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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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Suite 733 ITC Building
Tamuning, GU 96913

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Facsimile:
671-649-5383

GL# 34-18-2051
Speaker Benjamin J.F. Cruz

July 5, 2018

JUL 06 2018
Time: 452 [ ] 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, April 12, 2018; and,
2. Guam/Hybrid Land Use Commission; Thursday, April 12, 2018.

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

Thank you.

2018 JUL -6 AM 11:44

2051

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

File for Record is Instrument Number 923828

on the Year 20 18 Month 07 Day 03 Time 10:04

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANET YAMASAKI

Above Space for Recorder's Use only

COPY
Guam Legislature

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, April 12, 2018
1:38 p.m. to 5:05 p.m.

GUAM LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning
Thursday, April 12, 2018

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

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet

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

Date of Meeting: Thursday, April 12, 2018

Time of Meeting: GLUC: 1:38pm | GSPC:

	GLUC		GSPC
X	Regular		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	

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

ADJOURNMENT GLUC: 5:05pm | GSPC:

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~~ April 12, 2018

Time of Meeting:
Hybrid:

GLUC:	HLUC:
	8:25 pm

X	GLUC
X	Regular
	Special
	Quorum
	No-Quorum

X	HLUC
X	Regular
	Special
	Quorum
	No-Quorum

HYBRID COMMISSION; LZ COMPANY, Application No. 2017-25 [MCoG DLM 2018-01]

Mayor Louise Rivera, Tamuning-Tumon-Harmon
Mayor Melissa Savares, Dededo
Mayor June Blas, Barrigada
Mayor Jessy Gogue, Ordot-Chalan Pago

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

Mayor Louise Rivera, Tamuning-Tumon-Harmon
Mayor Melissa Savares, Dededo
Mayor June Blas, Barrigada
Mayor John Cruz, Hagatna

HYBRID COMMISSION; CAMACHO FAMILY PARTNERSHIP, Application No. 2018-14 [MCoG DLM 2018-05]

Mayor Vicente Taitague, Talofofo — Present (did not sign in)
Mayor Kevin Susuico, Agat
Mayor Johnny Quinata, Umatac — no show
Mayor Jesse Blas, Yona

ADJOURNMENT: GLUC: 5:05 PM HLUC:

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, April 12, 2018
[X]	HLUC	[ ]	Special	Time:	1:38 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:05 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Peter Lomsard	LT COMPANY	
Joseph Camacho	2018-14	
Darlene Camacho	"	
Janice Camacho	"	
John Rhee	2018-14	
LIEZL BAYANI	2018-14	
Gary Thompson	2018-14	
Pierre Frenay		
Susan Fryer		
STEVE STREIB		
JOHN J SABLAN		
TAYLOR Jo SABLAN		
Claudia Guar		

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, April 12, 2018
[✓]	HLUC	[ ]	Special	Time:	1:38 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:05 pm

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

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Peter Peter Lowenstein	LZ COMPANY	
John Brown	Blue / LZ	483-5960
David Von Guerrero	Blue Ocean	487-3285
Michael Marlo	"	
Tor Guomundsen	KEPCO LG SOLAR	647-0805
Mark Zhao	LZ CO.	
Tim Hemour	Docomo RIM Hotel	477-2111
Ian Flores	LG CNS INC.	647-0000
Swaffell	Individual	688-6029
Abel Cabrias	Blue Ocean	888-6342
Richard Sama	FCB Planners	687-9845
Freddy Wang	Blue Ocean	689-1989

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

GUAM LAND USE COMMISSION

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

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

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

AGENDA

Regular Meeting

Thursday, April 12, 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 April 5th and April 10th, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, February 22, 2018 & March 8, 2018

III. Old or Unfinished Business [None]

IV. New Business [None]

V. Administrative & Miscellaneous Matters

Request for Extension of Time

A. **Application No. 2011-09B** Fargo Pacific Inc. represented by Daniel D. Swavely; requests 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

B. **Application No. 2015-26** Deepak and Kiran Sadhwani represented by FC Benavente, Planners; requests a one-year extension of time for a previously approved Tentative Subdivision Plan for the proposed development of an industrial park, on Lot 5315, in an "M-1" (Light Industrial) zone, in the Municipality of Dededo. Case Planner: Marvin Aguilar

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, April 12, 2018 • 1:38 p.m. to 5:05 p.m.

I. Notation of Attendance

Chairman Arroyo announced that there were two Commission meetings today; the regular GLUC hearing and three (3) separate Hybrid Commissions.

Chairman Arroyo called to order the regular meeting of the **Guam Land Use Commission** for Thursday, April 12, 2018 at 1:37 p.m., noting a quorum.

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

It was noted that there was no change to the order of today's agenda. Chairman Arroyo moved on to the next item on the agenda --

II. Approval of Minutes

Chairman Arroyo requested for a motion to approve the GLUC regular meetings Minutes of February 22, 2018 and March 8, 2018.

Commissioner Bathan makes a motion to approve the GLUC Regular Meeting Minutes of February 22, 2018 and March 8, 2018; subject to corrections of any edits and/or minor typographical errors to be submitted to Cristina before close of business today.

Chairman Arroyo there is a motion to approve the Minutes of February 22nd and March 8th, 2018. Is there a second.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo moved by Commissioner Bathan, seconded by Vice Chairman Cruz; noting no discussion; Chairman Arroyo puts the motion to a vote.

All in favor of the motion to approve the Minutes of February 22, 2018 and March 8, 2018 say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh and Vy), all opposed say "nay."

[Motion passed; 5 ayes, 0 nay]

III. Old or Unfinished Business [None]

IV. New Business [None]

V. Administrative & Miscellaneous Matters

Request for Extension of Time

A. **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 reads the staff report to include purpose, facts, summary, recommendation and conditions. [For full content/context, please see attached report]

[Attachment A – Staff Report dated February 21, 2018]

Chairman Arroyo no questions noted for staff, Chairman Arroyo invited the applicant's representative to present the application.

Dan Swavely representing Fargo Pacific Construction Company on behalf of the proposed FPI Village temporary workforce housing. Mr. Swavely states that the company had picked the worse year to obtain approval for a temporary workforce housing facility because there are no workers at this time. However, the good news is that the situation is improving; and, the company is requesting for approval for the one-year extension and is confident that they can begin construction of the village.

Chairman Arroyo no questions noted for the consultant. Chairman Arroyo opened the floor for public comment.

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

Chairman Arroyo no additional questions and/or discussion noted, Chairman Arroyo was ready to entertain a motion for this application.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for a one-year extension of time for the construction of the temporary workforce housing facility, on Lot 5161-1-3, in an "M1" (Light Industrial) zone, in the municipality of Tamuning as requested by the applicant under Application No. 2011-09B.

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

Commissioner Oh second.

Chairman Arroyo no discussion on the motion. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan, Commissioner Oh and Commissioner Vy], all opposed say "nay." **[Motion passed; 5 ayes, 0 nay]**

Next item on the agenda –

B. **Application No. 2015-26**, Deepak and Kiran Sadhwani represented by FC Benavente, Planners; request for second, one-year extension of time for a previously approved Tentative Subdivision Plan for the proposed development of an industrial park, on Lot 5315, in an "M1" (Light Industrial) zone, in the Municipality of Dededo. Case Planer: Marvin Aguilar

Marvin Aguilar reads the staff report to include purpose, facts, previous Commission action, and recommendation. [For full content/context, please refer to attached report.]

[Attachment B – Staff Report dated April 5, 2018]

Chairman Arroyo for the record, Chairman Arroyo clarified that September 9, 2019 will be the date of expiration for second one-year extension.

Marvin Aguilar recommended that the expiration date be based on the Commission's approval date, today which would be April 11, 2019.

Chairman Arroyo no questions noted for staff, Chairman Arroyo opened the floor to the applicant's representative.

Richard Sana (representing Kiran Sadhwani) had nothing further to add to Chief Planner Aguilar staff report. Mr. Sana added that the first contractor did not complete the necessary infrastructure work for the subdivision. The photos provided to the Commission shows that the project is moving forward with the installation of infrastructure for the project. Mr. Sana is confident that this project will be complete by the new projected date of April 11, 2019.

Chairman Arroyo notes for the record, receipt of photographs of the current project site as it appears today. **[For photos, please refer to Exhibit 1]** Questions for the applicant.

Vice Chairman Cruz asked if the applicant request for a second one-year question is sufficient to complete the project.

Richard Sana reiterated that he is confident that the project will be completed by new expiration date.

Commissioner Bathan what is the percentage of completion for the infrastructure.

Richard Sana as of today, it is about ten to fifteen percent complete on the installation of the infrastructure.

Michael Borja (Executive Secretary) the Commissioners should note that the request for the extension was two months after the expiration of the first extension. The last extension was granted in November 2016 with an expiration date of November 2017. Mr. Borja expressed that allowing a rolling extension is inappropriate for this case. If an extension is given it should be based on the last period of time being November.

Chairman Arroyo some of the mitigating circumstances was the medical issues for both the applicants.

Michael Borja asked Mr. Sana when he was retained for this extension.

Richard Sana stated that he was not on island December through February. Mr. Sadhwani did not make the request until he returned on island.

(Discussion ensues)

Commissioner Oh inquired if Mr. Sana was involved in the initial approval back in October 2015 and the first request for an extension in November 2016. (Mr. Sana responds "yes.) Commissioner Oh asked whether or not the applicants were advised on the need to return to the Commission within one-year.

Richard Sana yes, the applicant was aware.

Commissioner Oh the concern is that the first extension request was received in November 2016 which was one month late after the initial approval date of October. The second request for extension should have been requested in November 2017; however, the request was made in April 2018. There is a concern as to whether this is a chronic ignorance of the conditions setforth in the NOA, and this is the Commission's concern.

Richard Sana stated that they do not get involved until the applicant/owner contacts the office to assist in the renewal request. Once the NOA is explained and handed over to the applicants, FC Benavente considers the application process complete. Mr. Sadhwani did not contact the office until February 2018.

[Discussion ensues]

Chairman Arroyo in reading the letter from the Sadhwanis' to Chief Planner Marvin Aguilar they recognized that they needed to submit the request before September 24, 2017; however, they stated that they were off-island during the months of September and October. Regardless of whether or not the Commission gives them until September of 2019 or April 2019 is immaterial; the applicants state that the project will be completed by the end of this year.

Commissioner Oh asked Legal Counsel if it is the Commission's discretion to entertain different renewal dates.

Nick Toft (Legal Counsel) responds that it was at the Board's discretion.

Vice Chairman Cruz is the completion date to include full improvements.

Richard Sana the tentative subdivision approval requires that all infrastructure improvements to include water, sewer, curbs, paving, storm water management system is completed.

Chairman Arroyo the original plan was to provide the site, and individual owners who purchase and/lease the lot builds their own structure.

Vice Chairman Cruz when will this project be complete.

Richard Sana we are hoping that the Commission grants the second extension of time for April 2019.

Chairman Arroyo no further questions noted from the Commissioners, Chairman Arroyo opened the floor for public comment.

Public Comment [no public comments noted, Chairman Arroyo closed the public comment period.]

Chairman Arroyo any questions and/or comments.

Commissioner Oh the exact date of expiration for the extension of time should be discussed; coming back in September 2018 is only five (5) months away. The applicant is requesting for an expiration of April 2019. Commissioner Oh asked the members of the Board on an appropriate date for expiration.

Vice Chairman Cruz the photos indicate installation of sewer infrastructure. Mr. Sana has stated that the installation of full improvements will be completed by April 2019. Vice Chairman Cruz suggested that the applicant submits to the Commission a progress report by either September 2018, no later than end of year 2018.

Richard Sana we have no problem with coming back to provide the Commission with a status report.

Commissioner Bathan added that the applicant/consultant submits a construction schedule when they return for a status report. The construction schedule should include completed items and what is pending.

Marvin Aguilar the assumption is that it will be completed; otherwise, the applicant will have to come back again for another extension for additional time.

[Discussion ensues]

Commissioner Bathan emphasized that if another extension of time is needed that the applicant submits the request before the one-year expiration date. This seems to be a repeated violation of not submitting the request in a timely manner which puts the project at risk of not being extended.

Richard Sana acknowledges and apologizes to the Commission. Mr. Sana will advise the applicant accordingly of the Commission's concerns.

[Discussion ensues]

Chairman Arroyo states that ordinarily he would hold the applicants' feet to the fire and have them meet the scheduled deadlines. But in this instance after reading the January letter, because of the extent of the medical attention needed, the applicants were probably not even thinking about the impending deadline for the extension of the project. Giving the applicant leeway, considering the circumstances they were going through at that time, would be justified in this case.

No further discussion noted, Chairman Arroyo requested for a motion.

Commissioner Oh Mr. Chair, I would like to make a motion to approve this request for up to one-year extension of time to expire on April 13, 2019 for Application No. 2015-26 for Deepak and Kiran Sadhwani represented by FC Benavente, Planners and their request for a one-year extension of time for a previously approved Tentative Subdivision plan for the proposed development of an industrial park on Lot 5315, in an "M1" (Light Industrial) zone, in the municipality of Dededo.

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

Commissioner Vy seconds the motion.

Chairman Arroyo Chairman Arroyo stated that April 13th would be a year and a day; the expiration date should be April 11th, and the applicant will need to return in September 2018 with a status report and construction schedule. I would like to amend the main motion to set the expiration date to April 11, 2019, and that the applicant returns before the Commission on/or before September 30th, 2018 with a status update along with a construction schedule. That is my amended motion, is there a second.

Vice Chairman Cruz seconds the amended motion.

Chairman Arroyo on the amendment; all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Vy and Commissioner Bathan], all opposed say "nay."

[Amended motion passed; 5 ayes, 0 nay]

Chairman Arroyo on the main motion; all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Vy and Commissioner Bathan], all opposed say "nay."

[Motion passed; 5 ayes, 0 nay]

Chairman Arroyo if there is no other business to be conducted by the Guam Land Use Commission.

VI. Adjournment

Vice Chairman Cruz motions to adjourn today's GLUC meeting; seconded by **Commissioner Bathan**; with all in favor.

The regular meeting of the Guam Land Use Commission for Thursday, April 12, 2018 was adjourned at 2:13 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Land Use Commission

Date approved:

5/24/18

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

ATTACHMENT A

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

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671-649-LAND (5263)

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671-649-5383

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

February 21, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Commission Brief – Request for Extension - Application No. 2011-09B

1. **PURPOSE:** Pursuant to Section 5 of Executive Order 96-26, the applicant, Fargo Pacific, Inc. (FPI) represented by Mr. Daniel D. Swavely submits its request for a one (1) year extension of its Conditional Use Permit approval for the construction of its Temporary Workforce Housing Facility on Lot No. 5161-1-3, Harmon, Municipality of Tamuning.

2. **LEGAL AUTHORITY:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Section 61303 (Conditional Use); Public Law 31-72; E.O. 96-26 and as a general condition on its Notice of Action, recorded under Document No. 903685.

3. **APPLICATION SUMMARY:**

As conditionally approved by the Commission on February 9, 2017, the proposed Housing Facilities is to be constructed in three phases and as shown on the attached site plans, the phases depicts the following;

Phase one is to include a single, three story, workers dormitory structure (Building A), access road, staff & guest, bus and delivery truck parking areas, basketball courts, a BBQ & picnic area, a future expansion site, a security office structure, the two existing warehouse structures and a chain-linked perimeter fence with the entrance/exit gate relocated to J.L. Baker Street from the present Harmon Industrial Park Road location

Phase two is the addition of a second, three story workers dormitory structure (Building B).

Phase three is for the elimination of the two existing warehouse buildings and the addition of a third, three story workers dormitory structure (Building C), a volleyball court and a single story internet café and fitness center structure.

Each of the proposed dormitory structure are symmetrical in design to accommodate a total of 216 workers with the first floor containing a kitchen, cafeteria seating room, a small theater/function room, a game room, a library, a lounge, a custodians' office, a clinic, storage rooms and rest rooms for both male and female. The second and third floors are to contain the workers bedrooms, a bathroom, a laundry room and a lounge area.

Also included is a Landscaping Plan as a separate sheet in complement to the final site plan (phase three).

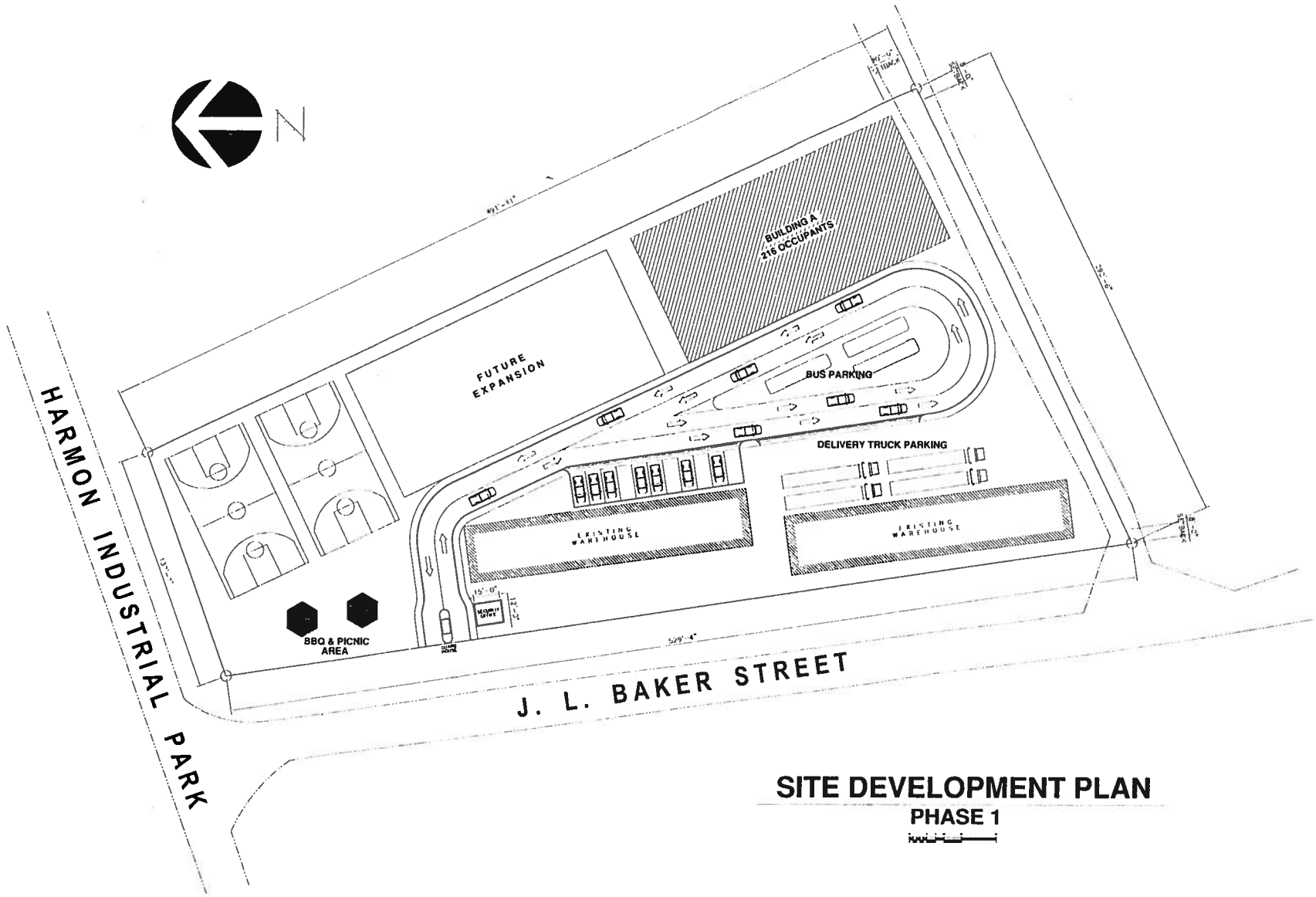
As a result of the Application Review Committee (ARC) meeting the applicant included on the phase three site plan; A trash bin storage pad and a new trench drain for storm water disposal which are to be part of the phase one construction plans.

We have reviewed the applicants request and we support its reason for the delay of the construction of its Temporary Workforce Housing Facility and submit it to the Commission for its action.

Marvin Q. Aguilar

ATTACHMENTS: Phase 1 to 3 site plans
Landscaping plan

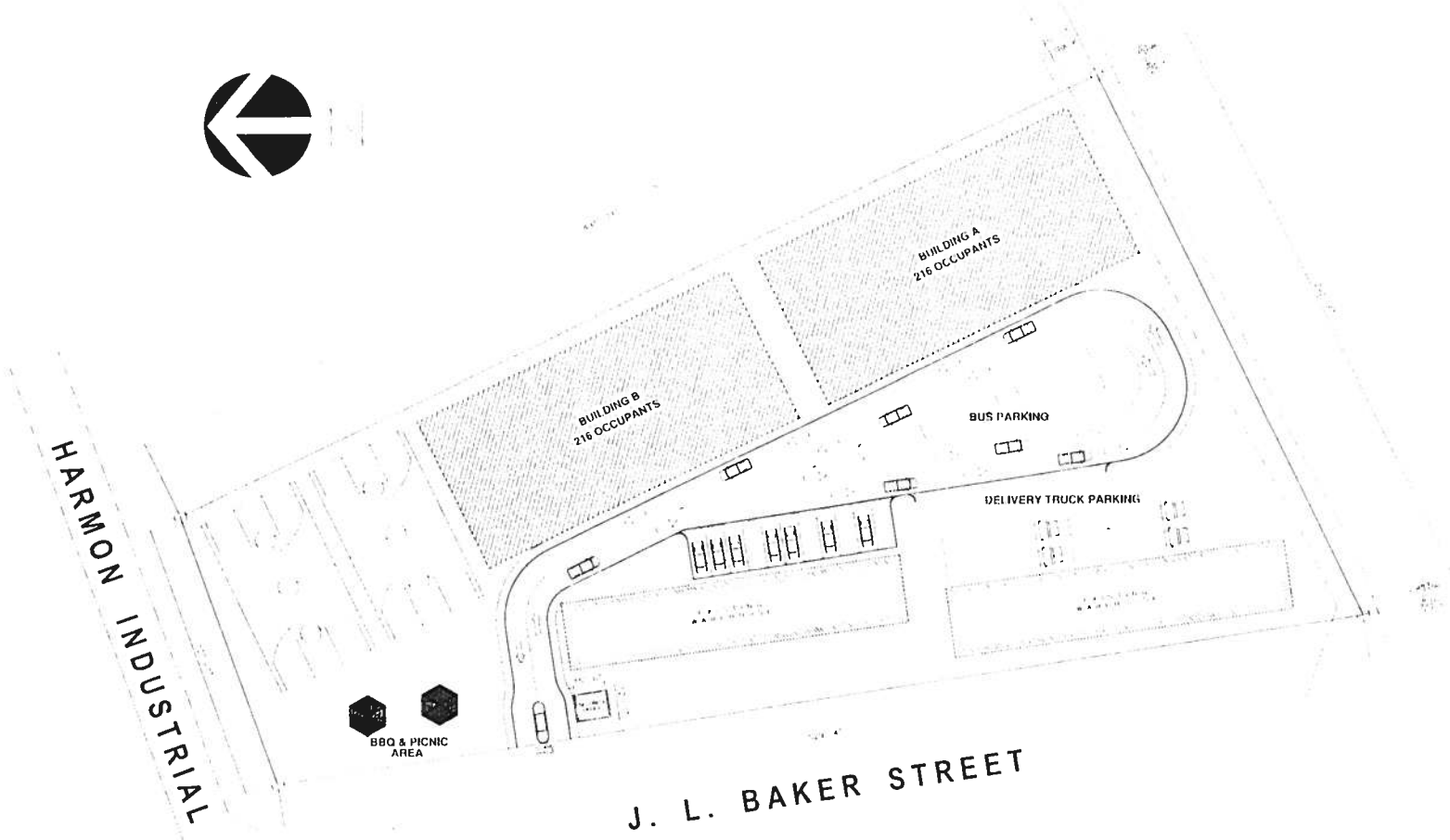
Case Planner: Frank Taitano



SITE DEVELOPMENT PLAN

PHASE 1

PROJECT TITLE: FPI VILLAGE LOT 5161-1-3, HARMON INDUSTRIAL PARK FARGO PACIFIC INC. - TEMPORARY WORKERS HOUSING FACILITY	SHEET CONTENT: SITE DEVELOPMENT PLAN (PHASE I)	REV. NO / REVISION DESCRIPTION / DATE	PROJECT NO. / WR NO / DATE	DESIGNED: / CADD. RM/JR / CHECKED:	DWG NO. A-1	SHT. NO. OF



SITE DEVELOPMENT PLAN

PHASE 2

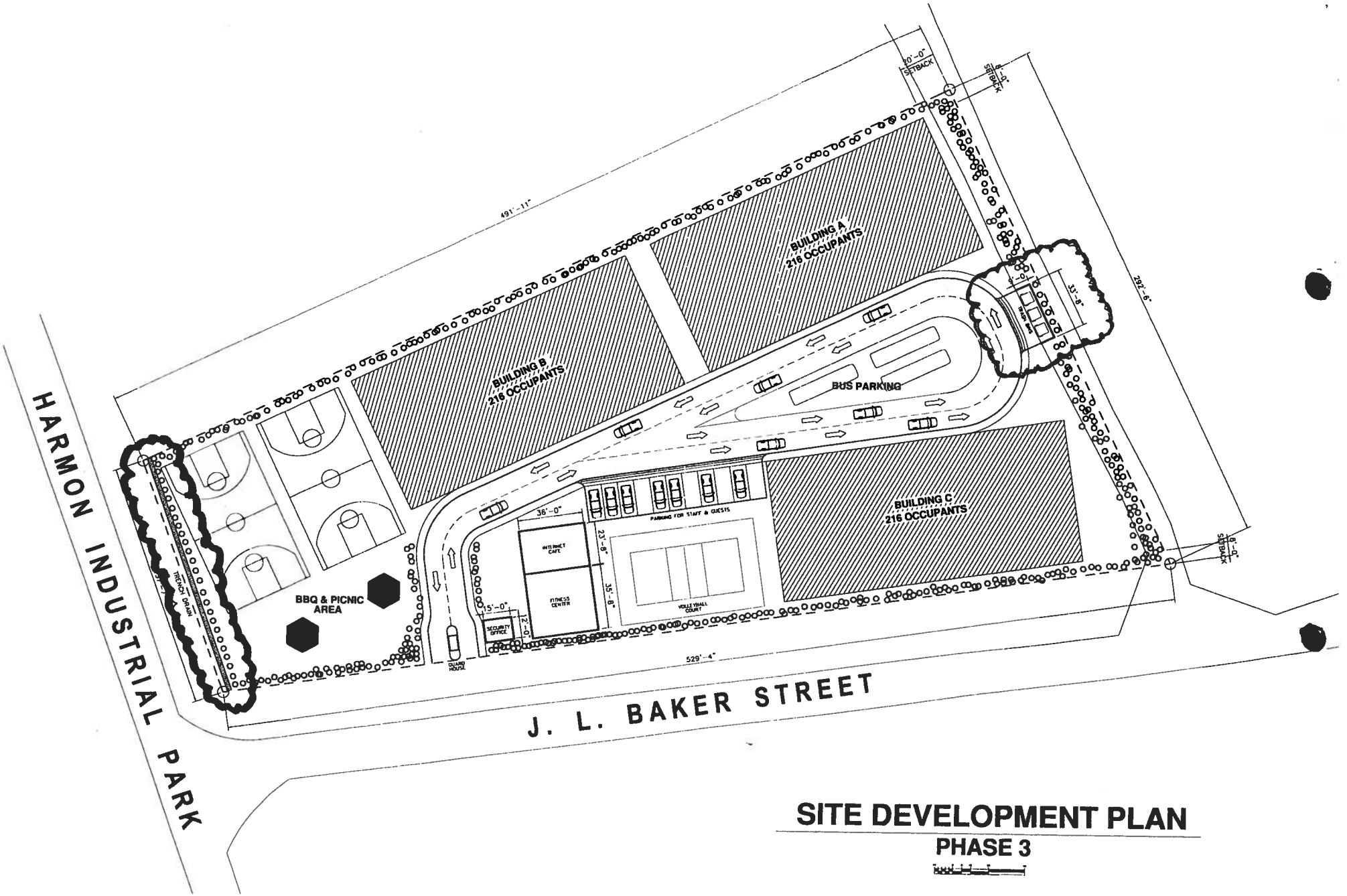
PROJECT TITLE

FPI VILLAGE
LOT 5161-1-2, HARMON INDUSTRIAL PARK
FARGO PACIFIC INC - TEMPORARY WORKERS HOUSING FACILITY

SHEET CONTENT

SITE DEVELOPMENT PLAN
- PHASE 2

Doc. No. 34GL-18-2051.



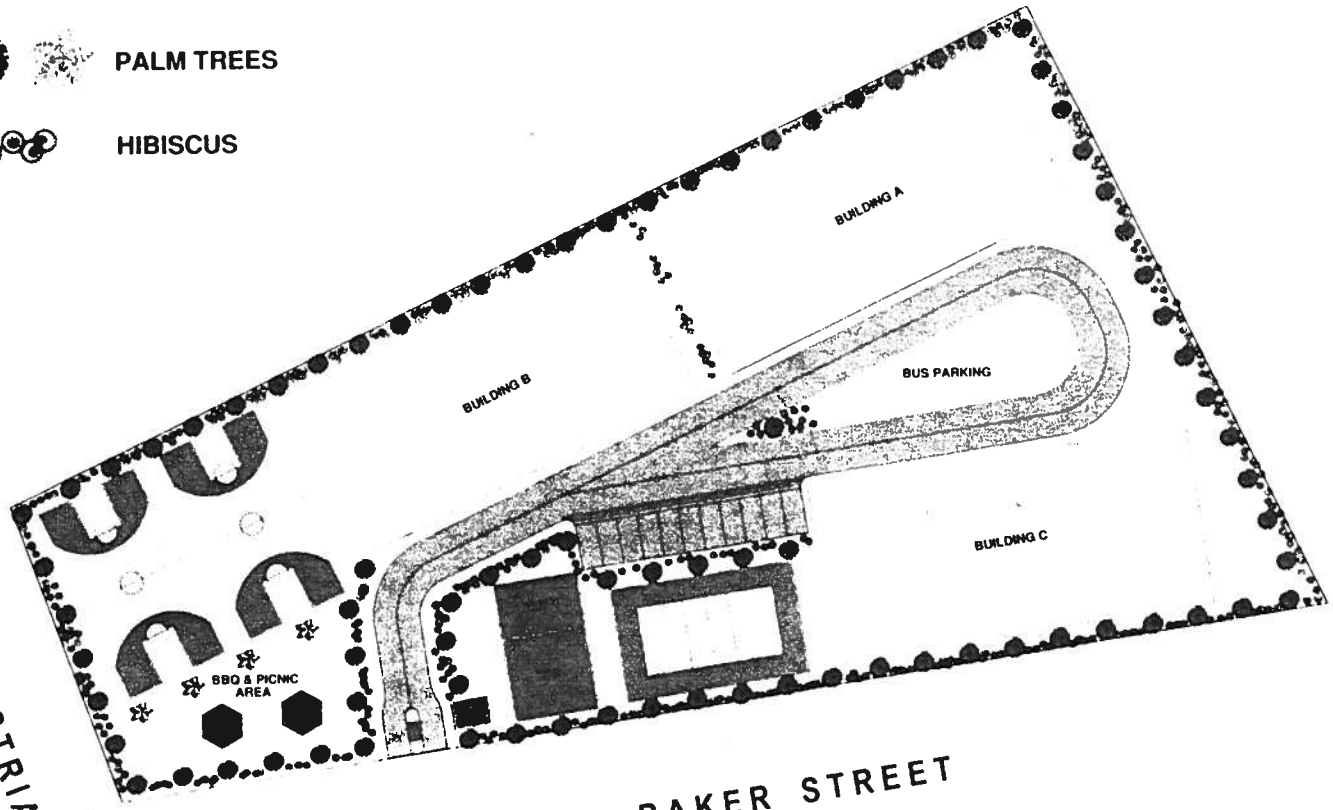
SITE DEVELOPMENT PLAN

PHASE 3

Doc. No. 34GL-18-2051.

PALM TREES

HIBISCUS



HARMON INDUSTRIAL PARK

J. L. BAKER STREET

LANDSCAPING PLAN

PROJECT TITLE: FPI VILLAGE LOT 5161-1-3 HARMON INDUSTRIAL PARK FARGO PACIFIC INC - TEMPORARY WORKERS HOUSING FACILITY	SHEET CONTENT: LANDSCAPING PLAN	REV NO. / REVISION DESCRIPTION / DATE	PROJECT NO / JAE NO / DATE	DESIGNED / DRAWN RMVR / CHECKED	DWG NO / SHT NO 06

ATTACHMENT B

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

EDDIE BAZA. CALVO
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Website:
http://land.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

April 5, 2018

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2015-26C
Request for a Second One (1) Year Extension
Tentative Subdivision

1. PURPOSE:

a. Application Summary: The applicants, Deepak and Kiran Sadhwani represented by Mr. Richard Sana of FC Benavente Planners, is requesting consideration for a second extension of a previously-approved Tentative Subdivision in an "M-1 zone". The proposed subdivision boasts the creation of an industrial park consisting of fifty-one (51) lots on Lot 5315, in the Municipality of Dededo.

b. Legal Authority:

i. Initiating the request for approval a Tentative Subdivision Plan - Title 21, GCA, Chapter 62, Article 2, Section 62201 thru 62204; Article 4, Section 62401; Article 5, Section 62501 thru 62504, Subdivision Law. Title 18 GAR, Chapter 3, Article 2, Section 3219.

ii. Initiating the request for extension of approval - Title 21, GCA, Chapter 62, Article 2, Section Article 5, 62504, Subdivision Law.

2. FACTS:

a. Location: The subject lot is located in the Ukudu area of Dededo west of Rt. 3 roughly across from the Ukudu High School and less than a quarter of a mile north of the New Guam Regional Medical Center. The entrance of the proposed development is to be located at the northeast corner of the pentagon-shaped lot via a proposed 40-ft right-of-way connecting to the existing 100ft wide easement, roughly a quarter of a mile northwest of Rt.3. Encircling this lot are properties of various zones ranging from "R-2","C","M-1" and M-2 as per the "Dos Amantes" Official Zoning Map F3-67S52.

b. **Lot Area:** 36.7 +/- Acres or 148,810+/- Square meters

c. **Present Zoning:** "M-1" (Light Industrial) Zone per Public Law 30-211.

d. **Field Description:** The proposed site is presently vacant and undeveloped, and has been subject to mass clearing and grading work in preparation for infrastructure work.

e. **Master plan:** N/A – Subject lot is part of excess federal land returned to original land owners. Hence, no master plan was established under federal control.

f. **Community Design Plan:** Rezoned to "M-1" Light Industrial via P.L. 30-211[1].

g. **Previous Commission Action:**

i. Notice of Action (NOA) *with conditions* was issued for a Tentative Subdivision Plan on September 25, 2015. NOA expiration date was noted as September 9, 2016 (see DLM Document No. 884231 as provided in the application request).

ii. NOA *with conditions* was issued for a one-year extension of the previously-approved Tentative Subdivision Plan on November 16, 2016 NOA expiration date was noted as September 24, 2017 (see DLM Document No. 884231 as provided in the application request).

3. **STAFF ANALYSIS:** Authority to grant an extension of up to one (1) year is provided pursuant to Title 21, GCA, Chapter 62, Article 2, Section Article 5, 62504, where, "upon approval of the tentative subdivision plan by the Commission, the subdivider shall complete within one (1) year all of the improvements required, except that the Commission, for good cause shown, may authorize an extension of time, not to exceed twelve (12) months, for such completion. Within such time, the subdivider must either:

a. Complete the required improvements and, upon acceptance thereof by the government, file his final plans; or

b. Furnish bond acceptable to the Commission for the completion of improvements, the bond to be in penal sum of one hundred fifteen percent (115%) of total work costs as verified by the Director of Public Works. On approval of the bond, the final plans may be filed".

The subdivision law remains silent on the number of extensions that may be granted. The applicant opted to complete infrastructure requirements within one (1) year. At the first extension, the applicants submitted their first extension request on the basis of time lapsed to secure a building permit to initiate and complete infrastructure requirements. This was made evident in the building permit application providing that the applicants were only able secured approval from the Guam WaterWorks Authority on September 7, 2016; two days prior to the date of expiration of the initial NOA.

In this second extension request, the applicants cite personal family circumstances as the reason for the lapse of the first extension. During this time the applicants had also changed contractor and provides supporting documents, thereon.

[1] Public Law 30-211 – An Act to approve Official Zoning Map F3 67S 52, the Dos Amantes Planning Area and all related zoning amendment. Signed into law and promulgated on December 2010.

4. **RECOMMENDATION:** Based on supporting information, we are of the position the applicant has justified this request for an extension of time and therefore recommend **APPROVAL of this request for up to one (1) year from the date of Commission approval.**

We encourage the applicant to continue his efforts to work with the various government entities, and the responses from members of the ARC and to complete other requirements of the original NOA approval to include, but not limited to, submission of Covenants, Conditions, and Restrictions as may be associated with the sale, lease, rental or any form of alienation to include securing reservation for lease or sale of the subdivision or individual lots, thereof.

MARVIN Q. AGUILAR

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

File for Record is Instrument Number 923829

on the Year 20 18 Month 07 Day 03 Time 10:08

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANET YAMASAKI

Above Space for Recorder's Use only

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Legislature

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, April 12, 2018
2: 25 p.m. to 5:05 p.m.

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning, Guam
Thursday, April 12, 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. June Blas, Mayor of Barrigadsa
Ms. Melissa Savares, Mayor of Dededo
Mr. John Cruz, Mayor Hagatna

STAFF PRESENT:

Mr. Michael J.B. Borja, Executive Secretary
Mr. Nicolas Toft, Legal Counsel
Mr. Marvin Aguilar, Guam Chief Planner
Mr. Frank Taitano, Planner IV
Ms. Celine Cruz, Planner IV
Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet

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

Date of Meeting: Thursday, April 12, 2018

Time of Meeting: GLUC: 1:38pm | GSPC:

	GLUC		GSPC
X	Regular		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	

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

ADJOURNMENT GLUC: 5:05pm | GSPC:

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~~ April 12, 2018

Time of Meeting:
Hybrid:

GLUC:	HLUC:
	8:25 pm

	GLUC
X	Regular
	Special
	Quorum
	No-Quorum

	HLUC
X	Regular
	Special
	Quorum
	No-Quorum

HYBRID COMMISSION; LZ COMPANY, Application No. 2017-25 [MCoG DLM 2018-01]

Mayor Louise Rivera, Tamuning-Tumon-Harmon
Mayor Melissa Savares, Dededo
Mayor June Blas, Barrigada
Mayor Jessy Gogue, Ordot-Chalan Pago

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

Mayor Louise Rivera, Tamuning-Tumon-Harmon
Mayor Melissa Savares, Dededo
Mayor June Blas, Barrigada
Mayor John Cruz, Hagatna

HYBRID COMMISSION; CAMACHO FAMILY PARTNERSHIP, Application No. 2018-14 [MCoG DLM 2018-05]

Mayor Vicente Taitague, Talofofo — Present (did not sign in)
Mayor Kevin Susuico, Agat
Mayor Johnny Quinata, Umatac — no show
Mayor Jesse Blas, Yona

ADJOURNMENT: GLUC: 5:05 PM HLUC:

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, April 12, 2018
[X]	HLUC	[ ]	Special	Time:	1:38 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:05 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Peter Lombard	LT COMPANY	
Joseph Camacho	2018-14	
Darlene Camacho	"	
Janice Camacho	"	
John Rhee	2018-14	
LIEZL BALAN	2018-14	
Larry Thompson	2018-14	
Pierre Frenay		
Susan Fryer		
STEVE STREIT		
JOHN J SABLAN		
TAYLOR J. SABLAN		
Claudia Quan		

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, April 12, 2018
[✓]	HLUC	[ ]	Special	Time:	1:38 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:05 pm

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

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Peter Peter Lowrey	LZ Company	
John Borowa	Blue / LZ	483.5960
David VonGuerer	Blue Ocean	484-3285
Michael Marko	"	
Tor Guomundsen	KEPCO LG SOLAR	647-0808
Mark Zuno	LZ Co.	
Tim Hermour	Docomo RIM Hotel	477-2111
Ian Flores	LG CNS INC.	647-0808
Swaffell	FPI Villaflor	688-6079
Abel Cabrera	Blue Ocean	888-6342
Richard Sana	FCB Planners	687-9845
Freddy Wang	Blue Ocean	689-1989

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

GUAM/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, April 12, 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 April 5, 2018 and April 10, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, March 8, 2018

III. Old or Unfinished Business

Zone Variance/Tentative Development Plan

A. **Application No. 2017-29A/B** 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 **[MCoG DLM 2018-04] [Continuation – March 8, 2018]**

IV. New Business

Conditional Use

C. **Application No. 2018-14** Camacho Family Partnership represented by RIM Architects (Guam), LLC; request for a Conditional Use permit for the construction of Docomo Pacific's Data Center building, on a portion of Lot 50A-7, in an "A" (Rural) zone, in the Municipality of Talofofo. **[MCoG DLM 2018-05]**
Case Planners: Frank Taitano and Celine Cruz

V. Administrative & Miscellaneous Matters

Zone Variance

B. **Application No. 2017-25** 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]**
Case Planner: Frank Taitano

VI. Adjournment

GUAM HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, April 12, 2018 • 2:25 p.m. to 5:05 p.m.

I. Notation of Attendance

Chairman Arroyo called to order the regular meeting of the Guam Hybrid Land Use Commission for Thursday, April 12, 2018 at 2:25 p.m., noting a quorum.

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

Present for Hybrid Commission [MCoG DLM 2018-04): Mayor Louise Rivera (Tamuning), Mayor June Blas (Barrigada), Mayor Melissa Savares (Dededo), Mayor John Cruz (Hagatna)

(NOTE: Order of agenda was not changed; Chairman Arroyo moved forward with the next item on the agenda)

II. Approval of Minutes

Chairman Arroyo before the Commission is approval of the March 8, 2018 Hybrid meeting Minutes; and, members have had the opportunity to review them. Chairman Arroyo requested for a motion.

Commissioner Vy Mr. Chairman, I move to approve the Guam/Hybrid Minutes of March 8, 2018.

Commissioner Oh seconds the motion.

Chairman Arroyo motion on the floor by Commissioner Vy, seconded by Commissioner Oh. No discussion noted, Chairman Arroyo puts the motion to a vote.

All in favor of the motion to approve say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Vy, Commissioner Oh, Commissioner Bathan, Mayor Rivera, Mayor Blas, Mayor Savares], all opposed say "nay." **[Motion to approve passed; 8 ayes, 0 nay]**

III. Old or Unfinished Business

Zone Variance/Tentative Development Plan

A. **Application No. 2017-29A/B**, Blue Ocean Investment, LLC represented by Taniguchi, Ruth, Makio Architects; request for a Zone Variance for Height and Density and Tentative Development Plan for the proposed construction of a 21-story boutique hotel, on Lots 5093-R1-1R1 and 5093-R1-1-1 (Tumon), in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. **[MCoG DLM 2018-04] [Continuation – March 8, 2018 meeting]**
Case Planner: Celine Cruz

Chairman Arroyo explained that this was a continuation of the Commission's discussion from the meeting held on March 8, 2018, and where the Commission left off was that there was an agreement with the Municipal Planning Council of Tamuning-Tumon-Harmon as well as the developer to work out the MPC's issues with the development.

[For the record, Chairman Arroyo noted the receipt of an email from Mr. Rudolph Rodolfo addressed to Mr. Mike Makio. Mr. Rodolfo's email states that he is in support of the project before the Commission today. (For full content/context, please refer to Exhibit 1)]

Chairman Arroyo noting no comments and/or questions for staff, Chairman Arroyo opened the floor to the applicant.

Mike Makio (TRM Architects along with David Leon Guerrero and Aquilino Cabrais) Mayor Rivera invited the applicant's consultant to make another presentation to the municipal council; there was a large group in attendance, and there was good discussion on the project. In general, Mr. Makio felt that they were receptive to the additional information conveyed; however, he was advised thereafter that there was no option to change or re-vote on the MPC's decision. Presentation to the MPC included:

- Sustainability features for the site to include rain water catchment program, discussion on implementing a lot of alternative methods to mitigate and mediate the storm-water in that location;
- Discussion on working with MPC to engage on strategic planning that would help the council to establish their priorities and capital improvements to put them in a better position to collaborate with agencies, federal government, FEMA;
- Discussion on smart growth, in-fill planning, multi-use planning, and making sure that it is a walkable experience in Tumon;
- Allowing for density on that site, but with intention and with direction so that it does not clog up the streets;
- Discussion on moving away from the shoreline view resources for the hotels and to start pulling from the hillside of San Vitores and allowing some density on this side to meet the needs of the growing tourism community without necessarily crowding out the shore views, shore-scape.
- Mr. Makio added that he reached out to both GPA and GWA to inquire on the status of the project, and was directed to speak the head of engineering. All power, water and sewer demands, calculations and analysis have been turned over to Guam Power Authority and Guam Waterworks. This information provided to both agencies are actual numbers that these agencies can use in their planning process. GPA/GWA have both stated that they cannot guarantee that they will have the load and/or capacity; but, if the developer continues to maintain communication during the process as the designs are being finalized they will get closer to a point where they can or cannot accommodate the project, and adjustments can be made to whatever the limitations turn out to be.
- Vice Chairman Cruz's comment on shared access with Tumon Sands Plaza on improvement to the egress/ingress off of the road. Mr. Makio commented that a meeting will be held to discuss improvements on sidewalks, hardscapes, co-share mass transmit system, improvement pedestrian back and forth between Tumon Sands Plaza and this project.
- Destination management meeting was held last Monday and there was discussion on storm drainage system issue in Tumon, and that the plan is to move forward with improvement of storm-water conditions in Tumon.

Mayor Louise Rivera there are a lot of great things that this project has to offer, and the MPC agreed to do a re-vote. But, in light of the additional information that they received, vote was still on deny the application. Mayor Rivera also added that on Easter Sunday the power was fluctuating for residences in Tumon and was told by GPA that this was caused by an overload in the system. Reiterated that the MPC's vote was to disapprove this project.

Commissioner Oh what was the vote count for this project.

Mayor Rivera it was 12 to 2.

Chairman Arroyo any additional questions and/or comments.

Commissioner Oh comments that he understands what the concerns are of the MPC. It was previously discussed at the last meeting, concerns on traffic, water/sewer infrastructure. Commissioner Oh inquired where the location was on issue with the power fluctuation.

Mayor Rivera in Tamuning and Tumon. Mayor Rivera added that it may be zoned "H" but at this time it is taking on too much. Residents were calling to complain about the power fluctuation. This is the reason why this project is not supported. The MPC does not always disapprove projects, other projects have been approved as well.

[Lengthy discussion ensues on power situation that occurred on Easter Sunday in Tumon, Tamuning and in Harmon. Chairman Arroyo comments that with these type of issues, if the Mayor works with GPA, the hotel association and large condominium management and pinpoint what the issues are and how it can be resolved, and probably can be resolved with coordination. This project will address the hotel's power needs. Mr. Makio added that at a recent destination management meeting there was discussion on the aged infrastructure with the older buildings.]

Chairman Arroyo any other questions.

Vice Chairman Cruz there was a recent project in Tumon that was converted from regular commercial building to hotel use; but yet, there was no input from your MPC for this project. You stated that this project is good for the island. **[Mayor Rivera responds that this project did not have to go through the MPC, and that she knew about the project.]** The Commission has always encouraged developers to work with the Tamuning MPC, but to simply vote to disapprove this project is not a good move. At a time when Guam needs to bring in new development, the message that is being conveyed by disapproving this project is not sending a good message.

Mayor Melissa Savares (Dededo) run-off was mentioned; there is catchment from the building, but all drainage and percolation will be maintained on the property.

Mike Makio the rain water will reused, it is a resource. There is an aggressive landscaping plan and we need the water.

Mayor Savares suggested use of rain water to flush toilets, watering of plants, etc. The solar energy will be used for common areas.

Mike Makio there is an aggressive plan; the entire parking garage is covered with photovoltaic; also plans on using it on the vertical walls as well. The goal is to inch up from the conventional eleven percent to closer to the fifteen percent.

[Discussion ensues]

Chairman Arroyo in a sense, this hotel could be a model for future hotel development down in Tumon.

Mayor June Blas (Barrigada) the concern was the power. Mayor Blas commented that she did research on this and what she discovered was that the feeders during high volume of usage during certain times of the day causes fluctuation, and it is not everyday that there are power outages in the Tumon, Tamuning area. On Easter Sunday, power outages were also reported in Barrigada in the Kina Court and McDonald's areas. In reading what GPA stated that the developer will work with GPA, "as you increase and what is needed, it will be at the cost of the developer." Mayor Blas will hold the developer to GPA's terms on power usage to avoid additional burden on residences in Tumon/Tamuning.

Chairman Arroyo any other questions and/or comments.

Commissioner Oh with future development and keeping in mind the economy on Guam, thinking about sustainable development and considering all of the factors of the job market, economy; everyone agrees that Guam's tourism industry is important and plays a very important role. This project is for a project in Tumon, and this is where these types of development are supposed to happen. If the Commission is to set a precedence by disapproving development in the Tumon area, where will the projects go. There maybe developers who may want to go down south. Where will developers and/or investors go here on Guam. These are topics that need to be considered. When developers come in, there are certain things to consider; you don't want to be a leach off of the system. Guam is unique and Commissioner Oh understands the constraints that Guam faces such lack of public funding, infrastructure projects moving forward, but if there are private developers who are willing to come in and have a public/private collaboration and putting their share into the infrastructure why not. This will improve the livelihood as well as the infrastructure for their surrounding neighbors. Commissioner Oh understands what Mayor Rivera is conveying and that the concerns of the residents have to be addressed, but this development will address these concerns. If the Commission decides to approve or disapprove this project, they want to ensure that the interests of the residents of Tamuning are also protected and it is balanced so that we are not totally ignoring or impacting the concerns of the citizens and residents in the area.

Mayor Rivera a lot of developers have come out and have been helping around the island. With this developer they will only assist the community if this project is approved by the Commission. She adds that she has not met with Blue Ocean Investment and did not know what other good they have done to speak on behalf. Right now, it is terrible trying to get through Tumon. It is not the project, it is wonderful, everything is in place, great designs, but right now in Tumon it is a major problem with the sidewalks, road, ponding basin. I don't know what else this developer has to offer [SIC]. Without the MPC's approval there are other development that is happening in this area. It is already congested and will become more congested and this is another development that will add to that.

[Discussion ensues]

Chairman Arroyo there were no comments noted from the Commission members, Chairman Arroyo opened the floor for public comment.

Public Comment

John Brown has been a member of the MPLC (sic) for a certain number of years and has lived in Tumon for the last twelve years. He is before the Commission as a resident of Tumon, but also representing other people on the council and other people who have spoken to the council about their unhappiness with the state of affairs in Tumon. He states that the Commission has the wrong perception of what is going on with the MPLC (sic). The Commission believes that everything that comes before the MPLC is voted down to say no; please stop saying no is what you are telling us. That is not the case. It is a question of over-development and this is what this application is about. This is an application to over develop that lot. He explains that is what a variance is for. It allows you to move beyond what is allowed and over develop. He believes that developers/investors should have the opportunity, but it should be done within the confines of what is allowed and what is not allowed, and it is not allowed to over develop based on what the law allows you to develop without having to get anybody's approval. They are not objecting to development they are objecting to over development, and feels overwhelmed with over-development. Mr. Brown goes on to say that there are three ways to get in/out of Tumon; one is hardly a trail and other two ways are constantly congested. This development will congest further traffic in Tumon. He added that this is a beautiful concept, but build to within the allowable height limit of the authorized H-zone there we would have been no objection from the MPLC. This is an over development application.

[Mr. Brown continues with a lengthy testimony to include the impacts he and surrounding neighbors will experience in Tumon. The Tamuning MPC is not just a "say no" Council; they consider and listen to the people's concerns. Mr. Brown expresses that if the developers wanted to make this project a showcase, it should be built within the bounds of what is allowed, and Tamuning MPC is saying no, no to over-development. The developer is free to proceed with the project but within what is allowed, and encourages developers to do what is allowed within the law. He goes on to say that the Commission does not have the legal authority to grant this request for a variance, and continues to quote the variance law. In closing, Mr. Brown advises the Commission to think twice about violating what authority the Commission has to grant variances, and that the Commission is "being to free" with granting variances.]

Chairman Arroyo thank you for the comments. [Seeing no further comments, Chairman Arroyo closed the public comment period]

Mike Makio in response to Mr. Brown's testimony, Mr. Makio appreciates the comments. Mr. Makio is a planner, architect and tries to focus on opportunities to improve the situation. Nothing that was said helps alleviate a single problem that has been discussed. In closing, Mr. Makio states that the decisions about whether or not this project being materially detrimental has been discussed in length to show compliance, and believes that the Planners, the team has supported this.

Chairman Arroyo questions or comments.

Mayor Savares Mr. Brown brought up overgrowth, over-development. The variance requests are for height and density; and for this particular property, what is the allowable density and how can they build up to.

Commissioner Oh by law, without a variance, they can go up to three stories.

Marvin Aguilar for hotel/resort zone it is 62-feet.

Chairman Arroyo there are separate rules and regulations for the hotel/resort zone, and it is based on the size of the property.

Marvin Aguilar the rules and regulations for a height variance differs from a regular height variance. The interim rules talk about the different types of uses to include the type of hotels from small, medium to large. In this case, given the size of the property 84,793+/- square feet, Planning determined that the allowable density for the property for a small hotel would be one, per one thousand-three hundred-sixty-one square feet or 69 units. The calculations used for the hotel/resort zone is different.

[Discussion ensues on the density and height variances.]

Commissioner Oh one of the things that the Commission considers is what is allowed and what meets the parameter of the law. If the Commission decides to grant the height variance we are allowing them to do is to go higher so that it minimizes the footprint of the building so that more space is provided for green space.

Mike Makio the layout that presented was to terrace the landscaping as noted in a pretty detailed landscaping plan, and putting forward a strong effort to emphasize landscaping as much as possible.

[Discussion on parking garage which will be located behind the building. The garage will go up to the fifth floor and the fifth floor will be covered with the photovoltaics.]

Chairman Arroyo we need to remember the intent of the Tumon area. Its intent is to be high density, high traffic in terms of traffic, pedestrian traffic and that was the idea to generate income for the island through tourism. With respect to the height and size of the hotel that is being proposed it is typical of the majority of the buildings in Tumon. Chairman Arroyo understands that the residents of Tumon has issues with that; but unfortunately, the law was changed years ago to allow for this type of development to happen in Tumon.

Any other questions or comments. Noting no additional comments and/or questions, Chairman Arroyo was ready to entertain a motion for this application.

[Prior to entertaining a motion, Chairman Arroyo called for a 10-minute recess at 3:30 p.m., and reconvened the hearing at 3:45 p.m.]

Chairman Arroyo reconvenes the meeting. I am ready to entertain a motion ---

Commissioner Oh Mr. Chair, I move to approve Application No. 2017-29A/B for Blue Ocean Investment LLC represented by TRM Architects and their 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 the municipality of Tamuning, in an "H" (Hotel/Resort) zone, with the following conditions:

1. Applicant shall adhere to all ARC conditions/requirements as stated in their official position statements;
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 of the GLUC;

3. Pursuant to the Interim "H/Resort" Rules and Regulations, Paragraph F, improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval;
4. Applicant shall comply with Interim "H/Resort" Rules and Regulations Yard Area and Height regulations;
5. Applicant shall also ensure compliance with 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 GLUC shall be NULL and VOID per E.O. 96-26, Section 5; and,
6. Applicant shall provide a landscaping plan pursuant to Section 5G of the Interim H/Resort Rules & Regulations for review and approval of the Guam Chief Planner.

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

Commissioner Vy second.

Chairman Arroyo seconded by Commissioner Vy. Any discussion on the motion? [None noted] On the motion, all in favor of the motion please raise your hand [Chairman Arroyo, Vice Chairman Cruz, Commissioners Oh, Vy, Bathan, Mayors June Blas, Mayor Melissa Savares and Mayor John Cruz], all opposed say "nay." [Mayor Louise Rivera]

[Motion passed; 8 ayes, 1 nay]

[Chairman Arroyo dismisses Hybrid Commission MCoG DLM No. 2018-04.]

Chairman Arroyo this is a new hybrid commission; MCoG DLM No. 2018-05; and present for this particular hybrid are the members of the GLUC (Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan, Commissioner Oh, Commissioner Vy, Legal Counsel Nick Toft, Mayor Vicente Taitague (Talofofo), Guam Chief Planner Marvin Aguilar, Planning Staff and Recording Secretary Cristina Gutierrez.

IV. New Business

Conditional Use

B. **Application No. 2018-14**, Camacho Family Partnership represented by RIM Architects (Guam), LLC; Conditional Use permit to allow for the construction of Docomo Pacific's Data Center building, on a portion of Lot 50A-7, in an "A" (Rural) zone, in the Municipality of Talofofo. [MCoG DLM 2018-05]. Case Planners: Frank Taitano/Celine Cruz

Celine Cruz summarizes the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions. [For full content/context, please see attached report] [Exhibit 1 – Agricultural and Environmental Impact statement date 4/6/2018].

In addition, Ms. Cruz notes that an Agricultural and Environmental Impact Statement was received today from the Department of Agriculture; DoAG does not object to the development subject to compliance with permitting requirements. Ms. Cruz further adds that the photo of the billboard sign attached to the staff report is wrong, but notes that on April 2nd, they received the updated photo of the billboard sign stating the correct date and that it is on file.

[Attachment B – Staff Report dated April 6, 2018]

Chairman Arroyo in the position statement from the Department of Agriculture it talks about a zone change, and asked where or not the application at one time was considered for a zone change.

Marvin Aguilar not prior to the formal submission of this application.

[Discussion ensues]

Chairman Arroyo noting no questions for staff, Chairman Arroyo opened the floor to the applicant.

Tim Armour [representing Camacho Partnership and Docomo with Liezel Balen and John Rhee (both from Docomo Pacific Guam)]

Mr. Armour clarified any misunderstanding of why Camacho Partnership is noted on this application and Docomo. The application process was started when the property was still owned by the Camacho family. In the last three months, the property has been parceled and sub-divided, maps registered and the contract has been signed and completed and that document has also been registered. The Camacho family technically has no interest in this project. It now belongs entirely to Docomo. Mr. Armour acknowledged and thanked the Camacho family who has supported the entire process.

Continues with the presentation:

- This is a data center that will be built in Talofofo. It is a place to park several hundred computers that will store information. Talofofo was chosen because of its isolation; away from the city, airport, military bases, land patterns for planes and it is the safest place that can be found on the island. The property is on the grid, it is located on the main southern circuit that feeds the south-end of the island;
- Two fiber optic lines from each side of the island will be brought in to meet in Talofofo;
- Discussed the map provided to the Commission; in this map, details were added as a result of the ARC members and from the public hearing;
- The site is appropriate for this particular use. Due diligence was done and environmental engineers were sent to do a site inspection to look for endangered species, and any plants that are protected. What was discovered was that wetlands were present, and had not been designated prior. Engineers determined the boundary of the wetlands, drawn on a map and had it approved by Guam EPA, Army Corps of Engineers, and Department of Agriculture. It has not been officially registered but has been approved by the mentioned agencies.;
- Docomo was advised that almost half of the land was unusable due to the wetlands, and can't be built on. Docomo then decided to buy more land and they went from 5 acres to 5.8 acres and that extra .8 acres gave them enough land to build on, and has also decided to keep the wetlands and agreed to maintain the wetlands as long as they own it;
- Department of Agriculture asked that the mango orchard be preserved as much as possible. Some of the infrastructure was moved in and there is a section at the end of the property that the mango orchard will not be touched;
- An 8-foot tall chain-link fence will surround the facility.. This is a secured facility. There is a need to keep people from wandering into the facility. There is an electronic gate at the entrance with card-readers and must be an employee to get onto the site;
- Four of the mango trees will be transferred and replanted;

- The map also shows that there is a mahogany forest and limestone outcrop which is quite a large area and runs parallel to the road and this will not be touched;
- In a meeting with the Mayor, he had requested that a bus shelter located in front of the property be relocated in a designation chosen by the Mayor at the expense of Docomo and Docomo has agreed to this;
- Working with EPA on the septic field;
- Residents of Rancho Camacho at the public hearing expressed concerns about views being disrupted by a low-metal warehouse, and it was agreed to build a visual barrier with a row of indigenous trees that Docomo will plant, at their expense, along the boundary between the wetlands and the building to create a visual;
- The is a storm-proof, earthquake-proof, bomb-proof building that houses computers for storage. It is a storage facility for information. Nothing will be produced or transmitted, no microwaves, no radio waves. It is absolutely silent. It is a one-story building about 15-feet high at its highest point. It is a 120,000 square foot building. Once the building is turned on, it will never be turned off. It is designed to withstand anything mother nature can throw at it;
- It will be manned 24-7 by about employees who are highly trained technicians;
- Docomo has decided not to use a generator building. It was decided to use generators that are inside steel enclosures that are sound-proofed. Power generation is important for this type of facility. The building cannot be without power for more than a few seconds;
- This will development will be built in phases; the first phase is half of the building and phase two is another quarter and phase three will be the final build. Completion of the first phase is expected within a year.

Chairman Arroyo how many square feet for the first phase.

Tim Armour Phase I will be about 65,000 square feet.

Chairman Arroyo it was mentioned six generators because you need it for the full space of the building.

Tim Armour two generators will be needed for the first phase. They are one-megawatt generators which are quite large. External fuel storage will be eliminated and belly-tanks will be used instead which will solve a lot of problems. This is a high-tech building and use, and ready to answer any questions the Commission may have.

Chairman Arroyo why a conditional use as opposed to a zone change.

Tim Armour in discussion with Marvin (Aguilar) it is allowed for a utility buildings and warehouses are allowed under a conditional use in a rural zone.

Chairman Arroyo is the facility specifically for Docomo's purpose or allowing others to use it as a back-up facility. Banks are potential customers, hospitals, military, local government agencies for this facility along with international companies like Google, Facebook, etc.

John Rhee Docomo will have their own system and we will host other companies to use the facility.

Commissioner Oh mentioned that he is conflicted with this Docomo application and recused himself from participating.

Chairman Arroyo for the record, Commissioner Oh is conflicted and has recused himself and will not be voting on this application.

Commissioner Vy also mentioned that there is a possible conflict. Commissioner Vy works for a contractor who is doing work for Docomo, but no personal gain from this application.

Chairman Arroyo the definition is if you stand to gain anything personally from this project. Any other questions.

[It was noted that Commissioner Vy does not have a personal gain from this project and there was no need to be recused.]

Commissioner Bathan does Docomo have an existing facility that is similar to this one on Guam.

Tim Armour they do, but not has sophisticated as this building. They have an operation center in Harmon and shared location facilities that are similar, but nothing on this scale and level of protection for the equipment/information.

Chairman Arroyo any other questions.

Vice Chairman Cruz will you build around the mango trees.

Tim Armour cannot build around the mango trees; they will have to be removed. They will try to save some of the trees at the back and there are over a 1,000 mango trees on this site and about fifty or sixty mango trees will be removed.

Chairman Arroyo any other questions or comments.

Mayor Vicente Taitague did not foresee any problems with this project being located in Talofofo, and welcomed this type of investment in his village. Mayor Taitague highly recommended that the project be approved.

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

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

Mayor June Blas it is unfortunate that her other colleagues are not present today. It is a good project, it is away from everything. Barrigada is also growing and we are trying to save our trees.

Chairman Arroyo anything further to add before the Commission votes.

Tim Armour it has been a great experience for him and commended Docomo Pacific on their efforts during the application process.

Chairman Arroyo if there isn't anything further, I am ready to entertain a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for a conditional use permit under Application No. 2018-14, with the following conditions:

a. That the applicant adheres to the ARC conditions and requirements as stipulated on their official position statements;
b. If this conditional use permit is granted, the applicant is required to carefully read, understand and comply with the time limitation conditions noted on the first page, and acknowledgement agreement on the last page of the Notice of Action that cites, "*Pursuant to E.O. Order 96-26, Section 5, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one year of the date of recordation of the notice of action; otherwise, the approval of the project as granted by the Commission shall be null and void;*
c. Applicant shall not submit any request for a building or grading permit should the time limitation as specified in E.O. 96-26, Section 5 has elapsed (note: if this occurs, the application must be resubmitted as a new application that must undergo the entire process anew); and,
d. Any changes on the approved site development plan shall be as a result of the ARC permitting agency requirements shall be reflected in an as-built survey map to be submitted to the Guam Chief Planner prior to the issuance of an occupancy permit.

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

Mayor Taitague I second the motion.

Chairman Arroyo motion is seconded by Mayor Taitague; any discussion.

Marvin Aguilar can the Commission recognize Docomo Pacific as the applicant for this request.

Chairman Arroyo let the motion reflect that Docomo Pacific is the applicant for this conditional use permit.

Marvin Aguilar with respect to the site plan due to the aggressive changes based on the recommendation of the ARC and Talofofo MPC, I would like Mr. Armour can state for the record that as part of this motion the changes that are going to be added to the project site to include the eight-foot fence.

Tim Armour in the supplemental information provided to the Commission, there is an 8-foot fence-line noted on the map that will surround the facility, but not the property.

Chairman Arroyo the motion is to approve the application by Docomo Pacific for a conditional use permit for the construction of a data center on the lot described subject to the conditions that were made by Commissioner Bathan inclusive of an 8-foot fence-line surrounding the perimeter of the facility. That is the motion.

No additional discussion noted on the motion. On the motion, all in favor please raise your hand [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan, Commissioner Vy, Mayor Taitague], all opposed say "nay." **[Motion passed; 5 ayes, 0 nay, 1 recused]**

[Chairman Arroyo dismissed hybrid commission MCoG DLM 2018-05.]

Hybrid Commission – McoG DLM 2018-01, LZ Company:

Chairman Arroyo calls to order the hybrid commission MCoG DLM 2018-01. Present were Chairman John Arroyo, Vice Chairman Cruz, Commissioner Bathan, Commissioner Oh,

Commissioner Vy, Mayor Rivera, Mayor Savares, Mayor Gogue, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Chief Planner Marvin Aguilar, Planning Staff and Recording Secretary Cristina Gutierrez.

[Chairman Arroyo called for a five minutes recess]

V. Administrative & Miscellaneous Matters

Zone Variance

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

Chairman Arroyo this application was heard in whole on February 22, 2018, and a motion was made to approve the application but the motion did not pass. Subsequent to that meeting, and Legal Counsel was not present at that meeting, Legal Counsel did shed some light on the process now that the rules have changed with the hybrid commission which necessitated us having to come back and take final action on this application. I will ask Legal Counsel to explain the process.

Nick Toft (Legal Counsel) under Chapter 21, Section 60401(c)(1), the hybrid council needs five (5) affirmative votes to pass a motion. In the incidence of the February 22nd hearing where there were four (4) affirmative votes for negative votes and one (1) abstention; that was not enough to pass the motion. But at the same time, not passing a motion is not an automatic disapproval as well. The Commission would, in order to disapprove an application, there would have to be a motion to disapprove the application and that will also require five (5) affirmative votes in order to do so.

However, there is a provision in the Guam Administrative Rules, Section 3118, that if a proposed action is tabled for three (3) consecutive meetings, it would automatically be deemed disapproved at that point. Since that first meeting, there was a vote. It was not approved nor disapproved, it was essentially tabled and this would be meeting number two under accounting purposes for that rule.

Chairman Arroyo where the Commission is at is we went through the whole process on this application. We have arrived at this one decision not to approve it. But, I do want to point out for the record that in the meantime we have been receiving some comments from the public basically stating their objection to the project, and those will be made available for the public.

Where the Commission is at right now is to see if we can arrive at a final conclusion. I am asking for a motion, or I am asking if anybody would be willing to put forward a motion either to disapprove this application or to table the application.

Commissioner Oh before moving forward, I would like further clarification from Legal Counsel regarding the voting participation of the Chairman. Within the hybrid commission, is there a condition that states that Chair is only allowed to vote during a tie.

Nick Toft no; the Chair may vote at anytime. Traditionally under Roberts Rules of Order, the Chairman does not vote unless there is a tie to remain as impartial and not influence the voting process. But, the Chairman may vote on any given issue if he/she so desires. So, it's not required

that it be a tie for the Chair to vote. The Chair may vote, the Chair may abstain like any other Commission member.

Chairman Arroyo what is the pleasure of the Commission.

Mayor Rivera are we opening for public comment.

Chairman Arroyo we have done that and we are at the voting stage now.

Mayor Rivera I would like to make a motion ---

Member of the Public (was not officially identified) in light of the comments made by Legal Counsel, unidentified gentleman had some very serious concerns. Mr. Sanchez states that the motion made was to approve and it did not get five votes and now there has to be a motion to disapprove. In the Boards that I have been on for many, many years including the CCU today, the motion to approve failed; it did not get five votes. That's it. It does not need another motion beyond that.

[As clarified by Chief Planner Aguilar, member of the audience was identified as Simon Sanchez]

Nick Toft no, a motion is needed to disapprove. Under the rules –

Simon Sanchez the motion failed. Why do you need a motion to disapprove; motion to approve did not pass.

Nick Toft because it becomes tabled by rules of law which I researched.

Simon Sanchez can we respectfully request a recording of the legal counsel's opinion and can it be put in writing so that we can review his legal opinion.

[Discussion ensues on voting process. Mr. Sanchez continues to argue Legal Counsel's opinion. Attorney Toft explains that under the Hybrid Commission; the Hybrid Commission is not like other commissions because it has this addition of additional members and there is a requirement of five (5) affirmative votes. It is not a simple majority/minority situation.]

Chairman Arroyo (interjects) I don't want to get into a debate at this point in time. I do want to get to some point where we can table this or make a decision. I will ask Mayor Rivera if she would like to request a written, legal opinion before a decision is made on this application. If this is what Mayor Rivera would like, I will continue the hearing of this application until the opinion is received.

Mayor Rivera I would like to receive a written opinion on this.

Nick Toft one of the concerns that I would have in tabling this application is that it would break the Section 3118 issue of it's tabled for three consecutive meetings.

Chairman Arroyo it would not be tabled, it will be continued. It is the order of the Chairman to continue the hearing of this application until such time we receive a legal opinion with regards to the member of votes and voting process/procedure with respect to the new laws of the hybrid commission.

[Dr. Lombard, the applicant, requested that he be allowed to speak. Chairman Arroyo again stated that public comment period was closed; however, allowed Dr. Lombard to speak briefly.]

Dr. Peter Lombard the concern is the original voting because not all Mayors were present, and you were in fact sort of told not to vote and we think the outcome of the vote would have been much different. We disagree with how the vote was done in the first place. We don't want this tabled any longer than necessary. We don't want it continued any longer than necessary. We feel that we have already legal opinion on this matter and that is why we were dragged along for two extra meetings. Everytime I come to these meetings, I have to cancel twenty patients to be here. It is difficult for us to be here. I wanted to make sure that my voice is heard.

Chairman Arroyo regardless of my not voting, I do not have to vote. Whether it is a tie or not, it is the Chairman's choice to vote.

At the request of Mayor Rivera, it is the order of the Chairman that we continue the hearing of this application until such time we get a written opinion from Legal Counsel regarding the voting process under the new Hybrid regulations.

Last item on the agenda –

VI. Adjournment

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

The regular meeting of the Guam/Hybrid Land Use Commission for Thursday, April 12, 2018 was adjourned at 5:05 p.m.

Approved by:

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

Date approved:

5/24/18

Transcribed by:

Ma. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

NO STAFF REPORT FOR APPLICATION 2017-29A/B (CONTINUATION – 3/8/2018)

ATTACHMENT B

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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Mailing Address:
P.O. Box 2950
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Website:
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E-mail Address:
dlmdir@land.guam.gov

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

April 6, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-14
Conditional Use Application

1. PURPOSE:

A. Application Summary: The applicant, Camacho Family Partnership represented by RIM Architects (Guam), LLC; request for a Conditional Use permit to allow the construction of Docomo Pacific's Data Center Building on Lot 50A-7, in an "A" zone, in the Municipality of Talofofo.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61303 (Conditional Use)

2. FACTS:

a. Location: The property is located along Route 4A adjacent to the existing Rancho Camacho Subdivision in Talofofo.

b. Lot Area: 23,619± Square Meters or 254,140± Square Feet.

c. Present Zoning: "A" (Rural) Zone

d. Field Description: Currently the site supports a 1.5-acre, wetland area on its eastern portion, a limestone outcrop along its south eastern portion, and on its western portion it supports a mango plantation, with canopy trees such as breadfruit, nunu and gagu, other small to medium size trees such as tangantangan and mahogany are present within the limestone outcrop area and ground cover is dominated by the wedelia vine. Natural slope is towards the wetland area from the other areas of the site.

e. **Masterplan:** Agricultural

f. **Community Design Plan:** Agricultural-Cultivation.

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Application Accepted: January 31, 2018

B. Date Heard By ARC: February 15, 2018

C. Public Hearing Results: March 29, 2018
(Attachment "A")

Note:
As a result of the public hearing we received a letter dated March 31, 2018 from Mr. Guy Harvey-Samuel stating his support for the construction of the proposed Data Center and questions why the applicant, in line with its' Social Responsibilities, is not required to upgrade the sewer system/line that runs from Talofofo village to their site. **(Attachment "B")**

4. STAFF ANALYSIS:

At the onset of the application process, the owners (Camacho Family Partnership) of Lot 50A-R6 intended to parcel the property. The parceling was intended to sever the property which is to accommodate the siting of the proposed Docomo Data Center and an accessory generator building, the parceling survey map (120FY2018) also delineated the boundaries of the existing wetland on the site. As a result, the requested Conditional Use will be primarily located on Lot 50A-7 **(Attachment "C").**
In addition, on February 15, 2018, a revised site plan **(Attachment "D")** was submitted with the following changes to the site plan in the application package.

1. Replacement of the proposed prefabricated generator enclosures with a concrete generator building.

2. Addition of a landscaped berm with rock boulders along the front boundary on Route 4A as a decorative landscape and protection from automobiles crossing into the property.

3. Addition of an 8-foot chain link security fence around the perimeter of the developed site and security gate at the entrance to secure the compound.

4. Addition of a wire livestock fence on the property boundary through the wetland area to control livestock on the Camacho land.

Pursuant to Section 61304(b),(8) of the Zoning Code as a conditional use in an "A" (Rural) zone and as specified by Section 61303 of the Zoning Code, is a specific use permitted upon approval by the Commission of **the site plan**, including but not limited to, **disposal of sewage**, **access, parking**, **structural location** and **dimensions of buildings**, **impact of the proposed use on adjacent land uses** and **accompanying covenants that may include performance standards.** The Commission shall also consider such other elements as may be reasonably related to the **health**, **safety** and **general welfare** of the community. With this in mind, we provide the following:

SITE PLAN

Based on the revised Site Plan, submitted by the applicant with changes to the original site plan that was included with the application package. The site plan has been developed to accommodate the proposed data center building and its accessory generator building and avoid the existing wetland area and limestone outcrop area, as well as maximize the setback from the wetland area and its boundary lines. The site is accessible using the existing paved Route 4A, parking is provided on site, landscaping is to be provided to include a landscaped berm along the front boundary of the site, an 8 feet chain link fence is to be constructed along the footprint of the development and a wire livestock fence on the property boundary through the wetland area to control livestock on the Camacho land.

Storm water runoff flow patterns are maintained in the current direction toward the existing wetland area and engineering designs to manage the quality and flow rates will follow best management practices as well as local/federal regulation prior to the discharge of storm water into the wetland area.

DISPOSAL OF SEWAGE

As noted, the applicant's representatives are consulting with GEPA and since there will be no additional burden on the GWA public sewer system since onsite septic systems will be used. The proposed Data Center Building will have negligible sewage discharge flows from the bathroom and the sewer service will be handled by an onsite Septic Tank & Leaching Field disposal system as approved by GEPA.

ACCESS

Access to the facility is from Route 4A, a sixty foot (60') wide public easement through a main gate to be located approximately 200 feet from the access to Rancho Camacho Subdivision (Tract 2925).

PARKING

As a utilities facility, access is limited to authorized personnel only. The proposed operations and maintenance of the facility will have 8 to 12 authorized personnel present daily. Minimum parking requirements are 3 parking spaces for every 4 employees. The facility is to provide a total of fifteen (15) parking stalls to include a van accessible ADA parking stall to accommodate

STRUCTURAL LOCATIONS and DIMENSIONS OF BUILDINGS

Structures within the proposed complex consists of a Data Center Building and a Generator Building to be located on site as shown on the site plan.

The Data Center Building is a single story modular steel structure which measures approximately two hundred seventy-five (275) feet x seventy-seven (77) feet or twenty-one thousand, one hundred seventy-five (21,175) square feet in size. Setbacks are proposed at one hundred twenty-one (121) feet front, one hundred six (106) feet left side, three hundred twenty-five (325) right side and one hundred eighteen (118) feet rear.

The Generator Building is a single-story concrete structure which measures thirty-six (36) feet x seventy-six (76) feet or two thousand seven hundred thirty-six (2,736) square feet in size. Setbacks are proposed at one hundred (100) feet front, fifty-four (54) feet left side, three hundred twenty (320) feet rear and sixteen (16) feet right (distant to proposed Data Center Building).

IMPACT OF PROPOSED USES ON ADJACENT LANDS INCLUDING HEALTH, SAFETY and GENERAL WELFARE FACTORS

The intended use does not require any deviation from the law; however, because the present zoning of the property is "A" (Rural) zone and the use is a permitted conditional use of the land, it is required to be subjected before this Commission prior to its implementation. If approved and when completed, the publics' health, safety and welfare will have been adequately addressed.

We have considered the option to subject this application under a rezoning action under the zoning designation as a "Public Facility" (PF); and this would have been the appropriate designation. However, because of the delicate nature of a "rezoning" action with respect to compatibility, we believed that subjecting this under a "conditional use" would be more acceptable to the community.

The strategy was that under a conditional use approval, there would be conditions **imposed versus a zone change wherein conditions could not be made a part of the** approval.

The applicant in its efforts to address impacts of the proposed Data Center on the adjacent lands has been consulting with the various government entities to address any issues that might be an impact to the surrounding properties in reference to health, safety and general welfare and, the applicant has submitted supplemental information in reply and response to the Application Review Committee (ARC) meeting and the Talofofo community public hearing.

In our review and analysis of the form and context of this application in reference to the Zoning Law, as well as position statements received to date from ARC members who have recommended approval with conditions, we conclude that the proposed use is beneficial for the health, safety and general welfare of the community.

We have tracked this application from its submission and it is our findings that this requested Conditional Use is in line with the requirements of Section 61303 of the Zoning Code. We find it proper that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** We recommend **APPROVAL WITH CONDITIONS** as follows:

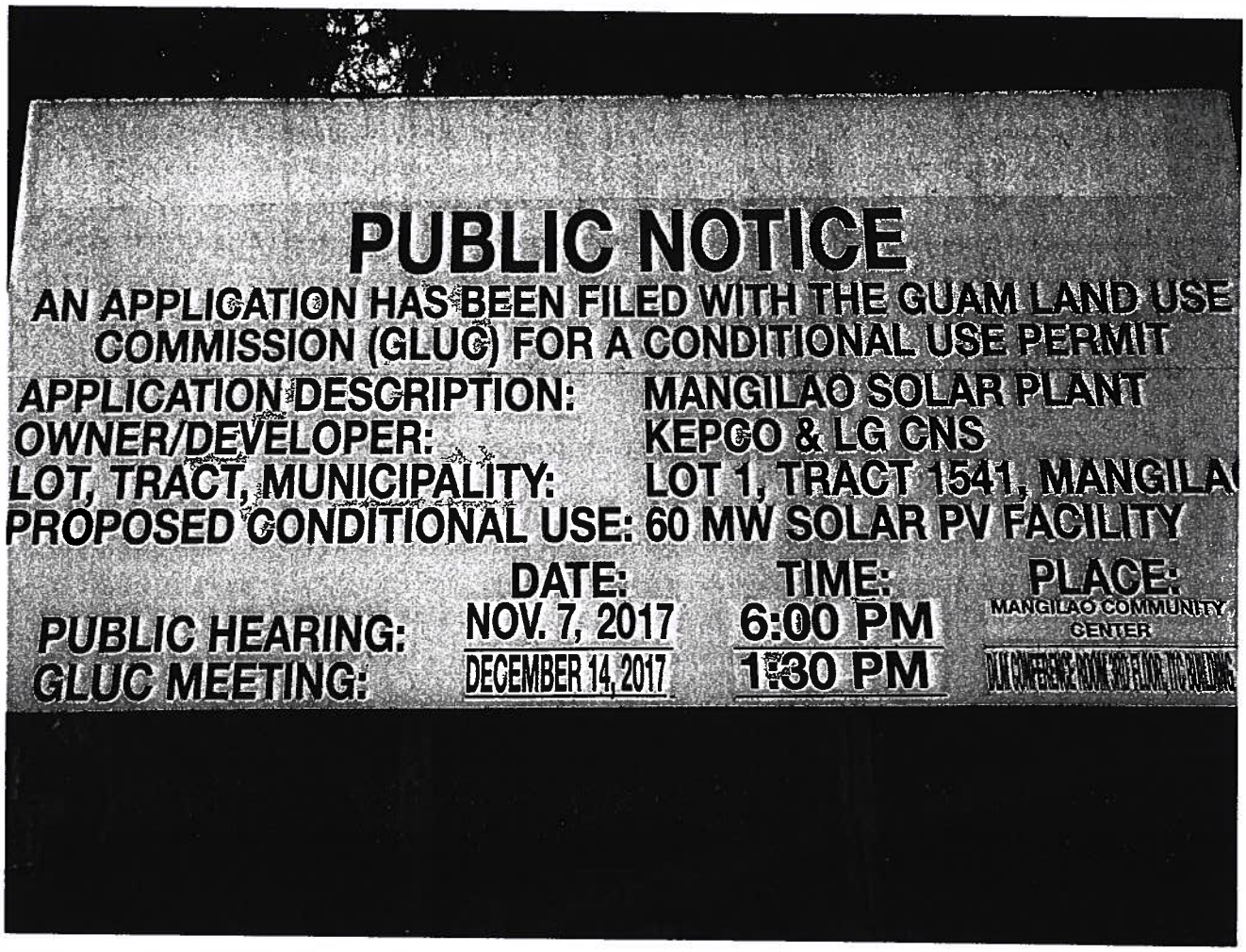
A. That the applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement; and

B. If this Conditional Use Permit is granted, The Applicant is required to carefully read, Understand and Comply with the Time Limitation Condition Noted on the First Page and the Acknowledgment Agreement at the Last Page of the Notice of Action that cites ***"Pursuant to Executive Order 96-26, Section 5, Applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall be null and void"; and***

C. That Applicant shall not submit any request for a Building or Grading Permit, should the Time Limitation as specified in EO 96-26, Section 5 has elapsed (note: if this occurs, the application must be resubmitted as a new application that must undergo the entire process anew); and

D. Any changes to the approved site development plan shall as a result of ARC permitting agency requirements shall be reflected in an "As-Built" Survey Map to be submitted to the Guam Chief Planner prior to the issuance of an Occupancy Permit.

Marvin Aguilar


PUBLIC NOTICE
AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A CONDITIONAL USE PERMIT
APPLICATION DESCRIPTION: MANGILAO SOLAR PLANT
OWNER/DEVELOPER: KEPCO & LG CNS
LOT, TRACT, MUNICIPALITY: LOT 1, TRACT 1541, MANGILA
PROPOSED CONDITIONAL USE: 60 MW SOLAR PV FACILITY
DATE:
TIME:
PLACE:
PUBLIC HEARING: NOV. 7, 2017 6:00 PM MANGILAO COMMUNITY CENTER
GLUC MEETING: DECEMBER 14, 2017 1:30 PM

PUBLIC HEARING MINUTES - March 29, 2018
Jeromy Newby Youth Center
Camacho Family Partnership
Conditional Use Application No. 2018-14
Lot 50-A-7, Talofofo

The meeting was called to order at 6:03 PM by Planning Division staff. After a brief explanation by Planning Division staff of the public hearing process, the floor was turned over to the applicant's representative, Mr. Tim Armour of RIM Architects. Mr. Armour provided the audience with a detailed description of the project, after his presentation, the floor was opened for questions as noted below:

Q. What is the cost of the project.
A. Depends on what you include. Just the building shell with site improvements and generators it is estimated to be about $10,000,000.

Q. What is the distance between the building and the property line with Rancho Camacho
A. 325 feet, longer than a football field

Q. You said there will be generators I don't want to hear humming coming from the building all the time.
A. When there is adequate island power you will hear nothing. Under normal conditions there will be no noise coming from the building. If the island power is down you will hear the generators. Generators will be enclosed and will have silencers but you will hear it.

Q. Will there be lighting on the building can we see it from Rancho Camacho?
A. We will install lighting on the walls of the building shining down on the surrounding yard. There will be security cameras and the lighting is needed for security. We will specify lighting that will be shielded or have a light angle that is cut off so that no light shines up or directly outward. There will be light post at the entrance to light the entry gate.

Q. Why can't you put the generators in the Northwest corner of the property?
A. They are located there by necessity. We have the power coming off the street to the transformer pads and then directly into the electrical rooms. The generators need to be as close as possible to the electrical rooms.

Q. Will the lights be turned on all night on the building? I don't want to look at lights every night. Can you plant trees on that side of the building to block the lights?
A. This would require us to plant trees in the setback for the Wet Land area. We will ask our environmental consultants to work with the government agencies that administer the wetlands for permission.

Q. Rancho Camacho has ponding basins will this project have ponding basins.
A. Yes we will have two areas for ponding at each end of the project. We will create pretreatment areas so that water will go into ponding basins for percolation and could eventually overflow into the wetlands

Q. Will there be any microwave transmission towers.
A. No there will be no transmissions of radio or microwave. The only emissions will be if the power goes out, there will be exhaust

Q. Will there be a change in Route 4A?

PUBLIC HEARING MINUTES - March 29, 2018
Jeromy Newby Youth Center
Camacho Family Partnership
Conditional Use Application No. 2018-14
Lot 50-A-7, Talofofo

A. The fiber optic lines will come down from Cross Island Rd. on each side of Route 4A in the shoulder areas. They will install extra conduit for future use.

Q. Will there be underground cables?
A. Yes, there will be fiberoptic cables and it will include extra cables for new technology.

Q. Is Docomo willing to contribute to the community in exchange for what you are taking from us. Such as sponsoring a baseball team and fields. Where is Docomo tonight?
A. Docomo has been my client for a long time they have always operated in an honest open way. They have supported the community and been involved. I can't think of a better neighbor.
A. I am Liezl Balan and I am the project manager for Docomo. Docomo has always been concerned for the community the latest project Atista (fiber optic undersea cable to Rota and Saipan) Was a challenge and we had to work closely with each of the island and property owners to make that work. CNMI now has a more dependable communications system

Q. Is this the first type of project, data center on Guam.
A. Yes this is the first data center on Guam. Guam is in a very unique position sitting in the Western Pacific and having trans-oceanic cables that come from Hawaii, West Coast, Japan, Vietnam and Australia. It has become a hub that is a desirable place because it is part of the United States and governed by US law. There are more trans-oceanic cables coming to Guam in the next couple years and there will be more data centers.

Q. Will the data center be manned 24 hours
A. Yes 8-10 employees 24/7

Q. Will the center be connected to sewer or septic system
A. We will have a septic tank and leaching field system. Because of the low employee count we will have little demand.

Q. Can you install a tree line between the building and Rancho Camacho.
A. We will work on getting you an answer.

Q. What is the next step in this process.
A. All the questions from the public hearing will be transcribed and will become part of the record. The GLM planners will write a report making a recommendation to the commission. The commission will meet on April 12 at 1:30 at the GLUC conference room at ITC in Tamuning. It will be a Hybrid commission with members of the mayors council as voting members. The public will have a chance to speak at the commission meeting.

The sign on the property at Rout 4A will have the date and time of the meeting when it is confirmed. Any other comments or questions can be sent to Guam Land Management c/o Michael Borja. There will be a schedule and agenda published in the Guam Post 5 days prior to the meeting.

No further discussions. Meeting adjourned at 6:42PM.

ATTACHMENT A

Attachment "B"



31st March 2018

Executive Secretary Guam Land Use Commission
% Dept of Land Management
Land Planning Div
PO Box 2950, Hagatna
Guam 96932

Dear Sirs

Re : Conditional use Permit to allow the construction of the Docomo Pacific Data Centre building on Lot 50-A-7in an "A" zone the Municipality of Talafofo. Application 2018-14.

I am the legal owner of Lot 50A-2NEW-R1 Talafofo, Guam as said lot is described in that Retracement Survey map Lot 50A-2NEW-R1 as shown on drawing number MS09039, as L.M. check number 194FY 2010 dated 11 February 2011 and recorded on February 14 2011 under instrument number 817778 at Land Management.

As such I have been given the opportunity to comment on the construction of the Data Centre since my property is within 500 feet.

I support the construction of this building but ask the following :

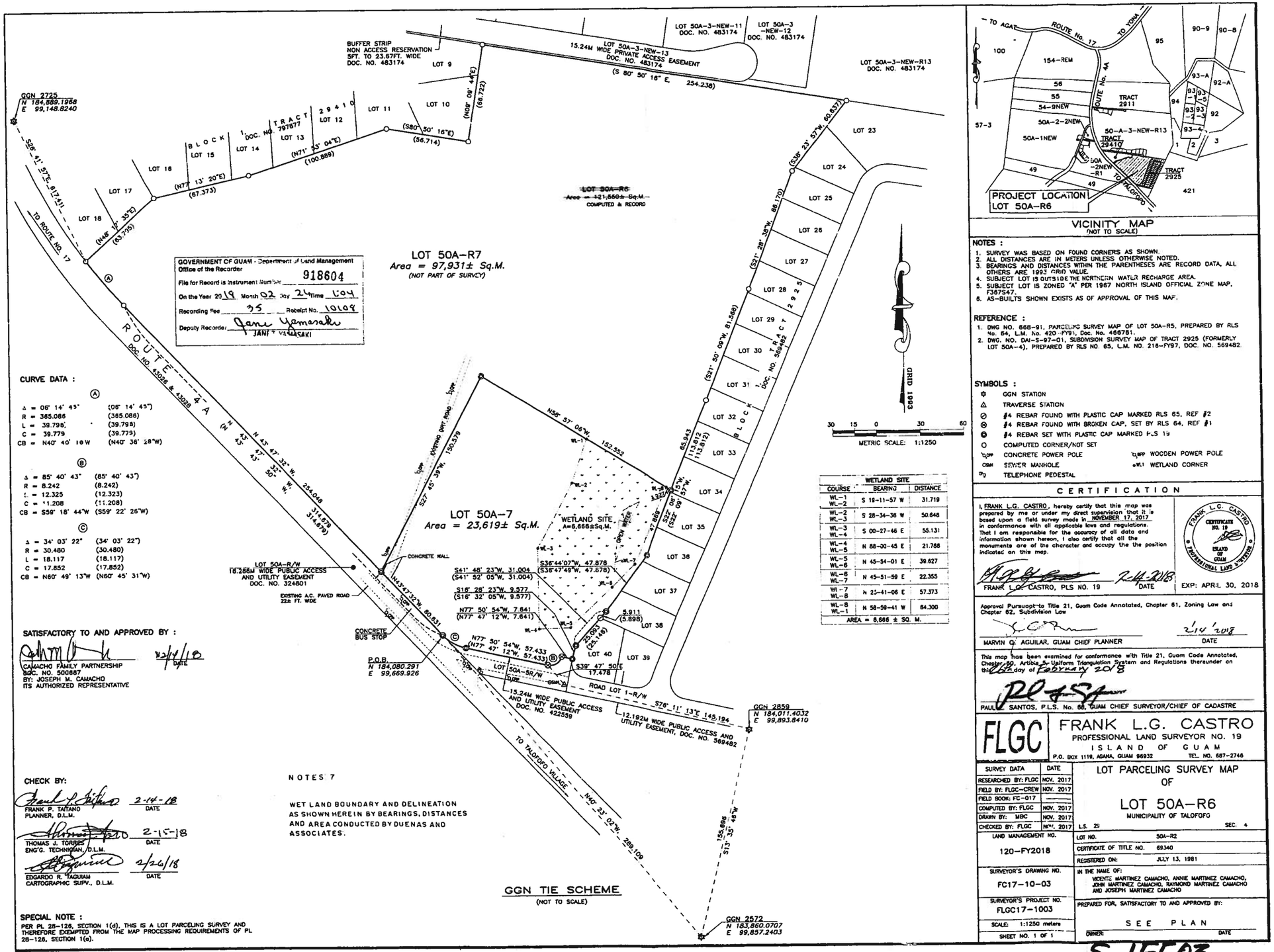
Since Docomo Pacific (DP) is committed to the wellbeing of the people Guam and is a member of a Global Telecom company listed in New York, Tokyo and London and is therefore well aware of its Social Responsibilities, why is DP not being required to upgrade the sewer system/line that runs from Talafofo village to their site rather than be allowed to build and use a septic tank for their brand new site.

To rely on the argument that only 8 people will work at the Data Centre and therefore the site should be regarded as a warehouse and therefore can continue to qualify for Agricultural zoning, seems weak and not in keeping with the Social Responsibilities that large corporates such as DP should shoulder.

We all hope that DP will be successful and that the Data Centre will expand and grow. If so - more people will be employed there and then a proper sewer connection will be required. Why not put the investment in now whilst the building is under construction rather than later ? Good for the people of Talafofo and good for DP.

Guy Harvey-Samuel
7 Thomson Lane, 33-03
Singapore 297725

Attachment "C"



CURVE DATA :

	(A)	(B)	(C)
Δ	06° 14' 45"	85° 40' 43"	34° 03' 22"
R	385.086	8.242	30.480
L	39.798'	12.325	18.117
C	39.779	11.208	17.852
CB	N40° 40' 10"W	S59° 18' 44"W	N60° 49' 13"W
	(06° 14' 45")	(85° 40' 43")	(34° 03' 22")
	(385.086)	(8.242)	(30.480)
	(39.798)	(12.323)	(18.117)
	(39.779)	(11.208)	(17.852)
	(N40° 38' 28"W)	(S59° 22' 26"W)	(N60° 45' 31"W)

SATISFACTORY TO AND APPROVED BY :

CAMACHO FAMILY PARTNERSHIP
SOC. NO. 500887
BY: JOSEPH M. CAMACHO
ITS AUTHORIZED REPRESENTATIVE

2/14/18
DATE

CHECK BY:

FRANK P. TAITANO
PLANNER, D.L.M. — 2-14-18 DATE

THOMAS J. TORRES
ENG'G. TECHNICIAN, D.L.M. — 2-15-18 DATE

EDGARDO R. TAGUIAM
CARTOGRAPHIC SUPV., D.L.M. — 2/26/18 DATE

NOTES 7

WET LAND BOUNDARY AND DELINEATION AS SHOWN HEREIN BY BEARINGS, DISTANCES AND AREA CONDUCTED BY DUENAS AND ASSOCIATES.

SPECIAL NOTE :
PER PL 28-126, SECTION 1(d), THIS IS A LOT PARCELING SURVEY AND THEREFORE EXEMPTED FROM THE MAP PROCESSING REQUIREMENTS OF PL 28-126, SECTION 1(a).

NOTES :
1. SURVEY WAS BASED ON FOUND CORNERS AS SHOWN.
2. ALL DISTANCES ARE IN METERS UNLESS OTHERWISE NOTED.
3. BEARINGS AND DISTANCES WITHIN THE PARENTHESES ARE RECORD DATA, ALL OTHERS ARE 1993 GRID VALUE.
4. SUBJECT LOT IS OUTSIDE THE NORTHERN WATER RECHARGE AREA.
5. SUBJECT LOT IS ZONED "A" PER 1967 NORTH ISLAND OFFICIAL ZONE MAP, F367547.
6. AS-BUILTS SHOWN EXISTS AS OF APPROVAL OF THIS MAP.

REFERENCE :
1. DWG NO. 668-91, PARCELING SURVEY MAP OF LOT 50A-R5, PREPARED BY RLS No. 64, L.M. No. 420-FY91, Doc. No. 466781.
2. DWG. NO. DM-S-97-01, SUBDIVISION SURVEY MAP OF TRACT 2925 (FORMERLY LOT 50A-4), PREPARED BY RLS NO. 65, L.M. NO. 216-FY97, DOC. NO. 569482.

SYMBOLS :

⊕	GGN STATION		
△	TRAVERSE STATION		
⊘	#4 REBAR FOUND WITH PLASTIC CAP MARKED RLS 65, REF #2		
⊗	#4 REBAR FOUND WITH BROKEN CAP, SET BY RLS 64, REF #1		
●	#4 REBAR SET WITH PLASTIC CAP MARKED PLS 19		
O	COMPUTED CORNER/NOT SET		
⌀CPP	CONCRETE POWER POLE	⌀WPP	WOODEN POWER POLE
OSM	SEWER MANHOLE	●WL1	WETLAND CORNER
☎	TELEPHONE PEDESTAL		

CERTIFICATION

I, FRANK L.G. CASTRO, hereby certify that this map was prepared by me or under my direct supervision that it is based upon a field survey made in NOVEMBER 17, 2017 in conformance with all applicable laws and regulations. That I am responsible for the accuracy of all data and information shown hereon, I also certify that all the monuments are of the character and occupy the the position indicated on this map.

FRANK L.G. CASTRO, PLS NO. 19 — 2-14-2018 DATE

FRANK L.G. CASTRO — CERTIFICATE NO. 19 — ISLAND OF GUAM — PROFESSIONAL LAND SURVEYOR
EXP: APRIL 30, 2018

Approval Pursuant to Title 21, Guam Code Annotated, Chapter 61, Zoning Law and Chapter 62, Subdivision Law

MARVIN Q. AGUILAR, GUAM CHIEF PLANNER — 2/14/2018 DATE

This map has been examined for conformance with Title 21, Guam Code Annotated, Chapter 60, Article 2, Uniform Triangulation System and Regulations thereunder on this 26th day of February 2018

PAUL A. SANTOS, P.L.S. No. 66, GUAM CHIEF SURVEYOR/CHIEF OF CADASTRE

FLGC
FRANK L.G. CASTRO
PROFESSIONAL LAND SURVEYOR NO. 19
ISLAND OF GUAM
P.O. BOX 1119, AGANA, GUAM 96932 TEL. NO. 687-2748

SURVEY DATA	DATE
RESEARCHED BY: FLGC	NOV. 2017
FIELD BY: FLGC-CREW	NOV. 2017
FIELD BOOK: FC-017	
COMPUTED BY: FLGC	NOV. 2017
DRAWN BY: MBC	NOV. 2017
CHECKED BY: FLGC	NOV. 2017

LOT PARCELING SURVEY MAP
OF
LOT 50A-R6
MUNICIPALITY OF TALOFOFO

L.S. 25 SEC. 4

LAND MANAGEMENT NO.	120-FY2018
SURVEYOR'S DRAWING NO.	FC17-10-03
SURVEYOR'S PROJECT NO.	FLGC17-1003
SCALE:	1:1250 meters
SHEET NO.	1 OF 1
LOT NO.	50A-R2
CERTIFICATE OF TITLE NO.	69340
REGISTERED ON:	JULY 13, 1981
IN THE NAME OF:	VICENTE MARTINEZ CAMACHO, ANNIE MARTINEZ CAMACHO, JOHN MARTINEZ CAMACHO, RAYMOND MARTINEZ CAMACHO AND JOSEPH MARTINEZ CAMACHO
PREPARED FOR, SATISFACTORY TO AND APPROVED BY:	SEE PLAN
OWNER:	DATE

S-15503

RIM

ATTACHMENT D

RECEIVED
4-6-18 DLM

April 12, 2018

Chairman, Guam Land Use Commission (GLUC)
C/O: Land Planning Division
Department of Land Management, Government of Guam
P.O. Box 2950
Hagatna, Guam, 96932

ALASKA

Attn: Chairman John Z. Arroyo

CALIFORNIA

RE: Camacho Family Partnership
A Portion of LOT 50A-R6, Municipality of Talofofo
Conditional Use Application for Docomo Data Center
Application #2018-14

GUAM

HAWAII

Dear Mr. Chairman:

This letter accompanies a revised Site Plan that is being submitted as Supplemental Information to the Application for a Conditional Use for a portion of LOT 50A-R6 to be designated LOT 50A-7 in the village of Talofofo. Additional information is being provided in response to comments from the ARC and Public Hearing.

Additional information provided on the Site Plan is the following;

1. Mango Orchard at the Northeast end of the site will be maintained as is.
2. A three-strand wire fence will keep livestock off the property
3. An eight-foot-tall chain link fence will surround the facility.
4. The owner will replant four mango trees to the front of the building.
5. Mahogany forest and limestone outcrop on the South boundary to be preserved
6. Bus shelter will be relocated to site approved by the mayor's office.
7. Septic field location has been approved by Guam EPA.
8. A row of indigenous trees to the specifications by Department of Agriculture will be planted on the East side as visual barrier and for soil stabilization.

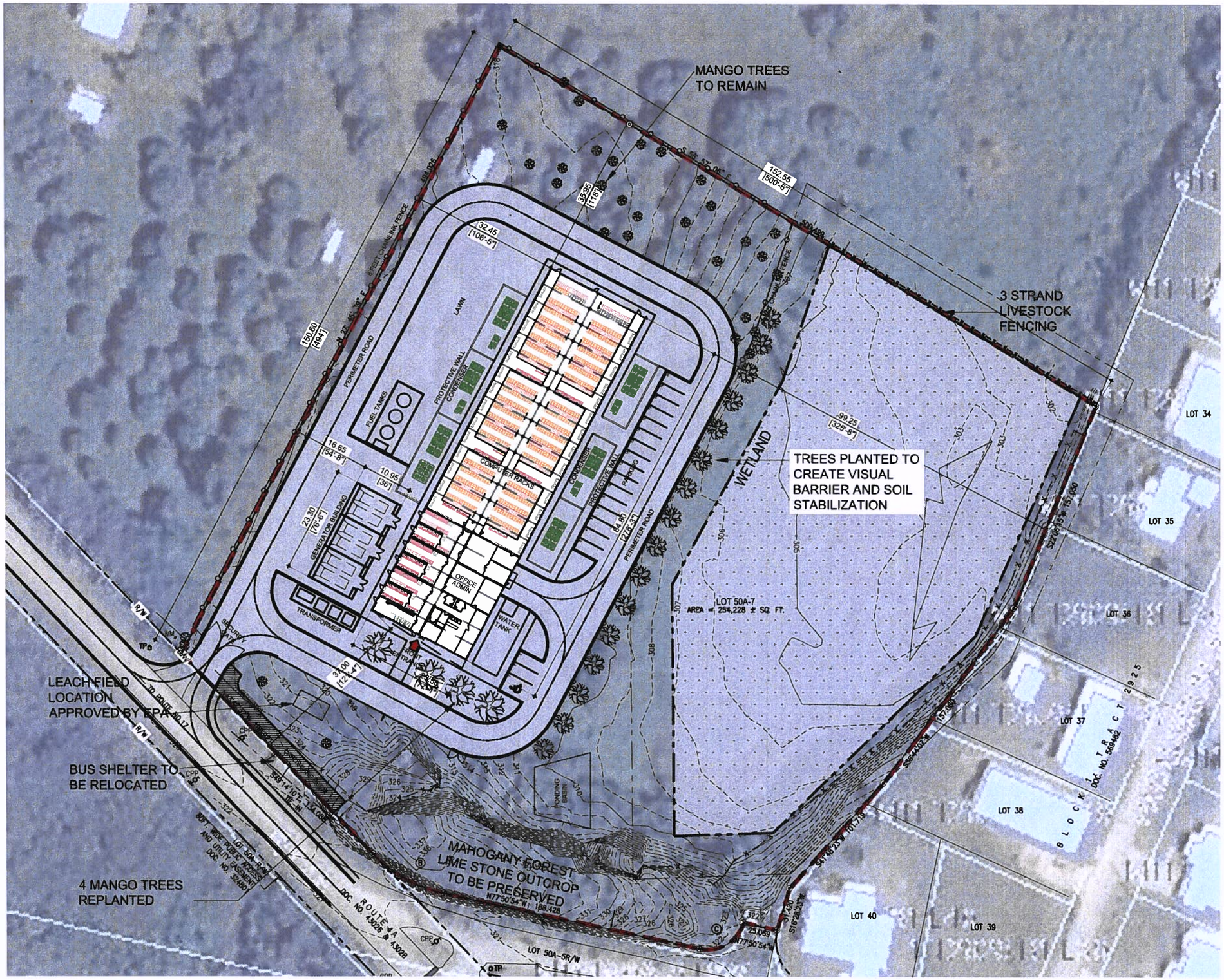
Sincerely,

RIM Architects (Guam), LLC

Tim L. Armour, CDT LEED AP
Principal

316 Hernan Cortez Avenue
Suite 300
Hagåtña, Guam 96910

www.rimarchitects.com



GRAPHIC SCALE 1:800

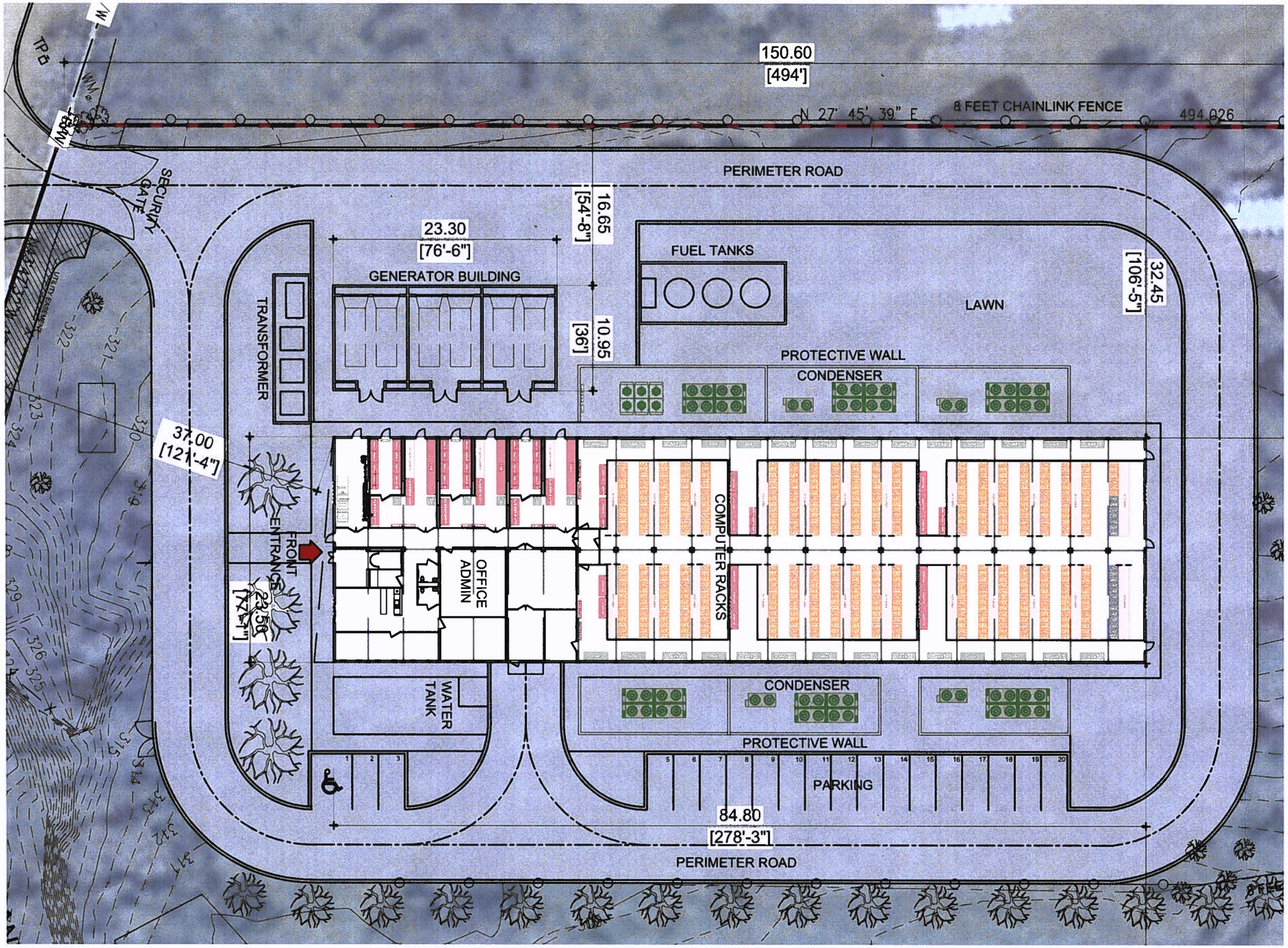
0 20' 60' 120'

05 APRIL 2018

RIM

SITE PLAN
DOCOMO DATA CENTER

Doc. No. 34GL-18-2051.



GRAPHIC SCALE 1:400

0 10' 30' 60'

05 APRIL 2018

RIM

FLOOR PLAN
DOCOMO DATA CENTER

ATTACHMENTS:

"A" = Public Hearing Results
"B" = Guy Harvey-Samuel Letter
"C" = Map 120FY2018
"D" = Revised Site Plan

Case Planners: Frank Taitano, Celine Cruz

Street Address:
S. Marine Corps Drive
uite 733 ITC Building
amuning, GU 96913

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

Website:
http://dlm.guam.gov

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

Telephone:
71-649-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

April 2, 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. 2018-14 (Conditional Use)

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

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

A. That the applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement; and

B. If this Conditional Use Permit is granted, The Applicant is required to carefully read, Understand, and Comply with the Time Limitation Condition Noted on the First Page and the Acknowledgment Agreement at the Last Page of the Notice of Action that cites ***"Pursuant to Executive Order 96-26, Section 5, Applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall be null and void"; and***

C. That Applicant shall not submit any request for a Building or Grading Permit, should the Time Limitation as specified in EO 96-26, Section 5 has elapsed (note: if this occurs, the application must be resubmitted as a new application that must undergo the entire process anew); and

D. Any changes to the approved site development plan shall as a result of ARC permitting agency requirements shall be reflected in an "As-Built" Survey Map to be submitted to the Guam Chief Planner prior to the issuance of an Occupancy Permit.

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

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR submits the following statement;

"We reviewed subject application submitted by Tim Armour, RIM Architects (Guam), LLC, Authorized Representative, on behalf of Docomo Pacific, and the Camacho Family Partnership. Docomo Pacific is requesting to be allowed to construct a Data Center on Lot 50A-7, a 23,619-square meter portion of Lot 50A-R6, fronting Route 4A, adjacent to the Rancho Camacho Subdivision, in the Municipality of Talofofo.

We are in consultation with the developer's representatives with regards to archaeological requirements and concerns, and other matters associated with the subject development, and have no objections to the approval of the application. However, subject development must go through the DPW permitting process for proper reviews by the different agencies, including the Department of Parks and Recreation, and may be subject to additional development requirements.

Should any other local and federal requirements arise, additional reviews and approval will be required.

DEPARTMENT OF PUBLIC WORKS (DPW):

The Department of Public Works (DPW) recommends approval, subject to the comments provided by the Application Review Committee (ARC) with the provisions that the following conditions are met:

- provide access road (entrance /exit) that is wide enough for public services;
- parking lay-out and detail for parking stalls (compact, standard and accessible stalls) must meet the American Standard Disability Act (ADA) requirements;
- structure must meet and withstand seismic classification;
- comply with all geotechnical requirements related to site preparations; and
- ecological planning is needed to ensure the conservation of its resources.

Prior to building permit application a complete set of design drawings with all the engineering disciplines needed shall be prepared and must conform with the latest building code edition including ADA requirements. Plans must be signed by a registered architect or engineer.

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:

    - 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 Electric 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 No. 468348.

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.

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

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

GUAM 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

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO' PUBLEKO
GLENN LEON GUERRERO
Director
ANDREW S. LEON GUERRERO
Deputy Director

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

APPLICANT: Camacho Family Partnership Docomo Data Center

APPLICATION NO: 2018-14

SUBJECT: Conditional Use in an "A" Zone

MB 3/16

DEPARTMENT OF PLANNING * RECEIVED * CLTC/GALC/GUAM
MAR 15 2018
11:15 AM

Buenas yan Hafa Adai! The above applicant proposes to build the Data Center and use a portion of the existing and owned by the Camacho Family Partnership under Lot 50A-R6 to be designated as Lot 50A-7 in the village of Talofofo. The land is in the process of being parceled and sold to Docomo Pacific. The site was selected because of its remote location and adjacent to primary circuits to Southern Guam which is an advantage due to its close proximity to Talofofo substation. It is also the intent is to provide diverse underground fiber optic paths which is direct to the location that will enhance overseas communication system within the four cable landing stations in Agat, Piti , Tumon and Tanguisson area.

The building is approx. 275 feet by 77 feet or 21, 175 square feet. It will be a single story modular steel structure. There will be two 1000 KVA generators adjacent to the building, 15 parking stalls to include ADA parking and sewage thru the onsite septic tank.

The Department of Public Works (DPW) recommends approval, subject to the comments provided by the Application Review Committee (ARC) with the provisions that the following conditions are met:

- provide access road (entrance /exit) that is wide enough for public services;
- parking lay-out and detail for parking stalls (compact, standard and accessible stalls) must meet the American Standard Disability Act (ADA) requirements;
- structure must meet and withstand seismic classification;
- comply with all geotechnical requirements related to site preparations; and
- ecological planning is needed to ensure the conservation of its resources.

Prior to building permit application a complete set of design drawings with all the engineering disciplines needed shall be prepared and must conform with the latest building code edition including ADA requirements. Plans must be signed by a registered architect or engineer.

Should you have any questions, please contact Mr. Max C. 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!**

GLENN LEON GUERRERO

542 North Marine Corps Drive, Tamuning, Guam 96913 • (671) 646-3121/3232• Fax (671)649-6178

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

Eddie B. Calvo
Governor
Ray Tenorio
Lt. Governor

William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to:
RC 2018-0134

Received via email 3-6-18

March 2, 2018

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DPR Position Statement on DLM Application No. 2018-14
Conditional Use for Camacho Family Partnership
Docomo Data Center, Talofofo, Guam

We reviewed subject application submitted by Tim Armour, RIM Architects (Guam), LLC, Authorized Representative, on behalf of Docomo Pacific, and the Camacho Family Partnership. Docomo Pacific is requesting to be allowed to construct a Data Center on Lot 50A-7, a 23,619-square meter portion of Lot 50A-R6, fronting Route 4A, adjacent to the Rancho Camacho Subdivision, in the Municipality of Talofofo.

We are in consultation with the developer's representatives with regards to archaeological requirements and concerns, and other matters associated with the subject development, and have no objections to the approval of the application. However, subject development must go through the DPW permitting process for proper reviews by the different agencies, including the Department of Parks and Recreation, and may be subject to additional development requirements.

Should any other local and federal requirements arise, additional reviews and approval will be required. If you have any questions with regards to our position, please contact our office.

Sincerely,

William N. Reyes
Director

Cc: Tim Armour, RIM Architects, (Guam), LLC
tarmour@rimarchitects.com

GUAM POWER AUTHORITY

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

RECEIVED
MAR 21 2018
945 pm
OLTC/GLUC

March 12, 2018

MEMORANDUM

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

From: General Manager

Subject: Lots 50A-R6, Municipality of Talofofo, (Camacho Family Partnership; Conditional Use Application to build a Docomo Data Center **Application No. 2018-14**

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 No. 468348.**

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

VFSR

Doc. No. 34GL-18-2051.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Camacho Family Partnership
Location: Lot 50A-R6, Talofofo
Type of Application: Conditional Use
GLUC/GSPC Application No. 2018-14
Brief Project Description:
To build a Docomo Data Center.

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

3/19/18
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 may be 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

Dipättamenton 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

DEPARTMENT OF LAND MANAGEMENT
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April 6, 2018
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 "Conditional Use" request in an "Agrcultural" zone for application 2018-14 on a portion of Lot 50A-R6 to be designated to 50A-7 to build the Docomo Data Center located in Talofofo. (Camacho Family Partnership c/o Docomo Pacific).**

Agriculture has reviewed the subject lot for a "Conditional Use" in an **Agricultural zone** and has no opposition to the proposed zone change for the construction of the Docomo Data Center. 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 **Coastal Zones, Wetlands** and **Watersheds**.

The proposed zone change for the lot is located in an area that is currently used for various farming and ranching activities that include mango production and pasture land for cattle. As per discussion through the initial Application Review Committee process a large portion of the mango orchard will have to be removed and or destroyed to accommodate the proposed structure. As recommended to the land owner and developer some consideration to save those mature mango trees could be given to a farmer who may be able to salvage them rather that being destroyed outright. During the clearing and grading phase of the project please contact our Agency so that arrangements can be made with the farmer to relocate and transplant those trees that will be affected. 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.

Should the proposed "Conditional Variance" be approved and the project moves into the 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.

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As rapid development occurs in this region of the island the destruction and removal of native tree and fruit tree species increases the potential for pollution and erosion of sediment into the nearby **wetland** that is also a part of the property to be developed. As such our agency requires that a comprehensive mitigation plan is incorporated into the clearing and grading phase that will prevent destruction of wetland habitat. **Signage** must be posted and maintained throughout the development process and a perimeter buffer zone of at least 5-10 feet from the edge of the **wetland** boundary to prevent encroachment of machinery and other equipment from entering this protected site. The signage should read "Keep Out" or "Keep Away" as the area is a protected Wetland Zone. Should the proposed project proceed **Agriculture** recommends that along the periphery of the main lot where no underground cables are to extend elements of a green zone can be incorporated onto the project. If this includes side walks, pathways and parking 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, the 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 a balanced environmental 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 wetland habitat and watershed points in the area and causing pollution. 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 the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment. 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 Yigo. 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.

During our site investigation of the area there where no incidents of the **"Little Fire Ant" (*Wasmannia auropunctata)*** however be aware that potential to introduce the invasive pest into the area can be done through infected machinery and other equipment. This is of concern as the presence of this invasive and threatening species could spread to this area if heavy equipment is being used on other sites and brought into this area by contamination of equipment and vehicles. To avoid issues from occurring and preventing future problems down the road we recommend that equipment entering the work site be properly treated by a licensed pesticide company. In addition to this any clearing of vegetation should also be handled with care as stockpiling of green waste will act as a breeding and nesting site for the **"Coconut Rhinoceros Beetle"(*Oryctes rhinoceros)*** larvae. All green waste should be transported to a facility or a composting company that can breakdown the green material into useful compost that will also destroy pests, larvae and diseases.

By having the green waste recycled the plant material can be used to provide landscaping material back into the project for weed control and aesthetics for a proper managed landscaping plan. Please see the listing for these companies that are available on line or for proper guidance you can contact our office for further assistance in using their services.

Please be aware that development and the loss of Guam's natural habitat can have a devastating effect on the quality of life here on island. It is vital that all land developers take a conscious approach in protecting our resources for future island residents and the general well being of our delicate eco-system. The guidelines as listed in this Impact Assessment should be used as a template to ensure continuation of Guam's habitat. For other earth friendly techniques and guidance please contact our offices at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN
Director

ATTENTION : CRISTINE GUITERREZ
GLWC

FROM : PETER LANE

SUBJ : DOCOMO DATA CENTER
2018-14 APPLICATION

FAX 649-√383

EXT. 375

Michael Makio

From: Rudolph Rodolfo <rudybkguam@gmail.com>
Sent: Thursday, April 12, 2018 12:10 PM
To: Michael Makio
Subject: Re: FW: Blue Ocean Project

Hi Mike,

Great to hear you have already planned to address the concerns.

We are generally in support of the project as this will enhance our business and improve the Tumon area.

Regards,
Rudy

On Thu, Apr 12, 2018 at 11:07 AM, Rudolph Rodolfo <rudybkguam@gmail.com> wrote:
Hi Mike,

I sent your email to Mr. Bo Baba and Francis Baba to see if they have any thoughts or comments.

Here's my initial thoughts on the new project.

The location of this boutique is great. It will compliment the area by increasing the foot traffic to both Tumon Plaza and Tumon Bay Center (BK)
The opportunity to be part of the in-line shopping program for food will be good as well.
Eco-friendly waste water system for re-use will assist in flooding and minimize the ponding basin as well.

Only concerns would be some affecting our limited parking at Tumon Bay Center by employees of hotel.
Also, possible traffic congestion being close to the intersection.

Thanks,
Rudy

On Thu, Apr 12, 2018 at 9:55 AM, Michael Makio <MMakio@traguam.com> wrote:

Hi Rudy,

Good talking to you you this morning.

Doc. No. 34GL-18-2051.

Hope all is well with you.

I am writing to get some feedback from you. My team is putting together a presentation to put a hotel across the street from your Tumon location – adjacent to Tumon Sands Plaza on the lot that used to belong to the Tumon Gun Club.

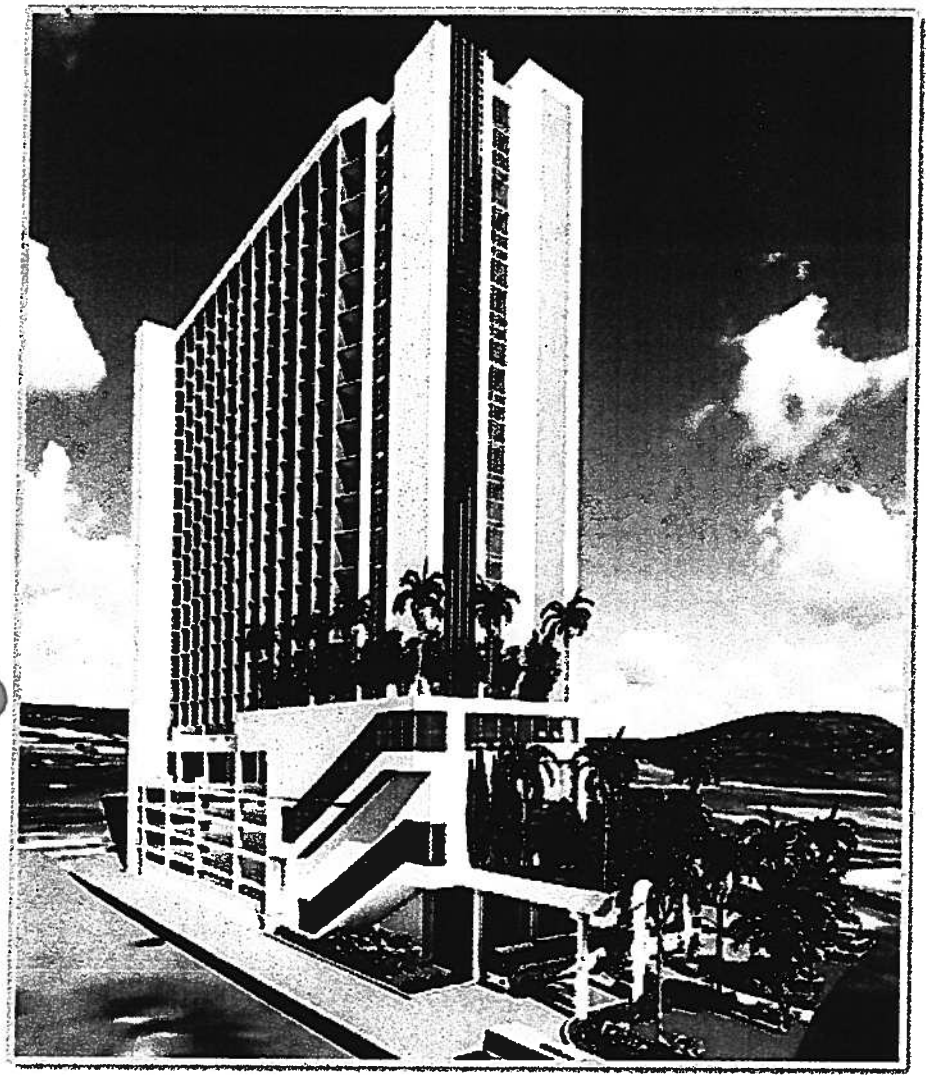
The site was chosen because of its easy access to several restaurant, retail and services in tumon, and because it was not in Pleasure island. We have been able to get support for the project from several nearby businesses who would directly benefit from the foot traffic and proximity to their businesses. As your company owns the building across the street from Tumon Sands Plaza we wanted to talk with you to see if you would provide feedback?

The program is for a 21 story hotel (perpendicular) to san Vitores with about 298 rooms. The hotel is focused on a younger market and will feature a in-room shop link to nearby businesses and restaurants to allow for online shopping and delivery, reservations (massage, spa etc). I think having access to tourists within easy pedestrian access will be beneficial for your business and other businesses that deal with tourism.

Department of Land Management will take comments today on the third floor of ITC from 2pm to about 3 pm- before they vote on the project. Because the hotel is inland from the shoreline it will be business hotel and affordable travelers and family friendly – such as having 1 bedroom suites for travelers with families etc.

Let me know if you have questions or if possible if you can write a short note in support of the project then I can submit it today at 2 pm. I attached a draft letter above if your interested in submitting - the text can be anything you wish to comment on.

Let me know if you have questions. I would also like to contact your tenants like burger king for feedback if that's okay. I would contact Lorie Tydingco – but of course they must be busy with Dan's moms funeral.



Si Yu'os Ma'ase

Michael Blas Makio, AIA, LEED AP

Managing Principal

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LZ Company



February 28, 2018

Mr. Michael J.B. Borja
Director
Department of Land Management
Executive Secretary
Guam Land Use Commission
Suite 733, 590 S. Marine Corp., Dr.
Tamuning, Guam 96913

RE: Zone Variance Application for Height and Uses
Lot 5147-3-3NEW-6, Tamuning (case #2017-25);
Applicant's Motion for a Re-Vote (Re-Hearing/Reconsideration)
upon the Zone Variance Application

Dear Executive Secretary Borja:

This letter is written to express our concerns regarding the manner in which the vote was conducted and carried out by the Hybrid Commission during the 2/22/2018 Guam Land Use Commission (GLUC) meeting regarding our application (Lot and case number are referenced above). The vote was conducted in an improper and illegal manner, inconsistent with the requirements of law. This letter is a Motion requesting that the GLUC Re-Vote upon the Zone Variance Application (rehear/reconsider). We request that the matter be re-voted upon on no later than March 8, 2018.

The outcome of voting on the application was declared to be "not passing" or disapproved, by four (4) "yea" votes for approval, and three (3) "nay" votes against approval. Of the nine voting members of the Hybrid Commission (HC), only 8 were present. One of the four Municipal Commissioners (MC) was absent for unknown reasons. After the HC Chairperson called for votes but before casting his own vote, an HC member stated to all members present that the HC Chairperson was "not allowed" to vote as the initial tally of 4-3 (without the HC Chairperson's vote) was not a tie.

With one absent MC and without the HC Chairperson's vote, the total "yea" votes did not reach five (5) as required by the law that created the HC, and the application was denied. Had the absent MC been present and voted "yea", the application would have been approved with 5 "yea" votes. Had the absent MC been present and voted "nay", a tie of 4-4 would have existed

and the Chairperson's vote would be counted for final approval or disapproval. But this latter opportunity was never even granted to the Applicant despite having the *majority* of non-chairperson votes, which is *better* than a tie. We found this voting process to be potentially invalid or unlawful for the following reasons:

1. The Public Law (21 GCA Real Property CH.60 Land Management) does not indicate that the Chairperson of the HC is only allowed to vote to serve as a tie breaker. In fact, a provision allowing the Chairman of the Hybrid Commission to vote only in the case of a tie was *expressly deleted by the Guam Legislature* in the law creating the Hybrid Commission. Applicant is not aware of any legal basis or precedent for an invalid voting procedure that only allows the Chairman to vote in the case of a tie. Applicant was never advised during the hearing of any legal basis upon which such a rule allegedly rests. If such a rule allegedly exists, Applicant should have been so informed and advised during the hearing, and should have been afforded the opportunity to table the hearing and vote until such time a full voting HC was present. As the HC is still new, there are no specific rules regarding voting procedures to describe a scenario as experienced when the above referenced application was voted on.

2. An unfair and even unethical consequence of this purported voting procedure (calling for the HC Chairperson's vote only for a tie breaker) is that for a tie among non-Chairperson members (4-4), disapproval of the application is *guaranteed* by a single "no" voting HC member being physically absent from the HC hearing. Then, despite a vote tally of 4-3 (stronger than a tie), the opportunity for the HC Chairperson's vote is denied and the requisite approval votes cannot be reached. If this procedural irregularity were to be allowed, the perception could be promoted that improper means were employed to circumvent the intent and purpose of the HC in order to deny an application and usurp a potentially legal passing vote. If 5 voting members believe an application should be approved, there should not be a mechanism to subvert their approval. The voting procedures of the HC should be clarified for fairness and to fit into the HC framework and purpose.

It is our position that there was no legal basis upon which the Chairman should have been prohibited from voting upon the Application. The improper exclusion of the Chairman from the vote conducted denied Applicant due process of law.

Based on the above reasoning, the Applicant contends that the Department of Land Management and the GLUC legal counsel should investigate this case. We strongly feel that we could have been approved if the voting procedures were fairly established and communicated

appropriately. At a minimum we believe the previous vote should be invalidated and we should be entitled to another voting opportunity with clarification of voting procedures.

Your consideration and action on this matter is greatly appreciated. We request that final action on this Motion, as well as a re-vote, be taken by the Commission at a hearing conducted no later than March 8, 2018.

Sincerely,

Mark Zhao
Managing Director
LZ Company

CC: Dr. Peter Lombard
Attorney Fred Horecky

Simon and Lou Sanchez
109 Palting Way
Tamuning, Guam 96913

Received 1:34pm 4.12.18 GLUC

[redacted]

April 12, 2018

Chairman Arroyo and Members,
Guam Land Use Commission
Department of Land Management

Dear Chairman Arroyo and Members,

We write to oppose the granting of a variance for LZ Company development, a development which will make existing poor traffic and water pressure conditions on Ypao Road even worse for current residents. The development would also significantly change the character of the Ypao Rd neighborhood by allowing for much taller and more dense development than has ever been allowed. We re-state our opposition that was first presented at the GLUC public hearing earlier this year at the Tamuning Mayor's office. Our opposition is based on the following:

1) **TRAFFFIC CONGESTION:** The current Ypao Road cannot handle any more traffic congestion than already exists. This already highly developed area suffers from horrible traffic during morning and afternoon drive times. During these times, traffic can back up from the Marine Drive intersection for almost a quarter mile. Similarly, traffic from the Hilton street light can back up causing gridlock in both directions, especially during evening drive time.

   Road drainage is also horrible. When there is even minor rain, Ypao Rd by Talo Verde can turn into a one lane road as drivers have avoid a huge lake of undrained rain while heading towards Marine Drive by driving on the oncoming lane.

   When you add rain or a frequent large event in Tumon on San Vitores Road (or both), the congestion and long-standing horrible drainage problems on Ypao can

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make it nearly impossible to exit from our Palting Way street that intersects with Ypao Road.

The GLUC should be familiar with these problems and the long-promised attempt to upgrade and widen Ypao Rd. by GovGuam. The road upgrade project has been promised for years without occurring. Meanwhile, Ypao Road development--- without variances--- have added more structures for people and residents. While this is fine, the point is development without variances already has strained the ability of Ypao Rd. to support the traffic demand already existing.

GovGuam has again promised to upgrade the road soon but the project still has not been bid out. Construction, once awarded could take over a year to complete. So, at best, we are looking at a minimum two-year period before an expanded Ypao Road could emerge. And how well the expansion addresses the traffic and drainage problems remains to be seen.

2) **Water Pressure**: Our family and the Arriola family were one of the first to develop their residential properties off of Ypao Road, acquiring our lands in the mid- 1950's. We have had a front seat in witnessing all the development off of Ypao Rd for the past six decades. In recent years, we have seen a steady drop in water pressure at our residences since we are at the end of GWA's water line that serves us from Marine Drive. There are times now where water pressure to the second floor of our structures is insufficient to cook, wash clothes or bathe. While we respect the right of landowners to develop their property within the current zoning limits of three stories, adding a six story unit via a VARIANCE only will make a bad situation much worse for existing residents.

The proposed mitigation solutions offered by the Developer (a water tank that will be filled only at night) are further proof that pressure is inadequate for the rest of the neighborhood. We are quite familiar with this solution given our background with GWA. Unfortunately, we also are familiar with water storage tanks that fail, water tanks that draw water during peak demand times rather than late at night despite Developer promises and water tanks that are unused once built----all despite the promises of the developer. Once a variance is granted, the GLUC has no powers to effectively enforce any restrictions on when the Developer's water tank can draw water from an already strained system. Neither GWA or DPW have effective

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enforcement remedies that can work ONCE THE DEVELOPMENT IS COMPLETED. Meanwhile, the neighborhood water pressure would be adversely impacted.

In short, all the current residents of the Ypao Rd neighborhood is a verbal promise by the Developer that cannot be effectively enforced once the variance is granted and the development completed. And what happens if the current Developer sells it to a new owner in the future? Neither GLUC nor Ypao Rd residents can be assured that the adverse impact to water pressure will be addressed by a new owner despite the promises of the current Developer.

GWA has plans to upgrade the Ypao Rd water pressure. But those plans are years away, like the promise to upgrade Ypao Road.

3) **The Character of the Neighborhood**: For over six decades now, Ypao Rd development has allowed for significant growth of residential and commercial properties. There are at least three hotels and numerous condos/apartments in the neighborhood. NONE OF THE STRUCTURES EXCEED THREE STORIES IN HEIGHT.

The proposed development would create a dangerous precedent to grant variances from the current zoning to allow not just this six-story unit but also future developments that exceed three or even six stories. Granting this variance changes the characteristic of this mostly residential community. Once GLUC allows this height and density variance, it cannot prevent future developers to seek significant density/height variances.

Approving this variance request will change our Ypao Rd neighborhood from its historic low-density development area to some unlimited density area whereby future developers only need cite the precedent created should GLUC grant this variance.

No Developer should be allowed to disrupt the character of this neighborhood by building something much bigger and more densely developed than any structure built on Ypao Rd. in the last six decades.

[redacted]

We join all the many residents of Ypao Rd in opposing any variance from the current development limits on Ypao Rd until after road and water improvements are completed. No new neighbor should be allowed to disrupt the lives of existing neighbors who have lived there for many years.

The Developers are fine people. Unfortunately for them, and hopefully not us, their timing is poor and pre-mature due to the Government's failure to upgrade the necessary infrastructure. However, the Developer was surely fully aware of the current zoning when it bought the property. Even if the upgrades eventually occur, Developers should develop within the character of the existing neighborhood. They should become part of the neighborhood, not change the neighborhood.

This proposed development with its significant variance request would make it much worse for those who have called Ypao Rd home over the past six decades.

Our village MPLC has voted against this development. We join them in this opposition. We respectfully request that the GLUC not grant the variance request.

Senseramente,

Simon and Lou Sanchez

[redacted]