Second Supplementary Final Public Report on Lot 5360-R19NEW-4 in the Municipality of Mangilao.

1. **PURPOSE:**
   - **A. Application Summary:** The applicant, Allegro Properties Corporation, represented by Attorney Melinda Swavely, Esq. of Dooley Roberts & Fowler LLP, request for issuance of a Second Supplementary Final Public Report in order to continue to market and sell the Avida Townhomes project, located in an "R-2" (Multi-Family Dwelling) zone on Lot 5360-R19NEW-4, in the Municipality of Mangilao, under Application No. 2014-07D.
   - **B. Legal Authority:** Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act) Sections 45154 Automatic Expiration of Public Reports.

2. **FACTS:**
   - **A.** Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for "Avida Townhomes" on December 10, 2015 with an expiration date of January 10, 2017 (Reference Instrument No. 889055).
   - **B.** A First Supplementary Final Public Report was issued by the Commission on January 12, 2017 and expired on February 12, 2018 (Reference Instrument No. 902799).
   - **C. Current Status.** The developer is currently marketing the project as a whole to potential on-island and off-island investors. However, if the Developer is unable to sell the entire project in the next few years, it has plans to market the units individually.

D. Changes to Original Project. There are no material changes to the project since issuance of the Final Public Report on January 10, 2015 and the First Supplementary Final Public Report on January 12, 2017.

3. STAFF RECOMMENDATION:

Recommend issuance of a Second Supplementary Final Public Report in order for the developer to continue to sell the project containing 5 condominium units; and, pursuant to §45154 of Chapter 45, Title 21 the issuance of this Second Supplementary Final Public Report is **for a period of thirteen months to end on March 22, 2019**.

Marvin Q. Aguilar
Guam Chief Planner

Attachment
Case Planner: Celine Cruz

ROBERTS FOWLER & VISOSKY LLP
ATTORNEYS AT LAW

TIM ROBERTS
KEVIN J. FOWLER
JON A. VISOSKY
SETH FORMAN

865 SOUTH MARINE CORPS DRIVE SUITE 201
TAMUNING, GUAM 96913
TELEPHONE: (671) 646-1222
FACSIMILE: (671) 646-1223
www.guamlawoffice.com

Of Counsel:
MELINDA S. SWAVELY
DAVID W. DOOLEY
COLIN P.A. JONES

Writer's Direct Email:
swavely@guamlawoffice.com

January 26, 2018

Application No.:	2014-07D
	Allegro Properties Corporation
	2ND SUPPLEMENTARY FINAL REPORT
	Avida Townhomes, HPR 168
Accepted Date:	26-Jan-18
Case Planner:	Celine C.

Via Hand Delivery
Mr. John Z. Arroyo
Chairman, Guam Land Use Commission
c/o Mr. Marvin Q. Aguilar, Guam Chief Planner
DEPARTMENT OF LAND MANAGEMENT
Government of Guam
Tamuning, Guam 96913

SUBJECT: **AVIDA TOWNHOMES**
REGISTRATION NO.: **168**
TYPE: **REQUEST FOR APPROVAL OF THE SECOND SUPPLEMENTARY FINAL REPORT**

Dear Chairman Arroyo and Commissioners:

Our firm represents Allegro Properties Corporation ("Developer") of Avida Townhomes ("Project") on Lot No. 5360-R19NEW-4, Mangilao, Guam.

The Developer is requesting the issuance of a Second Supplementary Final Report. The Developer is currently marketing the Project, as a whole, to potential on-island and off-island investors. However, if the Developer is unable to sell the entire Project in the next few years, it plans to market the Units individually.

We have attached hereto information in support of the issuance of a Second Supplementary Final Report for the Project. Your favorable consideration of our request for issuance of a Second Supplementary Final Report is respectfully requested.

Sincerely,

Melinda S. Swavely

Attachment

INFORMATION IN SUPPORT OF THE ISSUANCE OF A SECOND SUPPLEMENTARY FINAL REPORT FOR AVIDA TOWNHOMES

1. **Brief background information of the project identifying the project name and any amenities provided, its location by lot, block, tract number, and municipality.**

a. Name of Project: Avida Townhomes
b. Location: Lot No. 5360-R19NEW-4, Mangilao, Guam

c. Zoning: R-2
d. Developer: Allegro Properties Corporation
162 W. Route 8, Suite 100
Barrigada, Guam 96913
(671) 734-3011

e. No. of Buildings and Floors: There is one (1) reinforced concrete apartment building with two (2) floors

f. No. of Units: Five (5) Units.

g. Unit Type: All of the five (5) apartment units have three (3) bedrooms, two and one-half (2-1/2) bathrooms, kitchen, living and dining room, storage area, balcony, and two (2) parking stalls in the carport.

h. Parking Stalls: Each apartment unit includes two (2) parking stalls in the carport. There are also five (5) parking stalls, which are Common Elements of the Project and are for use by the owners, tenants, guests, and invitees. Each parking stall contains a minimum of one hundred eighty (180) square feet, and has immediate access within the Project leading to a public street.

i. Other Amenities or Features: Grounds refuse facilities, transformer, concrete area, ingress and egress along the front of the Project, three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall, and four (4) concrete columns and decorative fencing along the front of the Project.

2. **Number and identification of Units sold.**

None.

3. **Number and identification of Units not sold.**

The following Units are not sold: Unit A, Unit B, Unit C, Unit D and Unit E.

4. **Type of extension requested.**

[ ] preliminary [X] final

5. **Number of extension (i.e., third, fourth, etc.).**

Second.

6. **Real Estate Broker. Has the Developer retained the services of a real estate broker/company to marketing the remaining units? If so, please provide the complete name, mailing address and phone number of the broker/company. Does the Developer intend to market the remaining units himself or within his company?**

The Developer has retained the services of Elizabeth C. Duenas, a broker for ReMax, to market the units. The mailing address, telephone number, facsimile number, mobile number and email address for Elizabeth C. Duenas are as follows:

Mailing Address:	238 East Marine Corps Dr., Suite 202, Hagatna, Guam 96910
Telephone No.:	(671) 479-8843
Facsimile No.:	(671) 479-8913
Cellular No.:	(671) 687-0911
Email Address:	lduenas@remax.guam.com

7. **Marketing Plan. A brief explanation on how the Developer or its broker plans to market the remaining condominium units.**

The Developer currently desires to sell the Project as a whole. If the Developer is unable to do so in the next few years, it plans to market the Units individually.

8. **Changes to original Project. Should there be any material changes to the Project at the time of the application for a supplementary report to extend an existing Report, the Developer shall be required to identify those exact changes in his Report, and provide an explanation as to what remedies or action has been taken to correct those changes. Supporting documents are recommended to justify material changes.**

There are no material changes to the Project.

GUAM LAND USE COMMISSION
DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
TAMUNING, GUAM 96913

FIRST SUPPLEMENTARY FINAL HORIZONTAL PROPERTY REGIME PUBLIC REPORT ON

AVIDA TOWNHOMES

Lot No. 5360-R19NEW-4, MANGILAO, GUAM

REGISTRATION NO. 168

IMPORTANT - Read This Report Before Buying

This Report is Not an Approval or Disapproval
of This Condominium Project

It reflects information obtained by the Guam Land Use Commission ("Commission") in its investigation of the Project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The Developer shall not enter into a binding contract or agreement for the sale of any unit in the Project, until:

(1) A copy of the Final Report and all Supplementary Public Reports have been given to the prospective purchaser,

(2) The latter has been given an opportunity to read the same, and,

(3) His receipt taken therefor.

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

File for Record is Instrument No. 902799

On the Year 17 Month 2 Day 3 Time 139

Recording Fee 65 Receipt No. 799

Deputy Recorder JOEL D. ANTENORCRUZ

Issued: January 12, 2017
Expires: February 12, 2018

SPECIAL ATTENTION

A comprehensive reading of this report by prospective purchasers is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION, DECLARATION OF HORIZONTAL PROPERTY REGIME, AND BYLAWS OF THE ASSOCIATION OF OWNERS, SUBMITTED BY THE DEVELOPER IN THE NOTICE OF INTENTION, QUESTIONNAIRE, DECLARATION, AND BYLAWS DATED MAY 8, 2015, HEARD BEFORE THE COMMISSION ON DECEMBER 10, 2015 AND FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON JANUARY 22, 2016 UNDER INSTRUMENT NUMBER 887981; THE CONDOMINIUM MAP FOR THE PROJECT FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON JANUARY 15, 2016 UNDER INSTRUMENT NO. 887821, AND THE FINAL PUBLIC REPORT FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON FEBRUARY 22, 2016 , UNDER INSTRUMENT NO. 889055; THE REQUEST FOR ISSUANCE OF A FIRST SUPPLEMENTARY FINAL PUBLIC REPORT DATED DECEMBER 19, 2016 AND HEARD BEFORE THE COMMISSION ON JANUARY 12, 2017, WITH THE NOTICE OF ACTION ISSUED BY THE COMMISSION ON JANUARY 12, 2017 AND FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON JANUARY 13, 2017 UNDER INSTRUMENT NUMBER 902004. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO CONTINUE TO SELL THE CONDOMINIUM UNITS OF THIS PROJECT IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, TITLE 21, GUAM CODE ANNOTATED, CHAPTER 45, AS AMENDED (THE "ACT").

1. Description of Project. The Project consists of Lot No. 5360-R19NEW-4, Mangilao, Guam ("Property") and improvements thereon consisting of a two (2) storey apartment building containing five (5) apartment units, each with three (3) bedrooms and two and one-half (2½) bathrooms ("Apartment Building"). The Common Elements of the Project include five (5) parking stalls, grounds, refuse facilities, transformer, ingress and egress along the front of the Project; three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall and four (4) concrete columns and decorative fencing along the front of the Project sides and back of the Project, and other Common Elements of the Project.

2. All Documents Submitted. The Developer of the Project has submitted to the Commission for examination all documents deemed

necessary for the registration of a condominium project and issuance of this Final Public Report.

3. Compliance and Recording. The Declaration of Horizontal Property Regime (the "Declaration"), Bylaws of the Association of Owners (the "Bylaws"), and a copy of the floor plans have been submitted to the Commission. The Commission finds these necessary documents comply with the Act. The Declaration, executed May 8, 2015, with the Bylaws attached, was recorded on January 22, 2016, at the Department of Land Management, Government of Guam under Instrument No. 887981 and the Condominium Map No. 168 for the Project was filed in the Office of the Recorder, Government of Guam on January 15, 2016, under Instrument No. 887821.

4. Ownership of Project. The Developer advises the Commission that it now owns the Project, including the Property in fee simple. On completion of conveyance of all of the apartment units in the Project, the Developer will retain no residual interest in the Project.

5. Horizontal Property Act. The prospective purchaser is advised to acquaint himself with the provisions of the Act and any Condominium Rules and Regulations promulgated under the Act which relate to Horizontal Property Regimes.

6. Term of Report. This First Supplementary Final Public Report automatically expires thirteen (13) months after date of issuance, or on February 12, 2018, unless a Second Supplementary Public Report is published, or the Commission, upon review of the registration, issues an order extending the effective period of this Report.

7. Printing and Distributing Report. The Developer is responsible for placing this First Supplementary Final Public Report (pink paper stock) in the hands of all prospective purchasers and for securing a signed copy of the receipt for the Final Public Report and First Supplementary Final Report from each prospective purchaser.

I. Name of Project: Avida Townhomes

II. Location: Lot No. 5360-R19NEW-4, Mangilao, Guam

III. Zoning: R-2

IV. Developer: Allegro Properties Corporation
162 W. Route 8, Suite 100
Barrigada, Guam 96913
(671) 734-3011

V. Attorney representing Developer: Melinda S. Swavely, Esq.
Dooley Roberts Fowler & Visosky LLP
865 South Marine Corps Drive, Suite 201, Orlean Pacific Plaza
Tamuning, Guam 96913
(671) 646-1222

VI. Description:

§1. The Project. The Declaration reflects that the Project is comprised of the Property and the improvements consisting of the Apartment Building containing five (5) apartment units, and the Common Elements consisting of five (5) parking stalls, grounds, refuse facilities, transformer, ingress and egress along the front of the Project; three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall and four concrete columns and decorative fencing along the front of the Project sides and back of the Project, and other Common Elements of the Project in accordance with the as–built drawings for the Project prepared by Francisco Z. Diamzon and set out in Condominium Map No. 168, recorded with the Department of Land Management, Government of Guam, on January 15, 2016 under Instrument No. 887821.

§2. The Apartments. The five (5) apartment units each have three (3) bedrooms, two and one-half (2-1/2) bathrooms, kitchen, living and dining room, storage area, balcony and two (2) parking stalls in carport.

§2.1. Included Within Apartments. Each apartment unit is deemed to include the spaces bound by and contained within the perimeter walls, floors, windows, doors, and ceilings of each apartment unit inclusive of the carport and one (1) balcony area appurtenant to each apartment unit, including all the walls, beams and columns within the perimeter walls which are not load-bearing, and the interior decorated or finished surfaces of all load-bearing walls, beams and columns, floors, and ceilings within the perimeter walls. The apartment units are not deemed to include the undecorated or unfinished interior load-bearing walls, perimeter walls, floors and ceilings surrounding each apartment unit; the building foundation; and any pipes, wires, conduits, or other utility lines running to an apartment unit which are utilized for or serve other apartment units, and all other parts of the Project which are Common Elements.

§2.2. Apartment Number, Location, and Square Footage of the Apartment Units. The unit number, location, parking stalls, and square footage of the apartment units are as follows:

Apartment Building from North to South

Apt. No.	Parking Stalls In Carport	No. of Square footage (including floor areas of carport and two balconies)
Unit A	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit B	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit C	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit D	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit E	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.

The square footage of each of apartment units is 1,606.89 square feet as follows: 1) the square footage of the apartment units excluding the carport and balcony area is 1,199.82 square feet; 2) the square footage of the carport area is 338.83 square feet; and 3) the square footage of the balcony is 68.69 square feet.

§3. Common Elements. The Declaration reflects that the Common Elements consist of:

§3.1. Land. The Property in fee simple subject to the following: 1) Grant of Right-of-Way for the Erection and Maintenance of Power Lines, Poles, Wires, Cables and Underground Conduits dated April 8, 2003 and recorded on May 22, 2003 under Instrument No. 675297, in the Department of Land Management, Government of Guam, executed by Grand Rock Corporation, Ltd., grantor to Guam Power Authority, grantee. RE: A 10' x 10' strip of land extending partially across Lot No. 5360-R19NEW-4, Mangilao; 2) Mortgage dated September 11, 2008 and recorded on September 11, 2008 under Instrument No. 779076, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, mortgagor to Citizens Security Bank (Guam), Inc., mortgagee, which states it secures a debt in the principal amount of $660,000.00, plus interest; 3) Assignment of Rents dated September 9, 2008 and recorded on September 11, 2008 under Instrument No. 779077, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, assignor to Citizens Security Bank (Guam), Inc., assignee; 4) Notice of Action dated August 15, 2014 and

recorded on September 9, 2014 under Instrument No. 869322, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation [Note: Request for a zone variance approval of an existing 7'8" right side yard setback and 9'10" rear yard setback of an existing 2-storey, 5-unit apartment complex. (Approved with conditions.]; 5) Guam Law Use Commission Regular Meeting Minutes dated August 14, 2014 and recorded on September 19, 2014 under Instrument No. 869665, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation, request for side and rear setbacks of the building in an "R-2" (Multi-Family Dwelling) zone; 6) real property taxes not yet due and owing; and 7) all other liens, easements and encroachments of record.

§3.2. Building elements. The foundation, roof, and stairways of the building; and all load-bearing floors, walls, columns, and beams of the building, but excluding the interior decorated or finished surface of all such load-bearing floors, walls, columns and beams, and the ceilings within the perimeter walls of an individual apartment unit.

§3.3. Grounds and facilities. Grounds, refuse facilities, transformer, concrete area, ingress and egress along the front of the Project; three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall and four concrete columns and decorative fencing along the front of the Project, and other Common Elements of the Project.

§3.4. Parking. The Common Element parking facilities consisting of five (5) parking stalls to be used by tenants, guests, and invitees. Each parking stall shall contain a minimum of one hundred eighty (180) square feet, and shall have immediate access within the Project leading to a public street.

§3.5. Fixtures. All pipes, cables, conduits, ducts, flues, chutes, wiring, equipment, and other central and appurtenant installations over, under, and in the Project which serve more than one (1) apartment for services such as and including conveyance, power, light, water, sewer, telephone and television signal transmission, if any;

§3.6. Other personal property. All articles of personal property of the Project necessary or convenient to its existence, maintenance, safety or normally in common use; and

§3.7. Other parts of property. All other parts of the Project defined as Common Elements under the Horizontal Property Act.

§4. Percentage of Common Element Interest to be conveyed Purchaser. The apartment units shall have appurtenant thereto an undivided interest in the Common Elements, as follows:

Unit No.	Square Footage	Undivided Common Element Interest
Unit A	1,606.89	20%
Unit B	1,606.89	20%

Unit C	1,606.89	20%
Unit D	1,606.89	20%
Unit E	1,606.89	20%

§5. Voting and Percentage in Common Elements. The interest in the Common Elements, proportionate share in the liability for Common Element expenses, proportionate interest in the profits, if any, in the Project, and representation for voting purposes shall be allocated on the basis of the percentage set out in §4, or as modified by the Declaration of Final Horizontal Property Regime. The percentage of the Common Element Interest of each apartment owner as expressed in the Declaration of Final Horizontal Property Regime shall have a permanent character and shall not be altered without the consent of all apartment owners affected, expressed in an amended Declaration duly recorded. The percentage of the Common Element Interest shall not be separated from the apartment unit to which it is appurtenant and shall be deemed to be conveyed or encumbered with the apartment unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

§6. Purpose of Building and Restrictions as to Use. The Declaration states that the apartments are intended exclusively for residential purposes except that a portion of the apartment unit may be used as a home office by the owner or tenant, provided the apartment unit owner has first obtained the permission of the Board as to the use, patronization, and conditions of use of such home office. Such permission by the Board shall be required to be renewed on an annual basis and can be revoked by the Board at any time for good cause.

§7. Financing of Project. Financing for the Project was financed through the Developer's funds and a loan from Citizen Security Bank.

§8. Ownership of Land. The Developer is the owner in fee simple of the Property.

§9. Encumbrances Against Title. Developers own the land and building free and clear of all encumbrances, except: 1) Grant of Right-of-Way for the Erection and Maintenance of Power Lines, Poles, Wires, Cables and Underground Conduits dated April 8, 2003 and recorded on May 22, 2003 under Instrument No. 675297, in the Department of Land Management, Government of Guam, executed by Grand Rock Corporation, Ltd., grantor to Guam Power Authority, grantee. RE: A 10' x 10' strip of land extending partially across Lot No. 5360-R19NEW-4, Mangilao; 2) Mortgage dated September 11, 2008 and recorded on September 11, 2008 under Instrument No. 779076, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, mortgagor to Citizens Security Bank (Guam), Inc., mortgagee, which states it secures a debt in the principal amount of $660,000.00, plus interest; 3) Assignment of Rents dated September 9, 2008 and recorded on September 11, 2008 under Instrument No. 779077, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, assignor to Citizens Security Bank (Guam), Inc., assignee; 4) Notice of Action dated August 15, 2014 and recorded on September 9, 2014 under Instrument No. 869322, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation [Note: Request for a zone variance approval of an existing 7'8" right side yard setback and 9'10" rear yard setback of an existing 2-storey, 5-unit apartment complex. (Approved

with conditions.)]; 5) Guam Law Use Commission Regular Meeting Minutes dated August 14, 2014 and recorded on September 19, 2014 under Instrument No. 869665, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation, request for side and rear setbacks of the building in an "R-2" (Multi-Family Dwelling) zone; 6) real property taxes not yet due and owing; and 7) all other liens, easements and encroachments of record.

Developer will obtain a partial release of the above-referenced mortgage and assignment of rental income in favor of Citizen Security Bank for each apartment unit at the time of the conveyance of such apartment unit by Developer.

§10. Management and Operation. The Bylaws of the Association of Owners of Avida Townhomes state that the Board of Directors may employ for the Association a management agent or manager to perform such duties and services as the board shall authorize, including the care, upkeep, and surveillance of the Project and the Common Elements, collection of monthly assessments from the owners, and the designation and dismissal of personnel necessary for the maintenance of the Project and the Common Elements. The Bylaws also state that each apartment unit owner shall contribute pro rata for the expense of administration of the Project and the Common Elements.

Information in Report as of
January 12, 2017

The purchasers or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the Notice of Intention, Questionnaire, Declaration, and Bylaws, dated May 8, 2015 and heard before the Commission on December 10, 2015 and filed in the Office of the Recorder, Government of Guam on January 22, 2016 as Instrument No. 887981; the Condominium Map for the Project filed in the Office of the Recorder, Government of Guam on January 15, 2016 under Instrument No. 887821; the Final Public Report filed in the Office of the Recorder, Government of Guam on February 22, 2016 , under Instrument No. 889055, and the request for issuance of a First Supplementary Final Public Report dated December 19, 2016 and heard before the Commission on January 12, 2017.

Finding that Report should Issue

The Commission finds that the Developer has met and fulfilled the requirements of § 45115 of the Horizontal Property Act which establishes the provisions for the issuance of a First Supplementary Final Public Report, when reproduced shall be a true copy of the Commission's public report. The paper stock used in making facsimiles must be pink in color.

Title, Number and Date

This is a FIRST SUPPLEMENTARY FINAL HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 168. The report, when reproduced shall be a true copy of the Commission's public report. The paper stock used in making copies must be pink in color.

GUAM LAND USE COMMISSION,
PLANNING SECTION,
DEPARTMENT OF LAND MANAGEMENT,
GOVERNMENT OF GUAM,
TAMUNING, GUAM 96913

By: _____
Michael J. B. Borja
Executive Secretary
Guam Land Use Commission

GUAM U.S.A.)
) ss:
CITY OF TAMUNING)

ON THIS 2nd day of February, 2017, before me, a Notary Public in and for Guam, U.S.A., personally appeared Michael J. B. Borja, known to me to be the Executive Secretary of the Guam Land Use Commission, whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of said commission for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

TERESITA A.C. TOVES NOTARY PUBLIC

_____
Notary Public

TERESITA A.C. TOVES
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: **JULY 13, 2019**
P.O. Box 2950 Hagatna, Guam 96932

REGISTRATION NO. 168

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

File for Record is Instrument Number 921407

on the Year 20 18 Month 05 Day 04 Time 1:44

Recording Fee DE-OFFICIO Receipt No.

Deputy Recorder: Jane Yamasaki
JANET VANSCEVI

Above Space for Recorder's Use only

COPY
Legislature

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, March 8, 2018
1:42 p.m. to 4:55 p.m.

GUAM/HYBRID LAND USE COMMISSION
Regular Meeting
Thursday, March 8, 2018
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Vice Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Tae S. Oh, Commissioner

Mr. Michael Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

HYBRID COMMISSIONERS:

Mayor Louise Rivera, Tamuning

Mayor June Blas, Barrigada

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Grace Vergara, Planning Staff

Ms. Cristina Gutierrez, Recording Secretary

GLUC/HYBRID LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet

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

Date of Meeting:	Thursday, March 8, 2018		
Time of Meeting:	GLUC: 1:42	HLUC:	
Hybrid:			

X	GLUC	X	HLUC
X	Regular	X	Regular
	Special		Special
✓	Quorum		Quorum
	No-Quorum		No-Quorum

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

HYBRID COMMISSION; BLUE OCEAN INVESTMENT, Application No. 2017-29A/B [MCoG DLM 2018-04

Mayor Louise Rivera, Tamuning-Tumon-Harmon	
Mayor Melissa Savares, Dededo	Excused
Mayor June Blas, Barrigada	
Mayor John Cruz, Hagatna	Absent
Michael J.B. Borja, Executive Secretary	
Nicolas E. Toft, Legal Counsel (OAG)	
Marvin Q. Aguilar, Chief Planner	(Present)
Frank Taitano, Planner IV	
Penmer Gulac, Planner IV	
Celine Cruz, Planner IV	
M. Grace Vergara, Planner II	
M. Cristina Gutierrez, WPSII	

ADJOURNMENT: GLUC: 4:55pm HLUC:

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Speaker's Sign-In Record
Location: Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

[X]	GLUC	[X]	Regular	Date:	Thursday, March 8, 2018
[✓]	HLUC	[ ]	Special	Time:	1:42pm
[ ]	Quorum	[ ]	No Quorum	Adjournment:	4:55pm

(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.
MICHAEL MAKIO	BLUE OCEAN	477-9772

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, March 8, 2018
[✓]	HLUC	[ ]	Special	Time:	1:42pm
[ ]	Quorum	[ ]	No Quorum	Adjournment:	4:55 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Daniel Roman	Docomo Pacific	789-0104
ANDREW KAO	[illegible]	688 9146
Mark Zhao	Mark	689-8038
STEVE STREIB		647-4032
PATRICK OKADA	-	646-6802
Daniel Longenecker	TRMA	475-8772
Michael Makio	TRMA	475-8772
Samuel McPheters	GUMA	670 588 4862
JEWELL LAFIRA	DOCOMO PACIFIC	689 2707
Peter Longo	LG Rua	777-3031
Mag. Kalliang	KALS LLC	689-6501
JOSEPH M. BORJA		
Susan Fryer		689-4266
RAY CAYANAN	GUMA	788686

GLUC Form 21 - GLUC Public Attendance 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

Thursday, March 8, 2018 @ 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 March 1st and March 6th, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, February 22, 2018

III. Old or Unfinished Business

IV. New Business

Zone Variance

A. **Application No. 2016-53**, Docomo Pacific, Inc., Guam; request for Zone Variance for Height and Use for the construction of a 100-foot telecommunication monopole tower, on Lot 10069-3-6, in the Municipality of Dededo, in an "A" (Rural) zone.
Case Planner: Penmer Gulac

Tentative Development Plan

B. **Application No. 2018-09**, KALS LLC represented by GUMA Architects, LLC; request for a Tentative Development Plan to convert an existing commercial building (K-Plaza) to mixed commercial uses and hotel, on Lot 5094-R1 (Tumon), in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone.
Case Planner: Celine Cruz

V. Administrative & Miscellaneous Matters

Request for Extension

C. Application No. 2011-09B Fargo Pacific Inc. represented by Daniel D. Swavely; requests for a one-year extension for the construction of its temporary workforce housing facility, pursuant to E.O. 96-26, Section 5, on Lot 5161-1-3 (Harmon), in the Municipality of Tamuning, in an "M-1" (Light Industrial) zone. Case Planner: Frank Taitano

VI. Adjournment

HYBRID LAND USE COMMISSION

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

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

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

AGENDA

Regular Meeting

Thursday, March 8, 2018

Department of Land Management Conference Room

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

[As advertised in the Guam Daily Post on March 1, 2018 and March 6, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, February 22, 2018

III. Old or Unfinished Business

IV. New Business

Zone Variance/Tentative Development Plan

A. **Application No. 2017-29A/B** Applicant, Blue Ocean Investment, LLC represented by TRM Architects; request for a Zone Variance for Height & Density and Tentative Development Plan for the proposed construction of a boutique hotel, on Lots 5093-R1-1-R1 and 5093-R1-1-1 (Tumon), in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone. Case Planner: Celine Cruz

V. Administrative & Miscellaneous Matters

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, March 8, 2018 • 1:42 p.m. to 4:55 p.m.

I. Notation of Attendance

Chairman Arroyo reconvened the regular meeting of the Guam Land Use Commission for Thursday, March 8, 2018 at 3:42 p.m., noting a quorum.

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

II. Approval of Minutes

Chairman Arroyo the approval of the Minutes of the February 22, 2018 GLUC meeting will be placed on the next GLUC agenda.

III. Old or Unfinished Business [None]

Chairman Arroyo the rest of the agenda that is before the Commission, are there any recommendations and/or changes to the order of the agenda.

Vice Chairman Cruz asked that Item IV-A, Application No. 2016-53 be moved to the end of the agenda.

Chairman Arroyo seeing no objections, Chairman Arroyo moved Application 2016-53 for Docomo Pacific to the end of the agenda.

IV. New Business

Tentative Development Plan

A. Application No. 2018-09, KALS LLC represented by GUMA Architects, LLC; request for a Tentative Development Plan to convert an existing commercial building (K-Plaza) to mixed commercial uses and hotel, on Lot 5094-R1 (Tumon), in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planner: Celine Cruz

Chairman Arroyo has the Tamuning MPC made comments with regards to this application.

Celine Cruz no comments have been received from the Tamuning MPC.

Grace Vergara (Planner) reads the staff report to include purpose, facts, staff analysis/discussion, recommendation and conditions. [For full content/context, please refer to Attachment A]

[Attachment A – Staff Report dated March 1, 2018]

Chairman Arroyo noting no questions for staff, Chairman Arroyo welcomed the applicant and consultants to the meeting.

Sam McPhetres (with partner Ray Cayanan and Magi Kallingal, owner) gave a presentation on the project.

- This is an existing building with two floors of commercial space on the upper floors that have been sitting vacant for over one year. The owner proposes to convert the upper floors to hotel use, in a hotel zone;
- This project is located right next door to the previous application before this application;
- The proposed building is located at the corner of Happy Landing Road and San Vitores Road;
- There is an existing restaurant and karaoke bar on the property that will be maintained;
- Most of the work is interior work only converting the upper two floors for hotel use. There will be no exterior work with the exception of modification to the sidewalk where sidewalk parking is present and creates a problem, creating a loading and unloading zone, and landscaping. They had a meeting with Parks and Recreation because of their (DPR) concern on deep excavating and disturbing the site. Mr. McPhetres explained that their exterior is minimal.
- Shows the existing site plan, the triangular parking space; parking requirements have been met;
- Images on sidewalk improvement, calculation on density, images of studio type units, 1-bedroom suites, and additional images of the hotel, exterior;
- This project primarily focuses on interior renovations. Dividing up the space and creating hotel rooms; and,
- Additional renderings of the hotel space and rooms.

Chairman Arroyo are the rooms all the same size.

Ray Cayanan they are limited to the minimum of 400-square feet per room; however, the rooms exceed this number. Also taken into consideration was about two-percent of ADA rooms to be a bit larger than the 400-square feet.

Commissioner Oh is there a copy of the previously approved TDP.

Marvin Aguilar what is on record is an interpretation of action taken by the TPC (Territorial Planning Commission), basically only in Minutes.

Celine Cruz there was an application and it was built according to and having all the conditions met. One of the key conditions was basically landscaping only.

Commissioner Bathan this is an amendment to a previously TDP?

Marvin Aguilar it is a conversion of the building and its uses.

Commissioner Oh is there a copy of the Minutes.

Vice Chairman Cruz were drawings provided.

Celine Cruz confirms that there are drawings and it is exactly how the building is as you see it today. It was approved by the TLUC back in 1999.

Commissioner Oh this was built when.

Sam McPhetres the building was built in 1999 and completed in 2000. We have had our engineers verify that there is sufficient supply for electricity, water, waste, etc. In addition, they have communicated with GPA and the transformer is sufficient to provide power.

Ray Cayanan the previous use for the third floor was for a spa and there is plumbing available; the second floor was used for office space. The existing panels will be removed and sub-panels will be installed.

Commissioner Oh the spa is no longer there.

Magi Kallingal no, they moved out more than a year ago and has been vacant since.

Michael Borja there will be no changes to the structure.

Ray Cayanan no changes will be made other than adding additional windows if budget permits.

Sam McPhetres, we have been working with a structural engineer on this. It is really more interior work and landscaping.

[Discussion ensues]

Chairman Arroyo called for a five-minute recess at 4:05 p.m. and reconvened at 4:10 p.m. The Commissioners have received a copy of the Notice of Action dated August 19, 1999.

Commissioner Oh after reviewing the NOA, it seems that the only requirement that stands out is the landscaping; and, landscaping has been provided for this project and will meet the condition setforth in the previous NOA.

Commissioner Bathan will parking stalls be standard or compact.

Sam McPhetres it will be a combination of both, with a majority being compact.

[Discussion ensues on parking size requirements]

Chairman Arroyo seeing no additional comments for the staff and the applicant, Chairman Arroyo was ready to entertain a motion for this application.

Commissioner Oh Mr. Chair, I move to approve the applicant, KALS LLC represented by GUMA Architects; request for approval to amend a previously approved Tentative Development Plan to convert the existing commercial use of K-Plaza to mixed commercial use and hotel, on Lot 5094-R1 (Tumon), in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning, with the following conditions:

1. The applicant shall adhere to all the ARC conditions and requirements as stipulated in their official position statements;
2. 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;
3. The applicant shall provide a landscaping plan pursuant to Section 5G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Guam Chief Planner;
4. Pursuant to the Interim "H" Hotel/Resort Rules and Regulations, Paragraph F, the improvements specified in the TDP shall be completed within one (1) year from the date of Commission approval;
5. That the Applicant shall also ensure compliance to the one (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 E.O. 96-26, Section 5; and,*
6. The applicant shall adhere to the previously approved Notice of Action dated August 19, 1999, and all conditions as noted within that approved Tentative Development Plan.

Chairman Arroyo motion on the floor by Commissioner Oh, do I have a second.

Commissioner Bathan seconds the motion.

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

[Motion passed with a vote of 4 ayes, 0 nay]

Chairman Arroyo next item on the agenda –

V. Administrative and Miscellaneous Matters

Request for Extension

B. Application No. 2011-09B, Fargo Pacific Inc. represented by Daniel D. Swavely; requests for a one-year extension of time for the construction of its temporary workforce housing facility, pursuant to E.O. 96-26, Section 5, on Lot 5161-1-3 (Harmon) in an "M-1" (Light Industrial) zone, in the Municipality of Tamuning. Case Planner: Frank Taitano

Frank Taitano reports that Mr. Swavely is tending to an emergency and unable to make today's meeting. The Commission will need to table this application.

Chairman Arroyo notes that there is no representation from Fargo Pacific, Inc. Chairman Arroyo was ready to entertain a motion to table the hearing of this application.

Commissioner Bathan makes a motion to recommend the tabling of Application No. 2011-09B for Fargo Pacific Inc. for the next available GLUC hearing.

Chairman Arroyo there is a motion to table the application, is there a second.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by Vice Chairman Cruz. Any discussion on the motion [none]. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan and Oh], all opposed say "nay."

[Motion passed, 4 ayes, 0 nay. Application is tabled for the next meeting]

Chairman Arroyo last item on the agenda –

Zone Variance

C. Application No. 2016-53, Docomo Pacific, Inc., Guam; request for a Zone Variance for Height and Use for the construction of a 100-foot telecommunication monopole tower, on Lot 10069-3-6, in an "A" (Rural) zone, in the Municipality of Dededo.
Case Planner: Penmer Gulac

Commissioner Oh states for the record, that he has a conflict of interest between his company and Docomo Pacific and asked to be recused.

Chairman Arroyo Commissioner Oh is conflicting and has been recused from this application.

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

[Attachment C – Staff Report dated March 1, 2018]

Chairman Arroyo seeing no questions for staff, Chairman Arroyo welcomed the applicant to present the application.

Diana Guzman (with Jowell Lapira) this is the last monopole tower that needs approval from the Commission. The pole is located in Dededo.

Chairman Arroyo there were a few objections from surrounding neighbors, but there was one particular neighbor that asked for information on the tower. Was that provided.

Penmer Gulac the resident's concerns was addressed during the hearing.

Diana Guzman we responded to her and provided her the information she needed.

Chairman Arroyo the Commission has heard all issues on radiation, typhoon strength and all other questions related to the tower. This pole is in the middle of a large property that is vacant.

Diana Guzman not really in the middle but closer to the corner portion of the lot. There is a ranch and tire shop on the right side of the property. The pole is located closer to the tire shop.

Vice Chairman Cruz is there anything on the subject lot.

Diana Guzman no, nothing at all.

Marvin Aguilar it was subject to farming in the past.

Vice Chairman Cruz when this is built is it built closest to the property line.

Jowell Lapira is about 15-feet from the property line.

[Discussion ensues on setbacks]

Commissioner Bathan other than the construction of monopole towers, what are the other options for telecommunication companies.

Diana Guzman there are antenna tripods that are placed on roof-top buildings (homes and commercial buildings). There are also utility poles that are placed on easements and GPA pole attachments. Ms. Guzman also states that they are co-locating with other telecommunication carries to minimize the building of monopole towers.

[Discussion ensues]

Chairman Arroyo noting no additional comments and/or questions, Chairman Arroyo opened the floor for public comments.

Public Comments [seeing note, Chairman Arroyo closed the public comment period]

Diana Guzman thanks the Commission for working with them during this entire process for all ten monopole locations.

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

Commissioner Bathan I would like to make a motion to approve Application No. 2016-53, for a Zone Variance request for height and use for the construction of a 100-foot telecommunication monopole tower on Lot 10069-3-6, in the municipality of Dededo; subject to the following conditions.

a) Applicant shall adhere to all the ARC conditions and requirements as stipulated in the official position statements; and,

b) The applicant shall also ensure compliance to the one-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 E.O. 96-26, Section 5."*

Chairman Arroyo there is a motion made by Commissioner Bathan, is there a second.

Vice Chairman Cruz I second.

Chairman Arroyo seconded by Vice Chairman Cruz. Discussion on the motion [none noted]. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan], all opposed say "nay."

[Motion passed; 3 ayes, 1 recuse, 0 nay]

Administrative & Miscellaneous Matters

Chairman Arroyo is there anything we need to discuss before we adjourn.

Nick Toft there has been a request to analyze the issue of the action taken on the LZ vote. Although the rules and regs have not been updated since 2006, the recent statute, Bill 335-33, trumps the rules and regs on this one. Of the votes taken, there were only four affirmative votes that were recorded and then after that no further action was taken on the matter. Is this correct.

Chairman Arroyo yes, that is correct.

Nick Toft under the rules and regs if this was the case, that motion is then tabled and no action is recorded on the motion. The Chairman can then entertain a motion in its opposite form such as a restated motion to deny the application, and this would also require, in this case, five affirmative votes. If this was not received the original tabled motion would be placed on the Unfinished Business for the next meeting. This would apply to all cases.

[Lengthy discussion ensues. Also discussed was approving of hybrid commission minutes and voting process.]

Chairman Arroyo when is the next meeting?

Marvin Aguilar March 22nd.

Michael Borja brought up a few items:

1. Reminded the Commissioners to complete and submit Conflict of Disclosure form no later than Friday, April 20, 2018 to the Guam Election Commission.
2. In the process of the whole government revenue shortfall, Mr. Borja stated that he has had to do things within the department to do our share in trying to cut costs in everyway possible. One of the things that is being considered is to limit the number of Commission meetings to once a month rather than twice a month.

Michael Borja if the manpower becomes more strained it will be hard for staff to put together the packages that are necessary for the applications. Manpower is constrained all across the board.

[Discussion ensues]

Chairman Arroyo the law says we are required to meet once a month; and, that is fine to have one meeting a month. Chairman Arroyo added that he will not be available for the next scheduled GLUC meeting, and Vice Chairman Cruz will have to run that meeting. There is also a need to elect a new Vice Chairman which was supposed to be done since December.

[Voting for Vice Chairman will be done when all members of the Commission are available]

Chairman Arroyo inquired on the status of the Pago Bay Resort litigation.

Nick Toft hearing is scheduled for some time later this month. Mr. Toft to provide update at the next GLUC meeting.

Vice Chairman Cruz what about this other lawsuit regarding Mangilao Solar Farm.

Nick Toft it will go through the same process that Pago Bay went through.

Chairman Arroyo there is the missing status report from Pago Bay. Have they been contacted? Does the Commission have to issue another Order to Show Cause.

Marvin Aguilar we have not received any firm response from the applicant's representative.

Chairman Arroyo since the Commission is being scrutinized, it was the order of Chairman Arroyo to issue another Order to Show Cause to Guam Wanfang Construction to come before the Commission.

There being no further matters to discuss, Chairman Arroyo requested for a motion to adjourn.

VI. Adjournment

Motion to adjourn today's meeting was made by Commissioner Bathan, seconded by Vice Chairman Cruz; with all in favor.

The regular meeting of the Guam Land Use Commission for Thursday, March 8, 2018 was adjourned at 4:55 p.m.

Approved by:

Date approved:

4/12/18

John Z. Arroyo, Chairman
Guam Land Use Commission

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

HYBRID COMMISSION
MEETING MINUTES
MARCH 8, 2018

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, March 8, 2018 • 1:42 p.m. to 4:55 p.m.

I. Notation of Attendance

Chairman Arroyo called the regular meeting of the Guam Land Use Commission for Thursday, March 8, 2018 to order at 1:42 p.m., noting a quorum.

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

Hybrid Commissioners: Mayor Louise Rivera (Tamuning) and Mayor June Blas (Barrigada)

[Absent from the Hybrid Commission: Mayor Melissa Savares (excused) and Mayor John Cruz, Hagatna]

Chairman Arroyo announced that there are two different Commission meetings today; the regular GLUC meeting and the Hybrid Commission which was called to order first.

II. Approval of Minutes – Hybrid Commission

Chairman Arroyo first order of business is the approval of the February 22, 2018 (Hybrid) meeting. If there are no questions and/or discussion on the minutes, Chairman Arroyo was ready to entertain a motion for approval of the minutes.

Commissioner Bathan Mr. Chair, I would like to move to approve the meeting minutes of February 22, 2018 subject to any minor edits that will be submitted to Cristina by end of day today.

Chairman Arroyo motion has been made by Commissioner Bathan, is there a second.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by the Vice Chairman. Any discussion? [None noted] All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Vy, Oh, Mayor Rivera and Mayor Blas], all opposed say "nay."

[Motion passed; 7 ayes, 0 nay]

III. Old or Unfinished Business [None]

IV. New Business

Zone Variance/Tentative Development Plan

A. Application No. 2017-29A & B, Applicant, Blue Ocean Investment, LLC represented by TRM Architects; request for a Zone Variance for Height and Density and Tentative Development Plan for the proposed construction of a boutique hotel, on Lots 5093-R1-1-R1 and 5093-R1-1-1 (Tumon), in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planner: Celine Cruz

Chairman Arroyo what is being passed out to the Commissioners are the meeting Minutes for the regular meeting with the Tamuning-Tumon-Harmon Municipal Planning Council and a letter from the Guam Visitor's Bureau. Commissioners took a moment to read through the documents. [For full content/context, please refer to exhibits 1 and 2, respectively]

Chairman Arroyo notes as stated in the meeting minutes, the MPC is not in favor of the Blue Ocean Investment project citing inadequate infrastructure and heavy congestion in the area.

The letter of GVB supports the development because it fits in with the 2020 vision for Tumon. It will replace blighted property along San Vitores Road with a new development. The property owner is proactively looking at storm water treatment which will provide assistance to the flooding issue in the area as well as providing additional jobs.

A third letter that was received from Mr. Monte Mesa (private individual) who is also in favor of the project citing the same reasons as GVB. [Exhibit 3]

Celine Cruz summarizes the staff reports for both the TDP and Zone Variance requests, to include purpose, facts, staff analysis/discussion, recommendation, and conditions. [For full content/context, please see attached report]

[Attachment A/B – Staff Reports dated February 28, 2018]

Chairman Arroyo Commissioners, we are looking at two different applications; first, the approval of the tentative development plan and secondly, a variance for height and density. The summarized report that was just given has to do with the tentative development plan. There is a second staff report having to do with the height & density variance. Chairman Arroyo suggested that the Commission combine the two applications so that when it is time for a vote, it will just be done once rather than two separate votes. [No objections noted from the Commissioners]

Continue with the second staff report --

Celine Cruz continues with the second staff report for height and density variances to include public hearing results, staff analysis/discussion, recommendation and conditions. [For full content/context, refer to Attachment B dated 2/28/2018.]

Commissioner Bathan is there a copy of the billboard notice.

Celine Cruz it was received by email in a timely manner and on file.

Chairman Arroyo no additional questions noted, Chairman Arroyo invited the applicant to present the application.

Mike Makio (with Aquilino Cabrias and David Leon Guerrero) presented project presentation to the Commission which included:

- Project background – TRM Architects made a large effort to integrate a lot of Mayor Rivera's ideas regarding sustainability, energy efficiency and to improve the overall character of Tumon and took this seriously into account;
- The property is approximately 2 acres and located between Tumon Sands Plaza and K-Commercial building; allowable density is 69 units, the requested density is 298 units, and providing 314 stalls which exceeds the parking requirements;
- It a blighted lot with remnants of a concrete pad and overgrown vegetation; located on San Vitores and not between San Vitores and the Tumon shoreline. It does not impede the "shorescape" or access to the beaches;
- Smart growth principles – focusing on the infill site uses on existing infrastructure, roads and sidewalks, conserving nearby heritage and scenic sites;
- Integration of Guam's heritage with indigenous iconography which has been incorporated into the project;
- Diagrams show the Blue Ocean structure relative to taller buildings in Tumon;
- Innovation of this project connects urban design and architecture by using less land resources while improving economic, social and natural features;
- Height and density play a strategic role in the economics, social and scenic sustainability of Tumon. Additional height integrates energy such as building integrated photovoltaics on canopies, parking structures, green roofs on the hotel. All this is done to keep the heat down to reduce energy consumption;
- Next slide shows the Tourism 2020 plan;
- Slide 7 – site plan, vehicle access is only through the northbound traffic on San Vitores. The site is intended to use storm water mitigation measure such as rain water harvesting, vertical landscaping, and bio-swales to reduce the runoff from the site helping alleviate the flooding issues at the ponding basin;

Chairman Arroyo where is the ponding basis located.

Mike Makio the left-hand corner is the exit of Burger King and south of that is the location of the ponding basin. Everyone knows the issues with the ponding basin and issues with storm water in general.

Chairman Arroyo how susceptible will the project be to the flooding; with heavy rains that come through that the ponding basin is not sufficient to handle all the water.

Mike Makio the goal is to catch the rain water to be used for reuse.

Commissioner Oh the storm water will be captured and utilize it and basically recycle the water.

Mike Makio explains that it will be caught on the roof and on the vertical surfaces. The taller surface the more rainwater is going to hit it and the more that can be captured. Once the water is captured it will be placed in tanks and some of the tanks have secondary treatment components. Once the water is treated then it can be used for flushing of toilets.

Commissioner Oh what about the surface water.

Mike Makio same situation. They have the ability to catch the surface water as well; it is just a matter of catching and diverting the water to a sub-surface level storage area.

Aquilino Cabrias percolation chambers. Anything caught on the roof will be treated for secondary use.

Mike Makio most of the properties located behind this area do not comply with the storm water rules. A lot of that storm water lands and rolls down the street.

[Discussion ensues on storm water runoff. Anything to slow the water will allow the sediment to settle down before going into the ponding basin where it can create serious health issues.][Continuation of presentation]

- Slide 8/9 – Project amenities; ground floor includes porte-cochere, bakery. On the second floor a café; amenities also include bar/lounge, retail, terrace garden, fitness room, spa, infinity pool, showers. On the fifth floor will be the main check in lobby, self-check in kiosk, vendor gallery, business meeting rooms, photovoltaic panels;
- Slides 10/11 – Isometric views of the north-west and west, building street view. The front façade is set back from San Vitores Road to provide open space for pedestrians;
- Slide 12 – hotel is oriented to minimize its visual impact by aligning it perpendicular to San Vitores and the shore line, angled balconies'
- Slide 13 – green features to include green walls, terraced garden, roof top gardens, photovoltaic panels, rainwater catchment, lush landscaping, low "E" glazing, and statement that sustainability and energy efficiency is important;
- Slide 14 – Chamoru iconography; using heritage motif that are endemic to Guam to further tie the building's connection with the tourist district, Tumon, and Chamorro culture;
- Slide 15 – businesses within the vicinity of the project site;
- Slides 16/17 – Blue Ocean layouts of floors;
- Slides 18/19 – excerpt of traffic impact assessment and collaboration with GovGuam agencies;

Aquilino Cabrias on the traffic impact assessment; Mr. Cabrias analyzed the intersections at Happy Landing and San Vitores Road and close to the police precinct. Traffic count was conducted for every vehicle that passed through the intersections and recorded. This is the current traffic volume at present time at the location of the proposed project. Those numbers were then used to put into a program to determine the number of trips coming out of the development. This development will not adversely impact the traffic condition for that particular intersection or the roads surrounding it.

Michael Borja the intersection is designed for right turn in, right turn out; no left turns in/out.

Aquilino Cabrias that is correct.

Mike Makio all agency reviews and the way the zoning was established for this "H" zone location; it is established for high intensity uses. It is supposed to be more like an urban location and that is the plan. All the agencies review this project with that in mind.

One of the opposing letters comments that this is a residential area; this is an urban residential area which is not the same thing. This is a high intensity residential area; it is not Yona, Umatac. The expectation and the criteria applied are based on how the area is zoned which is key. This is where higher development is supposed to be, this is where more people walking around. This place is zoned to accept the numbers for guest rooms and it is a generator of tourism, it's an economic generator and that is the zone.

Commissioner Oh is there access to Happy Landing Road.

Mike Makio this property does not surface onto Happy Landing Road. K's Plaza is between this project and Happy Landing Road. This project will not add direct egress/ingress from Happy Landing Road onto this property.

Commissioner Oh on the left side of the lot is Tumon Sands Plaza. There is a road entering Tumon Sands at that location which is at the edge of this property. Is that access a public or private easement.

Mike Makio it is a private easement, and that is according to the maps that they have seen it is a private access.

[Lengthy discussion ensues on easement in question, egress/ingress for the development, traffic assessment]

- Slide 20 – calculations on determining height;
- Slides 21-25 – Justifications on the need for a height variance;

[This concludes the presentation. For content/context of the PowerPoint presentation please refer to Exhibit 4]

Mike Makio (Mayor Rivera) how do you feel about the project, not how you will vote.

Mayor Rivera after listening to the presentation it is a wonderful project, self-sustaining. However, as it stands at this time there is a problem down there. Mayor Rivera has read through the ARC position statements. Mayor Rivera expressed that there is no trust, and this is the issue and that is the reason why the MPC voted to disapprove it. Although Mayor Rivera loves the project, she expressed that she is here to represent the residents of Tamuning and the MPC.

Commissioner Bathan one of the concerns of the MPC is the traffic. Was a copy of the traffic study provided to the MPC.

Mike Makio the study was included in the larger packet that was presented to the MPC. We have to remember what this zone is and how it is used.

Chairman Arroyo this the issue and not well understood and that this is not a residential area. This is not those places that was mentioned previously in Umatac or Merizo; this is designed to be high intensity. It is designed to have a lot of vehicle and foot traffic. It is a money maker for the island and this is where we need to see this type of activity happening. For those people who are looking back in the old days where Tumon was primarily residential and not much happening there, they can't have that idea about that area going forward anymore because that is not what Tumon in anymore. It is grown and completely different.

Any other questions.

Vice Chairman Cruz the MPC minutes; number 3, heavy congestion on traffic. It will happen. What infrastructure are you referring to in the minutes.

Mayor Rivera the current problem with the flooding and the ponding basin having insufficient capacity. Depending on how long it rains and the containment in different places and it is not working to minimize the flooding. It is a great development but the infrastructure is not there. Mayor Rivera is offering Mr. Makio to go before the MPC at its meeting tomorrow and discuss the project with them to make them better understand the project.

Mike Makio participates on the GVB management committee which has been looking at the ponding and storm water problems. Most of the hotel and resort entities do comply with the storm water management program. The problem is with the older projects in Tumon. There is a program that GVB is undertaking to improve the flooding situation. There are new developers who are willing to execute the best management practices for storm water, and by saying no to them, these are the people willing to invest in storm water management and improve the situation.

Chairman Arroyo states that he sat on this committee as well and confirmed that Mr. Makio's statement is correct. There is no monitoring, no authority to issue citations to businesses who are not in compliance.

Vice Chairman Cruz on storm water management practice does this take a big portion out of the budget to provide best storm water management.

Mike Makio it does.

Mayor Rivera this is like the Talo Verde issue.

Michael Borja (Executive Secretary) disagreed with Mayor Rivera's comment. Mr. Borja states that this is a hotel/resort zone, and that the Tumon area and San Vitores Road was designated as hotel/resort zone for the purpose of these types of development.

Mayor Rivera the flooding in the area is a problem.

Michael Borja because of this flooding issue, you will hold up development in the whole central area.

Chairman Arroyo they are trying to mitigate some of these issues. If the Commission does not allow this project to go forward the flooding will not get any better and will remain the same. There are some mitigation efforts on the applicant's part.

Mayor Rivera recommended that the application be tabled and asked that Mr. Makio go before the Tamuning MPC to further explain the project.

Michael Borja states that for the last four years the members of the Tamuning MPC have consistently objected to most development in the Tamuning community. In the Minutes provided today, three of the five projects proposed were disapproved. Mr. Borja further comments that members of the MPC are not elected nor are they confirmed by the Legislature, but demand that they have a veto authority over the decisions made by members of this Commission who are selected by the Governor and confirmed by the Legislature. Tamuning MPC has continuously found reasons to not support private landowners' desires to develop their properties. In this particular case, the applicant proposes a hotel in a hotel/resort zone which is specifically, specifically zoned for this purpose.

[Discussion ensues]

Mayor Rivera reiterates that she is requesting that the application be tabled, and that Mr. Makio go before the MPC to further explain the project.

Michael Borja asks what this would accomplish; will members change their minds. The law requires that the applicant only collects and catches the runoff from what is on their property.

Mike Makio states that he is an advocate for good planning and the Mayor and members of this Commission knows this. It is part of their responsibility to remind people the difference between good planning and smart growth. Mr. Makio asked the Mayors to consider, as they move forward, is that when they go to the Mayors as engineers, planners and designers they have to comply with standards, rules, mandates and regulations. They do not have the luxury of designing based on moods; they are required to comply with requirements of professionals. Mr. Makio is willing to meet with the Tamuning MPC if needed.

Commissioner Oh how many members of the MPC were present at the public hearing.

Mayor Rivera only five members showed up.

Commissioner Oh five members out of fifteen; the vote did not happen at the public hearing and assumed a few days later. Were all fifteen members in attendance at the meeting. **[Mayor Rivera responds that only eleven there present]** Commission Oh asks, and out of the eleven, how many attended the public hearing. **[Mayor Rivera responds "four."]** Commissioner Oh comments that without the members being at the public hearing, he did not feel they had all the information needed to move forward with a vote.

Mayor Rivera stated that another issue that the MPC members had was on parking and Happy Land Road.

Commissioner Oh commented that recently there was another applicant that was before the Commission on YPao Road. There are great ideas on new development. This is a good development for this area. The other applicant was doing something good for the community, and to build a structure within a certain amount of space in order to maintain more green space, less footprint, less issue on parking and that egress/ingress would improve. Commissioner Oh is bothered by the fact that developers, private citizens, are being held hostage because of the lack of poor planning, insufficient amount of public investment that is needed for infrastructure. Developers that have come up with good development ideas are being held back because of traffic issues, water issues, etc. A lot of these issues could have been solved by proper planning. In this case, for this application, proper planning is in place and the applicant is upholding their responsibility. But, if this government board decides not to approve this application for whatever reason, and the proposed development can be beneficial to the community, what type of message is the Commission sending to potential developers.

Chairman Arroyo the applicant/consultant are willing to meet with the MPC. Chairman Arroyo noted for the record that the Commission does not need to go any further at this point until they come back before the Commission again.

It was the order of Chairman Arroyo to continue the hearing of this application until such time Mr. Makio has had the opportunity to meet the Tamuning MPC, and hopefully to come to some sort of amicable agreement.

V. Administrative & Miscellaneous Matters

Chairman Arroyo there was an issue on the voting process for the LZ Company application.

Nick Toft (Legal Counsel) a letter was received from LZ Company regarding the voting procedure of the Hybrid Commission, and the ability of the Chairman to vote. Attorney Toft reviewed the laws on the subject; whether or not it is hybrid or not, the Chairman has the ability to vote or to abstain from the vote if he/she chooses on all questions. The reason why the Chairman's vote is customarily used as a tie-breaker is because if you have a committee of five people and it requires three for a pass, usually you have a tie situation where it is two to two; it is the vote of the Chairperson that breaks the tie. This has changed with the creation of the hybrid commission. The Legislature has determined that there is a requirement of five affirmative votes; but without any additional guidance from the Legislature as to procedure, we have to assume that the Chairman still has the ability to vote or to abstain on an issue if he/she so chooses.

Chairman Arroyo thank you. This Commission will now recess.

[Commission takes a ten-minute break before moving onto the regular Guam Land Use Commission hearing]

The regular meeting of the Guam/Hybrid Land Use Commission for Thursday, March 8, 2018 recessed at 3:25 p.m.

Approved by:

Date approved:

4/12/18

John Z. Arroyo, Chairman
Guam/Hybrid Land Use Commission

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

ATTACHMENT A

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

DEPARTMENT OF LAND MANAGEMENT

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://land.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

March 1, 2018

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2016-53,
Zone Variance for portion
Lot No. 10069-3-6, Municipality of Dededo

1. PURPOSE:

a. **Application Summary:** The applicant, Docomo Pacific, Inc. Guam is requesting for a Zone Variance approval for use and height to construct, operate and maintain a 100 feet telecommunication monopole tower on a portion of Lot 10069-3-6, Municipality of Dededo, in an "A" (Agricultural) zone

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

2. FACTS:

a. **Location:** The subject site is located along a 50-foot right of way and approximately 100 feet south of Y-SengSong road and approximately 300 feet south of Park's Retail Store in Dededo.

b. **Lot Area:** Leased portion of lot at 900 Square Meters or 83 Square Feet.

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

d. **Field Description:** Presently vacant and overgrown vegetation within its borders.

e. **Masterplan:** Residential – Open space; low density.

f. **Community Design Plan:** Open space; Residential – low density

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** November 29, 2016

b. **Date Heard By ARC:** December 15, 2017.

c. **Public Hearing Results:** August 15, 2017 **(See Attachment "A"**

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the zone variance request for use and height to construct, operate and maintain a 100 feet telecommunication monopole tower on the subject site is intended to enhance the wireless coverage and improve services for the residents of the immediate area and overlaying areas of Dededo.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, 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, 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, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and 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.

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;

DOCOMO Pacific, Inc. seeks to improve its telecom infrastructures to provide quality services across the island of Guam, most especially in underserved areas with less robust signal coverage. The proposed tower location is critical to ensure the widest and best coverage. Guam enacted the Executive Order 2001-36 to allow Guam Telecommunications companies to develop competitive, safe & efficient mobile communications services. This Variance request is consistent with the general purpose and intent of the law, and further, if not granted, will impose significant delays and logistical hardship, not least of which will be the necessity of selecting an inferior alternative site.

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 Company performed extensive radio frequency (RF) simulation & testing conducted at several locations, the results of which indicated that the site in question is ideal for improving coverage in the area, and also that alternative sites in the area were inferior from a coverage and/or logistical standpoint.

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:

All equipment installed and maintained by the Company is licensed and regulated by the Federal Communications Commission (FCC), which regulations include operating frequencies, range, and power levels consistent with public safety and industry best practices.

Further, the Company maintains a Comprehensive General Liability Insurance policy, which requires a minimum of $1,000,000 liability policy for each site constructed. All sites are registered and recorded with the FCC.
In response to;

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

The applicant provides:

This Telecommunication site is being constructed to fulfill both the current and future demands of the Community for state-of-the-art coverage island-wide, a goal that is consistent with Executive Order 2001-36 enacted to benefit the people of Guam.

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 requested variance is not located near a beach.

Doc. No. 34GL-18-1857.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provide adequate justification in reference to their request that there are practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law; 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, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan, that the proposed building will not adversely affect the surrounding properties or public right to an untrammeled use of the beach and its natural beauty.

In addition, the result of the public hearing shows no major or significant concerns from those in attendance. Department of Public Works, Guam Water and Power Authority with no objection; only the Bureau of Planning's objection noted on their position and assessments with recommendations on the proposed antenna tower. Therefore, we conclude this request is in proper form and context to 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 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
Chief Planner

Doc. No. 34GL-18-1857.

Attachment – A : Public Hearing Minutes of August 15. 2017

Re: Staff Report - Application 2016-53, Zone Variance
Lot 10069-3-6, Municipality of Dededo
GLUC Meeting : March 8, 2018

The required public hearing was held at the Dededo Senior Cit Ctr, next door to Mayor' Office on August 15, 2017, at 6:05 P.M. Present were, the Case Planner, Docomo's representatives and technical staff; Diana Guzman; Kyung S. Kim and Jowel Lxpirx, the Mayor and Vice Mayor and 9 public attendees.

The Case Planner presented the proposed project and purpose of the hearing, and read the positions statements from, Department of Public Works, Guam Waterworks and Guam Power Authority with no objection, and provided requirements, conditions and other permitting requirements noted for the project. Bureau of Statistics and Plans position statement was also presented with noted concerns as it may be materially detrimental and injurious to property should the structure fail, further note their objection on the project. Ms Guzman (Docomo) highlighted details of the application and intentions of Docomo; she discussed the time frame of the application process, proposed construction, improvements and compliance of the building code, permits required for development on the site; access to the site and area of development. She further noted the location was chosen as the best site for the antenna and she reported the there is no health risk in the operation of such tower on this site.

Public comments and concerns that were noted are as follows:

Mr. William Penn:

He was commenting that this is family land had concerns of the radiation effects on humans as its very close proximity to residents nearby and he used to live in this area and now it was leased for commercial uses for an antenna tower to serve the area. He further asked if other sites were considered..

Dean Penn: Can another site be chosen..its too close to residents..

Mr. Lxpirx, Docomo Tech : There's very low power operating the system, and no health risk to humans, for example a household microwave oven generates 2,00 watts, Docomo system generates around 10 percent of what a microwave generates..its very low. These antennas and its operations have been cleared by Federal communications Commission (FCC).

Kyung S. Kim (Docomo Tech); Stated that all Docomo antenna poles are rated at (210 miles per hour) and can withstand typhoon winds, made of special steel from Korea.

Mayor Savares :

The Mayor stated that the Municipal Planning Council (MPC) will be reviewing and will be hearing this case and will be forwarding a resolution on the outcome of MPC hearing to DLM, she stated that this area continuous to grow and good communication services is needed to support the community.

Planning Staff Summary of Public Hearing:

After discussion on the project and information given by the consultant, and clarification of the access, development of the site, structural integrity of the tower, the public and those in attendance with concerns were answered by staff and Docomo staff. No Significant concerns were noted.

Planning Staff reminded the Mayor to provide a Municipal Planning Council Resolution prior to the Land Use Commission hearing.

Planning informed those in attendance that the next hearing will be with the Guam Land Use Commission (GLUC), ITC Building, and will be announced in the daily newspaper circulation 10 days prior to the hearing date and time.

There hearing was adjourned at 77:45 p.m.

Penmer Gulac, Case Planner

Attn: Chairman, GLUC or Executive Secretary, GLUC

Jose M Leonguerrero <chamorro1@frontier.com>

Mon 8/14/2017 9:26 AM

To LAND MGT DIRECTOR <LANDMGTDIRECTOR@land.guam.gov>;

RECEIVED
AUG 14 2017
Department of Land Management

Subject: Construction of Docomo Pacific Inc., Guam Monopole Antenna
Lot 10069-3-6, Application No. 2016-53

Hafa Adai and Good Morning,

1. We want to express our appreciation in providing us with the opportunity to express our concerns regarding said antenna erection.
However, it is very certain that our response will not meet your dateline of August 15, 2017 if we go thru the U.S Postal System. Therefore,
our only hope in meeting your dateline is through email. We're hoping that someone in your department will put our concerns on the agenda for discussion. Here are our concerns:

a. Was a feasibility study conducted and was it forwarded to the particular affected property owners off island? If a feasibility study
has been conducted, were the following addressed:

(1) Radiation hazards
(2) Noise pollution
(3) The devaluation of the adjacent properties

b. Having experienced typhoons on the island, no structure on the island is strong enough to withstand mother nature. Therefore, who isresponsible for the removal of the debris from the antenna when it falls and lands on the adjacent properties (i.e., debris, such as the repeater equipment mounted on the antenna, etc)?

2. Your letter, dated, July 28, 217 was our first notification of Docomo Pacific Inc., requesting for a Zone variance for height to construct and maintain a 100ft telecommunication monopole tower. It is our understanding that the antenna has already been erected. If so, it appears your letter utilizes the adage of "The cart before the horse."

Please advise us upon receipt of this email. We look forward to your response. Thank you.

Sincerely,

Jose M. and Concepcion Q. Leon Guerrero
chamorro1@frontier.com

Penmer Gulac

From: Cristina Gutierrez
Sent: Wednesday, August 23, 2017 9:02 AM
To: Penmer Gulac
Subject: FW: URGENT - CONSTRUCTION OF DOCOMO PACIFIC, INC. 100 FOOT MONOPOLE TOWER, APPLICATION NO. 2016-53, LOT 10069-3-6

Expires: Tuesday, November 21, 2017 12:00 AM

Hi Pen,

Please print and place in case file.

Thank you,

Cristina

From: Michael Borja
Sent: Wednesday, August 23, 2017 8:53 AM
To: Cristina Gutierrez <Cristina.Gutierrez@land.guam.gov>; Marvin Aguilar <Marvin.Aguilar@land.guam.gov>
Subject: Fwd: URGENT - CONSTRUCTION OF DOCOMO PACIFIC, INC. 100 FOOT MONOPOLE TOWER, APPLICATION NO. 2016-53, LOT 10069-3-6

MICHAEL J.B. BORJA
Director, Dept of Land Management
Government of Guam
michael.borja@land.guam.gov
(671) 649-5381

---------- Forwarded message ----------
From: "**LAND MGT DIRECTOR**" <LANDMGTDIRECTOR@land.guam.gov>
Date: Wed, Aug 23, 2017 at 8:18 AM +1000
Subject: Fw: URGENT - CONSTRUCTION OF DOCOMO PACIFIC, INC. 100 FOOT MONOPOLE TOWER, APPLICATION NO. 2016-53, LOT 10069-3-6
To: "Michael Borja" <Michael.Borja@land.guam.gov>

From: Francine Cruz <francinecruz00@gmail.com>
Sent: Tuesday, August 22, 2017 9:09 PM
To: LAND MGT DIRECTOR
Subject: URGENT - CONSTRUCTION OF DOCOMO PACIFIC, INC. 100 FOOT MONOPOLE TOWER, APPLICATION NO. 2016-53, LOT 10069-3-6

Dear Mr. Borja, DLM,

I am writing as I was informed via mail of the above subject matter. I attended the public hearing on August 15, 2017 and I have communicated my concerns through this forum. I would like to ensure that this is communicated via email as well. Please note the following concerns based on the plan for this construction of a 100 foot Monopole Tower:

*Health & Safety Concerns
*Devaluation of Land/Property Value
*Noise Pollution

During the public hearing, I or those in attendance have requested for the following information:

*Unbiased and official reports that guarantee no health nor safety concerns
*Study on land/property values of where similar projects were erected. Please include information before and after the project as well as qualitative and quantitative information.
*List of unapproved projects which are similar in nature to this project. Would like to understand where these were to be located as well as the reason for the denial.

Additionally, after being able to review all of the material provided at the public hearing, I noticed the concerns of Bureau of Statistics & Plans. There were a few concerns raised which include land use, that of Zone A and the potential adverse conservation or agricultural effects. Manuel Cruz recommended that Docomo Pacific, Inc. consult with Department of Agriculture. Please advise if this has been completed and if so, please share the findings. Also, raised was the concern of safety. According to the letter, the applicant "lacked clear specifications such as tolerance to storm hazards to assure public safety and welfare or injurious to the property and residents in the area." Ultimately, "the Bureau recommends objection to this project" and reminds all "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."

Lastly, in order to ensure that my voice and concerns are heard, I requested that the public notice be visible. There is a photo of a public sign that was provided for the August 15th public hearing, but I have never seen this sign. I believe that this may be located at the property which is located in a private road. Fortunately, we were provided with the information of the August 15th public hearing through mail. I believe that this will not be the case for the future meeting. If possible, please inform me of the next meeting via this email address. I will also try to continually visit the GLUC/DLM website. Please note that most individuals do not read the Guam Daily Post.

I look forward to your reply. Thank you in advance.

Best regards,
Francine Cruz Mafnas
188 Chalan Irensia, Dededo, Guam 96929
Home Phone 671-969-0064

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383



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

February 28, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2016-53 (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):
Planning staff recommends approval with the following conditions;

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

DEPARTMENT OF PUBLIC WORKS (DPW):
DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the following conditions:

- the drawings (structural, electrical and civil) incorporated in the application is totally different from the above lot number and location;
- must revised the sheet content in the drawings as per location;
- installation must be well engineered that can withstand all wind, vibration forces of 170 MPH; and
-

- for building permit application must have a complete set of drawings that meets all the requirements in conformance with the latest building code edition and must be signed by a registered engineer per discipline.

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for a permitted 100-foot telecommunication monopole tower on portion of Lot No. 10069-3-6, in an "A" (Agriculture) Zone, in the Municipality of Dededo.

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 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 comment is GWA's position in favor of the approval of this zone variance application:

The applicant's request for a zone variance for height will not require an increase in water and wastewater services and there are no GWA utilities that will be impacted following the approval of this zone variance request. Therefore, GWA has no objection to this application request.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response.

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.

BUREAU OF STATISTICS AND PLANS (BSP):
The Bureau of Statistics and Plans (Bureau) has completed its review of the application and provides the following comments and recommendations.

Land Use. Lot 10069-3-6 Dededo is located in an "A" Rural/Agricultural Zone. Docomo Pacific Inc. Guam states that the proposed location is intended to provide overall island coverage and improve service for residents as well as enhance emergency access and Homeland Security capabilities in emergencies.

The Bureau is concerned that the installation of the 100 ft. monopole tower may restrict other uses permitted in an "A" zone inclusive of farming and activities carried on in the field of agriculture, such as the production of crops, fruits, and poultry to name a few. The Bureau advises Docomo Pacific Inc. Guam to consult with the Department of Agriculture on any potential adverse conservation or agricultural effects.

Safety Precaution. The safety of residents in this area is of utmost concern, should a typhoon or natural disaster occur. The bureau is concerned about the possibility of the tower collapsing as a result of the natural disaster or the failure of one or more of the tower's components.

In their justification letter, Docomo Pacific Inc. Guam maintains that all equipment installed and maintained by the company is licensed and regulated by the Federal Communications Commission (FCC). The company further maintains a Comprehensive General Liability Insurance policy, which requires a minimum of $1,000,000 liability policy for each site constructed. While the applicant asserts that it complies with FCC regulations, they lacked clear specifications such as tolerance to storm hazards to

assure public safety and welfare and that the granting of the height variance will not be detrimental to public welfare or injurious to the property and residents in the area.

Therefore, the Bureau finds that the proposed 100ft. monopole tower presents potential danger of collapsing in the event of storm winds exceeding the strength tolerance rating within the fall radius should the structure fail. The applicant is strongly advised to implement safety measures to ensure the protection of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

Best Management Practices. The subject property is located in the Mataguac Spring-Frontal Pacific Ocean Watershed, which contains the Northern Guam Lens Aquifer. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP) this area has seen an increase in impervious surfaces and a decrease of forested area between the years of 2005 and 2011. The C-CAP further characterizes that 27.3% of this watershed is developed and 12.08% is impervious. As surface area increases so does the risk of flooding and degradation of water quality.

Although the project site is less than an acre, the applicant is required to implement best management practices before, during, and after construction of the telecommunications tower to control erosion, sediment, and runoff on site. Docomo is further advised to consult with Guam Environmental Protection Agency for effective implementation of these practices that 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 a construction site.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.
3. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
4. Where feasible, schedule construction during dry season.

In light of the points presented above, the Bureau finds that the tower can be materially detrimental and injurious to property should the structure fail. We further find that the construction of a tower in an agricultural area can restrict other activities allowed in an "A" zone. Therefore, the Bureau recommends objection to this project. Subsequently, if this application is approved, the applicant must comply with all established laws, comply with the recommendations above, and implement safety measures to ensure the safety of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
Has not submitted Position Statement as of Staff Report date.

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

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA):
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 DEPARTMENT OF EDUCATION (GDOE):
Has not submitted Position Statement as of Staff Report date.

Marvin Q. Aguilar

Project Planner: Penmer Gulac

Attachments: ARC Position statements
CC: Executive Secretary, GLUC

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

RECEIVED
FEB 02 2017
Department of Land Management
Time 1450 Int

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE
Deputy Director

2.2.17

January 25, 2017

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director

APPLICATION: 2016 - 53 Rev

APPLICANT(s) DOCOMO Pacific

SUBJECT: Zone Height Variance @ Lot 10069-3-6, Municipality of Y-Sensong, Dededo

Buenas yan Hafa Adai!

The above applicants, proposes for the construction of a Monopole Tower and intent to enhance the over all island wireless coverage and improve services for Guam residents.

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the following conditions:

- the drawings (structural, electrical and civil) incorporated in the application is totally different from the above lot number and location;
- must revised the sheet content in the drawings as per location;
- installation must be well engineered that can withstand all wind, vibration forces of 170 MPH; and
- for building permit application must have a complete set of drawings that meets all the requirements in conformance with the latest building code edition and must be signed by a registered engineer per discipline.

If you have any questions, please call John F. Calanayan, Acting Engineer In-Charge or Maryrose M. Wilson, Engineer III in the Divison of Capital Improvement Projects (CIP) at 646-3189 3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

HC

GUAM POWER AUTHORITY

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

RECEIVED
JAN 2 · 2017
Department of Land Management
Time 1:25 Int

January 18, 2017

MEMORANDUM

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

From: General Manager

Subject: Lot 10069-3-6, Municipality of Dededo, (DOCOMO Pacific Inc.); Zone Variance Application for a 100ft. Communication Monopole Tower. **Application No. 2016-53**

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. BENAVENTE4, P.E.

ASG/arp

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: DOCOMO Pacific Inc.
Location: Lot 10069-3-6, Dededo
Type of Application: Zone Variance
GLUC GSPC Application No. 2016-53
Brief Project Description:
For a 100ft. Communication Monopole Tower.

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

1/24/17
Date

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

ASG/arp

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

Manuel Q. Cruz
Deputy Director

FEB 0 1 2017

RECEIVED
FEB 0 2 2017
Department of Land Management
Time 1:40 Int

MEMORANDUM

To: Chairman, Guam Land Use Commission

Via: Executive Secretary, Department of Land Management

From: Deputy Director, Bureau of Statistics and Plans

Subject: **Application No.** 2016-53
Applicant: Docomo Pacific Inc. Guam
Location: Lot 10069-3-6 Dededo, Guam
Purpose: 100ft. Telecommunications Monopole Tower

Hafa Adai! The applicant, Docomo Pacific Inc. Guam requests a zone variance for use and height on Lot 10069-3-6 in the municipality of Dededo. Docomo proposes to install a 100ft. telecommunications monopole tower on a portion of the subject property, approximately 900 square feet in size. A telecommunications antenna site agreement indicates that the property is leased to Docomo Pacific Inc. Guam by Jose Y. and Rosalia Quichocho (Landlord) for a term of twenty-five (25) years.

The proposed project is located in an "A" Rural/Agricultural Zone in the village of Dededo and can be accessed from Route 28 just off of Route 1, Marine Corps Drive. The vacant lot is surrounded primarily by single family residential homes and a small retail store. The subject property is a vacant lot with vegetated cover.

The Bureau of Statistics and Plans (Bureau) has completed its review of the application and provides the following comments and recommendations.

Land Use. Lot 10069-3-6 Dededo is located in an "A" Rural/Agricultural Zone. Docomo Pacific Inc. Guam states that the proposed location is intended to provide overall island coverage and improve service for residents as well as enhance emergency access and Homeland Security capabilities in emergencies.

The Bureau is concerned that the installation of the 100ft. monopole tower may restrict other uses permitted in an "A" zone inclusive of farming and activities carried on in the field

of agriculture, such as the production of crops, fruits, and poultry to name a few. The Bureau advises Docomo Pacific Inc. Guam to consult with the Department of Agriculture on any potential adverse conservation or agricultural effects.

Safety Precaution. The safety of residents in this this area is of utmost concern, should a typhoon or natural disaster occur. The Bureau is concerned about the possibility of the tower collapsing as a result of the natural disaster or the failure of one or more of the tower's components.

In their justification letter, Docomo Pacific Inc. Guam maintains that all equipment installed and maintained by the company is licensed and regulated by the Federal Communications Commission (FCC). The company further maintains a Comprehensive General Liability Insurance policy, which requires a minimum of $1,000,000 liability policy for each site constructed. While the applicant asserts that it complies with FCC regulations, they lacked clear specifications such as tolerance to storm hazards to assure public safety and welfare and that the granting of the height variance will not be detrimental to public welfare or injurious to the property and residents in the area. Therefore, the Bureau finds that the proposed 100 ft. monopole tower presents potential danger of collapsing in the event of storm winds exceeding the strength tolerance rating within the fall radius should the structure fail. The applicant is strongly advised to implement safety measures to ensure the protection of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

Best Management Practices. The subject property is located in the Mataguac Spring-Frontal Pacific Ocean Watershed, which contains the Northern Guam Lens Aquifer. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP) this area has seen an increase in impervious surfaces and a decrease of forested area between the years of 2005 and 2011. The C-CAP further characterizes that 27.3% of this watershed is developed and 12.08% is impervious. As surface area increases so does the risk of flooding and degradation of water quality.

Although the project site is less than an acre, the applicant is required to implement best management practices before, during, and after construction of the telecommunications tower to control erosion, sediment, and runoff on site. Docomo is further advised to consult with Guam Environmental Protection Agency for effective implementation of these practices that 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 a construction site.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.
3. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
4. Where feasible, schedule construction during dry season.

In light of the points presented above, the Bureau finds that the tower can be materially detrimental and injurious to property should the structure fail. We further find that the construction of a tower in an agricultural area can restrict other activities allowed in an "A" zone. Therefore, the Bureau recommends objection to this project. Subsequently, if this application is approved, the applicant must comply with all established laws, comply with the recommendations above, and implement safety measures to ensure the safety of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

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. *Si Yu'us Ma'ase'.*

MANUEL Q. CRUZ

cc: Guam EPA
DOAG
DPR
GWA
GPA
DPW

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

March 1, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report
Application No. 2018-09, Tentative Development Plan,
(Lot 5094-R1, Tumon, Municipality of Tamuning)

1. PURPOSE:

A. Application Summary: The applicant, Kals, LLC., represented by GU.MA Architects is requesting approval for an amendment of its previously-approved Tentative Development Plan to convert the existing commercial use of K-Plaza into mixed commercial uses and hotel on Lot 5094-R1, Tumon, Municipality of Tamuning, Guam.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61311 "H" (Hotel-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 lot is located at the corner of Pale San Vitores Road and Happy Landing Road in Tumon.

B. Lot Area: 0.71 Acres or 2,871 Square Meters or 30,925 Square Feet.

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

D. Field Description: The property currently contains K-Plaza, a three-storey commercial building in operation with the first floor maintaining a bar and restaurant. Second and third floor tenant spaces were initially approved for day spa services, however these floores have remained vacant for more than a year. Parking is available on both the first and second floor and the main access is via Happy Landing Road.

E. Masterplan: "H" (Hotel-Resort)

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

G. **Previous Commission Action:**
1) On August 17, 1999 the Guam Land Use Commission (GLUC) approved with conditions a Tentative Development Plan of the Kals Corporation to construct a three storey resort/commercial office building. Conditions of the previous approval does not restrict the applicant from requesting a conversion of use.

3. **APPLICATION CHRONOLOGICAL FACTS:**

A. **Date Application Accepted:** December 21, 2017

B. **Date Heard By ARC:** January 18, 2018

C. **Public Hearing Results:** Not required.

4. **DISCUSSION and STAFF ANALYSIS:**
The conversion of the existing commercial use to a mixed commercial/residential type hotel use is not expected to be out of character with the current uses in the adjacent or surrounding neighborhood. There are no additions being made to the structure; rather, the changes will only require interior improvements/repairs with the existing commercial spaces on the first floor to remain. The proposed conversion is adequate for this 3-storey building as well as providing required standard and ADA parking to accommodate both existing and proposed commercial activities.

Parking Designation	Provided	Required
ADA	3	3
Commercial	48	46
Hotel	6	6
Reception/Office	1	1
Employees	6	6
Total	**64**	**62**

The project includes comprehensive streetscape and landscape elements intended to promote a positive impact to the corner of Pale San Vitores and Happy Landing Road.

The overall Tentative Development Plan has met the requirements under Title 21GCA, Chapter 61, Section 61311, the permitted uses for H Zone are for cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks, marinas, zoos, amusement activities and supportive services.

Based on our review and analysis of the form and context of this application in reference to the Zoning Law, the Interim Hotel-Resort Rules and Regulations and the response of the ARC; we find that the proposed development is designed to promote a superior level of convenience, comfort and amenity for tourists and locals and it is compatible with the existing land uses of the area and therefore, we find it proper that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Recommend **APPROVAL WITH CONDITIONS** as follows:

1. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
2. 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
3. That Applicant shall provide a Landscaping Plan pursuant to Section 5G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner; and
4. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval; and
5. 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
Chief Planner

CASE PLANNERS: Grace Vergara/Celine Cruz

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

March 1, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2018-09 (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):
Planning staff recommends Approval with the following condition:

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 5G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner; and
D. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval; and
E. 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".***

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submits the following statement; "We reviewed the subject application by Guma Architects, LLC for a Tentative Development Plan on the subject Lot and have no objection to the approval of the application.

During the permitting application, we will be issuing a Certificate of Approval due to the fact that this Lot contains human burials that were left in place and undisturbed during the initial development of this Lot. However, the work should involve any ground disturbance."

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

A. Comments and Recommendations Concerning GPA requirements:

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

    a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
    b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;
    c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
    d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
    e. Provide scheduling and magnitude of project power demand requirements for new loads;
    f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;

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 PUBLIC WORKS (DPW):
The Department of Public Works (DPW) recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the provisions that the following conditions are met:

A. General.
Buildings or structures to which addition, alterations or repairs are made shall comply with all the requirements for new buildings or structures except as specifically provided in this section.

B. Addition, Alterations and Repairs: More than fifty percent (50%).
When addition, alterations or repairs within any 12 month period and exceed 50% of the value of an existing building or structure, such building or structure shall be made to conform to the latest building code requirements.

NOTE: The existing elevator must be inspected by a certified installer and approved by DPW building official.

Due to the upgrading of the existing structure, DPW recommends approval, subject to comments reviewed by the Application Review Committee (ARC) with conditions that prior to building permit application to submit a complete set of design drawings with all the engineering disciplines needed and must conform to the latest building code edition including ADA requirements.

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

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

GUAM 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.

JOINT REGION MARIANAS (JRM):
Has not submitted Position Statement as of Staff Report date.

GUAM DEPARTMENT OF EDUCATION (GDOE):
Has not submitted Position Statement as of Staff Report date.

Marvin Q. Aguilar

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

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:
RC 2018-00189
CR: 2002-008 DR

RECEIVED
FEB 14

February 8, 2018

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2018-09: Applicant is proposing for a mix use hotel conversion of K-Plaza on Lot M19 L5094-, Tumon, Guam

We reviewed the subject application by Guma Architects, LLC for a Tentative Development Plan on the subject Lot and have no objection to the approval of the application.

During the permitting application, we will be issuing a Certificate of Approval due to the fact that this Lot contains human burials that were left in place and undisturbed during the initial development of this Lot. However, the work should not involve any ground disturbance.

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

Sincerely,

William N. Reyes
Director

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
GLENN LEON GUERRERO
Director
ANDREW S. LEON GUERRERO
Deputy Director

January 19, 2018
MEMORANDUM

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JAN 25 2018
2:12 PM
CLTC/GALC/GLUC

MB 1/26

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

SUBJECT: Applicant: KALS, LLC
Application No.: 2018-09
Tentative Development Plan
Lot M19L5094-R-1, Tumon

Buenas yan Hafa Adai! The applicant is requesting the existing K-Plaza in an "H" Zone as its current occupancy as commercial and propose to convert into mixed use (commercial/ hotel) and the 2nd and 3rd floor into 22 units residential hotel type which will cater the local and tourists. The structure will consist of a lobby/ reception area, small office, storage, laundry area and accessible restroom.

The Department of Public Works (DPW) recommends approval, subject to the comments reviewed by the ✓ Application Review Committee (ARC) with the provisions that the following conditions are met:

Under 21 GCA- Real Property Division 2- Regulations s of Real Property
SOURCE: GC S31002
S66104. Application to Existing Buildings
(a) General.
Buildings or structures to which addition, alterations or repairs are made shall comply with all the requirements for new buildings or structures except as specifically provided in this section.
(b) Addition, Alterations and Repairs: More than fifty percent (50%).
When addition, alterations or repairs within any 12 month period and exceed 50% of the value of an existing building or structure, such building or structure shall be made to conform to the latest building code requirements.
NOTE: The existing elevator must be inspected by a certified installer and approved by DPW building official.
Due to the upgrading of the existing structure, DPW recommends approval, subject to comments reviewed by the Application Review Committee (ARC) with conditions that prior to building permit application to submit a complete set of design drawings with all the engineering disciplines needed and must conform to the latest building code edition including ADA requirements.

Should you have any questions, please call Mr. Max Manzano, P.E., @ (671) 988-6273, Chief Engineer for the Division of Capital Improvement Projects (CIP- Vertical) or Maryrose M. Wilson, Engineer III @ (671) 646- 3224. **Dangkulu na Si Yu'os Ma'ase!**

by: **GLENN LEON GUERRERO** 1/23/18

1:26

542 North Marine Corps Drive, Tamuning, Guam 96913 • (671) 646-3121/3232• Fax (671)649-6178

GUAM POWER AUTHORITY

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

January 9, 2018

MB 1/18

MEMORANDUM

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

From: General Manager

Subject: Lot 5094-R1, Municipality of Tamuning, (KALS LLC): Tentative Development Plan Application to change existing K-Plaza Building into Commercial and Hotel. **Application No. 2018-09**

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.

1-11-2018

ASG/arp

Doc. No. 34GL-18-1857.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: KALS LLC
Location: Lot 5094-R1, Tamuning
Type of Application: Tentative Development Plan
GLUC/GSPC Application No. 2018-09
Brief Project Description:
To change existing K-Plaza Building into Commercial and Hotel.

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

1/16/18
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

HYBRID COMMISSION

MCoG DLM 2018-04

STAFF REPORT

ATTACHMENT A–HYBRID

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

February 28, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-29A, Tentative Development Plan, Lot 5093-R1-1-R1 and Lot 5093-R1-1-1, Tumon, Municipality of Tamuning

1. PURPOSE:

A. Application Summary: The applicant, Blue Ocean Investment LLC, represented by Taniguchi Ruth Makio Architects (TRMA), is approval of its tentative development plan for a proposed boutique hotel on Lot 5093-R1-1-R1 and Lot 5093-R1-1-1, Tumon, Municipality of Tamuning, Guam.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61311 "H" (Hotel-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 lot is located in along Pale San Vitores Road, and near to the Fujita Road intersection. It is approximately a quarter of a mile inland from Tumon Bay.

B. Lot Area: 1.95± Acres or 7,878± Square Meters or 84,793± Square feet

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

D. Field Description: The lot is presently vacant with overgrown vegetation. The remnant building floor slab of the former Tumon Gun Club.

E. Masterplan: "H" (Hotel-Resort)

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

G. **Previous Commission Action:** None.

3. **APPLICATION CHRONOLOGICAL FACTS:**

A. **Date Application Accepted:** June 26, 2017

B. **Date Heard By ARC:** July 20, 2017

C. **Public Hearing Results:** Not required.

4. **DISCUSSION and STAFF ANALYSIS:**

Presented along with this application for Tentative Development Plan is a concurrent application for a Zone Variance for Height and Density. The application in its form and context has provided for provisions as to the procedures for development within an "H" zone. A site development plan features the hotel structure, up to 292'-0" and a proposed generator structure. Floors 1 to 4 are intended for commercial activities accessory to the hotel use. Level 5 will be the hotel lobby, and levels 6-28 consist of the hotel rooms. Levels 1-5 include parking to accommodate the hotel and accessory uses proposed with this development. The total number of parking stalls provided is 314; 27 stalls above the required 287 stalls.

The height of 292'-0" is to accommodate the requested variance for density. The height is compatible to the existing range of hotel structure in Tumon. To address the request for additional density and height, consideration for setbacks, corridors for natural light, and ventilation are accomplished through the elements of the orientation of the structure and use of required open space on the lot. The building footprint and orientation was planned to enhance the area and minimize impacts to views. The structure is sited further back from the adjacent Tumon Sands Plaza on the left and the K-Plaza on the right, both structures are only slightly set back from San Vitores Road and the sidewalk. An open, landscaped plaza in the 33'-0" front yard setback is incorporated into the plans to enhance and encourage pedestrian traffic into and around the proposed hotel.

In line with the Zoning Law and the Interim "H" Resort-Hotel Zone Rules and Regulations, the Commission may approve a tentative development plan upon determination that such use is normally to be found in a tourism related development area, and that the use is reasonably compatible with existing or reasonably foreseeable development in the surrounding area. Uses normally to be found in a tourism related development area as described in the permitted land uses of the Interim "H" Zone Rules and Regulations include cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks, marinas, zoos, amusement activities and supportive services. Permitted accessory uses and structures include uses and structures which are customarily accessory and clearly complimentary to permitted principal uses and structures reasonably compatible with existing or reasonably foreseeable development in the surrounding area.

Doc. No. 34GL-18-1857.

In the analysis of this application as it pertains to the request, we find that as presented by the applicant, the proposed development is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations, whereby the development is compatible with the surrounding existing uses and the reasonably foreseeable development in the surrounding area, 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 pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within 1 year from date of Commission approval; and
d. The applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations.
e. 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".***
f. 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.

Marvin Q. Aguilar
Chief Planner

CASE PLANNER: Celine Cruz

Doc. No. 34GL-18-1857.

January 11, 2018

MB 1/12



Chairman, GLUC or Executive Secretary, GLUC
c/o Department of Land Management
Land Planning Division
P.O. Box 2950
Hagatna, Guam

Dear Sir,

RE: THE APPLICANT BLUE OCEAN INVESTMENT
represented by TRMA

I am sorry for not able to attend the meeting on January 19, 2018 at Tamuning Senior Center and am happy to submit a written comments.

I personally, ~~agree~~ disagree with the proposal of the building, as long as the road is wide enough for two big buses and pedestrian is needed.

Thank you for your kind attention.

Edmund Wong

Edmund Wong Wing Kwong
L5059-2-2
Unit #105
P.O. Box 10671
Tamuning, Guam 96931

November 13, 2017

MB 11/14



Chairman, GLUC or Executive Secretary, GLUC
c/o Department of Land Management
Land Planning Division
P.O. Box 2950
Hagatna, Guam

Dear Sir,

RE: THE APPLICANT BLUE OCEAN INVESTMENT
LLC REPRESENTED BY TRMA requested for a Zone Variance for Height & Density for proposed construction of a 21 story boutique hotel on Lot 5093R1-1-R1 Tumon in the manicipality of Tamuning in a H "hotelResort zone
Application No. 2017-29A

I am sorry for not able to attend the meeting on November 21, 2017 at Tamuning Senior Center and am happy to submit a written comments.

I personally do not agree the proposal of the building since we already have the Grand Hotel at Happy Landing Road and the road is rather narrow and congested with tourists crossing the road. And also there are already many condominiums around here.

Thank you for your kind attention.

Edmund Wong Wing Kwong
L5059-2-2
Unit #105
P.O. Box 10671
Tamuning, Guam 96931

11/14/2017
PLANNING

NOV. 21...

Re: opposition to build Hotel

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
NOV 21 2017
1320 hrs
CLTC/BALUGUC

Dear Sir/Madam.

MB 11/22

I am writing in opposition to build a

21 Story boutique Hotel on

Lots 5093-R1-1 R1 and 5093-R1-1-1

(Tumon)

Because ① Block the view from my condo.

② cause a lot of traffic.

③ This is residential area

If the Hotel near by it makes

a lot of noise disturbance,

may cause other accident.

Han Young & Jae

L5111-1-R4, U601

P.O Box 12337

Tamuning, Guam 96931

11/21/17 9:35 pm

Jae Han

Letter 2/8/18

Doc. No. 34GL-18-1857.

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383



February 28, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-29B, Zone Variance for Height and Density on Lot 5093-R1-1-R1 and Lot 5093-R1-1-1, Tumon, Municipality of Tamuning

1. PURPOSE:

A. Application Summary: The applicant, Blue Ocean Investment LLC, represented by Taniguchi Ruth Makio Architects (TRMA), is approval of its Zone Variance for Height and Density for a proposed 264 feet, 298 room boutique hotel on Lot 5093-R1-1-R1 and Lot 5093-R1-1-1, Tumon, Municipality of Tamuning, Guam.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances) and Section 61311 ("H" (Hotel/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 lot is located along Pale San Vitores Road, adjacent to the southern boundary of Tumon Sands Plaza. It is approximately a quarter of a mile inland from the shoreline of Tumon Bay.

B. Lot Area: 1.95± Acres or 7,878± Square Meters or 84,793± Square feet

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

D. Field Description: The lot is presently vacant with overgrown vegetation and the remnant building floor slab of the former Tumon Gun Club on site.

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

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

G. **Previous Commission Action:** None.

3. APPLICATION CHRONOLOGICAL FACTS:

A. **Date Application Accepted:** June 26, 2017
B. **Date Heard By ARC:** July 20, 2017

C. **Public Hearing Results:** A public hearing was held on January 19, 2018 at the Tamuning Senior Center. We have received 3 letters in opposition of the proposed development; also attached are the public hearing results to include one individual who wanted to note for the record that he was in favor of the proposed development.

4. DISCUSSION and STAFF ANALYSIS:

This request is for height and density variance approval for a new 21-storey or 264 feet high hotel for a variance of 202 feet above the allowable height of 62 feet pursuant to the calculated permitted height of the subject property. As noted in the application, the proposed hotel, compared to existing hotel towers within the near vicinity, ranging from the 21-storey "Outrigger" to the 32-storey "PIC Tower" will not be inconsistent with "H" zone rules and regulations. In addition, the applicant is requesting a variance for density to construct 298 hotel rooms.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, 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, 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, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and 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. In response the applicant provides the following:

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;

Located in the heart of Tumon, the property which is currently vacant and overgrown, has the potential to be conducive to the continued growth and development of the area. The proposed height variance, although higher than allowable by code, will still fit into the existing context of the site based on the proximity to other resort hotel towers.

The limited area of the property restricts the possibility of a large resort hotel. However, a building with a smaller footprint and higher density will lend itself to the development of a boutique / business hotel.

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 location of this property is ideal for a new hotel, primarily by its location within the tourist core of Tumon, but also an infill site located between Tumon Sands Shopping Plaza and Grand Plaza Hotel as a continuation of the streetscape. However, compared to nearby hotel properties, the size and density required for a 298-room hotel is a challenge because of the comparatively small area and narrow orientation of the site.

In order to achieve the desired number of rooms with the area constraints of the site, several options were considered including a shorter and wider footprint, "L-Shaped" and V-Shaped" wing configuration, and multiple-tower configuration. This resulted in the single tower to minimize the footprint of the tower, a tall and slim tower reduces the profile, finally, the single slim tower increases efficiency and reduces the construction costs.

Massing studies of the single tower configuration within the site constraints were conducted in order to determine the most efficient layout allowing for ocean views for each room, while still minimizing the profile to limit view obstruction to neighboring properties to Tumon Bay.

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 proposed project will provide 298 guest rooms to support the Guam Visitor's bureau TOURISM 2020 plan and Guam Hotel and Restaurant Association's drive to accommodate Guam's growing tourism market and provide relief to existing guest room inventory as they are taken off-line for renovations and improvements.

The development of this project on the existing blighted lot will be beneficial to public welfare as the development will generate activity and increase visibility, which will improve pedestrian safety and security.

The smaller footprint and narrow profile will permit greater view opportunities for surrounding properties. In contrast, strict adherence to the zoning code of a maximum height of 63' would result in a building footprint spread from setback to setback minimizing open spaces and increasing construction costs.

D. The granting of such Variances will not be contrary to the objectives of any part of the Guam Master Plan:

The applicant provides:

The granting of this variance will be in line with the Master Plan as it promotes hotel development within the hotel core of Tumon. The addition of 298 hotel rooms with a boutique motif will target alternative clientele which will benefit the local economy.

The H zone was created to allow for greater density and taller structures within Tumon, without overburdening other villages infrastructure, or traffic on thoroughfares.

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:

Although the property is located across the street from the shoreline, organizing the building vertically will permit all hotel rooms in the building to view the shoreline and ocean. The vertical orientation will also allow development of neighboring properties to maintain ocean views.

The project and property siting are ideal as they provide guests with a pedestrian and vehicular thoroughfare with easy access to the Tumon Bay while allowing enough distance to leave the shoreline and marine preserve free of new construction, helping to keep the shoreline uncluttered.

Infilling the vacant lot reinforces the streetscape of San Vitores and provides critical development restoring the area from its currently blighted condition thus creating a safer environment and enhancing the pedestrian experience. The building is intentionally oriented lengthwise and perpendicular to Tumon Bay, San Vitores and Marine Drive in order to preserve views from surrounding areas.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provided adequate justification with respect to deviating from allowable height and density restrictions within an "H" (Hotel-Resort) zone.

Application Review Committee members who have officially responded have no objections with conditions. In addition, our analysis of this application as it pertains to the request, we find, that the proposed development is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations whereby the development is compatible with the surrounding existing uses. This position is supported by the Bureau of Statistics and Plans' conclusion that the application had satisfactorily met the variance test. Based on this finding, we therefore conclude this request is in proper form and context to be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Recommend **APPROVAL WITH CONDITIONS** as follows:

1. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement;
2. 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;
3. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within 1 year from date of Commission approval;
4. The applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations;
5. 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"***; and
6. That the applicant provides 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.

Marvin Q. Aguilar
Chief Planner

Attachments: 3 Letters of Opposition

CASE PLANNER: Celine Cruz

Doc. No. 34GL-18-1857.

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

February 28, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Variance Application – 2017-29 A/B

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
Planning staff recommends **APPROVAL WITH CONDITIONS** as follows:
A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement.

GUAM WATER WORKS AUTHORITY (GWA):
Given the information provided in the application, GWA does not have any objection to the height variance request.

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 the density variance request.

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 to the public water and sewer systems 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 (inclusive of guest, laundry, restaurant, and pool makeup water demand), fire flow, and sewer load calculations.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to 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.

   Given current growth in Tumon, it is likely that future development will be required to increase the public water and/or sanitary sewer systems' capacities through offsite utility improvements.

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 ways 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 and for water tanks.
6. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
7. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system.
8. New development is subject to water and sewer system development charges.
9. 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.
10. Only waste water shall be discharged to the public sanitary sewer system. Storm water, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.

11. 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.

GUAM POWER AUTHORITY (GPA):

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

A. Comments and Recommendations Concerning GPA requirements:

- 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 structure.
    - 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 under document number 27991 and map 107FY81.

- 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.
- A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 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 PUBLIC WORKS (DPW):
The Department of Public Works (DPW), has completed its review and has no objection to the requests provided the following conditions must be in place:

- storm drainage water disposal must be shown in detail in the final drawings and to be supported with calculations;
- parking layout and parking stalls (compact, standard and accessible stalls) must meet the American standard ACT (ADA) requirements;
- entrance/exit must be wide enough for public access to accommodate emergency vehicles;
- provide solid waste compositions;
- landscaping must be design in detail and make use of its physical and biological resources;
- must comply with all the geotechnical requirements related to site preparations;
- ecological planning is needed to ensure the conservation of its resources;
- incorporate eco-green and energy efficient as part of your design concept;
- provide structural analysis that can withstand 210 mph wind velocity; and
- structure must conform to Seismic Zone base on the latest IBC code requirements.

NOTE: Must comply from basic ADA requirements for Hotels (lobby, service counters, bar or restaurants, public bathrooms, hotel pools and other amenities.

BUREAU OF STATISTICS AND PLANS:
The Bureau has completed its review of the subject application and provides the following comments and recommendations.

A. Land Use. The Bureau finds that the proposed project is within the Tourist/Resort 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 "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

B. Tourist/Resort. The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail

uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.

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

C. 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 reminds the applicant that the proposed activities be carefully considered and approved by the ARC and (GLUC) Guam Land Use Commission committees prior to any development occurring.

D. 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 (BMP) 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 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.

E. 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 nearby to other commercial buildings, and hotels and the Bureau 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. 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.

F. 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.

G. 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 former (TPC) Territorial Planning Committee now known as the TLUC unless it finds, in all 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 property is within the high intensity Hotel zone which is Guam's major industry and will be providing temporary dwellings and accommodation to the transient guests that frequent Guam. The applicant has stated that banquet rooms are not anticipated for this project as verified within the site plan.

(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 high intensity Hotel zoning designation allows for and encourages activities unlike those found in other zones on Guam. The limitation of not having activities that cater to banquet facilities will contribute towards minimizing the number of parking requirements. Also the applicant has stipulated and is encouraging smart growth throughout the development of the Hotel.

(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 lower Tumon area is designated Hotel zoned and is mixed with commercial and Hotels alike. This is considered a high intensity area for

guest's off-island and promotes Tourism unlike found in other villages on Guam.

(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 21 floors with 298 rooms with 314 parking stalls. The North and Central Guam Land Use plan calls for Tourist/Resort 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.

Based on the above findings, the Bureau believes that the applicant's variance request meets the 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.

Based on the variance test, the Bureau recommends approval for the height and density variance request as set out in the zoning code of Territory of Guam. The Bureau also does not object to the Hotel use proposal and amenities.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

DEPARTMENT OF AGRICULTURE (DoAg):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

DEPARTMENT OF PARKS AND RECREATION (DPR):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

GUAM FIRE DEPARTMENT (GFD):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

GUAM DEPARTMENT OF EDUCATION (GDOE):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):
No Position Statement has been received as of the date of this Memorandum of February 28, 2018.

Marvin Q. Aguilar
Chairman, ARC

Case Planner: Celine Cruz

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

RECEIVED
AUG 04 2017
1230

MEMORANDUM

July 25, 2017

TO: Michael Borja, Director, Department of Land Management

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

SUBJECT: Position Statement on Zone Variance Applications 2017-29A/B for Height and Density for Lots 5093-R1-1-R1 and 5093-R1-1-1 in the Municipality of Tamuning

APPLICANT(S): Blue Ocean Investment, LLC

The Guam Waterworks Authority (GWA) has reviewed the applicant's height and density zone variance requests for a proposed 298-room hotel.

This memorandum shall serve as GWA's position statement to the above zone variance requests 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, GWA does not have an objection to the height variance request.

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 the density variance request.

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 to the public water and sewer systems and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications

Rec'd 8/3/17 Land Pl

Design calculations shall include proposed water demand calculations (inclusive of guest, laundry, restaurant, and pool makeup water demand), fire-flow, and sewer load calculations.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to 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.

   Given current growth in Tumon, it is likely that future development will be required to increase the public water and/or sanitary sewer systems' capacities through offsite utility improvements.

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 and for water tanks.

6. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.

7. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system.

8. New development is subject to water and sewer system development charges.

9. 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.

10. Only wastewater shall be discharged to the public sanitary sewer system. Stormwater, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.

11. 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.

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

RECEIVED
AUG 1 0 2017

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE
Deputy Director

August 10, 2017

MEMORANDUM

RECEIVED
AUG 1 8 2017

TO: Director, Department of Land Management

FROM: Director

APPLICANT: Blue Ocean Investment LLC

Application No.: 2017- (29A & 29B)

SUBJECT: Zone Variance (Height and Density), Tumon, Guam

Buenas yan Hafa Adai!

The above applicant, is requesting a height zone variance for a Multi-Storey small hotel located in Tumon area. The property consists of two lots totaling an area of 94,237 square feet located between Tumon Sands Plaza and Two Storey Commercial Building Housing Paradise Spa Wagaya Karaoke Lounge. The Development includes a retail spaces and offices and an additional parking spaces along the ground floor area . The first five floors will be utillized as parking garage. The project proposes a total of 250 rooms and about 24,000 square feet of combined retail and office space.

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

- storm drainage water disposal must be shown in detail in the final drawings and to be supported with calculations;
- parking layout and parking stalls (compact ,standard and accessible stalls) must meet the American standard Act (ADA) requirements;
- entrance /exit must be should be wide enough for public access to accommodate emergency vehicles;
- provide solid waste compositions;
- landscaping must be design in detail and make use of its physical and biological resources;
- must comply with all the geotechnical requirements related to site preparations;
- ecological planning is needed to ensure the conservation of its resources;
- incorporate eco-green and energy efficient as part of your design concept;
- provide structural analysis that can withstand 210 mph wind velocity; and
- structure must conform to Seismic Zone base on the latest IBC code requirements.

NOTE: Must comply from basic ADA requirements for Hotels (lobby, service counters, bar or restaurants, public bathrooms, hotel pools and other amenities.

DPW recommends approval, subject to the comments reviewed by the application Review Committee (ARC) with conditions that prior to building permit application, to submit a complete set of design drawings with all the engineering disciplines (structural/civil, architectural, mechanical, electrical, plumbing) needed must be in conformance with the latest building code, applicable rules and regulations, building law of Guam and ADA requirements prior to issuance of building permit.

Should you have any questions, please contact Mr. John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CIP) at 646-3189 or 646-3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

542 North Marine Drive, Tamuning Guam 96913 • Tel (671) 646-3131 / 3259 • Fax (671) 649-6178

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 1:43 Init

August 15, 2017

MEMORANDUM

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

From: General Manager

Subject: Lot 5093-R1-1-R1, Municipality of Tamuning, (Blue Ocean Investment LLC): Zone (Height Density) Variance Application to develop a hotel. **Application No. 2017-29A/B**

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 under document number **27991**and map **107FY81.**

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-18-1857.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Blue Ocean Investment LLC
Location: Lot 5093-R1-1-R1
Type of Application: Zone (Height/Density)Variance
GLUC/GSPC Application No. 2017-29A/B
Brief Project Description:
To develop a hotel.

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

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

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

NOV 0 8 2017

11/7

11:30

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.** 2017-29A/B; **Location:** Lot(s) 5093-R1-1-R1 and 5093-R1-1-1 Tumon; **Applicant:** Blue Ocean Investment represented by Tanaguchi Ruth Makio Architects (TRMA); **Proposed Use:** Zone Variance for Density and Height for a high rise Hotel in the "H" (Hotel) Zone

Håfa Adai! The applicant, Blue Ocean Investment, represented by Tanaguchi Ruth Makio Architects (TRMA), is requesting for a zone variance for the Density and Height in the "H" Hotel Zone on Lot(s) 5093-R1-1-R1 and 5093-R1-1-1 Tumon within the Municipality of Tamuning. According to the applicant the proposal is to develop a 21 floor high rise hotel that will not have banquet nor ball rooms.

The location of the "H" zoned property fronts San Vitores Road and the property was vacant with the exception of a building footprint from a previous building that was cleared in the past. The property is approximately 8,754.9 square meters or 94,237 square feet which is approximately 2.16 acres in size. Also, within the vicinity there are other mixed hotel uses such as the Tumon Sands Shopping Plaza and the Grand Plaza Hotel and other activities that are regularly associated in the hotel zone.

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 Tourist/Resort 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 "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

11.7.17

Tourist/Resort: *The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.*

The Bureau has determined that the applicant's High Rise Hotel proposal is in line with the surrounding mixed uses found within the 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 reminds the applicant that the proposed activities be carefully considered and approved by the ARC and (TLUC) Territorial Land Use Commission 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 (BMP) 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 nearby to other commercial buildings, and hotels and the Bureau 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. 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 former (TPC) Territorial Planning Committee now known as the TLUC unless it finds, in all 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 property is within the high intensity Hotel zone which is Guam's major industry and will be providing temporary dwellings and accommodation to the transient guests that frequent Guam. The applicant has stated that banquet rooms are not anticipated for this project as verified within the site plan

(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 high intensity Hotel zoning designation allows for and encourages activities unlike those found in other zones on Guam. The limitation of not having activities that cater to banquet facilities will contribute towards minimizing the number of parking requirements. Also the applicant has stipulated and is encouraging smart growth throughout the development of the Hotel.

(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 lower Tumon area is designated Hotel zoned and is mixed with commercial and Hotels alike. This is considered a high intensity area for guest's off-island and promotes Tourism unlike found in other villages on Guam.

(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 21 floors with 298 rooms with 314 parking stalls. The North and Central Guam Land Use plan calls for Tourist/Resort 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.

Based on the above findings, the Bureau believes that the applicant's variance request meets the 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.

Based on the variance test, the **Bureau recommends approval** for the height and density variance request as set out in the zoning code of Territory of Guam. The Bureau also does not object to the Hotel use proposal and amenities.

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

cc: GEPA
DPR
DPW
GWA
GPA

EXHIBIT 1

TAMUNING-TUMON-HARMON MUNICIPAL PLANNING COUNCIL
REGULAR MONTHLY MEETING
6:30 P.M. Thursday Febuary 08, 2018
Tamuning Senior Center

MINUTES

I. CALL TO ORDER
Meeting was called to order at 6:40 pm by Mayor Louise Rivera, Chairperson

A sign-in sheet was circulated for attendance. Present were, J. Brown, J. Camacho, V. Camacho, A. Charfauros, J. Estella, R. Lastimoza, W. Nault, F. Punzalan, D. Tinsay, Vice-Mayor Kenneth Santos, Mayor Louise Rivera, a total of Eleven (11) members in attendance of the meeting. A Quorum was established.

II. RECITATION OF THE PLEDGE OF ALLEGEIANCE AND *INIFRESI*
Members present recited the Pledge of Allegiance and the *Inifresi*.

III. SECRETARY'S REPORT AND APPROVAL OF PREVIOUS MINUTES
Motion to approve the Minutes of January 04, 2018 was made by A. Charfauros, second by R. Lastimoza. All were in favor. Motion carries.

IV. MAYOR'S REPORT
1. LZ Plaza Application for Height Variance: All in attendance agreed to have this decision remain status quo on until the improvement of Ypao Road is complete.

2. Construction of a New Guam Power Authority Northern Power Generation Plant. Support for Bill 233-34, An Act to Re-Zone from "R-2" to "M2". Public Hearing was held on 01/17/18. All agreed that there is no objection and would support the recommendation of the Dededo Municipal Planning Council.

3. Blue Ocean Investment-21 story-Tumon. Public Hearing held on 01/19/18. Due to inadequate Infrastructure and heavy congestion to the area, A motion to disapprove this application was made by J. Brown. Second by F. Punzalan, all were in favor. Motion carries.

4. Hirotake Otsuka-3 story, 8 unit condo structure-Sanchez St. Public Hearing on 01/26/18. Due to testimonies given by surrounding neighbors opposing said application, a Motion to disapprove was made by J. Brown. Second by A. Charfauros. All were in favor. Motion carries.

5. Budget cuts and Revenue Generation committee's are formed to address current budget crisis. Presentation for MCOG Special Meeting on 02/21/18.
   a. Marcus Landen a meteorologist: Tsunami supporter program.
   b. Vice-Speaker Therese Terlaje: Veterans Registry and Massacre Memorial funds.
   c. Senator Regine Biscoe Lee: Bill 234 Automatic voters registration.

GUAM VISITORS BUREAU
SETBISION BISITAN GUAHAN

EXHIBIT 2

Received 3.8.18 1:35 pm

March 8, 2018

Michael Borja
Director
Department of Land Management,
590 S. Marine Corps Drive
ITC Bldg, Ste 733,
Tamuning, Guam 96913

Subj: Lots M19 L5093-R1-1-R1 / L5093-R1-1-1, Tumon
Zone Variance Application for Density and Height

Håfa Adai Mr. Borja,

We are writing this letter in support of the Guam Land Use Commission (GLUC) Variance Request for the Blue Ocean Development project located along San Vitores Road, as follows:

- A height variance to allow for a 21 story hotel with a height of 264'-0" to the roof and to allow 298 guestrooms

In 2014, the Guam Visitors Bureau launched Guam's tourism strategic plan entitled Tourism 2020 that set forth the vision and roadmap for the island's number one industry. Objective 3 of the plan was to "add hotel rooms," increasing room inventory from 8,451 rooms to 10,091 rooms. This development will help Guam achieve this important objective, as these rooms are necessary to reach our goal of 1.75 million visitor arrivals by 2020.

Moreover, the project is planned for a site that is currently a blighted parcel along San Vitores that has become a magnet for unsafe activities and littering. The investment in the property and intention for a good quality street facade supports GVB's goals for continuous improvement for Guam's primary tourism and hospitality center.

GVB is also pleased to see the property owner is proactively looking at a storm water treatment that will help reduce the amount of run-off that overburdens the nearby ponding basin and floods roadways during moderate and/or heavy rains. It also provides a healthy pedestrian circulation that patronizes many of the nearby commercial, retail and food & beverage businesses, which reduces the reliance on vehicles.

Lastly, the most important result of this development will be the additional jobs that it will be provide to the people of Guam. This is a good example of how tourism makes Guam a better place to live, work and visit. Si Yu'os Ma'åse' for your consideration of this GLUC Variance Request.

Senseramente,

JON NATHAN DENIGHT
President & CEO

EXHIBIT 3

Received 3.6.18 1:35 pm

March 3, 2018

Director, Department of Land Management,
Executive Secretary
Guam land Use Commission
Government of Guam

Attn: Michael Borja, Director

Subj: Lots M19 L5093-R1-1-R1 / L5093-R1-1-1, Tumon
Zone Variance Application for Density and Height

Hafa Adai Mr Borja

We are writing this letter in support of the GLUC Variance Request for the Blue Ocean development project located along San Vitores Road. The property owner, Blue Ocean Development has requested the following:

> A height variance to allow for a 21 story hotel with a height of 264'-0" to the roof and to allow 298 guestrooms.

The project is planned for a site that is currently a blighted parcel along San Vitores that has become a magnet for unsafe activities and littering. The investment in the property and intention for a good quality street facade supports our tourism goals for continuous improvement for Guam's primary tourism and hospitality center.

We are pleased to see that the property owner is looking proactively at storm water treatment that will help reduce the amount of run-off that is overburdening the nearby ponding basin and flooding roadways during moderate and heavy rains.

The project supports the call from village leaders to centralize resorts and hotels in Tumon and provides well designed pedestrian circulation that supports many of the nearby commercial, retail and food & beverage businesses and reduces the reliance on vehicles.

The proposed concepts illustrate their priorities for sustainable design, energy efficiency and smart growth. In particular, utilizing an infill property and refraining from using pristine land around the island that could impact our Northern Aquifer, other natural resources and island attractions.

We hope you will consider the benefit of this proposed project and look favorably on this GLUC variance request

Si Yu'os Ma'ase

Monte Mesa