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

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

GLUC COMMISSIONERS

JOHN Z. ARROYO
CHAIRMAN

TAE S. OH
VICE- CHAIRMAN

CONCHITA D. BATHAN
COMMISSIONER

VICTOR F. CRUZ
COMMISSIONER

HARDY T.I. VY
COMMISSIONER

MICHAEL J.B. BORJA
EXECUTIVE SECRETARY

NICOLAS E. TOFT
Legal Counsel

Telephone:
671-649-5386
671-649-5263 ext 375

Facsimile:
671-649-5383

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION

August 29, 2018

GL#34-18-2282 hf
Speaker Benjamin J.F. Cruz

AUG 29 2018
Time: 12:06 [ ] AM [+] PM File No. 34-3037
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, May 24, 2018;
2. Guam-Hybrid Land Use Commission; Thursday, May 24, 2018;
3. Guam Land Use Commission; Thursday, June 28, 2018; and,
4. Guam Land Use Commission; Thursday, July 26, 20178

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

Thank you.

2018 AUG 29 PM 1:32 MF

2282

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

File for Record is Instrument Number 926080

on the Year 20 18 Month 04 Day 24 Time 3:17

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANE T. YAMASAKI

Above Space for Recorder's Use only

COPY

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, May 24, 2018
2:25 p.m. to 2:55 p.m.

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning, Guam
Thursday, May 24, 2018 • MCoG_DLM 2018-01

GLUC MEMBERS PRESENT:

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

Excused: Mr. Hardy I.T. Vy, Commissioner

HYBRID MEMBERS PRESENT:
Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon
Ms. June Blas, Mayor of Barrigada

Excused: Ms. Melissa Savares, Mayor of Dededo
Excused: Mr. Jessy Gogue, Mayor Ordot/Chalan Pago

STAFF PRESENT:
Mr. Michael J.B. Borja, Executive Secretary
Mr. Marvin Aguilar, Guam Chief Planner
Mr. Frank Taitano, Planner IV
Ms. Cristina Gutierrez, Recording Secretary

Excused: Mr. Nicolas Toft, Legal Counsel

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, May 24, 2018				
Time of Meeting:	GLUC: 6:28 PM	GSPC:			
Hybrid:	1:42				

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

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

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

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

ADJOURNMENT: GLUC: 6:35 PM HLUC: 2:20 PM

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, May 24, 2018

[X] HLUC [ ] Special Time: 1:42pm

[✓] Quorum [ ] No Quorum Adjournment: 6:35pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Mark Zhao	LZ company	689-8038
Dorothy Lukeala	Resident	482-0287
Adrian Gogue	Save Southern GUAM - order to show Hugo Bay cause	4886578
Russell Remdete	GLUC continuation No. 2018-16	477-3556
RAFAEL PANGELINAN		653-5125
Sharon Taitano	APP# 2017-49	687-1985
JOSEPH TAITANO	APP# 2017-49	688-4003
Peggy Lawless	LZ COMPANY	777-3055
Jim Cruz		477-7325
Jeff Gabel	Shiek Clinic	929-9662
ASCENCIO VICENTE	SHIEK CLINIC	646-5941
[illegible]	JS Sons	477-3007
Billy Cruz	Wem Fung	7772405
Julio Santos	GEDA	-
MAJOR BRIAN [illegible]		734-2165
[illegible]	ORG.	888-3317
Ed Camacho		488-7728
Lindsay Bennett		
Pramila Sullivan		4831660
Dianne Strong	Save Southern Guam	
JONITA KERR	Save Southern Guam	
	— NOTHING FOLLOWS —	

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

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, May 24, 2018
[ ]	HLUC	[ ]	Special	Time:	1:42 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	6:35 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.
KYLE BORJA	GLUC AP 2017-49	988-5652
JOHN SETIADI TAN	GLUC CONDITIONAL No. 2018-10	477-3556
Adrian Gogue 2017-41	Order to Show Cause - Pago Bay Marine Resort	4886578
HARRY G.	No 2014-10	
DAN SWAVELY	TREVISEA / M-1 RECONSIDERATION	688-2029
Mike Sun		
JAE JI	WSSTSPLAN APP NO: 2018-06	688-1779
RANDY CUNLIFFE	GUAM WANFANG	472-1824
~~Pamela Sattler~~		
	NOTHING FOLLOWS	

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

GUAM HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, May 24, 2018 • 2:25 p.m. to 2:55 p.m.

I. Attendance

Chairman Arroyo called the regular meeting of the Guam/Hybrid Commission for Thursday, May 24, 2018 to order at 2:25 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Tae Oh, Commissioner Conchita Bathan, Mayor Louise Rivera (Tamuning), Mayor June Blas (Barrigada), Executive Secretary Michael Borja, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano and Recording Secretary Cristina Gutierrez.

[Excused: Legal Counsel Nick Toft]

II. Approval of Minutes

[NOTE: The meeting Minutes of April 12, 2018 was approved at the regular GLUC meeting.]

III. Old or Unfinished Business [None]

IV. New Business [None]

V. Administrative & Miscellaneous Business

Zone Variance

A. **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

Chairman Arroyo the Commission has had two meetings on this application. At the conclusion of the first meeting there was a motion to approve the request; however, it did not garner the requisite of five (5) votes to approve. The last time the Commission met on this application, Commissioners received clarification from Legal Counsel that even though that motion was not approved it was not sufficient to disapprove the application; and, was tabled.

At that meeting, there was discussion as to whether or not there was an actual need to make a counter motion to disapprove the motion. [Requested Chief Planner to proceed with the Commission Brief]

Marvin Aguilar (Chief Planner) reads Commission Brief in its entirety to the Commission. [For full content/context, please refer to attached brief]

[Attachment A – Memorandum to the Guam Hybrid Commission dated May 15, 2018]

Chairman Arroyo is there any discussion and/or comments on the AG's Opinion in reference to this application. [None noted]

Chairman Arroyo notes that he is not compelled to vote, but he can vote on the application if he so chooses. The last item, would be to make a motion or take action to either approve or disapprove this application. If this cannot be achieved today, then it becomes tabled again which would then be the second tabled action. Having said that, Chairman Arroyo was ready to entertain a motion, either way on this application.

[Chairman Arroyo calls for a 5-minute recess. Commission recessed at 2:35 p.m. and reconvenes at 2:40 p.m.]

Chairman Arroyo reconvened the meeting, and requested that Commission Oh proceed with his motion.

Commissioner Oh Mr. Chair, I would like to make a motion to approve Application No. 2017-25 for LZ Company represented by Mark Zhao, for a Height and Use Variance request on Lot 5147-3-3NEW, in an "R-2" zone, in the municipality of Tamuning with the following conditions:

1. Applicant adhere to all Commission and ARC conditions and all permitting requirements;
2. Applicant must provide a landscaping plan that expresses open space to encourage shade and cover. The plan must all be prepared by a certified and licensed landscape design to institute best management practices for the containment of storm water runoff, improving surface water percolation by methods such as installing impervious pavements. Further, such landscaping plan must be submitted and approved by the Guam Chief Planner; and,
3. The applicant shall secure approval from appropriate agencies regarding proper storm water retention and draining design and plan to prevent any contribution to current flooding issues in the immediate area.

Chairman Arroyo there is a motion to approve subject to the conditions noted made by Commissioner Oh. Is there a second.

Vice Chairman Cruz I'll second.

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

Chairman Arroyo comments that he has been thinking about this application for quite some time and finds himself a little bit conflicted in the fact that he believes that property owners have the right to develop their property to the maximum extent possible allowed by law. The problem that Chairman Arroyo has with this application is that even though the road is going to be widened in that area where the project is proposed, the road reduces back down from three-lanes to two-lanes going down the hill, and this was his concern and first question when this application was first entertained by the Commission. He understands that once you get down to that intersection at the Hilton Hotel, during certain times of the day, it is a huge traffic jam in that area. As mentioned earlier, Chairman Arroyo reiterated that he is not compelled to vote because of the change in the law; however, in this case he will vote.

Commissioner Oh understands the concerns of the community. Commissioner Oh states that he lives on Ypao Road and understands the traffic issues, there are infrastructure issues in this area. For him, it comes down to how do we become a bit more responsible when it comes to

Commissioner Oh (cont'd) development. He is aware of other developments that are already coming to the area that have been subdivided and not seeking to go above the height variance requirement. We cannot hold those types of developments back; they have property rights, if they own the property and they are not coming before the Commission for any type of variance there is no way the Commission can say, you cannot build your house there. This area is in high demand. The one thing that has convinced Commissioner Oh to vote one or another is that when it comes down to it everyone recognizes that there is a problem that exists in this area. If there is no better solution, the applicant right now is allowed to build three stories and will go wider and they will not need approval from the Commission to go three stories. The developers are attempting to reduce the footprint of the building so that it solves a lot of the crowding issues and the ingress/egress issue. Commissioner Oh is convinced to vote a certain way on this application, and believes that this will be a great project for the area.

Vice Chairman Cruz has traveled this road for the last month and trying to figure out what the major issues in that area are; he understands that on the economic side of it that this project and type of service is needed on Guam, and applauds the developers for their effort. Whether the road is widened or not, if the building is built or not, traffic in this area will still exist and may even double. Vice Chairman Cruz further states that whether the applicants go up to three stories or higher, he cannot see how this project would make matters in this area any worse.

Chairman Arroyo understands where the Vice Chairman Cruz and Commissioner Oh are coming from. Chairman Arroyo encourages the developer to build it out as much as they can. Chairman Arroyo's worry is that the Commission will be setting precedence by allowing a height variance in that area. Another developer my come in and want the same thing and a density variance on top of that. For Chairman Arroyo it is more prudent for the Commission to look at this wisely; and not just for this particular project, but for other projects that may come up in this area in the future. He is afraid that the Commission is overstepping a boundary and opening the "flood gates" and possibly creating something that the Commission does not want to intentionally create in this area.

Mayor Blas comments that she is not one to tell a property owner how to build on their property; but, eventually they will build one way or another. And having the way they designed this building and having proper parking for this project, it will avoid off-site parking along the main road. No matter whether or not this building is built, there will be traffic in this area.

Mayor Rivera comments that she also lives on YPao Road. She agrees with the issues on the current traffic situation, and the Commission has also heard from public on the traffic issue in this area. This is a "wonderful" project, it's a clinic, and the developers are good people; but, asked that the applicants stay within the height variance allowed by law. Mayor Rivera adds that she is here to represent her constituents who have spoken on this project, and states that she cannot support the project.

Chairman Arroyo seeing no further comments and/or discussion, Chairman Arroyo puts the motion to a vote.

All in favor of the motion say "aye" [Commissioner Oh, Vice Chairman Cruz, Mayor Blas], all opposed say "nay" [Chairman Arroyo, Commissioner Bathan, Mayor Rivera].

Chairman Arroyo there was not enough votes to garner the required five (5) votes to affirm this application; and therefore, the application is tabled.

VI. Adjournment

Chairman Arroyo there is no further business for the Guam Hybrid Commission, Chairman Arroyo requested for a motion to adjourn.

Commissioner Bathan motion to adjourn.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo motion to adjourn made by Commissioner Bathan, seconded by Vice Chairman Cruz; with all in favor.

The regular meeting of the Guam Hybrid Commission (MCoG_DLM 2018-01) for Thursday, May 24, 2018 was adjourned at 2:55 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Hybrid Land Use Commission

Date approved:

Aug 23, 2018

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

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, May 24, 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, April 12, 2018

III. Old or Unfinished Business [None]

IV. New Business [None]

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

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

File for Record is Instrument Number 925111

on the Year 20 18 Month 08 Day 02 Time 11:32

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki JANET YAMASAKI

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Legislature

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, May 24, 2018
1:42 p.m. to 6:35 p.m.

GUAM LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning
Thursday, June 28, 2018 • 1:37 p.m. to 4:20 p.m.

MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Vice Chairman Cruz

Ms. Conchita D. Bathan, Commissioner

Mr. Tae S. Oh, Commissioner

[Excused: Commissioner Hardy I.T. Vy and Nicolas Toft, Legal Counsel]

PLANNING STAFF PRESENT:

Mr. Michael Borja, Executive Secretary

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Mr. Penmer Gulac, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

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

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

Date of Meeting: Thursday, May 24, 2018

Time of Meeting:

GLUC: 12:27 PM	GSPC:
Hybrid: 1:42	

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

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

HYBRID COMMISSION; LZ COMPANY, APPLICATION NO. 2017-39 (MCoG DLM 2018-~~02~~ 018)

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

ADJOURNMENT: GLUC: 6:35 ~~PM~~ AM HLUC: 2:20 PM

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, May 24, 2018
[X]	HLUC	[ ]	Special	Time:	1:42pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	6:38pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Mark Zhao	LZ Company	689-8038
Dorothy Lukeala	Resident	482-0287
Adrian Gogue	Save Southern GUAM - order to show Hagoi Bay cause	48986578
RUSSELL Ramdeen	GLUC Continuation No. 2018-10	477-3556
RAFAEL PAJELA		653-5125
Sharon Taitano	APP# 2017-49	687-1985
JOSEPH TAITANO	APP# 2017-49	688-4053
Peter Lamberts	LZ COMPANY	777-3055
Jim Cruz		477-7322
Jeff Gabel	Shiek Clinic	929-9662
ASCENCIO VICENTE	SHIEK CLINIC	646-5941
Jack Kelly	JS Square	477-3007
Billy Cruz	West Flung	7772465
Jesse Santos	GEDA	-
MAJOR [illegible]		734-2165
[illegible]	ORG.	888-3377
Ed Camacho		488-7778
Lindsey Bennett		
Pgamila Sullivan		4836600
Dianne Strong	Save Southern Guam	
JONITH KERR	Save Southern Guam	
	— NOTHING FOLLOWS —	

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, May 24, 2018
[ ]	HLUC	[ ]	Special	Time:	1:42 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	6:35 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.
KYLE BORJA	GLUC AP 2017-49	988-5652
JOHN SETADI TAN	GLUC CONDITIONAL No. 2018-10	477.3556
Adrian Gogue 2017-41	Order to Show Cause - Pago Bay Marine Resort	4886578
HARRY G.	No 2014-10	
DAN SWAVELY	TREVISTA / M-1 RECONSIDERATION	689-2029
Mike Sun		
JAE JI	WSSTSPLAN APP NO: 2018-06	688-1779
RANDY CUNLIFFE	GUAM WANFANG	472-1824
~~Pamela Sattler~~		
	NOTHING FOLLOWS	

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, May 24, 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 May 17, 2018 & May 22, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, April 12, 2018

III. Old or Unfinished Business [None]

IV. New Business

Conditional Use

A. **Application No. 2018-10**, Dr. Thomas Shieh and Mrs. Raven Shieh represented by Harry D. Gutierrez; Conditional Use permit to allow for the construction of a two-story structure with a medical clinic on the first floor and a multi-purpose room on the second floor, Lot 2129#1-REM-2, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning. Case Planner: Penmer Gulac

Zone Change

B. **Application No. 2017-41**, Albert P. Sanga represented by Harry D. Gutierrez; Zone Change request from "R-1" (Single Family Dwelling) to "C" (Commercial) zone, for a proposed commercial building, on Lot 1103-3-1A-1, in the Municipality of Mangilao. Case Planner: Penmer Gulac

C. **Application No. 2017-32**, Ian Corporation represented by Daniel D. Swavely; Zone Change request from "A" (Rural) to "R-1" (Single Family Dwelling) zone, for the proposed development of Tre-Vista Subdivision, on Lot 4-1RNEW, Tract 154, in the Municipality of Yigo. Case Planner: Celine Cruz

D. **Application No. 2017-49**, Pok Nam Yi and Sharon Taitano represented by Kyle Borja; Zone Change request from "R-2" (Multi Family Dwelling) to "LC" (Limited Commercial) zone for the continued operation of an existing retail store, on Lot 1139-R16-NEW-4NEW-1, in the Municipality of Mongmong-Toto-Maite. Case Planner: Penmer Gulac

Zone Change

E. **Application No. 2018-11**, Behnam Ghazfghazi represented by Harry D. Gutierrez; Zone Change request from "A" (Rural) to "M-1" (Light Industrial Zone), for the proposed construction of a warehouse, on Lot 5, Block 1, Tract 221, in the Municipality of Barrigada. Case Planner: Penmer Gulac

Tentative Subdivision Plan

F. **Application No. 2018-06**, WSS Pacific Development Corporation represented by Jae Ji; Tentative Subdivision Plan request for the final phase of construction of twenty (20) single-family house lots (Santos Ocean Housing), on Lot 29NEW, Block 1, Phase IIA and Block 2, Phase IIB, Tract 10310, in an "R-1" (Single Family Dwelling) zone, in the Municipality of Dededo. Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

GLUC Resolution

G. **Daniel D. Swavely**, GLUC Resolution to add engine oil recycling as a permitted "M-1" zone use. Case Planner: Marvin Aguilar

Order to Show Cause

H. **Application No. 2015-29**, Guam Wanfang Construction Ltd; Order to Show Cause as to reason(s) and/or failure to submit its required six-month status report in a timely manner for the Pago Bay Resort project, on Lot 164-4NEW-1, in the Municipality of Yona. Case Planner: Marvin Aguilar/Celine Cruz

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, May 24, 2018 • 1:42 p.m. to 6:35 p.m.

I. Attendance

Chairman Arroyo called to order the regular meeting of the Guam Land Use Commission for Thursday, May 24, 2018 at 1:42 p.m., noting a quorum.

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

[Excused: Commissioner Hardy Vy and Legal Counsel Nick Toft]

Chairman Arroyo announced that there are two Commission meetings today; the regular Commission meeting and the Hybrid Commission meeting. Meeting began with the regular GLUC meeting agenda.

II. Approval of Minutes

Chairman Arroyo first item on the agenda is the approval of the GLUC April 12, 2018 meeting minutes. There are two separate minutes; one for the GLUC meeting and one for the Hybrid meeting. With the Commissioners having had the opportunity to review the GLUC Minutes of April 12, 2018, Chairman Arroyo requested for a motion.

Commissioner Oh made a motion to approve the GLUC Minutes of April 12, 2018, subject to minor edits and/or corrections to be submitted by close of business today.

Chairman Arroyo motion to approve the Minutes by Commissioner Oh. Is there a second.

Vice Chairman Cruz I second.

Chairman Arroyo seconded by Vice Chairman Cruz. There was no discussion noted, Chairman Arroyo put the motion to a vote. All in favor of the motion to approve the GLUC Meeting Minutes of April 12, 2018 say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh], all opposed say "nay." **[Motion passed; 3 ayes, 0 nay]**

Chairman Arroyo joining the Commission is Mayor Louise Rivera and Mayor June Blas. Chairman Arroyo requested for a motion to approve the Minutes of April 12, 2018 for the Hybrid Commission meeting.

Commissioner Oh made a motion to approve the Hybrid Land Use Commission meeting of April 12, 2018 subject to any revisions to be submitted to the Recording Secretary by close of business today.

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

Mayor June Blas seconds the motion.

Chairman Arroyo seconded by Mayor Blas; no discussion noted, Chairman Arroyo put the motion to a vote. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Mayor Rivera, Mayor Blas], all opposed say "nay." **[Motion passed; 5 ayes, 0 nay]**

[Chairman Arroyo notes the arrival of Commissioner Conchita Bathan]

III. Old or Unfinished Business [None]

IV. New Business

Conditional Use

A. **Application No. 2018-10,** Dr. Thomas Shieh and Mrs. Raven Shieh represented by Harry D. Gutierrez; Conditional Use permit to allow for the construction of a two-story structure with a medical clinic on the first floor and a multi-purpose room on the second floor, on Lot 2129#1-REM-2, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning. Case Planner: Penmer Gulac

Marvin Aguilar (Chief Planner) notes that as of May 21, 2018, Planning Division has received numerous letters of support for Dr. Shieh's project, and the Commission has been provided with copies.

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

[Attachment A – Staff Report dated May 14, 2018]

Chairman Arroyo questions for staff.

Commissioner Bathan noted that the EIA (Environmental Impact Assessment) was not signed and asked that the applicant sign the last page of the report as required.

Chairman Arroyo Mayor Rivera, would you like to talk about the MPC's support of the project.

Mayor Louise Rivera (Tamuning) there was a tremendous flow of support that was received; however, there were two concerns. The first one was in regards to the environmental impact which was cleared and the other was regarding the curve. Other than these two concerns the project was highly supported, and unanimously approved by the MPC.

Chairman Arroyo what was the concern about the curve? Was it because of the blind curve.

Mayor Rivera the curve is a concern regardless of the business establishment that will be located there. It was addressed that the traffic flow will be monitored during the construction period and once the clinic is open. Mayor Rivera added that she will ensure that the area will remain safe for everyone.

Marvin Aguilar the speed limit for Governor Camacho Road is 25 mph, but is not followed.

Mayor Rivera there are concerns for pedestrians who may be crossing the street from the clinic.

Commissioner Oh is a crosswalk feasible for this area.

Mayor Rivera traffic will be observed to determine the need for a crosswalk.

Chairman Arroyo people cross the street in that area anyway regardless of day or night. There are a lot of tourists in that area to cross the street to get to Payless, etc. [No additional discussion noted, Chairman Arroyo opened the floor to the applicant and the applicant's representative.]

Harry Gutierrez (with Dr. Thomas Shieh and John Setiadi, Architect)

Dr. Thomas Shieh has been on Guam for 22-years since the U.S. Navy brought him to Guam and has remained here since. This clinic will be built to help women and children and will also benefit a lot of generations to come. Height variance is not needed and the building is very conducive to the community, and no rezoning of the property is being asked for. Dr. Shieh also thanked Mayor Rivera for a very successful public hearing and to the MPC for their unanimous approval.

John Setiadi (Architect) this is a two-story medical clinic located as explained early on by the Case Planner. Mr. Setiadi proceeded with his Power Point presentation --

- Slide 1 - Zoning Map shows the project location;
- Slide 2 – rendering of the current condition of the parcel; empty lot, pretty flat, gentle slope uphill;
- Slide 3 - 500, 750 and 1000-foot radius maps;
- It is an area of mixed use neighborhood consisting of single family and multi-family residential and a number of commercial establishments;
- There is a dental clinic directly next to the project site;
- Site plan was discussed. Speed limit for Gov. Carlos Camacho Road is 25 mph. It is a major thoroughfare in the Tamuning area. Two separate driveways were created for egress and ingress and that will help the possibility of congestion and for safety purposes as well;
- The fence will be see-through rather than concrete and this will help provide visibility to avoid blind corner;
- There is a total of 27 parking stalls which is well above the required 15 stalls;
- Slide shows rendering of the 1st floor of the structure which is all clinical facility, exam rooms, nurses station as well two doctors' office. There are no clinic rooms on the second floor of the building, but there will be a conference room, office for Mrs. Shieh as well as an open area to be used for multi-purposes such as educational presentations and training;
- Rendering of front elevation of the building, building is below the 30-feet maximum height requirement;

- Renderings of the front side of the building, interior rendering of the clinic which is in the final design stage; and,
- Renderings of lobby, nurse's station and the second floor open area.

Mr. Setiadi in closing commented that with the Commission's approval, they hope to submit for a building permit within the next week of two.

Chairman Arroyo questions.

Commissioner Oh asked for a larger photo of the zoning map.

John Setiadi pointed out the subject property, and location of Shirley's Coffee Shop which is located across from the project site.

Commissioner Oh what the zone for Shirley's.

Marvin Aguilar (Chief Planner) it is zoned commercial.

Commissioner Oh there is a clinic next to this property and asked what the zone was for that clinic.

Marvin Aguilar believed that that parcel was rezoned commercial through the Legislature.

[Discussion ensues on the zoning of neighboring properties from the subject lot. Mr. Aguilar responds that the apartment complex behind the clinic is R-2 zoned, and that the Onward Beach Hotel is zoned R-2 as well. Hotels and clinics are permitted uses in an R-2 zone with a conditional use permit.]

Chairman Aguilar any other questions.

Vice Chairman Cruz inquired about the elevation renderings, but more specifically the site plan of the building. Vice Chairman Cruz inquired on the height for the clinic's sign as well as the distance from the right of way.

John Setiadi the design for the sign has not been finalized, but it will be in compliance with the required height (it will not exceed what is governed by law) and all proper setbacks as required by law.

Vice Chairman Cruz concern was focused on pedestrians crossing the street.

John Setiadi the turning radius is at 15-feet when a car is approaching.

[Discussion ensues on the egress/ingress to the clinic. Vice Chairman Cruz asked if it was possible to provide a queuing lane for the property. Mr. Setiadi explained that there is an existing sidewalk but will look into the removal of a portion of the sidewalk and having a queuing lane and moving the sign further back from its current location. Mr. Setiadi will take the suggestions into consideration.]

Chairman Arroyo if a queuing lane is provided what happens to the sidewalk.

John Setiadi it is important to have a continuation of the sidewalk, but if a queuing lane is determined to be a better solution, Mr. Setiadi will discuss this with the owner to move the signage back and have four to five feet of sidewalk. The suggestion will be discussed during the final design stages.

Chairman Arroyo there were no additional comments and/or questions for the applicant, Chairman Arroyo opened the floor for public comments. Please state your name for the record.

Public Comments

Adrian Gogue liked the presentation and that there is a mitigation plan; however, because of the speed limit and the curve of the road, Mr. Gogue suggested that a crossing signal and/or traffic light be installed for pedestrians who may be crossing the road, for customers of commercial establishments and emergency vehicles who traverse this road on a daily basis.

Dr. Thomas Shieh for twenty years Dr. Shieh has been searching for the right property to establish his clinic. The reason for buying this property is because of the close proximity to the hospital, and as you drive down the road you can see the clinic and there are no blind spots. Dr. Shieh will continue to work with the Mayor to ensure the safety of his patients, pedestrians and drivers.

[No additional public comments noted, Chairman Arroyo closed the public comment period]

Chairman Arroyo any other discussion.

Commissioner Oh asked Mayor Rivera if she was aware of a comment and/or concern made by a neighbor concerning a sewage backup issue; but, the neighbor points out that the issue had already been addressed by GWA.

Mayor Rivera responds that there are different issues with backup and some recent which has been all addressed by GWA.

John Setiadi clarified that he spoke with the resident who addressed the backup issue; and what was referenced was the four condominium towers by the hospital which is not directly a concern for this project. Mr. Setiadi further explained that the four towers was being used as an example that if development was not controlled it would be a problem to include sewage. Sewage for this project will be minimal and at this time there is no knowledge of any sewer backup issues in the direct vicinity of the project site.

[Discussion ensues]

Commissioner Oh asked Dr. Shieh if he was planning on relocating the current location of his clinic to this new building.

Dr. Thomas Shieh responds that he will be moving his current clinic to this new, permanent location and plans to continue his clinic on island indefinitely.

[Discussion ensues]

Mayor June Blas (Barrigada) comments to Dr. Shieh that her son had just turned 17 years old yesterday, and it has been 17 years since she has been a patient of Dr. Shieh.

Chairman Arroyo no other discussion and/or comments were noted, Chairman Arroyo was prepared to entertain a motion.

Commissioner Oh Mr. Chair, I move to approve the request for a Conditional Use permit for Application No. 2018-10, Dr. Thomas Shieh and Mrs. Raven Shieh represented by Harry Gutierrez for their Conditional Use permit to allow for the construction of a two-story structure with a medical clinic on the first floor and a multi-purpose room on the second floor, on Lot 2129#1-REM-2, in an "R-2" zone, in the municipality of Tamuning.

Chairman Arroyo there is a motion to approve the request for a conditional use; is there a second.

Commissioner Oh continuing that motion, Commission Oh added that the approval was subject to the applicants adhering to the conditions noted on the official position statements made by the ARC and permitting agency requirements and other conditions as noted on the Chief Planner's Staff Report.

Chairman Arroyo the motion, to clarify, is to approve the request for conditional use subject to the ARC requirements. Is there a second.

Commissioner Bathan I second.

Chairman Arroyo second to the motion was made by Commissioner Bathan (made mention that Commissioner Oh made the motion). Noting no discussion; Chairman Arroyo, on the motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Bathan], all opposed say "nay." **[Motion passed; 4 ayes, 0 nay]**

Chairman Arroyo Dr. Shieh, thank you so much for everything you have done for the island and everything that you will continue to do for the island.... Best of luck.

[Chairman Arroyo recessed the Guam Land Use Commission at 2:20 p.m.]

Chairman Arroyo reconvenes the regular GLUC meeting of May 24, 2018 at 2:55 p.m.

[Continuation of Item IV, New Business --]

Zone Change

B. **Application No. 2017-41**, Albert P. Sanga represented by Harry D. Gutierrez; Zone Change request from "R-1" (Single Family Dwelling) to "C" (Commercial) zone, for the proposed construction of a commercial building, on Lot 1103-3-1A-1, in the Municipality of Mangilao. Case Planner: Penmer Gulac

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

[Attachment B – Staff Report dated May 15, 2018]

Chairman Arroyo questions or comments.

Commissioner Bathan asks if a photocopy of the required billboard sign has been received.

[Photocopy was passed among the Commissioners]

Chairman Arroyo noting no additional questions and/or comments, Chairman Arroyo opened the floor to the applicant's representative.

Harry Gutierrez (representing Mr. Albert Sanga) his client currently runs a catering business and operates out of the Chamorro Village. Mr. Sanga's wife also owns and operates her own business and would like to move their businesses to the proposed commercial building. A new design of the building was provided to the Commission. Mr. Gutierrez explains that there will be a 35-feet setback from the property line of the building and on both sides of the building will be 20-feet as required in an R-1 and R-2 zoning area.

Chairman Arroyo where is the applicant's business presently located.

Harry Gutierrez they are operating the catering business out of their home and at the Chamorro Village.

Chairman Arroyo where is the home located.

Harry Gutierrez Kaiser, Dededo. They have a Public Health permit to prepare food out of their home, but not to sell food. The food is prepared at the residence and taken out to the Chamorro Village.

Chairman Arroyo they purchased this property specifically for this business. [Mr. Gutierrez responds "yes."] What other businesses does the applicant intend to have at this proposed commercial building; a retail store was mentioned.

Harry Gutierrez retail store is being considered. Mr. Gutierrez added that his client is also looking more at an insurance business and also looking at rental car business.

Chairman Arroyo where will the fleet of cars be parked in this property.

Harry Gutierrez they will keep possibly three or five cars at this site and the remaining fleet at another location.

[Discussion ensues on the proposed rental car business.]

Chairman Arroyo questions.

Vice Chairman Cruz the applicant is currently running a catering service and has other plans to operate other businesses at the proposed building. Vice Chairman Cruz, as well as the neighbors, are concerned that the property is not wide enough to accommodate a commercial building, and once it is zoned commercial it is final. Vice Chairman Cruz asked Mr. Gutierrez if his client would be amenable to a limited commercial zone rather than a full commercial. With a limited commercial there will be restrictions placed on the types of business that can be operated at this site.

Harry Gutierrez believed that his client would be amenable to a limited commercial zone.

Vice Chairman Cruz it's a heavily traveled area, but if it will go from food service, to car rental, to retail, sooner or later possibly a laundromat; the property is too small. I will ask the Commissioners if they agree with a change from commercial zone change to limited commercial.

Harry Gutierrez responded that he has spoken with his client about the possibility of a limited commercial and Mr. Sanga has agreed to it.

Commissioner Bathan within the 500, 750 and 1000-feet radius maps there is a commercial zoned lot that is located two lots away from this property. What is the zoning of the two lots between this project site and the commercial zoned lot.

Marvin Aguilar one lot was done by a summary zone change; there is Champion's Sporting Goods that was rezoned about five or more years ago. On the same side of the project site there is a retail store, there is a multi-family apartment structure.

[Discussion ensues]

Michael Borja (Executive Secretary) inquired if there were any provisions along Route 10 for commercial activity to be permitted within 200-feet behind the center-line.

Marvin Aguilar only in Barrigada; Route 8 and Route 10; up towards the UOG intersection there is 200-feet in that area.

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

Please come forward and state your name for the record --

Public Comments

Adrian Gogue comments that he had a few housekeeping questions as follows:

1. Is the application available online because he was searching on the website and could not find it;
2. Is there a requirement to receive a Mangilao MPC resolution, and if so what was their position on this application;
3. Wanted to review comments made by the Application Review Committee members.

Mr. Gogue goes on to comment that the applicant is looking to establish his business on the subject lot. The property is zoned R-1 and asking for a zone change. Vice Chairman Cruz "hit on it" that once you open up Pandora's Box and zone it commercial zone; there is this much in the permitted use and this much more in the conditional use. [SIC] Where is the balance. Mr. Gogue's concern is that it is a single-family dwelling area, a family residential and it will be "turned upside down" and rezoned to commercial, and opposes the zone change request.

Marvin Aguilar clarified the Planning Division's decision to recommend approval of the request was because of the buildup of the infrastructure in the area. The property is R-1 zoned, and there still remains a modular dilapidated home which proves that it was used for single family home. But from a bigger picture perspective, that particular use is not conducive; you raise a family, kids playing in the yard and there is heavy traffic on Route 10.

Adrian Gogue stated that what he goes by Title 21, Chapter 61 and this is the law. If it needs to be changed it needs to go back to the Legislature. The law is very specific in Chapter 61. [SIC]

Marvin Aguilar the law provides for the opportunity to request for a zone change which is the process the applicant is going through right now, and it is a response to the changing times which allows for this request.

Adrian Gogue not knowing the recommendations (pros and cons) of the Application Review Committee; his concern is taking an R-1 zone and converting to a commercial zone.

Chairman Arroyo to address your comment, that is the reason why Vice Chairman Cruz brought up the option of a limited commercial zone. In a limited commercial zone, the Commission can control what is allowed for that property to be used for.

[Seeing no additional public comments, Chairman Arroyo closed the public comment period.]

Chairman Arroyo any other comments from the Commission members.

Commissioner Oh echoed what Vice Chairman Cruz stated. The property is small and if this was to be approved for commercial zone that he foresees parking issues and was also going to suggest that the applicant consider limited commercial. Or perhaps discuss with the applicant the possibility of a conditional use permit for what they are trying to do.

Harry Gutierrez agrees with the limited commercial zone and will work with his client on the specifics on what they would like to use the commercial building for.

Chairman Arroyo the permitted activity on the subject lot would be restricted to just the catering business. Chairman Arroyo suggested that Mr. Gutierrez confers with this client since they have mentioned other types of business at the location. Chairman Arroyo reiterates that the applicant will not be able to do the other types of activities that they want because the Commission will limit the activity to catering only.

Harry Gutierrez he will discuss the Commission's suggestions and will advise at the next available GLUC meeting.

Commissioner Oh had reservation on the car rental activity as well for this building.

Commissioner Bathan the property too small to have the various types of activities that the applicant is requesting for.

Marvin Aguilar the applicant my also want to consider a two-story structure; the current scheme does not actually meet the setback requirements as proposed.

[Discussion ensues]

Chairman Arroyo ordered that this application be continued until such time that the applicant's representative can meet and discuss the limited commercial with the applicant.

[Application No. 2017-41 to be continued.]

Chairman Arroyo next item on the agenda –

Zone Change

C. **Application No. 2017-32**, Ian Corporation represented by Daniel D. Swavely; Zone Change from "A" (Rural) to "R-1" (Single Family Dwelling) zone, for the proposed development of the Tre-Vista Subdivision, on Lot 4-1NEW, Tract 154, in the Municipality of Yigo. Case Planner: Celine Cruz

Celine Cruz summarizes staff report to include purpose, facts, public hearing results, staff analysis/discussion, and recommendation. [For full content/context, please refer to attached staff report]

[Attachment C – Staff report dated May 15, 2018]

Chairman Arroyo no questions noted for staff, Chairman Arroyo opened the floor to the applicant's representative. Please state your name for the record.

Dan Swavely (representing Ian Corporation, the applicant) everything we have to say is either in the application or the supplemental application and the staff report. Mr. Swavely added that the

public hearing was very lively, and energetic and productive. At least four neighbors are here today, and it if pleases the Commission, Mr. Swavely asked that he yield his presentation time to the neighbors to present their comments.

Chairman Arroyo there were no questions noted for Mr. Swavely, Chairman Arroyo opens the floor for public comments. Please state your name for the record.

Public Comments

Eddie Cruz, Jr. states that he is representing a few family members that have adjacent lots to the subject lot. Currently, there is a parental subdivision that borders two lots of the proposed development. The concern is that because the lots are sub-standard in size, density is a concern, and that it would eventually end up being a lower cost housing project which would be problematic for adjacent residents. Mr. Cruz is hopeful that the developer will build a subdivision that would be on the higher end. Paradise Meadows already exists in the area and that the houses there are almost touching each other.

The second issue is the traffic going in and out of the proposed site because of the lack of a turning situation from Marine Corps Drive into the subdivision which could pose a bit of a challenge to get out especially if you are headed south-bound where cars are travelling at speeds of 50 mph or faster and there have been a number of accidents in the area.

Along the roadway coming off of Marine Corps Drive, the residents, along with Mr. Cruz who owns a frontage lot have experienced a lot of garbage that thrown on the side of the roadway and this is something that is not desired in their area.

The other concern is what will this development do for the residents in the area. Mr. Cruz is getting ready to build a house in the area and does not want problems with people breaking into their homes or vandalism.

The other issue is that there is no active sewer in the area, and the question addressed to Mr. Swavely was that, will the project hookup to a sewer line and where would that sewer line come in and would it be sufficient in size for adjacent residents' to tie into the sewer system. Power is available as well as GTA infrastructure. Houses in this area are either half acre lots or larger and have septic systems. What was asked of Mr. Swavely was if the developer would be amenable to improve the roadway going into the area with better lighting. Mr. Cruz would like to ensure that their community is safe. There are some agricultural lots being used in the same area; there was an issue with water runoff but, based on the plans that Mr. Swavely explained to the residents he was okay with the mitigation plan on runoff. Another recommendation was a concrete wall as a barrier; conduct a one-time UXO sweep of the area for explosives; and for the developer to be a good neighbor. In conclusion, Mr. Cruz had no objections to the zone change request.

Chairman Arroyo any other public comment. Please state your name for the record.

Dorothy Lukela comments that she supports the zone change and development of the Tre Vista Subdivision. Mrs. Lukela asked at the public hearing that sufficient lighting at a road that was dedicated to her late son be provided. She further adds that where Chalan Paharu is located all

the way to where her son's road is, is being maintained by herself and her husband. A stretch of road always strewn with trash. In closing, Mrs. Lukela asked that Ian Corporation help with the road, provide lighting and a concrete barrier. In closing, Mrs. Lukela supports the project.

Chairman Arroyo no additional public comments noted, Chairman Arroyo closed the public comment period. Asked that Mr. Swavely return to the table.

Dan Swavely public hearings are about give and take, it is not easy, but it's not so hard. Mr. Swavely thanks Celine (Cruz) for moderating the two-hour public hearing.

- With respect to comments made by Mr. Cruz and Mrs. Lukela mentioned, Mr. Swavely has a signed statement from the developer Ian Chong, dated April 12th stating that they will hire a firm to conduct a UXO sweep of the whole area so that there is no interruption of the construction and constant evacuation of the residents in the area;
- A street light will be installed at the intersection of Sablan and Paharu Streets;
- New street sign will be provided for Sgt. Joshua Lukela Street;
- Landscaping and nature of the development – this is the perfect development. The applicant will develop a subdivision and will also build the houses, 29 – 3 bedroom and 7 – 4-bedroom houses at a price range of $300K to $350K; this is not low incoming housing;
- This commitment from Mr. Chong will be a condition of approval.

Chairman Arroyo any questions or comments.

Commissioner Oh has read the letter dated April 12th, and it is a substantial amount of commitment on the developer's side and commended the owner/applicant for the items listed. This is a zone change and the Commission is unable to place conditions on a zone change. Asked of staff, following the zone change, will the applicant need to come back for a Tentative Subdivision Plan.

Marvin Aguilar yes, that is their intent; a tentative subdivision plan.

Dan Swavely a tentative subdivision plan has already been submitted and looks exactly like this application. It has gone through the ARC; there are no infrastructure issues and the developer is waiting to be told where to connect, and they will hookup where they are asked to connect and hopefully that will provide capacity to the neighbors along the line; and, the road will be improved from Chalan Paharu from Marine Corps Drive to the subdivision.

Vice Chairman Cruz commended the developer for the commitment to the community.

Chairman Arroyo thanks and commends Mr. Swavely for working with the community and for always doing a good job with the projects he is involved with. Chairman Arroyo adds that this is Mr. Swavely's "signature" practice for the projects that he works on and adds that people in the same business as Mr. Swavely should mimic his practices in working with neighbors and the community.

No additional comments and/or questions, on the application, Chairman Arroyo was ready to entertain a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve Application No. 2017-32, a request for a Zone Change from "A" to "R-1" for the proposed development of Tre Vista Subdivision, on Lot 4-1RNEW, Tract 154, in the municipality of Yigo. The approval is subject to that the applicant adheres to the ARC conditions as stated in the official position statements.

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

Commissioner Oh I second.

Chairman Arroyo seconded by Commissioner Oh. Any discussion on the motion? No discussion noted, Chairman Arroyo puts the motion to a vote; all in favor of the motion say "aye" [Vice Chairman Cruz, Commissioner Bathan, Commissioner Oh], all opposed say "nay." **Motion passed; 3 ayes, 0 nay.**

[Chairman Arroyo called for 10-minute recess at 3:50 p.m., and reconvened the meeting at 4:00 p.m.]

Next item on the agenda --

Zone Change

D. **Application No. 2017-49**, Pok Nam Yi and Sharon Taitano represented by Kyle Borja; Zone Change request from "R-2" (Multi Family Dwelling) to "LC" (Limited Commercial) zone, for the continued operation of an existing retail store, on Lot 1139R16-NEW-4NEW-1, in the Municipality of Mongmong-Toto-Maite. Case Planner: Penmer Gulac

Marvin Aguilar reads the staff report to include the purpose, facts, public hearing results, staff analysis/discussion, recommendation. [For full content/context, refer to attached report. It was also noted that there was no MPC Resolution received, but noted at the public hearing that the Mayor of MTM supported the applicants' request.]

[Attachment D – Staff Report dated May 14, 2018]

Chairman Arroyo there were no questions noted for staff, Chairman Arroyo invited Mr. Borja to present the application to the Commission.

Kyle Borja (representing the applicants) reiterated points noted by Mr. Aguilar.

- JS Store has been in business for almost 10-years under Notice of Action, Doc #775475, dated June 12, 2008 and it grants a Zone Variance for Use for a retail store and other small activities with conditions. And since its approval, JS Store has adhered to all conditions set forth in the NOA, and the retail store has been the sole business activity on the applicants' property, and have no further plans for expansion or development of their store and wishes to continue the existing activity;
- Over the years of operation JS Store has become a valuable asset to the growing community, as noted at the municipal public hearing;

- The applicants are also requesting for an amendment to Condition D noted on the NOA regarding the issuance of liquor licenses. The liquor license for sale of alcoholic beverages is issued to the applicant only. For future planning purposes, the applicants are concerned that if the store ever changes hands, the new operator of the store may run into obstacles in obtaining and using a liquor license on the property. Mr. Borja asked if the language could be changed where the license is issued to the establishment rather than to the applicant only.

Chairman Arroyo what is the reason why the previous Commission limited the liquor license only to the applicant.

Marvin Aguilar was unaware as to the reason of this condition, and would have to review the Minutes approving the application.

Vice Chairman Cruz for the liquor license that is out of the hands of the Commission and should be referred to ABC.

Marvin Aguilar responded that he was honoring the previously approved variance.

Kyle Borja according to the Notice of Action it states to the "applicant only." Before the application was initiated a letter was sent to Land Management inquiring about the issuance of the license; and, it was emphasized by Planning that it would be the applicant portion only. The applicant in this case is Pok Nam Yi who is the mother of Sharon Taitano, and according to the NOA it is only applicable to Pok Nam Yi. If Ms. Taitano is to ever to take over the store, she will be run into the issue being restricted by the NOA. We are asking that it follows the establishment rather than the applicant.

Chairman Arroyo questioned why the restriction was placed on the Notice of Action, and was not aware if there would be any mention in the Minutes of that meeting that might indicate if there was a specific reason for the restriction.

Marvin Aguilar it may be alluding to the fact that the previous Commission wanted to place restrictions on the applicant. Once approved as an LC-zone, the zoning designation will run with the land, and almost moot to apply the restriction.

[Discussion ensues]

Commissioner Oh was the billboard present at the subject site (Mr. Aguilar responds, "yes."]. Commissioner Oh asked if a resolution was provided by the MTM MPC.

Marvin Aguilar none was received. However, the Mayor of MTM was present at the public hearing and voiced his support for the project.

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

Please come forward and state your name for the record.

Public Comments

Rick Harris is a neighbor of the existing retail store and is the current President of the Homeowners Association of Harvest Residence. Mr. Harris states that he was present at the public hearing, and comments that the entire HOA and residents of Harvest Residence are in favor of the change in zoning. Mr. Harris adds that JS Store services the community that is located right around the corner and is convenient for the residents in the area. This store is helpful to the neighbors. There is no loitering allowed at the store; the owners keep a well-kept store and keeps the whole neighborhood clean. The neighbors are in support and they are good people. Mr. Harris encourages the Board to grant the applicants' request for change in zone.

Chairman Arroyo no additional comments noted, Chairman Arroyo closed the public comment period.

Mr. Borja was asked if there was anything he would like to add or if there were any additional comments from the Commission.

Kyle Borja reiterated the importance of the liquor license issuance. Through the limited commercial zone, the applicants would like to be the "out of the ordinary" property with the stipulated conditions of approval.

Chairman Arroyo any other comments and/or questions.

Commissioner Bathan on the condition of the liquor license be issued to the applicant, is it something the Commission can consider to remove the condition that the liquor license be issued to the applicant only.

Marvin Aguilar it is a recommendation made to the Commission.

Chairman Arroyo motion for this application.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for a Zone Change from "R-2" to "Limited Commercial" for the continued operation of an existing store on Lot 1139-R16-NEW-4NEW-1, in the municipality of Mongmong-Toto-Maite; subject to the following conditions:

1. The applicants/operators of the retail store shall adhere to all Commission and ARC recommendations, conditions and requirements;
2. Limited commercial activities as approved by the Commission shall be restricted to ongoing activities and shall be prohibited from engaging in commercial activities that may contribute to the detriment of the surrounding community;
3. That only one (1) liquor license will be allowed for the establishment; and,
4. That there is no laundry activity is allowed.

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

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by the Vice Chairman. No discussion noted; all in favor of the motion say "aye" [Commissioner Bathan, Vice Chairman Cruz, Commissioner Oh], all opposed say "nay." **Motion passed; 3 ayes, 0 nay**

Zone Change

E. **Application No. 2018-11**, Behnam Ghazfghazi represented by Harry Gutierrez; Zone Change request from "A" (Rural) to "M-1" (Light Industrial) zone, for the proposed construction of a warehouse, on Lot 5, Block 1, Tract 221, in the Municipality of Barrigada. Case Planner: Penmer Gulac

Penmer Gulac reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion, and recommendation. Mr. Gulac notes that the Mayor of Barrigada is supporting the request for change in zone, and the MPC will be forwarding a letter of support for the request. [For full content/context, please see attached report]

[Attachment E – Staff Report dated May 15, 2018]

Chairman Arroyo notes for the record that the Commission has received a letter dated April 24, 2018 signed by Mayor June Blas and Vice Mayor Jesse Bautista. In the letter they indicate that they are currently reviewing the application, and will be submitting their position via Resolution. Has one been received.

Penmer Gulac received a call from the Mayor, and fully supports the zone change and the resolution is forthcoming.

Chairman Arroyo any questions.

Commissioner Bathan what is the zoning to Lots 4 and 6 which are located next to the subject site.

Penmer Gulac Lot 4 is zoned agricultural zone (owned by Southern Pacific) and Lot 6 belongs to Evergreen Development and will be submitting a rezoning application. Lot 7 belongs to the Dr. Kallingal and is zoned R-1.

[Discussion ensues on zoning of surrounding parcels. There are surrounding lots that are shifting towards M-1 zoning, and Planning Division encourages M-1 zone because of the AICUZ zone in the area.]

Chairman Arroyo no additional comments and/or questions noted for staff, Chairman Arroyo opened the floor to the applicant's representative.

Harry Gutierrez (representing the applicant) Mr. Gutierrez states that his applicant purchased this lot for storing his construction equipment and for a warehouse. Mr. Ghazfhazi currently has several military projects that he is involved with and needs an area to park his equipment. Mr. Gutierrez added that he has rezoned several lots in the same area to M-1 zoning.

Vice Chairman Cruz which access will be used for this property.

Harry Gutierrez more than likely his client will be using egress/ingress at Alageta Road. His applicant has been advised that he will need to give up 20-feet at the rear of the property as Mayor Blas is attempting to improve the road and all property owners in the same area have been asked to surrender about 20-feet.

Marvin Aguilar some of the un-subdivided lots from the "mother subdivision" still remains as a dotted easement.

[Discussion ensues]

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

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

Chairman Arroyo no additional discussion for the application, Chairman Arroyo was ready to entertain a motion for this application.

Commissioner Oh Mr. Chair, I move to approve Application No. 2018-11 for Behnam Ghazfghazi represented by Harry Gutierrez, for a zone change from "A" to "M-1" zone for the proposed construction of a warehouse on Lot 6, Block 1, Tract 221 in the municipality of Barrigada.

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

Commissioner Bathan I second.

Chairman Arroyo seconded by Commissioner Bathan. No discussion noted. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan and Oh], all opposed say "nay." **Motion passed; 4 ayes, 0 nay.**

Tentative Subdivision Plan

F. **Application No. 2018-06**, WSS Pacific Development Corporation represented by Jae Ji; Tentative Subdivision Plan request for the final phase of construction of twenty single-family house lots (Santos Ocean Housing), on Lot 29NEW, Block 1 (Phase IIA) and Block 2 (Phase IIB), Tract 10310, in an "R-1" zone, in the Municipality of Dededo.
Case Planner: Frank Taitano

Marvin Aguilar summarizes the staff report to include purpose, facts, staff analysis/discussion, recommendation and conditions. Mr. Aguilar reports that since the crafting of the report, the subject lot has been purchased by WSS Pacific. [Please see attached for full content/context of report]

[Attachment F – Staff Report dated May 15, 2018]

Chairman Arroyo opened the floor to the applicant's representative.

Jae Ji (representing WSS Pacific Development) comments that his client recently purchased the property from Mr. Wilson. Mr. Wilson had indicated that he would have finished the development but he is now older and no longer has the energy to do so. The same plan that was approved back in 1997 will be used, finish the two cul-de-sacs not completed, put the utility infrastructure in, and develop the houses. All utilities are available at the front, ponding basin is available. Planning Division requested that the existing recreational park that is about 20 years old be improved, and the owners have agreed to do this.

Chairman Arroyo has the property been maintained through the years.

Jae Ji Mr. Wilson has kept the area well-manicured.

Chairman Arroyo is infrastructure within the property boundary lines.

Jae Ji it was stubbed out and stopped after the second lot in. The 120-foot and 140-foot cul-de-sacs have not been paved; the utilities into the cul-de-sacs have to be completed. The roads are all paved with the exception of the two cul-de-sacs.

[Discussion ensues]

Chairman Arroyo what are the lot sizes and sizes of the houses.

Jae Ji 500 to 600 square meters. The largest home will be about 1600 square feet, two-car garage.

Vice Chairman Cruz what additional work needs to be completed.

Jae Ji reiterated that they will finish the two cul-de-sacs by paving that, put the infrastructure in, connect the water line, sewer line and connect to the existing and build the houses. The design of the houses will be similar to what DPW had approved 20-years, but with new code requirements.

Chairman Arroyo there are two phases. Is Phase I completed?

Jae Ji Phase I is completed and all houses have been constructed. When Phase I was finished, and completed all the easement requirements, right-of-way and the roads; but, did not continue to Phase II.

[Discussion ensues]

Chairman Arroyo is there a homeowner's association for Phase I.

Jae Ji no, about seventeen homes are owned by the Wilsons which are rented out, and it is not a gated community.

Commissioner Bathan who will maintain the park.

Jae Ji technically it should be Department of Parks and Rec; however, Mr. Wilson keeps the area maintained. The new owners will replace the current playground equipment and upgrade the pavilion and barbeque area.

Vice Chairman Cruz what is the total number of houses for both phases.

Jae Ji there will be a total of 42 houses.

Vice Chairman Cruz are bus shelters available.

Jae Ji there is one located on the opposite side of Wusstig Road.

Vice Chairman Cruz requested that a bus shelter be provided for the new homes.

Jae Ji if it is placed as a condition the developers will adhere to the condition.

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

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

Chairman Arroyo no additional comments and/or questions noted, Chairman Arroyo was ready to entertain a motion.

Commissioner Bathan Mr. Chair, I move to approve the request for Tentative Subdivision Plan for the final phase of construction of 20-single family house lots for Santos Ocean Housing, on Lot 29NEW, Block I (Phase IIA) and Block II (Phase IIB), Tract 10310, in an "R-I" zone, in the municipality of Dededo, subject to the ARC conditions and requirements as stipulated in the official position statements and that the applicant provides a bus shelter per DPW requirements.

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

Commissioner Oh seconds the motion.

Chairman Arroyo no discussion noted; on the motion, all in favor say "aye" [Vice Chairman Cruz, Commissioners Bathan and Oh], all opposed say "nay." **[Motion passed]**

V. Administrative & Miscellaneous Matters

GLUC Resolution

G. **Daniel D. Swavely**, GLUC Resolution to add engine oil recycling as a permitted "M-1" zone use. Case Planner: Marvin Aguilar

Marvin Aguilar reads Commission Brief [refer to attached brief for full content/context]

[Attachment G – Commission Brief dated May 18, 2018]

Chairman Arroyo once the Commission approves the Resolution, the addition of what is being proposed will be included within the permitted uses of an "M-1" zone. This does not requirement approval of the Legislature and/or the Governor. Is the Commission within its ability to make this resolution.

Marvin Aguilar it does not require legislative and/or Governor approval; and, is within the authority of the Commission to approve. The resolution is in draft form and the Commission can make changes as needed.

Chairman Arroyo opened the floor to Mr. Swavely.

Dan Swavely there are two perspectives. One, the GLUC has a continuing step by step process to update and modernize the Zoning Law where it can within its discretion, and for M-1 zone the Commission can make changes. Two, it is a smart growth response to a pending problem that Guam will have with respect to how to dispose of engine waste oil.

Technology for engine waste oil recycling has advanced. In the letter of February 12, 2018, it describes how several places processes engine oil; and, photographs of processing plants were included. In the resolution that Mr. Aguilar alluded to gets into the detail on what this permitted use will be about. This is what conforms to an M-1 and that is why the details are there. If this permitted use is approved, this will be the only thing that engine oil recycling can do in that permitted use. This is another step in smart growth response, where you find the discretion to do so in an "M-1" zone, and this is the nature of this request before the Commission today.

Vice Chairman Cruz first question is will this facility only be accepting waste oil, and the second is, are companies that deal with engine oil be bringing the waste oil to this facility.

Dan Swavely the business model has not been fully developed because the problem has not fully evolved. We have not gotten into any details. This resolution is written for engine oil, lubricants and sludge.

Chairman Arroyo inquires if there are any companies on island that provide this service.

Dan Swavely automotive repair shops, contractors, heavy equipment repair shops or even people who do their own oil change.

Vice Chairman Cruz there is a difference between the basic waste oil and so called contaminated diesel fuel oil.

[Discussion ensues]

Dan Swavely added that he received public feedback because he had circulated the resolution to some members of the industry. One suggestion was that these requirements qualify as a permitted M-1 use is that the equipment has to be inside a structure.

Chairman Arroyo commented that he knows nothing about this type of industry and what is being introduced.

Commissioner Bathan there are a lot of M-1 zoned parcels that are in the vicinities of residential areas.

Dan Swavely this is driven by EPA.

Commissioner Oh what is the waste product out of this process.

Dan Swavely saleable engine oil.

[Discussion ensues on process of recycling engine oil]

Chairman Arroyo this is technology driven. If the Commission makes this a resolution and this becomes what will be adhered to from this day forward, what if the technology changes.

Dan Swavely we will return for an amended resolution. The law allows the GLUC authority to approve, by resolution, changes in permitted uses.

Commissioner Oh comments that he is trying to understand the whole premise of the request. Commissioner Oh believes that he understands what the intentions are for this use. If the client proceeds with this business model, would it not be more logical or would it not be more conformed to certain standards if they apply under an M-2 zone because under the M-2 zone it allows for this type of activity.

Vice Chairman Cruz M-2 zone includes manufacturing such as asphalt plants.

Dan Swavely and that is the issue and then you get into what is all permitted in an M-2 zone.

Commissioner Bathan under what zone in the U.S. Mainland does this type of activity fall under.

Dan Swavely responded that he was unsure.

Commissioner Oh this type of industry is good and supports it; but, if a resolution is crafted for this special type of industry is a concern. An established method for this type of activity is in place under an M-2 zone and having an additional line item under an M-1 zone may be repetitive.

Marvin Aguilar recognizes this technology today and the driving force. The old GRESCO way is not necessarily way to do this activity.

[Discussion ensues]

Commissioner Oh proposed that additional research is conducted and more information is obtained on how this type of activity operates in other parts of the world.

[Discussion ensues]

Dan Swavely points out that with other permitted uses in an M-1 zone it very specific to the industry; bottling and packaging plants, ceramic products, etc. This is a specific industry that is permitted in this zone.

Vice Chairman Cruz this type of industry is needed on the island. There are no other facilities available for this type of service. Vice Chairman Cruz is in support of the request and asked that Mr. Swavely work with Planning Staff and Guam EPA to obtain more information.

Marvin Aguilar asked that he be allowed to work further with Mr. Swavely and Guam EPA on the language for the preparation of the Resolution.

[Discussion ensues]

Chairman Arroyo it was the order of Chairman Arroyo that Chief Planner Aguilar work with Mr. Swavely and Guam EPA to work on a more comprehensive resolution for the Commission to review.

[Chairman Arroyo calls for a five minutes recess at 5:35 p.m., reconvenes at 5:40 p.m.]

Chairman Arroyo the Commission is back in session. The next item on the agenda –

Order to Show Cause

H. **Application No. 2015-29**, Guam Wanfang Construction Ltd.; Order to Show Cause as to reason(s) and/or failure to submit its required six-month status report in a timely manner for the Pago Bay Resort project, on Lot 164-4NEW-1, in the Municipality of Yona.
Case Planner: Marvin Aguilar/Celine Cruz

Marvin Aguilar reads Commission Brief to include purpose, facts, discussion/analysis. [For full content/context please see attached report]

[Attachment H – Commission Brief dated May 15, 2018]

Chairman Arroyo questions for staff. Noting none, Chairman Arroyo welcomed the consultant to the table to conduct their presentation, and asked that they state their names for the record.

[For Guam Wanfang Construction is Attorney Randy Cunliffe and Mr. Mike Sun]

Chairman Arroyo the Commission has asked you to appear before the Board mainly because there is a reoccurring issue with this company and this project. And the Commission cannot seem to get the company to submit the required documents on time. It seems that almost everytime documents are needed it's as if the Commission almost has to compel you to come in to provide

the Board with that information. This is a project that is under tremendous amount of scrutiny, and it just baffles the Commission as to why the company is not taking this matter more seriously. Chairman Arroyo adds that the Board would like to hear from Guam Wanfang as to why this continues to happen and why the Commission needs to continue with the approval of this project.

Randy Cunliffe explained that he was engaged about two months ago because of the problems that existed between Guam Wanfang and AES and also with the company's local representative Mr. James Fong. He was not aware that AES had resigned until they were told by the Guam Land Use Commission. Perhaps Mr. James Fong had received notice but never sent it to anyone else. The problem that exists is that Mr. Fong and AES dealt with themselves and nobody else was involved and/or knowledgeable; in the meantime, Mr. Sun has been appointed as the new representative. When Mr. Cunliffe was engaged with this project he had no involvement with the Guam Land Use Commission. His involvement was in the dispute and the problems between AES and Guam Wanfang.

Mr. Cunliffe contacted John Visosky who is involved in the litigation between the Guam Land Use Commission and Guam Wanfang as a real party of interest; and advised that he was not interested in taking over the lawsuit. Mr. Cunliffe sent a letter to Mr. Fong requesting to turnover all of the documents that belong to Guam Wanfang, but has not received anything. The only document that Mr. Cunliffe has if the contract between the two parties.

In addition, they went to the Department of Public Works to see what the condition of the permitting process was and was advised that the documents that DPW had were not complete and no permits can be issued. W.B. Flores and Associates has agreed to be engaged to assist Mr. Visosky with regards to the litigation and Mr. Flores has agreed to come in assist us in finding out where the progress is at this point and why the company is so far behind with this situation.

They were not aware that the company was always late with the submittal of the reports. Unfortunately, when off island companies do business on Guam and have local representation sometimes they will get good representation and sometimes they don't. And it appears that Guam Wanfang did not have good representation in this regard and they were not aware of the problems that existed. On May 8th or 9th, Mr. Cunliffe's office was contacted so that papers from the Guam Land Use Commission could be served; however, it was the notice of the rescheduling of the Order to Show Cause. And this was the first time Mr. Cunliffe was aware of the OTSC. The original OTSC was received only on Tuesday of this week when he met with Mr. Aguilar. Mr. Cunliffe has no documentation and is trying to rebuild the file. They will work with Mr. Flores and get all documentation as expeditiously as possible.

Mr. James Fong is a three-percent owner of the project and one would think that he had a bigger interest in the process. Mr. Sun has been trying to contact Mr. Fong to no avail and it is their belief that he is not on island. And at this point, they are unaware of what has been submitted. Mr. Cunliffe states that he is not a person that shirks his responsibilities and he is not before the Commission today to embarrass his reputation nor his clients. If the Commission is willing to give them a deadline, they will meet that deadline on the next reporting to the Commission.

If a project is in litigation, it does not make any sense to spend a lot of money and pushing forward because if the Court revokes the Action then there is no variance, there is no project. Mr. Visosky

has said that the Court is waiting to hear what the Commission's action will be before proceeding with the litigation. This is a highly emotionally project and a situation that will be in the news tomorrow and the news and it will be discussed.

In closing, Mr. Cunliffe states that they are new to this project and apologizes for the failures of the past, and would like to see this project proceed.

Chairman Arroyo Mr. Sun, are you the principle owner of this project.

Randy Cunliffe Mr. Sun is an employee of Guam Wanfang.

Chairman Arroyo does anyone from the Hong Kong office come to Guam periodically to check on the progress of this project.

Randy Cunliffe Mr. Sun will now be doing so, and prior to that it was Mr. James Fong who is a three-percent owner of the project and was overseeing the project here.

Chairman Arroyo how often was he supposed to report the main office.

Mike Sun Mr. Fong was supposed to be reporting to the mother company who owns 94-percent of Guam Wanfang.

Chairman Arroyo did the mother company expect periodic reports from Mr. Fong at least once a month, quarter or is there no forum on how he communicates with the main office.

Mike Sun Mr. Fong did not communicate with Mr. Sun directly; but, reported at times to the Board of Directors on what is happening on Guam with the project. We don't have all the materials and/or all the information, just partial information.

Chairman Arroyo will you be stationed here or flying back and forth more frequently.

Mike Sun at this time only flying back and forth frequently because he is not employed by Guam Wanfang and is employed by the mother company in China. And due to visa requirements cannot remain on the island.

Commissioner Oh there is so many issues. Commissioner Oh states that he does not know who Guam Wanfang is because the faces are constantly changing. Currently, it is his understanding that Mr. John Sherman (AES) is no longer representing the project and Mr. Fong Wu is also not representing the project.

Randy Cunliffe Mr. Fong Wu did not represent the project. Mr. Fong was the former owner of the parcel and sold the land to Guam Wanfang.

Commissioner Bathan Barbara Burkhardt was with AES.

Marvin Aguilar Ms. Burkhardt was hired by and part of AES and represented in AES's capacity.

Commissioner Oh was the mother company aware of what was going on because this was a constant problem. Are they aware of the current situation. An NOA was issued and that NOA had expired and Guam Wanfang came before the Commission to request for a one-year extension. It was very controversial because the project itself was controversial from the beginning. Even though the NOA had expired, the GLUC made an effort to extend the NOA and there were conditions when the extension was approved. One of the conditions was the six-month status report. There has been two, six-month reports that have not been submitted.

Randy Cunliffe they were not aware that reports had not been submitted until they were informed at the meeting with Mr. Aguilar on Tuesday.

Commissioner Oh considering how controversial this project was, the owner should have been on top of the project considering the gravity of the situation, and should have been aware with all of the issues that Guam Wanfang was dealing with. There is a lot of doubt in the minds of the Commission as to whether this company can pull forward and complete a project of this size. It baffles the Commission that the mother company was not aware of what was going on.

Randy Cunliffe the problem that the main company had was because Mr. James Fong being a part owner, they were under the assumption that they were being provided with all the necessary information. The last communication from AES was back in January.

Vice Chairman Cruz is the mother company aware of the court case.

Randy Cunliffe yes, they are. It does not make any sense to spend a large amount of money should the Court decide to revoke the variance.

Chairman Arroyo the NOA is in place, and the Commission cannot stop everything because of the litigation; the Commission has to proceed forward. It is up to the mother company at this point in time to determine whether or not they want to continue to honor the terms and conditions of the NOA or wait until the court case is resolved. If the decision is to wait, then they should walk away from this deal.

Randy Cunliffe they were unaware that they were in violation. A hearing date was set for the court case, but because this Order to Show Cause was issued and the Court kicked it over.

Chairman Arroyo the Commission will not delay on conditions placed in the NOA. This will be some soul-searching for the company on whether or not they want to continue to spend money, do the development, make all the improvements that should be being made at right now, and risk the chance that that investment is all for not if the Court decides against the company. Or, this is not worth to continue with the project at this point in time and wait for the litigation to be resolved and resolved in favor of Guam Wanfang, come back to the Commission and submit a new application. The Commission cannot stop and needs to continue to move forward. Now that you are aware of the situation, the ownness is on you because the Commission will demand that you continue working.

Randy Cunliffe pointed out that they were unaware that Public Works had not issued the permit because what was submitted by the previous group were not sufficient to get a clearing/grading permit.

Vice Chairman Cruz work was being done at the project site and a permit is needed to do that type of test.

Chairman Arroyo so the project is further behind than what the Commission actually thought. In a couple months they will be due for another six-month report and getting pretty close to the expiration of the extension of the NOA.

Commissioner Oh what is the Commission's option in terms of course of action.

Marvin Aguilar the Commission has a wide authority to consider options. The Commission may want to consider abeyance of the approval; there are processes involved.

Randy Cunliffe the Court, as mentioned earlier, was waiting for the Commission and the Commission was waiting for the Court. If you put the application approval is put in abeyance, the Court will say that it is moot.

Chairman Arroyo the better plan for the Commission is that we don't do anything. We will continue to require you to honor the terms and conditions of the NOA it then becomes your problem to decide whether you want to expend the money and move forward or back away from the project.

Randy Cunliffe that is what I would ask you to do because then the Court will have to act quickly and they will know what the Court has to say. If the Court says what was done was inappropriate then it kills the project and project will have to start over or if it is okay what was done and they are moving forward then the "train is already going down the track."

Chairman Arroyo here are the deadlines; one, the company is already past due on the six-month report and in a couple of months another six-month report will be due. By September, the company will have to have obtained its permit and some work should have been done. If the mother company is thinking that they don't want to spend anymore money until a decision is made, the GLUC will say that they need to spend the money because if you come back in September and ask for another extension, there may be the possibility that the Commission will not grant another extension.

Randy Cunliffe agreed with Chairman Arroyo's comments because it then puts everyone in a position to either get on board or get off.

Vice Chairman Cruz another item that is brought up every time is the re-burial of the human remains.

Randy Cunliffe nobody has anything, nobody knows anything. Up until two days ago, the only document Mr. Cunliffe had was the contract.

Commissioner Oh what is the course of action with the local representatives; AES and/or Mr. James Fong.

Randy Cunliffe correspondence has been sent to Mr. Fong but has not responded to Mr. Cunliffe's request to turn over all the documents. Phone calls made by Mr. Sun to Mr. Fong have gone unanswered. We learned of AES's resignation from the Commission.

Chairman Arroyo at this point in time you do not know where you are at and there is nothing to report to the Commission on the state or the progress of the project.

Randy Cunliffe just the fact that DPW advised us that the documents that have been submitted by AES is not sufficient to obtain a permit…..

Chairman Arroyo what is the state of the project at this time.

Vice Chairman Cruz passes by the project site and nothing is currently being done.

Chairman Arroyo it bothered Chairman Arroyo that a project of this size had no formal communication, schedule whatsoever, for the head office to be appraised of what is going on here on Guam. You come before the Commission and completely surprised of what happened; this has been going on for almost three years.

Chairman Arroyo is willing, given the situation they are in, he is willing to give another 30-days to the applicant to provide a status on where the project is at this time. And as Vice Chairman Cruz brought up earlier, the status of the re-burial of the human remains which should have been done some time ago. In discussing this the last time, the Commission was promised that there was a monument that was to be built as well as with proceeding with the ceremony. In addition, Chairman Arroyo asked that they provide a status on where the project is with respect to the movement of this project.

Chairman Arroyo added that he is not willing to listen to another request for an extension for this project which means the company has about five months to get the work done and is that actually realistic. Chairman Arroyo added that his term will expire as well as Vice Chairman Cruz and that the company will have to work with the remaining members of the Commission and possibly new members. He is not willing to entertain an extension; the last time the first extension was requested, Chairman Arroyo voted against the request.

Vice Chairman Cruz the problem is the constant change of representatives. Will you be the representative for this application.

Randy Cunliffe Mike Sun will be the guy to push things through for this project and has been here several times already.

Commissioner Oh did not have much confidence in the developer. Commission members was under a lot of pressure when it came to this project. There was a lot of public outcry. And the progress of the project there is a loss of confidence. Nine months later here we are at this situation. People are thinking that the Commission is giving Wanfang preference, but the

Commission is trying to be as fair as possible. By allowing them more time is the Commission giving them some type of preference and that is something Commissioner Oh would like to think about. He also feels strongly whether or not the NOA can be revoked is that even an option for the Commission. Is it true that the NOA does not even have to expire to be revoked.

Marvin Aguilar that is true, but it has to be founded. There are findings of fact that needs to be filed with the NOA, and was unsure if a vote of no confidence could be used to revoke the NOA.

Commissioner Bathan with the non-submittal of the six-month status report would it be grounds for revoking the NOA.

Marvin Aguilar any conditions not adhered to is grounds for revocation.

Vice Chairman Cruz has the ownership in China ever changed.

Mike Sun same company, same boss.

Chairman Arroyo Plan A is to give them 30-days and Plan B would be?

[Discussion ensues on the Commission's action, and the need for guidance from Legal Counsel on the Commission's authority to revoke the Notice of Action. Chief Planner Aguilar was tasked to meet with Legal Counsel on what the Commission's options are with regards to the Notice of Action.]

Chairman Arroyo it was the order of the Chairman that the Order to Show Cause to be continued for another 30-days. The applicant will tentatively be scheduled to return to the Commission on June 28, 2018 and provide the following:

- Prepare an updated status report and timeline on what work can be done within the five months prior to the expiration date of the first extension. In addition, the applicant is to work with Chief Planner on the status report.

[Application 2015-29 is continued]

Chairman Arroyo one last item on the agenda before adjourning is the election of the Vice Chairman.

Commissioner Bathan nominates Commissioner Tae Oh for the Vice Chairman position.

Vice Chairman Cruz seconds the nominations and closes the nomination.

Chairman Arroyo do you accept the nomination.

Commissioner Oh accepts the nomination.

Chairman Arroyo no additional nominations; Chairman Arroyo put the motion to a vote; with all in favor.

[Commissioner Oh is incoming Vice Chairman of the Guam Land Use Commission as of May 24, 2018.]

VI. Adjournment

Commissioner Bathan motion to adjourn.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo motion made by Commissioner Bathan, seconded by Vice Chairman Cruz; with all in favor.

The regular meeting of the Guam Land Use Commission Meeting for Thursday, May 24, 2018 was adjourned at 6:35 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Land Use Commission

Date approved:

7/26/18

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

ATTACHMENT A

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

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May 14, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-10
Conditional Use Permit Request
Lot 2129#1-REM-2, in the Municipality of Tamuning

1. PURPOSE:

A. Application Summary: The Applicants, Dr. Thomas and Mrs. Raven Shieh are requesting for a Conditional Use Permit to allow for the construction of a 2-story medical complex with a doctor's clinic on the first floor and a multi-purpose room and offices on the second floor, on Lot 2129#1-REM-2, Municipality of Tamuning, in an "R-2" (Multi-Family Dwelling) zone.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 61, Sections 61313 & 61306(b), Conditional Use), in an "R-2" (Multi-Dwelling Zone).

2. FACTS:

A. Location: The subject site is located along an 80-foot right of way known as Gov. Carlos G. Camacho Road (formerly Camp Watkins Road), or Route no. 30, as the main access to and from the site and across Shirley's restaurant and approximately 300 feet east of Onward Beach Resort Hotel in Tamuning.

B. Lot Area: 2,062 square meters or 22,193 square feet.

C. Present Zoning: "R-2" (Multi Family Dwelling) zone.

D. Field Description: The lot is presently vacant with perimeter fencing within its borders. Other land uses and activities are a dental clinic (abutting lot), hotels, residential condominiums, apartments, single-family dwellings, restaurants, and commercial activities within 200 – 1,500 feet radius of the property.

E. Masterplan: Residential; medium to high density.

E. **Community Design Plan:** Residential; medium to high density, with mixed uses of residential, commercial and public health facilities.

F. **Previous Commission Action:** None.

3. **APPLICATION CHRONOLOGICAL FACTS:**

A. **Date Heard By ARC: January 8, 2018**

B. **Public Hearing Results:** A public hearing was held on March 27, 2018 at the Tamuning Senior Center. **(See Attachment 2 for minutes of the hearing)**

4. **DISCUSSION and STAFF ANALYSIS:** Any request for conditional use must address the criteria of **Public Necessity, Public Convenience and General Welfare**.

As presented in the application, the applicants' request was reviewed by Land Planning and the Application Review Committee agencies. The proposed use is permitted in the existing "R-2" (Multi-Family Dwelling) zone under conditional uses for "health clinics." There are no required variances in order to construct and operate a medical/health clinic facility under a Commission approved conditional use permit; further, such approvals are subjected to conditions and permitting requirements of government entities.

In our analysis of the application in reference to the Zoning Law, as well as the positive out-come in support during the public hearing, the Mayor's Council hearing, numerous letters of support from the community, and lastly, the positive response from the Application Review Committee (ARC) Agencies, we have concluded the proposed use is compatible with existing mix uses of residential and commercial activities in the proximity of the subject lot and along Governor Carlos G. Camacho Road and that, it is our findings that this request is in line with the requirements of 21 GCA, Sections 61303 & 61306 of the Zoning Law and, find it proper that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** The Division of Planning **recommends approval** of the requested Conditional Use Permit subject to the Applicants adhering to the conditions noted on the official ARC position statements and permitting agencies' requirements.

Marvin Q. Aguilar
Guam Chief Planner

Case Planner: Penmer Gulac
Attachment 1: Letters of Support
Attachment 2: Public Hearing Results

Doc. No. 34GL-18-2282.

Penmer Gulac

From: Harry Gutierrez <harry.gutierrez@yahoo.com>
Sent: Monday, March 26, 2018 10:58 AM
To: Penmer Gulac
Subject: Fw: Letters

----- Forwarded Message -----
From: Thomas Shieh <doctorshieh@yahoo.com>
To: John Setiadi Tan <j.setiadi@setiadiarchitects.com>; Pat Feore <patfeore@guamrealestate.deals>; Harry Gutierrez <harry.gutierrez@yahoo.com>; "russell.r@setiadiarchitects.com" <russell.r@setiadiarchitects.com>
Sent: Monday, March 26, 2018, 9:14:22 AM GMT+10
Subject: Letters

Thomas Shieh, MD, FACOG
Board Certified Diplomate, ABOG
Office: (671) 648-BABY (2229)
Cell: (671) 777-8360

Apologies in advance for typographical and grammar errors as this message was sent from a small keyboard of an iPhone X.

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, do not read it. You are hereby notified that any disclosure, copying, printing distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED and a violation of applicable laws. If you have received this transmission in error, you are directed to immediately notify us by reply e-mail, by forwarding this to doctorshieh@yahoo.com or by telephone at 1(671)648-2229 and to destroy the original transmission and its attachments without reading or saving in any manner.

Michael Borja

From: mayorlcrivera.tatuha <mayorlcrivera.tatuha@gmail.com>
Sent: Thursday, March 29, 2018 4:39 PM
To: Michael Borja; cristina gutierrez
Subject: Fwd: Support for Dr. Shieh's clinic
Attachments: Letter to GLUC support for Dr. Shieh clinic.pdf

Sent from my Samsung device over Bell's LTE network.
-------- Original message --------
From: Peter Leon Guerrero <peterlg@gmail.com>
Date: 03-29-2018 3:44 PM (GMT+10:00)
To: mayorlcrivera.tatuha@gmail.com
Subject: Support for Dr. Shieh's clinic

Hafa Adai, Mayor Rivera. Attached is a copy of my letter to the GLUC in support of Dr. Tom Shieh's proposed clinic in tamuning.

Regards,

Pete

Doc. No. 34GL-18-2282.

March 29, 2018

MB 4/2

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 02 2018
CLTC/GALC/GLUC

Guam Land Use Commission
P.O. Box 2950
Hagatna, GU 96932

Ref: Letter of Support
Application for Conditional Use
Dr. Tom Shieh Medical Clinic

Hafa Adai, Chairman Arroyo and Commissioners. I write in support of Dr. Tom Shieh's application for a Conditional Use Permit for the construction of his proposed medical clinic in Tamuning.

The proposed clinic is much more than an investment by Dr. Shieh in a building in which to practice medicine. It is an investment in, and a welcome addition to, the overall healthcare of women and infants on Guam. I urge you to grant the application. In so doing, you will advance the state of healthcare on our island tremendously.

Peter J. Leon Guerrero
peterlg@gmail.com

cc: Honorable Louise C. Rivera
Mayor of Tamuning

Dr. Tom Shieh

Shirley's Coffee Shop Guam, USA

March 27, 2018

Chair, Guam Land Use Commission & Members
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: Complete Support for Dr. Shieh's Propose Conditional use of this Medical Clinic

Dear Members of the Guam Land Use Commission & Land Management:

Hafa Adai!

My family are residents of Guam and we own Shirley's Coffee Shop, which is directly across of the proposed new medical clinic of Dr. Shieh and his wife. On behalf of my family and business, we would like to lend our complete support to the proposed medical clinic and the approval for its conditional use.

The clinic's design is beautifully done and functional. Its appearance will add to the beauty of our island and create an economic stimulus that we very much need at this time.

Our island community has known Dr. Shieh and his wife Raven for their compassionate service and we believe their new clinic will improve not just Tamuning, but Guam in general. This project should be supported and encouraged.

Sincerely,

David Lai
Shirley's Coffee Shop

Cc: Mayor Louise Rivera, Tamuning

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Strong Support** of Dr. Shieh's Conditional Use Permit

Dear GLUC Chair, Dept of Land Management, Mayor Rivera of Tamuning:

I am a patient, a mother, a nurse who graduated from Guam Community College, and a current employee of Dr. Shieh's Clinic. I would like to share my experience and why we should support the building of his new clinic.

As a patient, I had a very high risk pregnancy. Dr. Shieh helped me a lot. He brought in the island's *only* Maternal Fetal Medicine (MFM) Specialist. Because of Dr. Shieh's collaboration with Dr. Hirata, they were able to diagnose me with placenta previa. It is a condition that if not detected, I would have had major blood loss and my son and I probably would not be alive today. We are not the only mother and child that this clinic has saved. Over the years there are hundreds of mothers and babies that this clinic has saved. Dr. Shieh's clinic is vital, and has our island's only MFM Specialist.

As a nurse, I have worked in several clinics and am currently working with Dr. Shieh for several years now. I can honestly say that Dr. Shieh truly cares about his patients. He has gone out of his way to help not just his own patients; but patients from other clinics, patients that have no doctor, and patients with no clinic to go to. Dr. Shieh has given back to our community in so many different ways, such providing free obstetric ultrasounds during community village outreaches. He also allows high school and college students to come in and observe him and the clinic staff. Many of whom have gone on to nursing school and medical school and have returned to serve on our island.

As a resident of Guam, we all know how difficult it is to retain our doctors. We see doctors come and leave. Dr. Shieh came with the Navy and never left. His commitment is real and sincere. My family, my co-workers, and my friends all support his plans to build this new clinic here in Tamuning.

Respectfully,

Rochelle Ebeo-Pangilinan
Licensed Practical Nurse

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Full Support** of Dr. Thomas and Mrs. Raven Shieh's Conditional Use Permit

Dear GLUC Chair, Dept of Land Management, Mayor Rivera of Tamuning:

My family and I write in support of the conditional use permit for Dr. and Mrs. Shieh's vision of a medical clinic in Tamuning. This clinic will very much benefit our island.

As a retired Neonatal Intensive Care Unit (NICU) nurse from Guam Memorial Hospital (GMH), I have seen shortage of specialty doctors on the island. I am happy that Dr. Shieh has committed his services to the people of Guam. His clinic is a testament of his continued commitment to help our people with medical skills he and his staff possess.

Dr. Shieh's Clinic has the only doctor Maternal Fetal Specialist, Dr. Greigh Hirata. When my daughter was pregnant in 2013, Dr. Shieh, Dr. Hirata and their team were able to diagnose her with placenta previa in its early stage. Because of their advanced skills, my daughter is alive today and I have a healthy grandson.

I thank God everyday for the health of my daughter and grandson. We must show our support and encourage Dr. Shieh with his plan of building his own medical clinic. This clinic will ultimately save more lives for generations to come.

Thank you for your time and your support of this approval in advance.

Sincerely,

Rosemarie Ebeo

Rosemarie Ebeo
Retired GMH NICU nurse

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management

Support of Dr. Shieh's New Clinic of Conditional Permit

Dear GLUC Chair:

I am resident of Guam and writing in full support of Dr. Shieh's new clinic in Tamuning.

I just want to share with you why. My mother in law who was in a car accident broke her hips several years ago and was in chronic pain. Recently, she fractured her hip and leg again. Even though she has Medicaid and was not a patient of Dr. Shieh, he was able to see her and help us when there was little hope. Dr. Shieh cared enough that he found us a specialist that helped my mom replace her hip, and leg. Dr. Shieh even loaned us his clinic's wheelchair when my mother in law was unable to walk for three months.

Today, my mother is walking on her own, which is a blessing. We know that Dr. Shieh's Clinic has helped many others on Guam for many years and this is the type of doctor and clinic we need more of near our hospital. We fully support his clinic in Tamuning and we hope that you will too.

Sincerely,

Josephus Javonillo

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Please Support** of Dr. Shieh's New Clinic

Dear GLUC Chair and our Honorable Mayor of Tamuning Louis Rivera

My family and I have been residents of Tamuning for many years. We are writing in support for Dr. Shieh's conditional use permit to build a new clinic here in Tamuning.

We all know that diabetes is one of the highest diseases on this island that is affecting so many of our island residents, and Dr. Shieh's Clinic is one of the few if not the only one that can handle many of our complicated cases during pregnancy. I know because I am a diabetic.

We absolutely must support this clinic because we lack his specialty in taking care of our high-risk women and babies. Being a diabetic, I was able to be managed by his clinic was able to have our son delivered safely. I also have many friends who are diabetics and they also are Dr. Shieh's patients, we don't know what we do without his expertise.

Because of the life saving efforts of Dr. Shieh's Clinic, our families and friends are grateful and we are fully supportive of his new clinic. Please approve the conditional use so that more of our patients will live longer and more lives can be saved.

Sincerely,

Christiane Cachero

Resident of Tamuning
A mother with Diabetes

March 24, 2018

To: Members of the Guam Land Use Commission

From: Reynald Lim, MD

RE: **STRONG Support for Dr. Thomas Shieh's Medical Clinic**

Dear Members of the Guam Land Use Commission & Agencies:

My family and I are long time residents of Tamuning and are in strong support of Dr. Shieh & his wife Raven's vision of building a state of the arts clinic here in Tamuning without any reservations.

I am an anesthesiologist at GMH, and my wife is an internal medicine specialist in Tamuning. We both have witnessed the life saving efforts and unselfish work of Dr. Shieh for many years here on Guam. Dr. Shieh's expertise have saved many women of all age groups and have saved the lives of countless babies over the 21 plus years since his presence on this island. His medical expertise is vital to our community and we especially need his clinic close to GMH because response time is critical in saving lives, every second counts.

Additionally, Dr. Shieh is also an assistant clinical professor with the University of Hawaii Medical School, thus he have been a strong supporter and allowed countless of Guam's high school, GCC, and UOG students to shadow his work. He has supported so many of our Guam's students into the field of nursing and medicine that we will continue to benefit with his new clinic.

Finally, I have reviewed his drawings and this clinic in Tamuning will definitely raise the standards of healthcare on Guam for many years to come and it is vital that his clinic is fully supported so that we can continue to save lives here at the Guam Memorial Hospital and on Guam as a community.

Sincerely,

Reynald Lim, MD
Anesthesiologist
Resident of Tamuning

Cc: Tamuning Mayor Louise Rivera
Thomas Shieh, MD

March 27, 2018

To: Guam Land Use Commission, Chair & Directors, Guam Land Management and Mayor of Tamuning

FULL SUPPORT of Shieh Clinic in Tamuning (Conditional Use)

Dear Chair, Members of the Guam Land Use Commission, Guam Land Management, and Honorable Mayor Louisa Rivera:

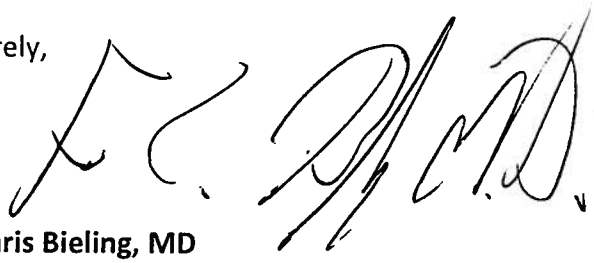
I am a doctor, and long time RESIDENT of Tamuning. I work at Guam Memorial Hospital. I am submitting this letter in **very strong support** of Dr. Shieh's Clinic and it's conditional use of his planned medical clinic.

It is without a doubt that this new medical clinic is critically needed to support our life saving efforts at the hospital and for our entire community. Additionally the design of this clinic will add to the vibrancy of this area.

We very much need this clinic built, it will create jobs, add to our economic growth and more importantly it will help us save lives, and raise the quality of healthcare that will benefit the people of Guam.

My self and many of my medical colleagues on Guam whole heartily support Dr. Shieh's of his new clinic on this lot.

Sincerely,



Dr. Chris Bieling, MD
Resident of Tamuning

March 27, 2018

Members of the Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Letter in support for Dr. Shieh's Clinic**

Dear GLUC Chair and the Dept. of Land Management

Thank you for allowing me to provide support for this project.

I am a resident of Tamuning and I work in the field of healthcare utilization at Naval Hospital. I have known Dr. Shieh's since he arrived on Guam as a medical officer at the U.S. Naval Hospital Guam. Since then, it's been over 21 years and I am so glad to know that Dr. Shieh has decided to make Guam his home.

The design of his clinic is very advanced and is conducive to our community. This investment is a serous commitment from Dr. Shieh and his wife that they are here to stay and is something wonderful that we can embrace for many generations to come.

That said, I write in support of the conditional use permit for Dr. Shieh's Clinic because it is good for Guam, and it will improve the quality of care for many patients.

Sincerely,

Amelita Nucum
Tamuning

March 26, 2018

Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

To the Land Use commissioner and Members of the Commission:

Hafa Adai!

My wife Vicky and I would like to lend our SUPPORT to the proposed Clinic that Dr. Tom and Raven Shieh are planning on Hwy 30. My family are residents of Tamuning, just right up the road from this proposed project. We are extremely happy to support this worthwhile project.

The beautiful design will lend itself to the appearance of the area and the investment in Guam's future at this time is a statement of support and strength that believe is especially appropriate right now.

The community spirit of the Shieh family is well known. Dr. Tom and Raven have been VERY active in community projects supporting medical and youth outreach. I personally have been involved in many of these efforts that have been very beneficial to our community of Tamuning and to Guam itself. Their selfless acts have become a continuing annual project that is a model to others.

As a physician I have known Dr. Shieh professionally for eighteen (18) years and have worked with him for almost ten of those years. He stands out in every aspect of his practice and his personal life.

Together with his wife Raven they will improve Tamuning and Guam in general with their new clinic in every way and make the location blossom with new life! A place we can all look at with pride.

Sincerely,

Vicky Gabel

Dr. Jeffrey and Vicky Gabel
Resident of Tamuning
Ph: (671) 929-9662

Cc: Mayor Louise Rivera, Tamuning

March 27, 2018

Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

SUBJECT: Official support for Dr. Thomas Shieh's Conditional Use for Tamuning Medical Clinic

Hafa Adai!

My name is Avelino (AL) Garrido, and I am a resident of Tamuning along with my wife Natasha Garrido and our three children. I have known Dr. Shieh for over 20 years and have worked beside him as he has tirelessly sacrificed time and money for his community.

I recently found out about his proposed clinic located in Tamuning, directly across Shirley's Coffee Shop. I have seen the beautiful design and have heard Dr. Shieh's dreams as he once again looks to pump millions of dollars into our economy with this endeavor. I have been an educator for over 20 years, but it doesn't take a degree to realize all the positive outcomes that Guam will benefit with this clinic.

Dr. Shieh's commitment to Guam is once more in public view as he pursues yet another chance to improve our community. Dr. Shieh and his wife Raven chose Guam many years ago when they had the opportunity to make more money elsewhere. That alone is enough to earn my family's support. But it is his undying dedication that has won us over.

We completely and fully support this medical clinic in our community, and we believe that the village of Tamuning will gain a much-needed asset during our current economic strife. Dr. Shieh's venture into this project should be encouraged and supported by all who have our village in its best interest.

Please feel free to call me or message me should you have any questions.

Best Regards,

Avelino (AL) Garrido
Administrator and Educator
Resident of Tamuning
1-671-969-8433
garridosguam@gmail.com

March 27, 2018

Chair, Guam Land Use Commission & Members
C/O Department of Land Management
P.O. Box 2950, Hagatna, Guam 96932

RE: Support for Dr. Shieh's Proposed Conditional Use of Medical Clinic

Hafa Adai Members of the Guam Land Use Commission and Land Management,

With the greatest respect, my family and I are writing to you in complete support of the new proposed medical clinic of Dr. Shieh, his wife Raven, and his team of nurses and staff. Furthermore, we are greatly encouraged to see Dr. Shieh invest in more services, amenities, and world class technology to provide care for our most precious resources, our island's mothers and babies.

We are lifelong residents of Guam as well as patients of Dr. Shieh's Clinic since June 2015 when we first found out we were pregnant to February 2, 2016 when we gave birth to our son, Cassius. I cannot express enough how truly excellent our personal experience was especially during a time of excitement, anxiety, and uncertainty as first time parents. We believe without equivocation that we received the best care on island.

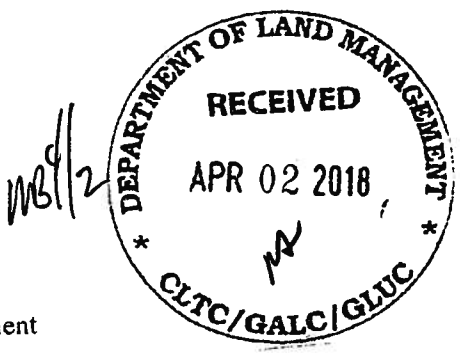
Somehow Dr. Shieh believes that he and his staff can provide, impossibly, even better care for his patients and so we are completely supportive of his vision and this new proposed clinic. We urge you to also invest in our island's mothers and babies with your full consideration and support.

Yours Sincerely,

John T. Calvo, Paulette Saure, and Cassius Calvo, aged 2
Pacific Island Mannge Pops

CC: Mayor Louise Rivera, Tamuning

N. Oscar Miyashita, CPA/PFS AIFA ®
Miyashita and Associates, P.C.



March 26, 2018

To: Members of the Guam Land Use Commission and Land Management
P.O. Box 2950
Hagatna, Guam 96932

From: N. Oscar Miyashita, CPA/PFS

RE: STRONG Support for Dr. Thomas Shieh's Medical Clinic Conditional use Application

Dear Members of the Guam Land Use Commission and Land Management:

My name is N. Oscar Miyashita, CPA/PFS. My wife **Jocelyn, Senior** VP BOG, and I have been a long time resident of Guam since 1984. Presently we live in the **Talo Verde** Estates located at the Ypao Road.

Further, as the founding partner of Ernst and Young Guam and Saipan/Micronesia offices, we have been in the Tamuning offices ever since the early 1980s and presently at the EY Building 231 Ypao Road.

I have known Dr. Thomas Shieh and his family for many years. He is a dedicated and philanthropic physician who has committed his medical practice to the People of Guam. He has been active with various charitable work related to the bone marrow campaign and other charitable endeavors for many kids, as well as been the sponsor of the Shieh Scholar Athletes scholarship program for the last 18 years. He is a Class A doctor who does nothing but the highest and quality work in a very professional environment. His current Tamuning clinic at the Hospital Road is a well maintained professional clinic.
I have full confidence that his new clinic will be one of the most attractive and well maintained building in Tamuning with State of the Art facilities. I have reviewed the building design and it reflects and fits Dr. Thomas Shieh's professionalism and indeed aesthetically attractive and functional.

Accordingly, I hereby support his building project in an unequivocal fashion.
Please let me know if you have any questions or concerns.

Kind Regards,

N. Oscar Miyashita, CPA/PFS AIFA®
Miyashita and Associates, P.C.
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913
Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com
CC: Mayor Luise Rivera, Dr. Thomas Shieh

231 Ypao Road
Suite 100 Ernst & Young Building

Michael Borja

From: TATUHA MAYOR Louise Rivera <weezierivera@hotmail.com>
Sent: Friday, March 30, 2018 8:38 AM
To: Michael Borja; cristina gutierrez
Subject: Fwd: letter of support for Dr Shieh's medical clinic
Attachments: Recommendation letter Dr Shieh project.pdf



LOUISE C. RIVERA
Mayor of Tamuning-Tumon & Harmon
120 Tun Jesus Crisostomo St.
Tamuning, Guam 96913

-------- Original message --------
From: Oscar Miyashita <oscar.miyashita@gmail.com>
Date: 03-27-2018 4:08 PM (GMT+10:00)
To: weezierivera@hotmail.com
Subject: letter of support for Dr Shieh's medical clinic

Hello Mayor Rivera,

Please see my letter of support for the medical clinic project of Dr Shieh. I will be there tonight at the public hearing.
Let me know if you have any questions or concerns.

thanks

Oscar Miyashita

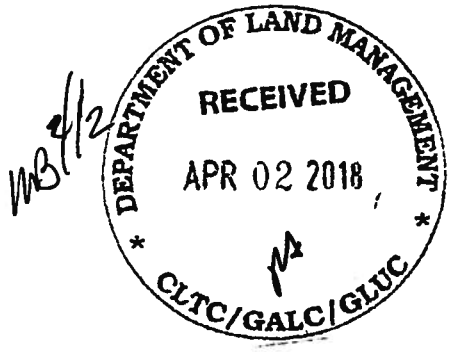
Kind Regards,
N. Oscar Miyashita, CPA/PFS AIFA®
Miyashita and Associates, P.C.
Suite 100 Ernst and Young Building
231 Ypao Road

Doc. No. 34GL-18-2282.

SENATOR DENNIS G. RODRIGUEZ, JR.

I Mina' Trentai Kuåttro na Liheslaturan Guåhan
Chairman, Committee on Health, Tourism, Military Affairs & Senior Citizens

March 28, 2018



Members of the Guam Land Use Commission
% John Arroyo, Chairman
Via Department of Land Management
590 S. Marine Corps Dr., ITC Building
Tamuning, Guam 96911

Dear Mr. Chairman and Commissioners,

It is not often I have this opportunity to do for Dr. Tom Shieh what he does for countless people: help. If in any way this testimony helps in the Guam Land Use Commission's approval of Dr. Shieh's application to build the Shieh Clinic, then at least I can say that I helped to give back to Dr. Shieh at least a small fraction of the goodwill he has contributed to our island home.

No doubt the people of Guam will benefit from this endeavor of his. As the legislative health committee chairman the past eight years I've had the pleasure of working closely with this man to advocate a great number of issues and projects that improved the lives of many, and contributed to longer and better life for some. The growth of his clinical business means the growth of his practice. That simply means he'll be helping more women and children to be healthier and happier.

Few people have contributed as much as Dr. Shieh has to this island. It's not that he should be rewarded GLUC approval. What this says about this man is that he'll be a good neighbor; a responsible steward of this community and an example for children to follow. After all, the purpose of land use regulation is to ensure we live in communities that meet the environmental, technological, and cultural norms of our modern age. Dr. Shieh improves communities wherever he is.

I encourage the GLUC to welcome him with open arms.

Put respetu,

Dennis G. Rodriguez, Jr.

Doc. No. 34GL-18-2282.

Michael Borja

From:	Troy Torres <troytorres11313@gmail.com>
Sent:	Thursday, March 29, 2018 4:10 PM
To:	Michael Borja; gluc@land.guam.gov; Vice Mayor Louise Rivera; mayorlcrivera.tatuha@gmail.com; Louise Cruz Rivera
Cc:	dennis@toduguam.com; Doctorshieh
Subject:	3.5.18 LETTER to Governor & Senators on Balancing the Budget
Attachments:	3.5.18 LETTER to Governor & Senators on Balancing the Budget.pdf; ATT00001.txt

Buenas Mr. Borja, Commissioners, and Mayor Rivera,

Attached you will find testimony from Sen. Rodriguez in support of Dr. Thomas Shieh's application before the Guam Land Use Commission.

Thank you.

Lena Calvo Rodriguez

147 Kayen Tun Francisco
Dededo, Guam 96929

M 671.787.1573

lenacalvorodriguez@yahoo.com
www.weloveguam.com



MB 4/2

Members, Guam Land Use Commission
c/o John Arroyo, Chairman
via Department of Land Management

Dear Commissioners,

It is in the island's interest for Dr. Shieh to succeed in his practice. I say this as the head of the Todu Guam Foundation, and as a mother. The reasoning goes: what is good for Dr. Shieh is good for Guam, so it is in Guam's interest that the government approve his request to build the Shieh Clinic.

590 S. Marine Corps Drive, ITC Bldg.
Tamuning, Guam 96911

Dr. Shieh has a special place in our hearts. He stands out as one of the medical providers who made it possible for the Todu Guam Foundation to provide mobile medical services to people who would not have seen a doctor otherwise. He has been a staunch supporter of our foundation, often sacrificing hours of his sleep, not to mention time when he could have made money, to give freely to poor families what he could have charged thousands in billable services. And it's not just our foundation, Dr. Shieh gives freely of himself whenever he can for the sake of mothers and the health of their babies in the womb, and their children as they grow.

I will never forget, when Dr. Shieh brought little Justice Taitague's beautiful face into the hearts of every citizen of Guam. He galvanized this community into action, springing forth an unprecedented community effort that was born from a single motive: he cared, and he knew we would, too.

The building of the Shieh Clinic should speak to all of us. It is a sign from above that we should take with haste. Dr. Shieh didn't have to practice on Guam. He came here years ago and fell in love with our island. He travels back and forth between Guam and his hometown of Hawaii, where he and his wife maintain a residence as well. But his practice is here. After all these years and with all the turmoil that our medical industry has faced, not to mention the political intrigues Dr. Shieh has been brave enough to face (many times on his own), this man is telling us he's willing to stay and help the people of Guam by building the Shieh Clinic. Not only should the Guam Land Use Commission allow this to happen, we should place a thank you note on the approval letter.

It's the least we all can do for this man. Thank you for considering my testimony in favor of Dr. Shieh's application.

Si Yu'us ma'ase,

Lena Calvo-Rodriguez

4/3

Michael Borja

From: Ashley Calvo-Rodriguez <ashley@weloveguam.com>
Sent: Thursday, March 29, 2018 4:05 PM
To: mayorlcrivera@gmail.com; Michael Borja
Subject: Lena Calvo-Rodriguez - Shieh Letter of Support
Attachments: LCR Letter of Support_Shieh.pdf; ATT00001.txt

Hafa Adai,

I hope this email finds you well. Please see the attached letter of support from Lena Calvo-Rodriguez for Dr. Thomas Shieh's Clinic.

Best regards,
Ashley Calvo-Rodriguez

Doc. No. 34GL-18-2282.

GUAM TRAVELERS CLINIC
TUMON BAY CENTER 106
1051 PALE SAN VITORES ROAD, TUMON, GUAM 96913
Tel (671) 647-7771 Fax (671) 647-7773

MB 4/2

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 02 2018
340
CLTC/GALC/GLUC

March 29, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950
Hagatna, Guam 96932

RE: **STRONG Support for Dr. Thomas Shieh's Medical Clinic Conditional Use Permit**

Dear Members of the Guam Land Use Commission & Land Management

I am writing this letter in support of the conditional use permit for Dr. Thomas Shieh's vision of a medical clinic in Tamuning. This clinic will improve women's health in this island tremendously.

I am a doctor and permanently relocated to Guam 8 year ago, after 25 years medical practice in Chicago, Illinois. I currently run a Travelers' Clinic in Tumon for the Tourist.
I know Dr. Shieh well since my relocation to Guam, both personally and professionally. He is always available for my tourist patient, 24/7 whenever they have Obstetric & Gynecological need despite already very busy his day to day practice at his office and Guam Memorial Hospital. He is a super hero for Guam Women and my tourist patients.

Finally, I strongly believe that his new clinic in Tamuning will definitely raise the standards of healthcare on Guam and this is must have if Guam wish to keep up with medical advances in future.

Sincerely,

Akio Oiso, M.D.
Resident of Tamuning
Medical Director, Guam Travelers Clinic

Cc: Mayor Louise Rivera, Tamuning

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 04 2018
CLTC/GALC/GLUC

April 1, 2018

Guam Land Use Commission
P.O. Box 2950
Hagatna, GU 96932

Ref: Letter of Support
Application for Conditional Use
Dr. Thomas Shieh Medical Clinic

Hafa Adai Chairman and Commissioners,

I write to you in support of the Dr. Thomas Shieh's application for a Conditional Use Permit for the construction of the proposed medical clinic in Tamuning.

As a satisfied patient of Dr. Shieh's for about six years, I am wholeheartedly in favor of the construction of this new clinic. Dr. Shieh has more than proven himself as one of Guam's most trustworthy and capable professionals in his field. Therefore, I believe that another medical institute under his care would be a much needed service to island residents, particularly women and infants. This being said, I urge you to grant his noble request.

Thank you for your time and consideration,

Nicole Leon Guerrero
npdlg19@gmail.com

cc: Honorable Lousie C. Rivera
Mayor of Tamuning

Dr. Thomas Shieh

HARVEST
MINISTRIES

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 09 2018
CLTC/GALC/GLUC

MB 4/10

NOA/ 4/11

April 4, 2018

Attention: Chair and Members
Guam Land Use Commission
Department of Land Management
P.O. Box 2950
Hagatna, GU 96932

Re: Support for Dr. Shieh's Clinic

Dear Chair and Members of the Guam Land Use Commission:

Hafa adai! On behalf of Harvest Ministries, I would like to support the conditional use permit for Dr. Shieh's new medical clinic. Dr. Shieh has always stepped up to reach out and be a help to our staff, and we are grateful to have his medical expertise and love for people here on Guam. His new clinic, in its design and with its addition, continues to speak of his commitment to the people of Guam and bettering his island community for the people of Guam both now and for future generations.

My wife and I have been residents of Guam for the last eighteen years. We have four children, all of whom have been privileged to grow up on Guam, are married and appreciate the professional support of Dr. Shieh as well as his support of and involvement in the island community. He has been a personal help to our family and has also become a personal friend of ours because he loves Guam.

Thank you for your consideration of this project.

Respectfully submitted,

Marty Herron
Lead Pastor

MH:pd
cc

PO Box 23189, Barrigada, GU 96921 • 671.477.6341 • hbcguam.net

CC 4/11

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 09 2018
CLTC/GALC/GLUC

MB 4/10

April 03, 2018

Mr. John Arroyo
Chairman
Department of Land Management
P.O. Box 2950
Hagatna, Guam 96932

RE: Letter of support for Dr. Shieh's Proposed Medical Clinic, Tamuning

Dear Mr. Arroyo:

It is our pleasure to submit this letter of support for Dr. Thomas Shieh's proposed clinic development in Tamuning. Dr. Shieh and the medical Team that works alongside him provide women and children of Guam with quality medical care and we need to do all we can to increase the availability of such services. The proposed new clinic, across from Shirley's Coffee Shop in Tamuning, will allow those in need, better access to Dr. Shieh and his team of OB/GYN Professionals. The artist's rendition shows a beautiful, well-designed building that will provide the best care possible on Guam for years to come.

In addition, one could argue that this new building would be a welcome addition to a lesser developed part of Tamuning. It will be an asset to the community.

This Silva family has experienced great benefit from Dr. Shieh's care for the last 15 years and we know of many more couples that also have happy, healthy families because of his support. Dr. Shieh has, on many occasion, gone above and beyond the "norm" for his patients, such as being accessible via phone, test and email, no matter the time of day or even while on vacation on a Disney Cruise ship. He is available! He cares! He advocates! And, he gives back to the community.

We ask that you positively consider Dr. Thomas Shieh's Land Use Application for the proposed medical clinic in Tamuning.

Sincerely,

David & Kristina Silva
P.O. Box 8733
Tamuning, Guam 96932

CC: Mayor Louise Rivera, Tamuning

4/11

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 09 2018
CLTC/GALC/GLUC

MB 4/9

March 30, 2018

Chairman, JOHN ARROYO
GUAM LAND USE COMMISSION and Members
C/O Department of Land Management
P.O.Box 2950
Hagatna, GUAM 96932

Re: Support for Dr. Shieh's Proposed Use for Medical Clinic

Buenas yan Hafa Adai!

It is with much enthusiasm that we submit our Letter of Support, for Dr. Shieh's proposed Medical Clinic. Without a doubt, we truly believe in his intents and Medical experience that he and his team of nurses and staff have to offer our community. We have experienced and benefited first hand, his expertise and Medical skills, one that we highly recommend to all women and mothers and one we look forward to receiving at a greater scale.

Dr. Shieh's clinic, currently offers services and technology, second to none. Top notched services and technology compared to any other facility on Island; believe me when I say, "we've gone thru some terrible events with other Clinics, OB's and Physician." We especially like the fact that he is accessible, at all hours of the day or night, when there might be some concern, uncertainty...or as of recent, the urgency to deliver our latest grandchild to spare our daughter and grandchild a threatening and difficult delivery. He Cares!

His proposed Medical Facility WILL be a great asset and investment for our future and the people of GUAM. We stand behind Dr.Shieh and his wife Raven and we support them in their vision for an exceptional and proficient Medical Clinic.

We look to you in making this possible for the sake of our Island, and it's People.. Thank you in advance for your consideration and support.

Sensaremente,

Paul R. Suba and Joyleen S. Suba

CC: Mayor Louise Rivera, Tamuning
Dr.Thomas Shieh

Attachment – 2: Public Hearing Minutes of March 2, 2018

The required public hearing was held at the Tamuning Senior Center, located next door to Mayor's Office on March 27, 2018, at 6:05 p.m. Present were, the Case Planner, Ms. Grace Vergara, (Planning Staff), Dr. Shieh, Mr. Harry Gutierrez (applicant's representative), Mr. John Setiadi (Dr. Shieh's architect), the Mayor and Vice Mayor and Dr. Shieh's staff; and 22 public attendees.

The Case Planner presented the proposed project and purpose of the hearing and read the positions statements from Department of Public Works, Guam Power Authority, Department of Parks and Recreation/Historical Preservation Office and with no objection, and provided requirements, conditions and other permitting requirements noted for the project. Mr. Gutierrez highlighted details of the application and intentions of Dr. Shieh's proposed clinic. Dr. Shieh presented and discussed the time frame of the application process, proposed construction, improvements, parking, and compliance of the building code, permits required for development on the site; access to the site and area of development and the daily operations of the clinic and disposal and contract for medical wastes. He further noted the location was chosen as the best site for the clinic and its proximity to the hospital and to serve his patients and the community that he had served for over 22 years and made Guam his home.

Public comments and concerns that were noted are as follows:

Mr. Jeffrey Gabel:
He was concern of the increased traffic flow in the area as it is near the hotel and restaurants, etc.

Case Planner (Response): The right of way is 80 feet wide and Public Works had no objection on the proposed site development or traffic flow along Route No. 30, the permitting agency will reassess the final plans for conformance and safety at the egress/ingress of the proposed clinic prior to issuance of a building permit. This type of activity has minimal impact on traffic.

Robert Leon Guerrero: abutting neighbor and he said he objected to the project, it's not safe and traffic may increase, there are hotels nearby and also condominium and apartments. He doesn't know how or when the area was zone changed from R1 to R2 and why there are hotels and commercial uses now.

Case Planner (Response): The site/area was rezoned by public law in 1967 and based on the Official Zoning Map of Tamuning and in your area, it was designated as "R2" zone and permits development for residential, multi-family (hotels) and accessory uses, for example commercial retail within a hotel operation. Shirley's Restaurant operates commercial/retail under a condition use permit approved by the Territorial Land Use Commission (TLUC) and for your information, Mr. Leon Guerrero, a 17-unit apartment complex may be built on the subject lot (maximum density) of the lot size with public sewer.

Ms. Janice Malilay (resident) : stated that there's going to be impacts to the environment, water, etc., medical wastes, etc.. It is not noted the short form EIA impact report..this project will have impacts on our environment and community, etc..

Dr. Shieh): There will be a contract for medical waste control and disposed of medical waste at a licensed site, approved by Public Health and Guam EPA. As to the parking on site, there's adequate parking and daily operations will be from 9:00 am to 5:00 pm, by appointments. All emergencies are referred to the hospital; there will be no parking congestion at the site and no overnight office hours.

Mr. Setiadi (Architect): All environmental impacts are addressed, we are working with permitting agencies as required by regulations, applicable local; and federal laws.

Liz Leon Guerrero; Neighbor: Concerned of sewage back up, as she has experienced for many years in her home; was already addressed by GWA agency. She has no objection as long as permits are obtained.

Oscar Miyasta; resident: he supports the development with permits and conditions imposed by the Land Use Commission.

John Calvo: a resident: supports the medical clinic on the site and that it will be a great asset to the community.

David Lai: neighbor (Shirley's Restaurant): stated that he believes the clinic will be better, with less activity and less parking and traffic compared to the construction on an apartment, more activity, traffic any time, day and night, and more cars coming and going, so I fully support a clinic there and it's good for the community.

Mayor Rivera: Informed those in attendance that the meeting is just an application information hearing, our MPC will have another hearing and then it will go before the Land Use Commission. Our MPC will be forwarding a resolution on the outcome of MPC hearing to DLM.

Planning Staff Summary of Public Hearing:

After discussion on the project and information given by the consultant and the applicant and clarification of the project requirements, access, development of the site, the public and those in attendance with concerns were answered by staff and advised the public if they have letters to comment on the application, they have to submit it to the Mayor or to Land Management. There were no major concerns or issues ...staff and applicant answered all inquiries or were directed to line agencies of the GOVGUAM.

Planning Staff reminded the Mayor to provide a Municipal Planning Council Resolution prior to the Land Use Commission hearing.

Planning informed those in attendance that the next hearing will be with the Guam Land Use Commission (GLUC), ITC Building, and will be announced in the daily newspaper circulation 10 days prior to the hearing date and time.

The hearing was adjourned at 7:45 p.m.

Penmer Gulac, Case Planner

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 14, 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. 2018-10 (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 subject to the ARC Position Statements and the permitting agencies requirements.

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works ("DPW") has completed its review of the subject application and has no objection to the request.

Therefore, DPW recommends approval, with conditions and prior to building permit application that a complete set of design drawings, be prepared with all the engineering disciplines needed and must be in conformance with the latest building code edition including ADA requirements. Plans must be signed by a registered architect or engineer.

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

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

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

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submits the following statement; "We have no objection to the approval of subject application. However, we have concerns that the proposed development has the potential to encounter historic properties including human remains that may be present in Lot 2129#1 REM-2. Various archaeological surveys in the vicinity of Dungca's Beach have resulted in the discoveries of historic properties including human remains. Although the lot is located upland across Watkins Road approximately 300 feet from Dungca's Beach, it was contiguous to the pre-contact coastal Chamorro village of Hapotguan, whose boundary extended from Sagua' Mañågu near Alupang Island, to Dungca's Beach to the fringes of Trinchera Beach in East Agana.

We will be requiring the applicant/developer to provide an archaeological survey (AS) in consultation with the Guam Historic Resources Division, wherein a certificate of approval will be issued. The survey will determine the presence or absence of historic and cultural resources within the subject lot. The findings will be reviewed by the Division to determine if further mitigation work would be required before construction starts."

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

BUREAU OF STATISTICS AND PLANS (BSP):
Has submitted their Position Statement and has no objection with comments and recommendations noted (Attached).

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

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

GUAM FIRE DEPARTMENT (GFD):
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.

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 Quitugua. Aguilar
Guam Chief Planner

Attachments: ARC Position Statements
cc: GLUC, Executive Secretary

GUAM POWER AUTHORITY

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

RECEIVED
APR 10 2018
925
CLTC/GALC/GHTC

March 30, 2018

MEMORANDUM

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

From: General Manager

Subject: Lot 2129#1-REM-2, Municipality of Tamuning, (Thomas Shieh & Raven Shieh); Conditional Use Application for a proposed Medical Clinic. **Application No. 2018-10**

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

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

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

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

JOHN M. BENAVENTE, P.E.

ASG/arp

VFSR

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Thomas Shieh & Raven Shieh
Location: Lot 2129#1-REM-2, Tamuning
Type of Application: Conditional Use
GLUC/GSPC Application No. 2018-10
Brief Project Description:
For a proposed Medical Clinic.

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

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

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

   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

4/5/18
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

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

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

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

APPLICANT: Dr. and Mrs Thomas Shieh

APPLICATION No.: 2018-10

SUBJECT: Conditional Use Permit in an"R-2" Zone
Lot 2129 #1-REM-2, Tamuning

MB 3/15

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAR 15 2018
CLTC/GALC/GTIC

cc

Buenas yan Hafa Adai! The applicant, is requesting an approval of a conditional use permit for the proposed construction of a Two - Storey Medical Clinic. The proposed total floor area of the building is 9,200 square feet. The 1st Floor consists of a lobby, reception area, nurse station, (5) examination rooms, file room, doctor's office, staff area, triage room, storage room and a (2) car garage. The total floor area for the 2nd Floor is 4,000 sq. feet to include an office for Mrs. Raven Shieh, a conference room including a multi-purpose room. The parking area consists of 27 stalls for staff, patient, (2) parking area for bicycles and (2) for ADA compliance. The total area of the subject property is approx. 2,062 square meters or 22,196 sq. feet and is within the Municipality of Tamuning.

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the request.

Therefore, DPW recommends approval, with conditions and prior to building permit application that a complete set of design drawings, be prepared with all the engineering disciplines needed and must be in conformance 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:
RC2018-0229
Cr: RC 2011-7553

March 13, 2018

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DPR Position Statement on DLM Application No. 2018-10: Conditional Use Permit Application to Allow Construction of a 2-Story Medical Clinic in a "R2" (Multi-Family Dwelling) Zone, Lot No. 2129# 1-REM-2, Municipality of Tamuning, Guam

We have reviewed subject application submitted by Harry D. Gutierrez, Consultant and authorized representative of the applicants, Dr. Thomas Shieh and Mrs. Raven Shieh. The applicants are requesting approval of subject application to allow the construction and operation of a 2-story medical clinic on Lot 2129# 1 REM-2, consisting of 2,062 square meters in area, that is located along Gov. Carlos G. Camacho Toad, Rt. 30, also known as Camp Watkins Road, directly across Shirley's Coffee Shop, in Hapotguan, Tamuning.

We have no objection to the approval of subject application. However, we have concerns that the proposed development has the potential to encounter historic properties including human remains that may be present in Lot 2129# 1 REM-2. Various archaeological surveys in the vicinity of Dungca's Beach have resulted in the discoveries of historic properties including human remains. Although the lot is located upland across Watkins Road approximately 300 feet from Dungca's Beach, it was contiguous to the pre-contact coastal Chamorro village of Hapotguan, whose boundary extended from Sagua' Mañågu near Alupang Island, to Dungca's Beach to the fringes of Trinchera Beach in East Agana.

We will be requiring the applicant/developer to provide for an archaeological survey (AS) in consultation with the Guam Historic Resources Division, wherein a certificate of approval will be issued. The survey will determine the presence or absence of historic and cultural resources within the subject lot. The findings will be reviewed by the Division to determine if further mitigation work would be required before construction starts.

If you have any questions with regards to our position, please contact our office at 475-6294/6295.

Sincerely,

William N. Reyes
Director

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

MAY 0 1 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 03 2018
CLTC/GALC/GLUC

MEMORANDUM

TO: Chairman, Guam Land Use Commission

VIA: Executive Secretary, Department of Land Management

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **APPLICATION NO. 2018-10**; **LOCATION:** Lot 2129#1-REM-2, Tamuning; **APPLICANT:** Dr. Thomas Shieh and Ms. Raven Shieh represented by Harry D. Gutierrez; **PROPOSED USE:** Conditional Use in an "R-2" Multiple Dwelling Zone

Håfa Adai! The applicants, Dr. Thomas Shieh & Ms. Raven Shieh, represented by Harry D. Gutierrez is requesting for a Conditional Use in an "R-2" zone to develop a 2-story medical center with medical exam rooms, doctor's offices, file room, and staff area space on the first floor and conference room and multi-purpose space on the second floor in the Municipality of Tamuning. The 2-story medical clinic will encompass 9,200 square feet and will feature a 2-car garage. The property contains a total area of 22,196 square feet.

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

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

> *"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that*

Doc. No. 34GL-18-2282.

focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

Low Impact Development (LID) and Stormwater Management. The project site also lies within the Mataguac Spring Frontal Watershed. This area has seen an increase in impervious surfaces throughout the years. *In between the years 2005 and 2011, the impervious surface area increased by 0.01 to 0.03 percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality. The Bureau is concerned that additional impervious surfaces may exacerbate flooding in the area and surrounding neighbors if BMPs are not in place to manage runoff on the property.*

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features while minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product.

Considering the growing concerns of flooding due to increased impervious surface, the applicant must be required to implement LID practices such as permeable parking and walkways, grassed swales, island bio-retentions, green roofs, and/or rain gardens into the landscape as a means to reduce runoff and control erosion from their property. An electronic file of the Island Stormwater Practice Design Specifications is available on the Bureau's website at www.bsp.guam.gov under the Guam Coastal Management Program.

Erosion Control. The Bureau is concerned that the proposed construction of 2-story medical clinic may trigger adverse effects in the watershed if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site. Moreover, the proposed project increases impervious surfaces in the form of roads, rooftops, driveways, sidewalks, and parking lots. These surfaces greatly increase runoff volume accelerating erosion and carrying pollutants into the aquifer.

Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to surface and ground water. The Bureau recommends that the applicant prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following, but are not limited to:

1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves a construction site.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.

3. Stabilize construction entrance and install necessary perimeter controls and diversions.
4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
6. Where feasible, schedule construction during dry season.

Detailed information are listed in the CNMI and Guam Stormwater Management Manual and the Guam Erosion and Sediment Control Field Guide that can be obtained from the Bureau's website www.bsp.guam.gov under Guam Coastal Management Program.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicants are advised to avoid the use of invasive plants in their landscape plan. The use of native plants requires little to no fertilizer for growth. The Bureau encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant should also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation. The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does not affect historic properties. The subject area is located in forested area and verification from DPR is required.

In conclusion, the Bureau recommends **Approval** to the conditional use in an "R-2" Multiple Dwelling Zone. It is with the above in mind that the Bureau remind the land owner that the proposed activities not be deviated upon without ARC and TLUC approval prior to any changes occurring. As a condition to this use proposal any pesticides or hazardous materials must be contained and housed so as to prevent accidental spillage and contingent measures be implemented in order to minimize any negative impacts as possible.

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

MANUEL Q. CRUZ
Acting Director

ATTACHMENT B

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

L.C.

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

Street Address:
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Mailing Address:
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http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

May 15, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-41
Zone Change Request
Lot 1103-3-1A-1, Municipality of Mangilao

1. PURPOSE:

A. Application Summary: The Applicant, Albert P. Sanga, represented by Harry D. Gutierrez, requests approval of a Zone Change from "R-1" (Single-Family) to "C" (Commercial) Zone, for a proposed construction of a commercial building, on Lot 1103-3-A1-1, Municipality of Mangilao.

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

2. FACTS:

A. Location: The subject site fronts Route No.10 (Vietnam Veteran's Highway and approximately 700 feet north of Route No. 10 & 15 intersection. It is located across the street from a retail stores (KNS Retail Store and AH Retail Store) and the previously- American Medical Center (**see Attachment 1**).

B. Lot Area: 1,045 Square meters or 11,248 square feet or 1/4 Acre

C. Present Zoning: "R-1" (Single-Family Dwelling) Zone.

D. Field Description: The proposed development site contains an abandoned modular home with overgrown vegetation. The topography is fairly flat, gradually sloping towards Route No. 10. On the south, at approximately 300-500 feet, there is a commercial sporting goods store and across the street is retail store and a medical clinic. Other commercial land use activities exist are within 600 - 1,200 feet radius and further north along Route No.10 and toward Route No. 8. All utility infrastructures are within 100 feet of the subject development.

E. **Masterplan:** Residential Low Density &Mix Uses of Commercial and Public Facilities.

E. **Community Design Plan:** Residential and Open space; Mix Land Uses

F. **Previous Commission Action:** None.

3. **APPLICATION CHRONOLOGICAL FACTS:**

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

B. **Public Hearing Results:** A public hearing was held on January 30, 2018 at the Mangilao Community Center. **(See Attachment 2 for minutes of the hearing)**

4. **DISCUSSION and STAFF ANALYSIS:** Any change of zone must address the criteria of **Public Necessity, Public Convenience and General Welfare**. These criteria resonate the fundamental purpose of our zoning code. That is, to *consider certain regulations deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities.*

With respect to providing a public necessity, the applicant provides this area is developing into more commercialization and near residential/multi-family districts and in order to accommodate a growing population in the northern/central areas near and along Route No. 10 in Mangilao, the anticipated military forces build-up will continue, and the proposed uses and activities will provide the community with commercial/retail services and activities in the coming years and beyond. There will be a greater demand for retail, restaurants, food catering/contracting services, and other special services as population grows. This type of commercial activity in the area will serve the needs of the public, the private, and the military communities demands for goods and services of the business establishment;

With respect to public convenience, the applicant provides the proposed zone change of the subject lot will afford public convenience for needed retail and commercial/food/restaurant/catering outlet and other permitted uses for services and goods as may be related in a commercial zone, more over as the property is located in an area that may serve not just the surrounding area, extended area since Route 10 serves as a major route between south and central/northern Guam. The location is prime and ideal, central, and conveniently near areas with a large population in this area of Mangilao.

With respect to protecting the general welfare of the community, the applicant provides that the proposed rezoning and uses will protect the general public by being consistent for commercial uses and related activities that is on-going at the present time. The owners will ensure that all permitting requirements and conditions of the land use commission and all government agencies are adhered to as well as to minimizing impacts to the immediate surroundings. The site development plan will provides setbacks and fenced and landscaped to buffer and minimize impacts of the existing and abutting residential properties and are in conformance of to the zoning law and to the general public. Since the site is within the Northern Recharge Area. Any development on the site will accommodate wastewater and storm water drainage to protect the residents and the groundwater (aquifer) in the area in accordance with current requirements of development. The zone change will not reduce any zoning standards in the immediate vicinity, but rather, the improvements to the subject lot will create a more stable environment, that will provide for an orderly development scheme within the area and adjacent surroundings. The Applicants are aware and

At its scheduled public hearing, the request to re-zone was met with opposition by several property owners with 500 feet of the subject lot. Dissenting opinions in the following concerns:

a. To apply a conditional use permit as opposed to a permanent change of zone;
b. The lot size as being too small to accommodate commercial operations; and
c. Commercial operations will contribute to increase in traffic.

These opinions have merit. And perhaps in a more confined community located away from a major routed road, such opinion would warrant our concurrence to dissent as well. However, we have continued to support non-residential development along major routes and roads as we believe such use would best benefit the intent to encourage the protection of the public's health, safety, general welfare, and convenience. This position remains consistent with our position in other land use cases with similar community overlay characteristics, particular in areas where land use is greatly affected by upgrades in infrastructure.

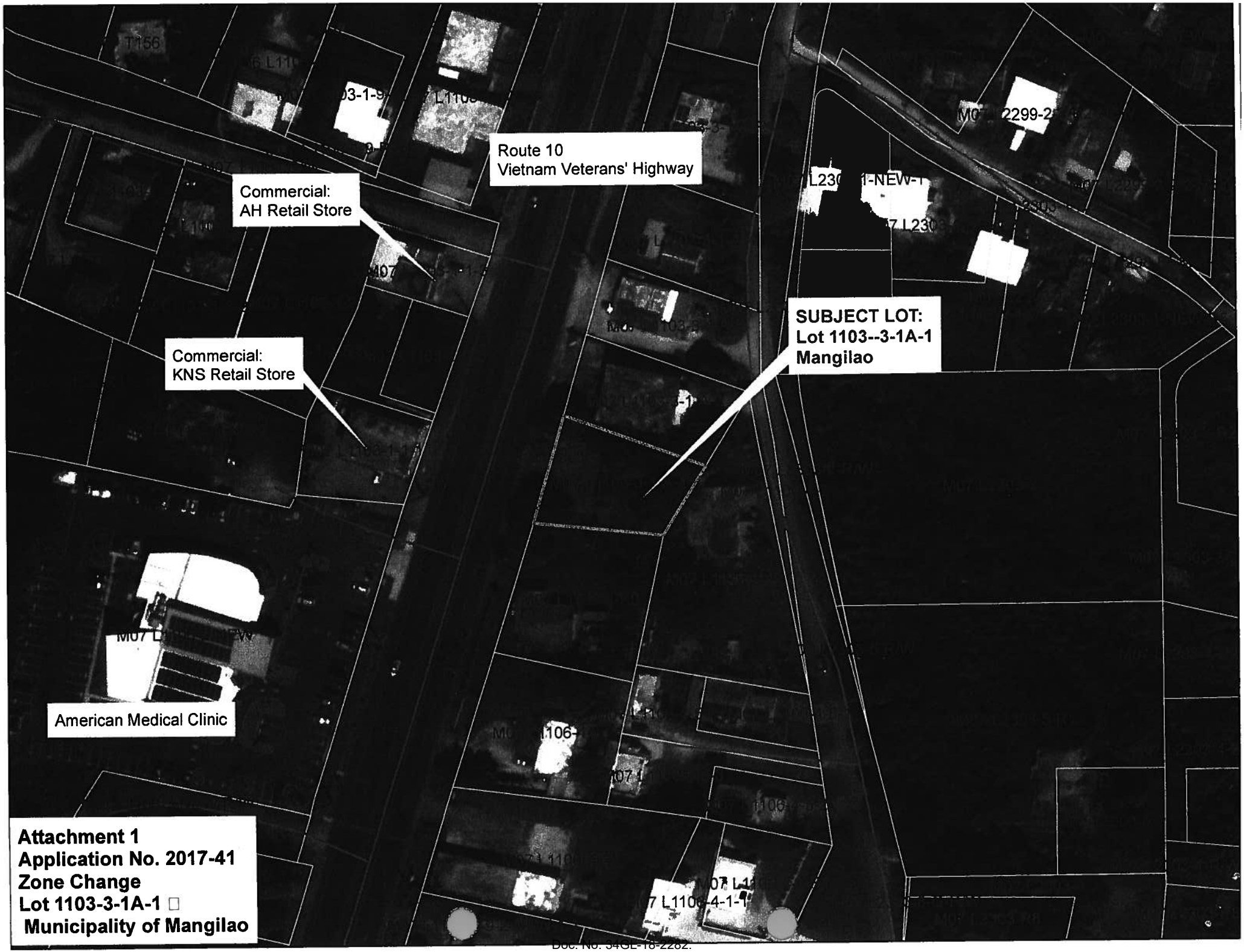
5. **RECOMMENDATION:** We find the general welfare of the public is protected by encouraging land uses that may be more conducive to activities associated with commercialization along Route No. 10. Based on this, the Division of Planning **recommends approval** of the requested change of zone.

In the event both the Commission and Governor of Guam renders a favorable consideration on this request, all permitting requirements shall be imposed on future development schemes presented under a new zoning designation of "C" (Commercial) to include, but not limited to, imposing Regulations Along District Boundaries per Title 21GCA, Chapter 61, §61302.

Marvin Q. Aguilar
Guam Chief Planner

CASE PLANNER: Penmer Gulac

Doc. No. 34GL-18-2282.



Doc. No. 34GL-18-2282.



Doc. No. 34GL-18-2282.

ATTACHMENT – 2
Public Hearing
January 30, 2018
Application No. 2017-41 Zone Change Request
Lot 1103-3-1A-1, Municipality of Mangilao

The required public hearing was held at the Mangilao Mayor's Office / Community Center on January 30, 2018, at 6:00 P.M. Present were, the Case Planner, Mr. Harry D. Gutierrez, Applicant's Rep, Mayor Alan Ungacta, a few MPC Members, neighbors and lot owners. A total of 13 persons were in attendance.

The Case Planner presented the proposed project Mr. Harry Gutierrez highlighted details of the application and clients intentions; discussed the time frame of the application process, construction and completion time; access to the site and area of development.

Public comments and concerns that were noted are as follows:

Mr. William Long (Lot owner nearby): He wanted to know what type of structure to be built on site as it's a small property. Parking may not be sufficient coming in or out of the premises. He recommends a conditional use application instead of permanent zone change so conditions may be imposed.

Response (from the Case Planner): Based on information on their application and discussion with their consultant, the owners/applicants will only build a small commercial building, 1-storey and all parking, loading, trash bins, on site drainage will be planned out and subject to permitting clearances. Access to and from the site will be designed and approved by Department of Public Works. The proposed site plan maybe revised and will need further review for other permit requirements, building code, etc. Based on the application review, the site will be for a small commercial building and proposed setbacks are in compliance Guam's Zoning Law.

Mr. Harry Gutierrez (representative): Mr. Gutierrez had further explained in detail the zone change application, that the owner will be catering and bring his food to Chamorro village. A small retail business and office spaces will be within the premises as noted on the application…that the site will be fenced and landscaped to provide a buffer between the residences nearby …. he also clarified that no game room or bar or adult massage services/uses will be in the premises. All permitting agencies will review the final plans from parking, access to structural plans of the building. His client recently bought the lot and wants to develop it as it is along the main route with commercial activities and design it with no significant impacts to the immediate neighbors.

Ms. Gloria Long (Neighbor): Mr. Gutierrez the building is too close to the neighbors and it's a small low. What about the bus stop.

Mr. Gutierrez (representative): for your information, the setbacks required by law is 20 feet from commercial building to the property line when its abutting residential homes or within R1 zone to construct a commercial building, so the plan we have complies to the lay. The bus stop may be relocated to a nearby site, coordination with Dwaine Mayor.

Response (from the Case Planner): Yes. Per plot sketch. They are able to construct a building within the setback of 20-feet; no other structures are permitted to be built unless they meet the setback and other improvements such as parking, loading area, ponding basins, landscaping are allowed within the 20 feet setback from building to the lot line.

Doc. No. 34GL-18-2282.

Ms. Michelle LG Craig- Neighbor: Its near my residence and it seem that the lot is too small for a commercial building to meet parking; we got problems with pedestrian, drinking of liquor on the site, loitering, trash all over. No control. No enforcement. Like the other stores on the strip.

Response (from the Case Planner); As for the proposed commercial building, they have to go through a permitting process; right now, they have a plot sketch and is acceptable as they meet the basic plot sketch showing parking, loading area, egress/ingress, setbacks. For site improvements. Further review of final plans will be submitted for permitting.

Vincent A. Leon Guerrero: a neighbor: cannot support the application as it will continue to contribute to traffic fatalities; over the years he had witness fatalities in the area, people crossing, very dark. And no lighting; the government is not helping out villages to be safe. The client is not cleaning his lot.

Mayor Alan Ungacta:

Our office and MPC will further review the application and work with the consultant and his clients...our next MPC meeting will be announced at a later date...if you folks have questions on the application, we have it at the mayor's office.

Mr. Gutierrez (representative):

Informed those in attendance that other permitting requirements will be adhered to should other permits are needed. The project will be hooked up to the sewer line and he reassured those present there will be minimal impacts to infrastructure, traffic and noise. The applicants will be a good neighbor that they will landscape and fencing of the site. again. They will conform to all permitting regulations to construct a safe commercial activity.

After discussion on rezoning and information given by the consultant, and clarification of the access and other requirements of the zone change. The attendees were made aware the zone change hearing was provide information to the neighbors and general public. Some had concerns, issues, with proposed rezoning, some do not support, and majority in attendance did not voice any concerns or made comments.

Planning staff provided clarification that per land planning and zoning consideration the site is within a major thoroughfare (Route No. 10) and a very busy highway, that the area is growing in population, more vehicular traffic, noise, and more commercialization along the area/site. Based on Land Planning and development activities, this area will be more conducive to commercial uses along this general area and residential uses may still be ideal at the rear boundaries with other residential uses (R1) zone.

Informed those in attendance that the Application Review Committee (ARC) had no objections on the application. The next hearing will be with the Guam Land Use Commission (GLUC), ITC Building, and will be announced in the newspaper 10 days prior as to the hearing date and time.

There hearing was adjourned at 7:05 p.m.

Penmer Gulac

Doc. No. 34GL-18-2282.

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 15, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2017-41 (Zone Change)

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
Planning staff recommends Approval subject to the ARC Position Statement and the permitting agencies requirements.

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

A. To provide a preliminary lay-out of the commercial building and incorporate the following:
   1. retail store and office space;
   2. parking lay-out (compact, standard and accessible stalls) and must be ADA compliant;
   3. entry/exit must be wide enough for public access; and
   4. to include solid waste composition.

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

GUAM WATERWORKS AUTHORITY (GWA):
The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "R1" (Single-Family) to "C" (Commercial) zone for the proposed construction of a commercial building with retail, office and service shops.

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

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone change application:

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations. If a development will be served by a septic tank/leaching field system, then the system must be approved by the Guam Environmental Protection Agency. Note: the last statement can be removed when a sewer line is available for connection.

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

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

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

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

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

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

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

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

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

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

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

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

A. Comments and Recommendations Concerning GPA requirements:

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

   a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
   b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;
   c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
   d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
   e. Provide scheduling and magnitude of project power demand requirements for new loads;
   f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.

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

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submits the following statement;
"We reviewed the subject application submitted by Harry D. Gutierrez, authorized representative, on behalf of Albert Sanga, the applicant and owner of subject lot. The applicant is requesting

approval of subject application in order to construct a new commercial building with retail, office, and service shops.

The vacant 1,045 square-meter lot is located along Route 10, across KNS Retail Store and not far from the Champion Sporting Goods store and the new Mangilao Medical Center. Based on our review of the area, it is highly unlikely that historic properties or historic features would be encountered during the course of the construction development. However, subject the proposed development project must go through the proper DPW permitting process for reviews by the different agencies, including the Department of Parks and Recreation which may be subject to other development requirements. Therefore, we have no objection to the approval of subject application. If you have any questions with regards to our position, please contact our office.

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

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

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

GUAM FIRE DEPARTMENT (GFD):
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.

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 TENORIO
Lt. Governor

MB 9/28

RECEIVED
SEP 28 2017
230 pm

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

RECEIVED
9-29-17
to complete

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

SUBJECT: Applicant: Albert P. Sanga
Application: 2017-41
Zone Change from ("R-1") Single Family Dwelling to ("C") Commercial
Lot No.: 1103-3-1A-1, Mangilao, Guam

Buenas yan Hafa Adai! The above applicant is requesting for a zone change on the above subject property from single- family dwelling to commercial. The intent is to build a commercial building that consists of a retail and office space including parking area for tenants and patrons. The total lot area is 1,045 square meters (11,248 square feet), located along Route 10, Mangilao.

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

A. To provide a preliminary lay-out of the commercial building and incorporate the following:
   - retail store and office space;
   - parking lay-out (compact, standard and accessible stalls) and must be ADA compliant;
   - entry/ exit must be wide enough for public access; and
   - to include solid waste composition.

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

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

GLENN LEON GUERRERO

✓
LIbanez/ MRWilson

Eddie B. Calvo
Governor
Ray Tenorio
Lt. Governor

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

William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to:
RC2017-0857

NB 12/7

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
DEC 07 2017
2:50 PM
CLTC/GALC/GHPO

December 4, 2017

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DPR Position Statement on DLM Application No. 2017-41: Application for Zone Change from "R-1" Single-Family Dwelling to "C" Commercial Zone, Lot 1103-3-1A-1, Municipality of Mangilao, Guam

We reviewed the subject application submitted by Harry D. Gutierrez, authorized representative, on behalf of Albert Sanga, the applicant and owner of subject lot. The applicant is requesting approval of subject application in order to construct a new commercial building with retail, office, and service shops.

The vacant 1,045 square-meter lot is located along Route 10, across KNS Retail Store and not far from the Champion Sporting Goods store and the new Mangilao Medical Center. Based on our review of the area, it is highly unlikely that historic properties or historic features would be encountered during the course of the construction development. However, subject the proposed development project must go through the proper DPW permitting process for reviews by the different agencies, including the Department of Parks and Recreation which may be subject to other development requirements. Therefore, we have no objection to the approval of subject application. If you have any questions with regards to our position, please contact our office.

Sincerely,

William N. Reyes

Cc: Harry D. Gutierrez, Consultant
harry.gutierrez@yahoo.com

GUAM POWER AUTHORITY

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

RECEIVED
AUG 23 2017
Department of Land Management
Time 1:40 Initial
Penmer G.

August 16, 2017

MEMORANDUM

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

From: General Manager

Subject: Lot 1103-3-1A-1, Municipality of Mangilao, (Albert P. Sanga); Zone Change Application from "R-1" (Single-Family Dwelling) to "C" (Commercial) to construct a commercial building for retail and office. **Application No. 2017-41**

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

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

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

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

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

ASG/arp

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Albert P. Sanga
Location: Lot 1103-3-1A-1, Mangilao
Type of Application: Zone Change
GLUC/GSPC Application No. 2017-41
Brief Project Description:
"R-1" to "C" to construct a commercial building for retail and office.

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

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

2. If the answer to #1 above is YES, then:
   I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **ADEQUATE** to support this project:
   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

8/21/17
Date

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

ASG/arp

GUAM WATERWORKS AUTHORITY

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



MEMORANDUM

September 22, 2017

TO: Michael Borja, Director, Department of Land Management

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

SUBJECT: Position Statement on Zone Change Application No. 2017-41 for Lot 1103-3-1A-1, in the Municipality of Mangilao.

APPLICANT(S): Albert P. Sanga

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "R1" (Single-Family) to "C" (Commercial) zone for the proposed construction of a commercial building with retail, office and service shops.

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

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone change application:

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations. If a development will be served by a septic tank/leaching field system, then the system must be approved by the Guam Environmental Protection Agency: Note: the last statement can be removed when a sewer line is available for connection.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to

determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.

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

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

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

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

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

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

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

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

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

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

ATTACHMENT C

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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Website:
http://dlm.guam.gov

E-mail Address:
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Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

May 15, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-32
Zone Change from "A" (Rural-Agricultural) to "R-1" (Single-Family Dwelling) on Lot 4-R1NEW, Tract 154 in the Municipality of Yigo.

1. PURPOSE:

A. Application Summary: The applicant, Ian Corporation, represented by Dan Swavely, requests for a change of zone from "A" (Agricultural/Rural) Zone to "R-1" (Single-Family Dwelling) Zone. This request is for the purpose of realizing a proposed Subdivision development consisting of 36-single family dwelling units, on Lot 4-R1New, Tract 154, Municipality of Yigo.

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

2. FACTS:

A. Location: The subject lot is located along Chalan Paharu near the GPA Fast Track Generator site along Chalan SPC John T. Sablan, in the municipality of Yigo **(see Attachment 1)**.

B. Lot Area: The property contains an area of 6.8 Acres or 27,503 Square Meters or 296,040 Square Feet

C. Present Zoning: "A" (Agricultural/Rural) Zone.

D. Field Description: The property is vacant and undeveloped with overgrown vegetation.

E. Masterplan: Mixed Use - 2009 North and Central Guam Land Use Plan

F. Community Design Plan: Urban Residential – Low Density

G. Previous Commission Action: None.

3. **APPLICATION CHRONOLOGICAL FACTS:**

A. **Date Application Accepted:** October 11, 2017

B. **Date Heard By ARC:** November 16, 2017

C. **Public Hearing Results:** A public hearing was held on March 21, 2018 at 6:00 P.M. at the Yigo Senior Center. Present were planning staff, the applicant's representative, Mr. Dan Swavely, and six concerned citizens.

Mr. Swavely explained the location of the project and the proposed development should the zone change be approved. He responded to questions and concerns of those present at the public hearing. After responding to all the questions and concerns, the attendees were informed that if they have any other concerns or questions or if they know of anyone who will like to submit their position or inquire further information on the application they can visit Planning Division, Department of Land Management of they may contact Planning Division at any of the Department's phone numbers and the meeting was adjourned at 6:58 P.M. (See attachment for full public hearing results)

4. **DISCUSSION and STAFF ANALYSIS:**

The requested zone change appears to satisfy the requirements for changes of zone such as ***"public necessity, convenience and general welfare"***.

With respect to promoting public necessity and convenience, the need for rezoning lies in the fact that a residential subdivision will be created. Under the "R-1" zoning designation, the applicant would be able to apply a residential land use density allowance of 6,000 square feet per dwelling unit with available public sewer and full infrastructure developments or full utility service as opposed to the 9,600 square feet as the minimum standard allowable lot area under an agricultural subdivision plan. The applicant provided a feasibility study regarding the proposed development and it is evident that it would fill a need for additional residential housing on Guam which are modern, durable and affordable single-family dwellings available to all residents of the island. The location of the property will be convenient since there are schools, parks and commercial establishments nearby and it is also near the main road (Marine Corps Drive) and the applicant intends to develop the property area by upgrading the roads including street signs and streetlights along Chalan Paharu and Chalan SPC John T. Sablan, and by adding a recreational facility at an off-site location for all the residents of Yigo to use.

With respect to protecting and promoting the general welfare of the public, street signs and streetlight improvements ensure the general safety and welfare of the residents in the subdivision, along with the other property owners of the surrounding neighborhood. As the applicant stated in the application, rezoning will promote general welfare by providing well-constructed housing that is served by all infrastructure and easily accessible by public safety vehicles. This must be achieved without impacting the same infrastructure support to the surrounding community.

The proposed development will provide a well-planned and integrated development and will not de-characterize the surrounding area or reduce any zoning standards in the immediate vicinity, regardless if certain properties remained zoned "A" (Rural-Agricultural), the proposed zone change will complement existing land-uses of other

parcels within the 1,000 feet radius boundary, which consist of "R-1" (Single Family Dwellings) and "R-2" (Multiple Family Dwellings). With respect to zoning and land use compatibility, the property is identified for "Mixed Use" under the 2009 North and Central Guam Land Use Plan. Under this category, mixed use developments incorporating a variety of types and densities of residential units are also appropriate.

Pursuant to Title 21 GCA, Chapter 61, Section 61637, no additional land may be established as a rural zone and no land presently zoned A may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. The Department of Agriculture stated on its Agricultural Impact Statement that they have no opposition to the proposed zone change for the construction of a housing development. They have also determined that the proposed use of the site has no impacts on either within the subject lot or to surrounding properties since there hasn't been any agricultural activity identified for this particular site in over 20 years and no active farms exist in the immediate area.

Additionally, supplemental information has been provided to further support the request for zone change. The supplemental information addresses the following:

a. Comments and concerns brought forth during the public hearing;
b. Documents relative to the State Historic Preservation Office's (SHPO) acceptance of the applicants' Draft Archeological Survey; and
c. A letter of support from the Yigo Mayor.

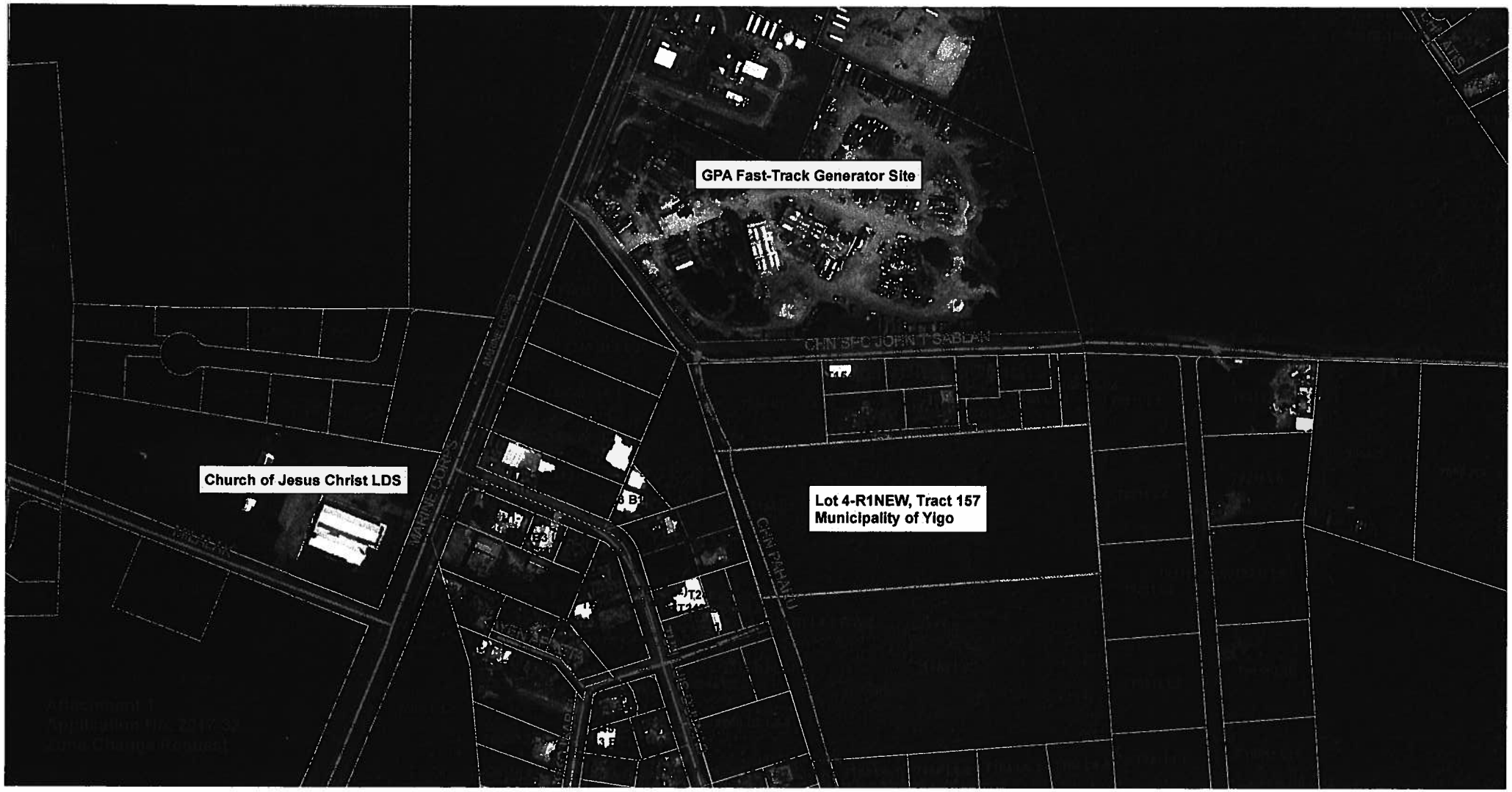
Based on our review and analysis of the form and context of this application in reference to the Zoning Law and the response of the ARC members who have responded with no objections with conditions, we find the criteria for the grant of zone change is justified and that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Planning staff recommends **APPROVAL WITH CONDITIONS** provided the applicant adheres to ARC conditions as stated in their official position statements.

Marvin Q. Aguilar
Guam Chief Planner

Attachments

CASE PLANNER: Celine Cruz/Grace Vergara



Doc. No. 34GL-18-2282.

The meeting was called to order at 6:01 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. Dan Swavely. Mr. Swavely provided the attendees with a detailed description of the project, after his presentation, the floor was opened for questions as noted below:

Q. Do you have a topographic elevation?
A. Yes, we do. We've hired a cadastral surveyor. It is a little bumpy but fairly level.

Q. Can you talk a little bit about infrastructure?
A. Our plans, not approved yet by GWA but GWA did not have an issue with our projected requirements for water and wastewater. They did not have an issue about the numbers. But they have not yet approved it.

Q. Once the construction starts we are concern about the limestone, dust and we're gonna deal with sounds. Right now, we're dealing with GPA generators and the sound is just too much. They said it's just temporary like 12 months but it's been more than a year now. We're also concern about our security because when someone's out there we can't hear anything and we're only dealing with one streetlight along Chalan John T. Sablan. The road along Chalan Paharu also needs to be improved.
A. We will work on that. The road improvements including the streetlights will be part of the Tentative Subdivision Plan.

Q. The intersection along Chalan John T. Sablan will be congested once the subdivision has been started and again there's only one (1) streetlight in that location and the street sign need to be upgraded.
A. We will improve the street signs and streetlights along Chalan Paharu and Chalan SPC John T. Sablan.
Comment from the attendees: If that's your plan then we support this project.

Q. Is it a gated community?
A. The proposed development will have a perimeter fence but it's not gated.

Q. Will it be landscaped because we still want to see some green on the surroundings?
A. Absolutely, yes. It's gonna be a part of the next application which is the Tentative Subdivision Plan but that won't have a public hearing.

Q. Where will the Mayor wants to put the tennis court?
A. I think at the park. He's developing a park off the street that's why this subdivision doesn't have a recreational facility.

Q. What's the size of each lot?
A. About 6,000 sq. ft.
Comment from the attendees: Pretty small but it's okay, at least not like those little houses that looks like a little cubicle almost touching each other that they call land of Disney.

Q. We like a little country life here in Yigo and what we're asking is a community, don't invent about the lot size and other stuff.
A. That's not what it is about. If it gets approved with this master plan and when the Tentative Subdivision application does the numbers and construction plans to this master plan, this master plan doesn't change. Things may shift here and there but what we're looking at are 36 units, that's the request and we're hoping it will get approved that way.
Comment from the attendees: We're looking at a community that supports each other as long as it is conducive we will definitely support this project.

Q. How much does each house cost?
A. $300,000 for the 3-bedroom unit and $350,000 for the 4-bedroom unit.
Comment from the attendees: Can we get one? They're really affordable.

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 next step will be presenting this application/proposed development at the Guam Land Use Commission meeting. There's no exact date yet for the commission meeting, however it will be posted in the newspaper and we will keep you posted when there's already a schedule for the GLUC meeting for this application. The GLUC meeting is always being held at the Department of Land Management conference room, 3rd floor, ITC building in Tamuning. The public will have a chance to speak at the commission meeting. The sign on the property 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.
Comment from the attendees: We definitely want you to keep us posted. We support this project.

No further discussions. Meeting adjourned at 6:58PM.

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

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 3, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Change Application No. 2017-32

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

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

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

DEPARTMENT OF AGRICULTURE (DoAg):

Agriculture has reviewed the subject lot for a "Zone Change" request from an Agricultural to an R-1 zone and has no opposition to the proposed zone change for the construction of a housing development. 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 has been traditionally used for various farming and ranching activities in the past. Currently no such "Agricultural" activity has been identified for this particular site in over 20 years and no active farms are in this immediate area. Therefore, no adverse impact to any agricultural activity exists either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place.

Should the proposed zone change 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.

As rapid development occurs in this region of the island the destruction and removal of native tree species increases the potential for pollution and the loss of Guam's Northern Aquifer the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to the construction of 36 homes to be built on this site. Should the proposed project proceed Agriculture recommends that all lots designated for build will have elements of a green zone not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply, the re-planting of native trees maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The Department of Agriculture has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our Agricultural Development Services & Forestry divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our Department of Agriculture Organic and Environmental Demonstration Farm. The demonstration farm displays various planning techniques that will aid the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment. The plating 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 were no incidents of the "Little Fire Ant" (Wassmannia auropunctata) however be aware that there are reported infestations located at the Yigo waste dumpsite which lies on the opposite end of this property. 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 that can properly dispose and treat the organic matter either through mulching and composting. 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.

Once again should the project proceed to the build phase and the permits for land clearing and grading are secured be aware that Guam is a migratory route for various species of

birds to use as a resting point. During our investigation and inspection of the site no birds were observed. However there exist a strong possibility that the site is used as it contains very little human activity that would otherwise discourage them from landing. If these species of migratory birds are observed at any point on the site no interference is to occur either to prevent them from landing or disturbance and disruption of their normal behavior should be altered.

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 wellbeing 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.

GUAM POWER AUTHORITY (GPA):
Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:
   1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
      - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
      - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
      - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
      - Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
      - Provide scheduling and magnitude of project power demand requirements for new loads.
      - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
      - GPA reserves its easement rights established under document number 78360.

   2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
   3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.

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

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
We reviewed the above subject and determined that the Zone Change will not affect historic properties within or around the subject lot. Therefore, we have no objection to the approval of this Zone Change Application. However, when the permitting process for the construction phase gets underway, we will work with the applicant to comply with historic preservation requirements.

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the requests provided the following conditions be in place.

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

BUREAU OF STATISTICS AND PLANS (BSP):
The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations:

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

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

In order to meet the goals and objectives of the NCGLUP, the applicant shall be required to comply with the guidance to adhere to the concept of affordable development as proposed within the North and Central Guam Land Use Plan. Housing Policy H-p States

"Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households earning 80% to 120% of local income adjusted for family size. Incentives could include density increases, flexibility in development standards or other measures."

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

Controlling erosion and sediment flow from construction sites are a priority with regard to storm water impacts to surface and ground water. The bureau recommends that Ian

Corporation prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following, but are not limited to:

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

Detailed information and other BMPs are listed in the CNMI and Guam Storm water Management Manual and the Guam Erosion and Sediment Control Field Guide that can be obtained from the Bureau's website www.bsp.guam.gov under Guam Coastal Management Program.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicants are advised to avoid the use of invasive plants in their landscape plan. The use of native plants requires little to no fertilizer for growth. The Bureau encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant should also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation. The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does not affect historic properties. The subject area is located in forested area and verification from DPS is required.

In conclusion, the Bureau recommends Approval to the zone change to R-1 for single-family dwellings. The Bureau also notes that there will be a Tentative Subdivision Plan submitted for GLUC approval before any construction will be taking place.

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

GUAM WATERWORKS AUTHORITY (GWA):
No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES (DPH&SS):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

GUAM FIRE DEPARTMENT (GFD):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

GUAM DEPARTMENT OF EDUCATION (GDOE):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

Marvin Q. Aguilar

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

Doc. No. 34GL-18-2282.

Department of Agricultu
Dipåttamenton Agrikottura

Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

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

Matthew L.G. Sablan
Director

Jessie B. Palican
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 03 2018
CLUC/GALC/ELUC

MB 4/3

March 28, 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 "Zone Change" request from an "Agrcultural" to a "R-1" for application 2017-32 on Lots 4-R1-NEW Tract 154 Tre Vista Subdivision Located in Yigo. (D.M. Guam Corporation c/o IAN Corporation).**

Agriculture has reviewed the subject lot for a "Zone Change" request from an **Agricultural to a R-1 zone** and has no opposition to the proposed zone change for the construction of a housing development. 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 has been traditionally used for various farming and ranching activities in the past. Currently no such "Agricultural" activity has been identified for this particular site in over 20 years and no active farms are in this immediate area. Therefore no adverse impact to any agricultural activity exists either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place.

Should the proposed zone change 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.

4.3.18

As rapid development occurs in this region of the island the destruction and removal of native tree species increases the potential for pollution and the loss of **Guam's Northern Aquifer** the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to the construction of 36 homes to be built on this site. Should the proposed project precede **Agriculture** recommends that all lots designated for build will have elements of a green zone dedicated to it, as part of the overall landscaping plan. If this includes parks and green zones not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply, 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 the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The **Department of Agriculture** has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our **Agricultural Development Services & Forestry** divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our **Department of Agriculture Organic and Environmental Demonstration Farm**. The demonstration farm displays various planting techniques that will aid 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" (*Wassmannia auropunctata)*** however be aware that there are reported infestations located at the Yigo waste dumpsite which lies on the opposite end of this property. 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 that can properly dispose and treat the organic matter either through mulching and composting. 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.

Once again should the project proceed to the build phase and the permits for land clearing and grading are secured be aware that Guam is a migratory route for various species of birds to use as a resting point. During our investigation and inspection of the site no birds were observed. However there exist a strong possibility that the site is used as it contains very little human activity that would otherwise discourage them from landing. If these species of migratory birds are observed at any point on the site no interference is to occur either to prevent them from landing or disturbance and disruption of their normal behavior should be altered.

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

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

APR 2 3 2018

MB 4/25

RECEIVED
APR 23 2018

MEMORANDUM

To: Chairman, Guam Land Use Planning

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: **APPLICATION NO.** 2017-32; **LOCATION:** Tract 154 Lot No. 4-1RNEW, Yigo; **APPLICANT:** IAN Corporation represented by Daniel D. Swavely; **PROPOSED USE:** Subdivision for Construction of thirty-six (36) single family dwelling units

Håfa Adai! The applicant, IAN Corporation, represented by Daniel D. Swavely is requesting for a subdivision proposing the construction of thirty-six (36) single family dwellings on Tract 154 Lot 4-1NEW which is also being requested to be rezoned from "A" Agricultural to R-1 Single-family dwelling in the municipality of Yigo. The proposed project includes an offsite recreational area, ponding basin, underground power and the required curb, sidewalks and stormwater collection and disposal.

The property is approximately 27,503 square meters or 296,040 feet or nearly 6.79 acres in size. The undeveloped property is located in Yigo just off Route 1 Marine Corps Drive in an area known as Chalan Paharu and Chalan Sgt. Joshua A. Lukeala in the La Chance area. Surrounding land uses are primarily forested with single residential homes.

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

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

> *"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and*

densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

In order to meet the goals and objectives of the NCGLUP, the applicant shall be required to comply with the guidance to adhere to the concept of affordable development as proposed within the North and Central Guam Land Use Plan. Housing Policy H-9 States

"Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households earning 80% to 120% of local income adjusted for family size. Incentives could include density increases, flexibility in development standards or other measures."

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

Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to surface and ground water. The Bureau recommends that Ian Corporation prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following, but are not limited to:

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

Detailed information and other BMPs are listed in the CNMI and Guam Stormwater Management Manual and the Guam Erosion and Sediment Control Field Guide that can be obtained from the Bureau's website www.bsp.guam.gov under Guam Coastal Management Program.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicants are advised to avoid the use of invasive plants in their landscape plan. The use of native plants requires little to no fertilizer for growth. The Bureau encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant should also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation. The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does not affect historic properties. The subject area is located in forested area and verification from DPR is required.

In conclusion, the Bureau recommends **Approval to the zone change** to R-1 for single – family dwellings. The Bureau also notes that there will be a Tentative Subdivision Plan submitted for GLUC approval before any construction will be taking place.

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

CARL V. DOMINGUEZ
DIRECTOR

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

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

Website:
http://land.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

ATTACHMENT D

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

DEPARTMENT OF LAND MANAGEMENT

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 14, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-49 Zone Change, Lot 1139-R16-NEW-4NEW-1, (Toto), Municipality of Mongmong-Toto-Maite.

1. PURPOSE:

A. Application Summary: The Applicant, Pok Nam Yi and Sharon L.C. Taitano, represented by Mr. Kyle B.M. Borja, requests consideration of a Zone Change from "R-2" (Multi-Family Dwelling) to "LC" ("Limited Commercial) Zone to allow continued operation of an existing retail store, on Lot 1139-R16-NEW-4NEW-1, municipality of Mongmong-Toto-Maite.

B. Legal Authority: Title 21, Guam Code Annotated, Article 6, Part 3 (Changes of Zones), Sections 61630 thru 61638 (Zoning Law) and Guam Land Use Commission Resolution 2015-03 pertaining to "Limited Commercial" (LC) rezoning.

2. FACTS:

A. Location: The subject site fronts Toto-Canada Road, also known as Route No. 33 and is approximately 1,000 feet south of Rote No. 8 (Purple Heart Highway). The property is within 100 feet east of Mongmong GHURA Housing and approximately 600 feet southeast of Harvest Church and School (See **ATTACHMENT 1).**

B. Lot Area: 1,918 Square meters or 20,643 or 1/2 (+) Acre

C. Zoning: "R-2"" (Multi-Family Dwelling) Zone.

D. Description: The existing commercial retail operation, now known as (JS Store) was approved under a Use Variance by the Guam Land Use Commission (GLUC) on June 12, 2008. The topography of the site is fairly flat, slight sloping from the rear boundary. Within 1,200 feet of the subject lot there are other GLUC, then Territorial Planning Commission or TPC, that allowed commercial retail activities along Route No. 33 in 1976 and 2015. Other land use activities within 1,500 feet

radius are residential, commercial, and industrial (M2 – GIAA) airport operations. All utility infrastructures are within 100-feet of the subject development.

E. Masterplan: Medium Density Urban Residential

F. Community Design Plan: Residential – Low to Medium Density, mix uses of residential/commercial

G. Previous Commission Action: Use Variance on June 12, 2008 (Ref: LM Doc. No. 775475)

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Heard By ARC: November 16, 2017

B. Public Hearing Results: March 29, 2018 (See **ATTACHMENT 2**)

4. STAFF ANALYSIS: A Zone change must address **Public Necessity, Public Convenience and General Welfare** criteria.

In addressing public necessity, the requested change to "Limited Commercial" (LZ) zone fulfills a public necessity for the area, as the retail activity, has proven itself to the immediate area and the neighborhood. The fact that is has complied to all conditions as a retail operation for many years and maintained good standing in the community. It has provided much needed goods, supplies and related merchandise and necessities for residents and neighboring areas along Route No. 33 (along Toto-Canada Road) under a zone variance retailing of goods. The retail store location has not been a detriment to the area serving the public's daily necessities and shopping convenience for the neighborhood and general public in the immediate area. This retail establishment continues to be most welcomed for years to come as it continues its hours of operation seven days a week for the convenience of the area that continues to grow in population.

In addressing public convenience, the limit of the zone change will allow continuation of an existing retail store operation that has since served the general public and immediate area consistently with well stocked items of merchandise in a clean and well-maintained retail store. The rezoning is compatible to existing land uses in the immediate and surrounding area, near large and populated villages, with schools, multi-family residences, and commercial activities. It is also in close proximity to the airport, airport industrial park, and other commercial districts.

In addressing general welfare of the public, there are no significant impacts to the immediate area resulting from the site and operation of the existing store as the facility will remain in its current capacity without the intent to expand on additional services or uses. All improvements, parking, solid waste disposal, proper drainage, landscaping and fencing are in place and have been maintained for years by the operators. The proposed limited commercial zone changes and land use development on this site is conducive as a limited commercial zone and serves as a means of providing goods and improve quality of life to the general the public as well.

In supporting a limited commercial use, and although near residential and commercial activities, we find that the added note that the protection of the general welfare of the public is not compromised as it is an existing and a licensed commercial retail activity. The outcome of the municipal public hearing was fully supported by the neighbors and the village Mayor.

Further, there were no objections from the Application Review Committee agencies. As such, it is the position of DLM Planning Staff, the application to be entertained with favorable consideration by the Guan Land Use Commission.

5. **RECOMMENDATION:** We believe the applicant/operator has sufficiently responded to the caveats of review for this request for a change of zone. And since the establishment has remained in good standing with the surrounding community, such serves as the basis of our favorable position on this request, we find it befitting to **recommend Approval with conditions as follows:**

   A. The applicants/operators of the retail store shall adhere to all Commission and ARC recommendations, conditions, and requirements;

   B. Limited commercial activities as approved by the Commission shall be restricted to ongoing activities and shall be prohibited from engaging in commercial activities that may contribute to the detriment of the surrounding community;

   C. That the liquor license for off-sale of alcoholic beverages be issued to the applicant only;

   D. That only one (1) liquor license will be allowed for the establishment; and

   E. That no laundry activity is allowed.

MARVIN Q. AGUILAR
Guam Chief Planner

ATTACHMENTS

Case Planner: Penmer C. Gulac

Attachment

Doc. No. 34GL-18-2282.

ATTACHMENT – 2
PUBLIC HEARING RESULTS OF March 29, 2018

Staff Report - Application No. 2017-49 Limited Zone Change, Lot 1139-R16-NEW-4NEW-1, (Toto), Municipality of Mongmong-Toto-Maite.

The required public hearing was held at the Mongmong-Toto-Maite Mayor's Office / Community Center on March 29, 2018, at 6:05 P.M. Present were, the Case Planner, Mr. Kyle Borja, Applicant's Rep, the Applicants and Mayor Paco, a few MPC Members, neighbors and lot owners. A total of 9 persons were in attendance.

The Case Planner presented the proposed project and Mr. Kyle Borja highlighted details of the application and clients intentions; discussed the time frame of the application process, and activities of the site and area of developments near the site

Public comments and concerns that were noted are as follows:

Mr. Rickie Harris, (Neighbor and President of the Homeowners Condo for Harvest residences nearby):

He wanted to let the public know that he and home/condo owners/tenants fully support the application and to maintain the store at the present location. It serves all the neighbors and is very convenient to shop and is clean all around.

Mr. Kyle Borja (representative):

Mr. Borja further explained in detail the zone change application, its current uses as noted on the application...that the site will be well maintained, clean, landscaped to provide a buffer between the residences nearby. There will be to additional uses added to the operation, no laundromat or game room...just a retail store to serve the neighbors, immediate area and the general public. Additionally, will be working with the Mayor for any other municipal requirements, as well as Gov agencies on this application will be complied with, that this development will continue to create new jobs in the community.

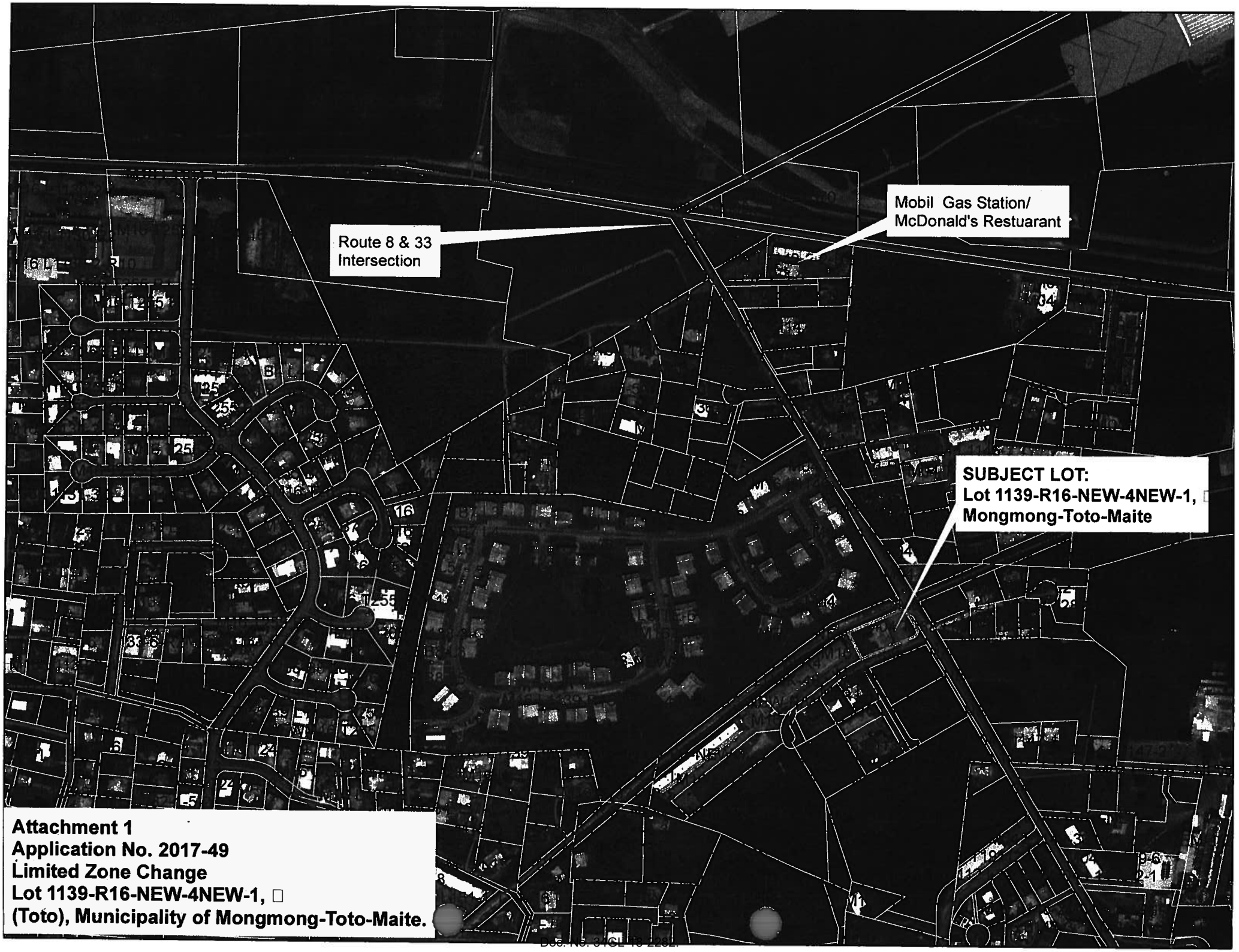
Planning Staff Summary of Public Hearing:

After discussion on rezoning and information given by the consultant, and clarification of the uses, the attendees were fully in support the rezoning of the subject lot. There were no objections noted at the hearing.

Informed those in attendance that the Application Review Committee (ARC) had no objections on the application. The next hearing will be with the Guam Land Use Commission (GLUC), ITC Building, and will be announced in the newspaper 10 days prior as to the hearing date and time.

There hearing was adjourned at 6:45 p.m.

Penmer Gulac



Attachment 1
Application No. 2017-49
Limited Zone Change
Lot 1139-R16-NEW-4NEW-1,
(Toto), Municipality of Mongmong-Toto-Maite.



Doc. No. 34GL-18-2282.

775475

GOVERNMENT OF GUAM
DEPARTMENT OF LAND MANAGEMENT

OFFICE OF THE RECORDER

RECORDING DATE:		NO. PAGE:
JUNE 2008 25	775475	8

FILE TIME			FILING FEES	RECEIPT NO:
A.M.	P.M.		Ex - Officio	08 - Officio
1121				

Appointed Deputy Recorders for Ex-Officio Recorder

Maria L. Ngata — Victoria C. Torres
Andrew D. Santos — Amy T. Bautista
Jane T. Yamasaki — Joel Antenorcruz

Joel Antenorcruz

MARK (X) TYPE OF INSTRUMENT RECORDED

	DEED		AFFIDAVIT
	MORTGAGE		RELEASE
	ASSIGNMENT		AMENDMENT
	ADDENDUM		ASSUMPTION
	DECREE		MAP
	ORDERS		JUDGEMENT
	POWER OF ATTORNEY		REVOCATION
	AGREEMENT		TERMINATION

MARK (X) TYPE OF INSTRUMENT RECORDED

	LEASE		CLAIMS
	CONTRACT		CANCELLATION
	CERTIFICATE	X	NOTICE
	DECLARATION		BILL OF SALE
	EASEMENT		WITHDRAWAL
	OTHERS:		

ABSTRACT OF TITLE SUMMARY

ABSTRACT BY:	DATE	NEW CERTIFICATE OF TITLE NO.	CANCELLED CERTIFICATE OF TILE NO.

COMMENTS

DATA ENTRY INFORMATION SECTION

PROPERTY LISTING NO.			
MUNICIPALITY:			
LOT NUMBER		UNIT OF MEASUREMENT	
BLOCK NUMBER		SQUARE METERS	
TRACT NUMBER		SQUARE FEET	
ESTATE NO.			
L.M. NO.			
SEPIA NO.			
DATA ENTRY BY:			
SCANNED BY:	SCANNED 7/30/09	SCANNED	9/16/09

COMMENTS

REVISED 06/2/08

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

File for Record is Instrument No. 775475

On the Year 08 Month 6 Day 25 Time 1121

Recording Fee De - Officio Receipt No. _____

Deputy Recorder _____

(Space above for Recordation)

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

ORIGINAL

GUAM LAND USE COMMISSION
Department of Land Management
Government of Guam
Hagatna, Guam 96910

NOTICE OF ACTION

June 12, 2008
Date

To: **Pok Nam Park**
c/o Jose Morcilla, DBA: Plan Rite,
P.O. Box 3944,
Hagatna, Guam 96932

Application No. 2007-47

The Guam Land Use Commission, at its regular scheduled meeting on **June 12, 2008**

___ Approved ___ Disapproved

__X__ **Approved with Conditions** ___ Tabled

your request on **Lot 1139-R16-NEW-4NEW-1, Toto, Municipality of Mongmong-Toto-Maite** , Guam for a

____ Zone Change** ___ Tentative Development Plan

__X__ **Zone Variance** ___ Tentative Subdivision
[X] Use - To allow the operations of a retail store and other small business activities in an "R-2" (Multi-Family Dwelling) Zone

**Approval by the Guam Land Use Commission of a Zone Change DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor. [Ref: 21 GCA (Real Property), Chapter 6 (Zoning Law), Section 61634 (Decision by the Commission).]

775475

NOTICE OF ACTION ***Application No. 2007-47***
Pok Nam Park
c/o Jose Morcilla, DBA: Plan Rite
GLUC Meeting of June 12, 2008
Page 2

APLICATION DESCRIPTION: The Applicant, Pok Nam Park c/o Jose Morcilla, DBA: Plan Rite, is requesting approval for a Zone Variance (Use) to allow the operations of a retail store and other small business activities, such as a video rental, barber or beauty shop, or a professional office space within an "R-2" (Multi-Family Dwelling) Zone.

CONDITIONS: The Guam Land Use Commission Approved the application for the Zone Variance – USE, for the to allow the operations of a retail store and other small business activities, such as a video rental, barber and beauty shop, or a professional office space within an "R-2" (Multi - Family Dwelling) Zone with the following conditions:

a. That the applicant adhere to the ARC conditions and requirements as noted on each of the Agency's Official Position Statements;

b. That the liquor license for off sale of alcoholic beverage be issued to the applicant only; and that only one (1) liquor license will be allowed for the establishment;

c. That a six (6) foot high fencing be erected on the rear half and perimeter portion of the lot; and

d. That no laundry activity is allowed.

06-13-08		6-18-08	
Carlos R. Untalan	**Date**	**Jay L. Lather**	**Date**
Guam Chief Planner,		**Chairman,**	
Acting		**GLUC**	

Case Planner: Penmer C. Gulac
Attachment(s): ARC Distribution List/Findings of Fact
cc: Building Permits Section, DPW (Attn: Mr. Jesus Ninete, Sr.)

775475

==========

CERTIFICATION OF UNDERSTANDING

I/We,_____/_____
(Applicant, pls. print) *(Representative - pls. print*

understand that pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change. The Commission may grant two (2) one-year extensions of the above approval period at the time of initial approval.

I/We, further agree and accept the conditions above as a part of the Notice of Action, and further agree to adhere to any and all conditions made a part of and attached to this Notice of Action as mandated by the approval of the Guam Land Use Commission/Guam Seashore Protection Commission.

_____
Signature of Applicant or Signature of Representative

_____
Date:

****

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

_____
Applicant or Representative / Date

775475

Ref: Application No. 2007-47

ACKNOWLEDGMENT

Filed with the Department of Land Management on the 24 day of June, 2008 in accordance with Title 21, GCA, Section 61620.

Terezo R. Mortera
Director of Land Management
or Designee

ACKNOWLEDGMENT

Filed with the Department of Public Works on the 20 day of June, 2008 in accordance with Title 21, GCA, Section 61620.

Jesus Q. Ninete, Sr.
For: Director, Department of Public Works

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

DECISION GRANTING VARIANCE WITH FINDINGS

Pursuant to Title 21, GCA, Section 61617 (a) through (e)

GUAM LAND USE COMMISSION

WHEREAS, the following decision of the Guam Land Use Commission is made in accordance with Title 21, GCA, Sections 61616, 61617, and 61620, now therefore:

BE IT RESOLVED, THAT on the **12th Day of June, 2008**, a hearing of the Guam Land Use Commission (GLUC) was held in accordance with notices duly issued to consider the application for a **Zone Variance - Use** on **Lot No. 1139-R16-NEW-4NEW-1, Toto, in the Municipality of Mongmong-Toto-Maite.**

A quorum of the Commission was present. In attendance were:

1. Mr. Jay L. Lather, Chairperson
2. Ms. Conchita Bathan, Member
3. Mr. Art Salomes, Member
4. Mr. Lawrence S. Rivera, Member

Appearing was: Jose Marcella, of Plan Rite, the applicants' representative), and the applicant, Ms. Pok Nam Park and her daughter, Sharon Taitano, after considering all statements and testimony presented by the interested parties, the GLUC finds that the, represented by Mr.Morcilla, requesting for Zone Variance (Use), in order **to** allow the operations of a retail store and other small business activities, such as a video rental, barber and beauty shop, or a professional office space in Toto, Municipality of Mongmong-Toto-Maite within an "R-2" (Multi – Family Dwelling) Zone with the following conditions:

That the **ZONE VARIANCE (USE) is GRANTED** on the following grounds: (Note: All five (5) sections should be answered)

A. THAT THE STRICT APPLICATION OF THE PROVISIONS OF THIS CHAPTER (ZONING LAW)_WOULD RESULT IN PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS INCONSISTENT WITH THE GENERAL PURPOSE AND INTENT OF THE LAW: THE FOLLOWING FACTS SUPPORT SUCH A FINDING.

We, the Commission find that "financial" hardship is not a justification for the granting of a variance. Notwithstanding that issue, we had reviewed the surrounding land uses and found that it is predominately single-family, single-family clusters and multi-family uses. In fact, a small mom and pop store had existed in the late 1960's and was approximately 3/10's of a mile due southeast from the subject lot. The store served the surrounding neighborhood until it ceased operations several years later.

The surrounding neighborhood has grown substantially and the requested use appears needed. The closest retail operations are located approximately 1,598 feet due northwest along Route 8 and 2,527 feet due southeast along Toto-Canada Road. We, the Commission, therefore find that he proposed store would serve the bulk of the single-family and multi-family neighborhood.

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

We, the Commission, find that this R-2 zone parcel is unique in that it is bounded on its northern boundary by the Toto-Canada Road, on its southeastern boundary by road lot 1139-15R/W and a 50' wide POL Line on its northwestern boundary. We, the Commission, therefore, determined that the proposed use would be a more desirable use versus a residential use because of the existence of the POL line which directly abuts the subject parcel. Although the military has taken steps in maintaining the POL line, still there is the potential for spillage and ignition of fuel.

C. THAT THE GRANT OF THE VARIANCE WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO THE PROPERTY OR IMPROVEMENTS IN THE ZONE OR NEIGHBORHOOD IN WHICH THE PROPERTY IS LOCATED:

We, the Commission, find that our analysis was based on the outcome of the public hearing that the use variance will not be detrimental to the surrounding neighborhood. As stated in paragraph 3c of this report, the public supports the proposed use including the Mayor of MongMong-Toto-Maite who in essence represents his constituents as a whole. We, the Commission, further believe that the proposed use will not be injurious to the property or improvements in the area. In fact, all improvements such as sewer, water, power, telephone, paved roads are all in existence. We, the Commission, find that the proposed use's demand on infrastructure is not expected to burden the existing customers in the neighborhood.

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

We, the Commission, find that the rapid developmental growth of the neighborhood within the area did not keep paced with any supporting community services. In times past as was the case in the 1960's, there were several so-called "Mom and Pop" stores that were located in the village and which served a smaller clientele at the time. Today, only one such store exists within the village proper. We, the commission, therefore, find that it is our position that the grant of the variance will not be out of character within the area since the residents of the community do support such use; and in which said use will be a benefit to the community in general.

E. THAT, AS TO VARIANCE FROM THE RESTRICTIONS OF §61504 OF THIS CHAPTER, THE PROPOSED BUILDING WILL SUBSTANTIALLY ENHANCE THE RECREATIONAL. AESTHETIC OR COMMERCIAL VALUE OF THE BEACH AREA UPON WHICH THE BUILDING IS TO BE CONSTRUCTED, AND THAT SUCH BUILDING WILL NOT INTERFERE WITH OR ADVERSELY AFFECT THE SURROUNDING PROPERTY OWNER'S OR THE PUBLIC'S RIGHT TO AN UNTRAMMELED USE OF THE BEACH AND ITS NATURAL BEAUTY

This section is not applicable.

F. CONCLUSION:

We, the Commission, therefore find that our is conclusion based on the submitted application wherein we find the application to be complete; but most importantly is the fact that the public supports the proposed use and that the members of the Application Review Committee has no objections with conditions on the proposed use variance.

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

The vote of the members was as follows:

4 Ayes 0 Nays 0 Abstentions

This decision was adopted this **12th** day of **June 2008** and shall be filed with the Department of Land Management and the Department of Public Works as mandated under Title 21, GCA, Section 61616 to 61617 and 61501.

Jay L. Lather
Chairman, GLUC

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 3, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Change Application No. 2017-32

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

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

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

DEPARTMENT OF AGRICULTURE (DoAg):

Agriculture has reviewed the subject lot for a "Zone Change" request from an Agricultural to an R-1 zone and has no opposition to the proposed zone change for the construction of a housing development. 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 has been traditionally used for various farming and ranching activities in the past. Currently no such "Agricultural" activity has been identified for this particular site in over 20 years and no active farms are in this immediate area. Therefore, no adverse impact to any agricultural activity exists either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place.

Should the proposed zone change 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.

As rapid development occurs in this region of the island the destruction and removal of native tree species increases the potential for pollution and the loss of Guam's Northern Aquifer the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to the construction of 36 homes to be built on this site. Should the proposed project proceed Agriculture recommends that all lots designated for build will have elements of a green zone not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply, the re-planting of native trees maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The Department of Agriculture has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our Agricultural Development Services & Forestry divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our Department of Agriculture Organic and Environmental Demonstration Farm. The demonstration farm displays various planning techniques that will aid the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment. The plating 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 were no incidents of the "Little Fire Ant" (Wassmannia auropunctata) however be aware that there are reported infestations located at the Yigo waste dumpsite which lies on the opposite end of this property. 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 that can properly dispose and treat the organic matter either through mulching and composting. 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.

Once again should the project proceed to the build phase and the permits for land clearing and grading are secured be aware that Guam is a migratory route for various species of

birds to use as a resting point. During our investigation and inspection of the site no birds were observed. However there exist a strong possibility that the site is used as it contains very little human activity that would otherwise discourage them from landing. If these species of migratory birds are observed at any point on the site no interference is to occur either to prevent them from landing or disturbance and disruption of their normal behavior should be altered.

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 wellbeing 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.

GUAM POWER AUTHORITY (GPA):
Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:
   1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
      - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
      - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
      - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
      - Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
      - Provide scheduling and magnitude of project power demand requirements for new loads.
      - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
      - GPA reserves its easement rights established under document number 78360.

   2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
   3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.

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

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
We reviewed the above subject and determined that the Zone Change will not affect historic properties within or around the subject lot. Therefore, we have no objection to the approval of this Zone Change Application. However, when the permitting process for the construction phase gets underway, we will work with the applicant to comply with historic preservation requirements.

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the requests provided the following conditions be in place.

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

BUREAU OF STATISTICS AND PLANS (BSP):
The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations:

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

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

In order to meet the goals and objectives of the NCGLUP, the applicant shall be required to comply with the guidance to adhere to the concept of affordable development as proposed within the North and Central Guam Land Use Plan. Housing Policy H-p States

"Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households earning 80% to 120% of local income adjusted for family size. Incentives could include density increases, flexibility in development standards or other measures."

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

Controlling erosion and sediment flow from construction sites are a priority with regard to storm water impacts to surface and ground water. The bureau recommends that Ian

Corporation prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following, but are not limited to:

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

Detailed information and other BMPs are listed in the CNMI and Guam Storm water Management Manual and the Guam Erosion and Sediment Control Field Guide that can be obtained from the Bureau's website www.bsp.guam.gov under Guam Coastal Management Program.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicants are advised to avoid the use of invasive plants in their landscape plan. The use of native plants requires little to no fertilizer for growth. The Bureau encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant should also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation. The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does not affect historic properties. The subject area is located in forested area and verification from DPS is required.

In conclusion, the Bureau recommends Approval to the zone change to R-1 for single-family dwellings. The Bureau also notes that there will be a Tentative Subdivision Plan submitted for GLUC approval before any construction will be taking place.

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

GUAM WATERWORKS AUTHORITY (GWA):
No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES (DPH&SS):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

GUAM FIRE DEPARTMENT (GFD):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

GUAM DEPARTMENT OF EDUCATION (GDOE):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):

No Position Statement has been received as of the date of this Memorandum of May 3, 2018.

Marvin Q. Aguilar

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

Department of Agricultu
Dipåttamenton Agrikottura

Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

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

Matthew L.G. Sablan
Director

Jessie B. Palican
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 03 2018
CLUC/GALC/FLUC

MB 4/3

March 28, 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 "Zone Change" request from an "Agrcultural" to a "R-1" for application 2017-32 on Lots 4-R1-NEW Tract 154 Tre Vista Subdivision Located in Yigo. (D.M. Guam Corporation c/o IAN Corporation).**

Agriculture has reviewed the subject lot for a "Zone Change" request from an **Agricultural to a R-1 zone** and has no opposition to the proposed zone change for the construction of a housing development. 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 has been traditionally used for various farming and ranching activities in the past. Currently no such "Agricultural" activity has been identified for this particular site in over 20 years and no active farms are in this immediate area. Therefore no adverse impact to any agricultural activity exists either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place.

Should the proposed zone change 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.

4.5.18

As rapid development occurs in this region of the island the destruction and removal of native tree species increases the potential for pollution and the loss of **Guam's Northern Aquifer** the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to the construction of 36 homes to be built on this site. Should the proposed project precede **Agriculture** recommends that all lots designated for build will have elements of a green zone dedicated to it, as part of the overall landscaping plan. If this includes parks and green zones not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply, 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 the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The **Department of Agriculture** has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our **Agricultural Development Services & Forestry** divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our **Department of Agriculture Organic and Environmental Demonstration Farm**. The demonstration farm displays various planting techniques that will aid 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" (*Wassmannia auropunctata)*** however be aware that there are reported infestations located at the Yigo waste dumpsite which lies on the opposite end of this property. 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 that can properly dispose and treat the organic matter either through mulching and composting. 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.

Once again should the project proceed to the build phase and the permits for land clearing and grading are secured be aware that Guam is a migratory route for various species of birds to use as a resting point. During our investigation and inspection of the site no birds were observed. However there exist a strong possibility that the site is used as it contains very little human activity that would otherwise discourage them from landing. If these species of migratory birds are observed at any point on the site no interference is to occur either to prevent them from landing or disturbance and disruption of their normal behavior should be altered.

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

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS
SAGAN PLANU SIHA YAN EMFOTMASION
Government of Guam
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Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

MEMORANDUM

APR 23 2018

MB 4/25

RECEIVED
APR 23 2018
11:45 pm

To: Chairman, Guam Land Use Planning

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: **APPLICATION NO.** 2017-32; **LOCATION:** Tract 154 Lot No. 4-1RNEW, Yigo; **APPLICANT:** IAN Corporation represented by Daniel D. Swavely; **PROPOSED USE:** Subdivision for Construction of thirty-six (36) single family dwelling units

Håfa Adai! The applicant, IAN Corporation, represented by Daniel D. Swavely is requesting for a subdivision proposing the construction of thirty-six (36) single family dwellings on Tract 154 Lot 4-1NEW which is also being requested to be rezoned from "A" Agricultural to R-1 Single-family dwelling in the municipality of Yigo. The proposed project includes an offsite recreational area, ponding basin, underground power and the required curb, sidewalks and stormwater collection and disposal.

The property is approximately 27,503 square meters or 296,040 feet or nearly 6.79 acres in size. The undeveloped property is located in Yigo just off Route 1 Marine Corps Drive in an area known as Chalan Paharu and Chalan Sgt. Joshua A. Lukeala in the La Chance area. Surrounding land uses are primarily forested with single residential homes.

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

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

> *"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and*

densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

In order to meet the goals and objectives of the NCGLUP, the applicant shall be required to comply with the guidance to adhere to the concept of affordable development as proposed within the North and Central Guam Land Use Plan. Housing Policy H-9 States

"Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households earning 80% to 120% of local income adjusted for family size. Incentives could include density increases, flexibility in development standards or other measures."

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

Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to surface and ground water. The Bureau recommends that Ian Corporation prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following, but are not limited to:

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

Detailed information and other BMPs are listed in the CNMI and Guam Stormwater Management Manual and the Guam Erosion and Sediment Control Field Guide that can be obtained from the Bureau's website www.bsp.guam.gov under Guam Coastal Management Program.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicants are advised to avoid the use of invasive plants in their landscape plan. The use of native plants requires little to no fertilizer for growth. The Bureau encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant should also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation. The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does not affect historic properties. The subject area is located in forested area and verification from DPR is required.

In conclusion, the Bureau recommends **Approval to the zone change** to R-1 for single – family dwellings. The Bureau also notes that there will be a Tentative Subdivision Plan submitted for GLUC approval before any construction will be taking place.

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

CARL V. DOMINGUEZ
DIRECTOR

ATTACHMENT E

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
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671-649-LAND (5263)

Facsimile:
671-649-5383

May 14, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-11
Zone Change Request
Lot 5, Block 1, Tract 221, Municipality of Barrigada

1. PURPOSE:

A. Application Summary: The Applicant, Benham Ghafghazi, represented by Harry D. Gutierrez, requests approval of a Zone Change from "A" (Rural-Agricultural) to "M-1" (Light- Industrial) Zone, for a proposed warehouse structure with office space, and heavy equipment storage space on site on Lot 5, Block 1, Tract 221, Municipality of Barrigada.

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

2. FACTS:

A. Location: The subject site fronts south Macheche Road and Route No. 25 (GIAA - Alageta access). It is approximately 600 feet east of the Kautz and Sons Glass Company and is approximately 900 feet east of Route No. 16 overpass in Barrigada.

B. Lot Area: 5,945 Square meters or 64,002 square feet or 1.6 Acres

C. Present Zoning: "A" (Rural-Agricultural) Zone.

D. Field Description: The proposed development site is vacant with overgrown vegetation. The topography is fairly flat, slight sloping to the northern boundary. On the west, at approximately 300 feet, there a large warehouse owned by (Kautz & Sons), that fabricates windows, glass panes, typhoon shutters, and stores construction and building materials supplies. On the southeast approximately 200 feet, Lot 4-2, Block 1 and Lot 4, Block 2, Tract 221, were rezoned to M-1 by GLUC a few years ago for warehousing and materials storage. Other land use activities within 500 - 3,200 feet

radius are warehouses and light and heavy equipment repair shops, sporadic residential homes and apartments, a gas station and the A.B. Won Pat International Airport. All utility infrastructures are within 100 feet of the subject development.

E. Masterplan: Rural Low Density

E. Community Design Plan: conservation; Open space

F. Previous Commission Action: None.

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Heard By ARC: February 1, 2018

B. Public Hearing Results: A public hearing was held on April 24,2018 at the Barrigada Senior Center. **(See Attachment 2 for minutes of the hearing)**

4. DISCUSSION and STAFF ANALYSIS: Any change of zone must address the criteria of **Public Necessity, Public Convenience and General Welfare**. These criteria resonate the fundamental purpose of our zoning code. That is, to *consider certain regulations deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities.*

The land use element most concerning in our analysis concerns the subject lot's designation within the AICUZ (Air Installation Compatible Use Zone) and potential impacts generated by aircraft activities from the Guam International Air Terminal. Based on the existing AICUZ, the subject property falls within an area designated as Accident Potential Zone I (APZ I) and Ldn (noise level assessment) of 70-75 decibels. Any type of activity within the surrounding area will be affected by noise levels not conducive to residential use within this area. On the merit of the property's location substantiates a more prudent zone designation to "C" (Commercial) and/or "M-1" (Light Industrial). And based on this, regardless of remnant rural residential uses in the vicinity of the subject lot, we are confident the effects of airport activities onto this community will continue to encourage a change of use to more non-residential commercial or industrial activities.

The proposed warehouse, office, and storage spaces are all uses permitted within a light-industrial uses on the subject lot that would be consistent with current land uses and activities in the immediate area within a range from 200 to 3,000 feet from airport activities. Further, the property would be more conducive to commercial/industrial use due to its central location to Tamuning and Dededo. These municipalities reflect the largest commercial/industrial population base with respect to encouraging complimentary uses due to its proximity to the airport, airport industrial park, Harmon Industrial park and other commercial districts.

The zoning code under §61637 provides, "no additional land may be established as a rural zone and no land presently zoned A may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

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

Legitimate agricultural activities other than residential use in this area appears either non-existent or negligible. As of the date of this Report, we have not received the required Agricultural Impact Statement (AIS) from Department of Agriculture.

Any development on the site will accommodate wastewater and storm water drainage to protect the residents and the groundwater (aquifer) in the area in accordance with current requirements of development. The zone change will not reduce any zoning standards in the immediate vicinity, but rather, the improvements to the subject lot will create a more stable environment, that will provide for an orderly development scheme within the area and adjacent surroundings. The Applicants are aware and will comply to all requirements and conditions and any concerns imposed by government agencies and other mandates in their development plans.

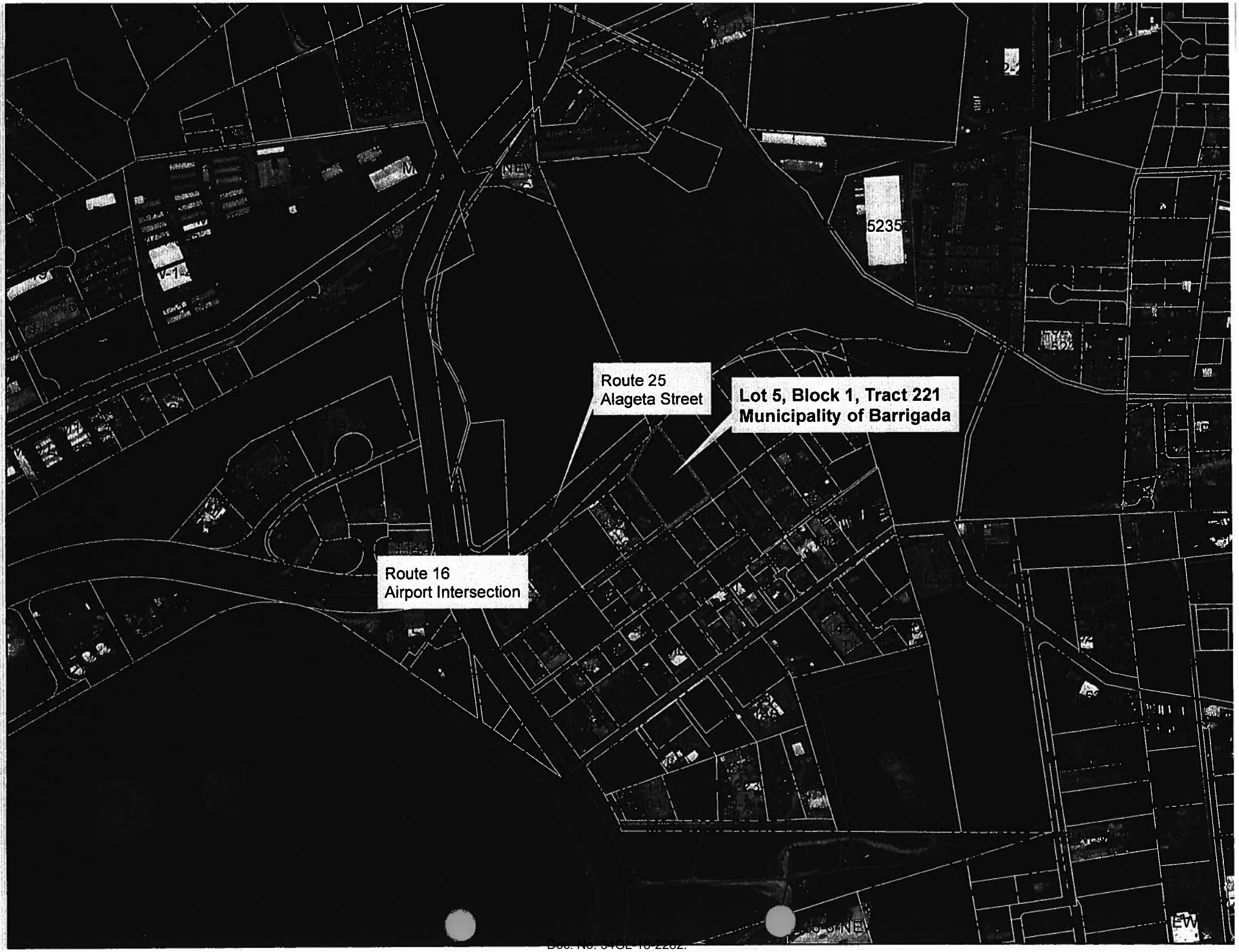
5. **RECOMMENDATION:** We find the general welfare of the public is protected by encouraging land uses that may be more conducive to activities associated with the Guam International Airport; and more critically as the subject lot lays within an area designated as Accident Potential Zone I. Based on this fact, the Division of Planning **recommends approval** of the requested change of zone.

In the event both the Commission and Governor of Guam renders a favorable consideration on this request, all permitting requirements shall be imposed on future development schemes presented under a new zoning designation of "M-1" (Light-Industrial) to include, but not limited to, imposing Regulations Along District Boundaries per Title 21GCA, Chapter 61, §61302.

Marvin Q. Aguilar
Guam Chief Planner

CASE PLANNER: Penmer Gulac

Doc. No. 34GL-18-2282.



Doc. No. 34GL-18-2282.

PUBLIC HEARING RESULTS OF APRIL 24, 2018

Ref: Application No. 2018-11
Zone Change Request
Lot 5, Block 1, Tract 221
Municipality of Barrigada

The required public hearing was held at the Barrigada Mayor's Office / Community Center on April 27, 2018, at 6:00 P.M. Present were:

- Case Planner, Penmer Gulac
- Applicant's Representative, Mr. Harry D. Gutierrez
- Honorable Vice-Mayor of Barrigada, Jessie Bautista,
- MPC Members, neighbors
- Property owners.

A total of 8 persons were in attendance.

The Case Planner presented the proposed project Mr. Harry Gutierrez highlighted details of the application and clients intentions; discussed the time frame of the application process, construction and completion time; access to the site and area of development.

Public comments and concerns that were noted are as follows:

Mr. Razo (Neighbor within 500 feet):

He wanted to know if the road will widen by the government it is narrow and not wide enough for large equipment coming and going. There are already lots nearby that have been rezoned to M1 and inquired as when the government will widen Macheche Road to its full width of 40 feet? There is a dead end towards the northeast of Macheche Road and large trucks have difficulty turning around to get back out to Route No.16.

Response(from the Case Planner) :

Based on information on their application and discussion with their consultant, the owner/applicant will not access on Macheche Road as it only be used for emergency access and a gate will be erected along with perimeter fencing. Main access will along Route No. 25 (GIAA-Alageta) on the north side...as to the width of the road. the applicants will have to deed the dotted line portion of 20 feet to the Government of Guam to meet the 40-foot wide alignment...as not all lot owners have deeded their portion to govguam to date. It will be individual lot owners that must execute this on their own...this will be coordinated with DPW's right of way section per Vice Mayor Jessie Bautista.

Mr. Harry Gutierrez (representative):

Mr. Gutierrez had further explained in detail the zone change application, uses as noted on the application…that the site will be fenced and landscaped to provide a buffer between the residences nearby ….he also clarified access and alignment of the road….he reassured that his my clients…will only will be using the north side (GIAA-Alageta) access to and from the site....not the south side (Macheche Road) … lined portion to GovGuam and resurvey the property…and for all those who have not done this, the road will never be widened for its full width …I encourage those lot owners to submit their deed and work with DPW Right of Ways…this will resolve the road widening issues …and additionally stated that other requirements by the agencies on this application will be complied with, that this development will create new jobs in the community.

Mr. Lau (Neighbor):

Mr. Gutierrez is correct… and I have deeded portion of my lot to the government already. I am here to support the rezoning of my neighbor.

Response(from the Case Planner) :

For your information the 2 lots (belong to Mr. and Mrs. Lau) located along Macheche Road that were recently rezoned on Blocks 1 and 2 and have already deeded their 20 feet to GovGuam and they have started some improvements already on their lots and have put up fencing and some landscaping as required by the land use commission.

Vice Mayor Jessie Bautista:

Our office will assist the neighbors and lot owners as to the realignments requirements of the road…lot owners will need to work closely with DPW so the road can be widened in the near future...and will be a safer road and access for the public…our MPC will further review the application and work with the consultant…as how they can contribute to our village...community and if we can provide assistance ...come in and see us at the mayor's office.

Mr. Gutierrez (reperesentative):

Informed those in attendance that other permitting requirements will be adhered to should other permits are needed. The project will be hooked up to the sewer line and he reassured those present there will be minimal impacts to infrastructure, traffic, noise…etc… the applicants will be good neighbors...that they will landscape and fence the site...again…they will only have the main access from the north side fronting Route No. 25 (GIAA-Alageta…. my clients will be doing their part to be good neighbors and comply to all government requirements on the proposed uses on the site.

Planning Staff Summary of Public Hearing:

After discussion on rezoning and information given by the consultant, and clarification of the access and realignment requirements, attendees were agreeable and fully support the rezoning of the subject lot. There were no objections noted at the hearing.

Staff informed those in attendance that the Application Review Committee (ARC) had no objections on the application. The next hearing will be with the Guam Land Use Commission (GLUC), ITC Building, and will be announced in the newspaper 10 days prior as to the hearing date and time.

BARRIGADA

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

COPY

April 24, 2018

Mr. John Arroyo
Chairman, Guam Land Use Commission
Department of Land Management
Tamuning, Guam 96931

Re: **Zone Change Application No. 2018-11.** Applicant requesting for a zone change from "A" (Rural) to "M-1" (Light Industrial Zone), for the proposed construction of a warehouse, on Lot 5, Block 1, Tract 221, in the Municipality of Barrigada.

Dear Mr. Arroyo:

Buenas yan Hafa Adai! This is to inform you that Mayor June U. Blas and I, together with the Barrigada Municipal Planning Council submit our comments concerning the above named Zone Change Application No. 2018-11.

The Applicant (Mr. Behnam Ghafghazi) represented by Harry D. Gutierrez, is requesting for a zone change from "A" (Rural) to "M-1" (Light Industrial) for Lot 5, Block 1, Tract 221, in the Municipality of Barrigada. The zone change from "A" (Rural) to "M-1" (Light Industrial) is, in our opinion, the proper zoning designation for the intended use mentioned in the Zone Change Application No. 2018-11.

Furthermore, the Zone Change Application was received by the Department of Land Management on January 11, 2018. Please note that the same Application was received by the Barrigada Mayor's Office on April 10, 2018 Department of Land Management on January 11, 2018 absent comments from the Guam Power Authority, Guam Waterworks Authority, Department of Public of Works, the Bureau of Statistics and Plans, and other affected government agencies.

Notwithstanding the fact that we have not seen any comments until tonight's hearing (Barrigada Community Center, 6PM, on Tuesday, April 24, 2018) just means that Members of our Municipal Planning Council will meet to review the position statements and comments submitted by government agencies regarding services, facilities and infrastructure servicing the area, specifically, sewer, liquid and solid waste disposal and storm water disposal.

At this time, we express the following:

1. We find that the Applicant's (Mr. Behnam Ghafghazi) main intent is to rezone his property and make it compatible with the same zoning as the other lots in the immediate area so that he can build a warehouse, to include office spaces and other storage rental spaces.

2. We also find that the lot area of the property in questions is 5,945 square meters or 64,002 square feet with a total area of 1.6 acres and will be able to accommodate the proposed use activities, such as parking, and loading and unloading areas.

3. We solicit the cooperation of the Applicant to insure that all conditions and other concerns and requirements by the Barrigada Mayor's Office and Municipal Planning Council, and other permitting agencies are adhered to from clearing of the property, to construction and final occupancy.

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

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

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

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

(E) **Water Source Protection from Industrial Waste:** Lot 5, Block 1, Tract 221, Barrigada is located in and around the Northern Watershed, which is home to the Northern Guam Lens Aquifer. The aquifer is an essential resource for our island and is the primary source of drinking water for our island and shall protected at all times.

5. Furthermore, there is a paved road (80-feet) fronting the subject property. Accordingly, it connects to the Airport access and Route 16 overpass and serves as the main access to the property in questions.

6. We opine that it is of great importance to prevent sources of contamination from entering our island's water supply. The Barrigada Municipal Planning Council is concerned that the activities resulting from the rezoning would have adverse effects and therefore encourages the applicant to consult with Guam EPA and to implement practices for managing waste that would avoid potential contamination.

Thank you for your time, and should you have any questions or concerns, please do not hesitate to email us at bmomayor@gmail.com; or jessie.bautista007@gmail.com or call us at 734-3737.

Sincerely,

JUNE D. BLAS
Mayor

JESSIE P. BAUTISTA
Vice Mayor

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 15, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Change Application No. 2018-11

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 subject to the ARC Position Statements and the permitting agencies requirements.

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the request provided the following conditions are met:

a) Applicant, must submit a preliminary site development plan and incorporate the proposed warehouse, office and storage area;
b) parking lay-out and details for stalls (compact, standard and accessible stalls) must meet the American Disability Act requirement (ADA); and
c) include solid waste trash area for either public or private services.

DPW recommends approval, subject to the above comments provided by the Application Review Committee (ARC) with conditions and prior to building permit application that a complete set of design drawings with all the engineering disciplines needed must be in conformance with the latest building code edition including ADA requirements. Plans must be signed by a registered architect or engineer.

BUREAU OF STATISTICS AND PLANS (BSP):
The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations:

Land Use. The Bureau finds that the proposed project is within the General Residential category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP).

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

It is with the above in mind that the Bureau remind the land owner that the proposed activities not be deviated upon without ARC and TLUC approval prior to any changes occurring. As a condition to this use proposal any pesticides or hazardous materials must be contained and housed so as to prevent accidental spillage and contingent measures be implemented in order to minimize any negative impacts as possible.

Erosion Control. The alteration of vegetated areas to buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water resource.

The applicant is required to implement best management practices on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs.

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

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

The LID approach works with nature to manage storm water as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats storm water as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate storm water runoff. The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property.

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

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

The **Bureau recommends approval** to the Zone Change in order to construct and operate a warehouse with office and storage space that would be in conformance to activities and other compatible uses as permitted in a light industrial zone property.

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

GUAM POWER AUTHORITY (GPA):
Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:
   1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
      - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
      - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
      - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
      - Developer/Owner shall provide necessary electrical 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. 90077, Map 150FY69.

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

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

DEPARTMENT OF AGRICULTURE (DoAg):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

GUAM WATERWORKS AUTHORITY (GWA):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

DEPARTMENT OF PARKS AND RECREATION (DPR):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES (DPH&SS):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

GUAM FIRE DEPARTMENT (GFD):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

GUAM DEPARTMENT OF EDUCATION (GDOE):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):
No Position Statement has been received as of the date of this Memorandum of May 15, 2018.

Marvin Q. Aguilar

Attachments: ARC Position statements

Cc: Executive Secretary, GLUC

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

MB 3/16

RECEIVED
MAR 15 2018
1:15 PM

GLENN LEON GUERRERO
Director
ANDREW S. LEON GUERRERO
Deputy Director

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

APPLICANT: Behnam Ghafghazi

APPLICATION No.: 2018-11

SUBJECT: Zone Change from "A" to "M-1"
Lot 5, Block 1, Tract 221 Barrigada

Buenas yan Hafa Adai! The applicant, is requesting to rezone the above subject property from Agricultural ("A") to Light Industrial Zone ("M-1"). The subject lot is located at Macheche road approximately 900 to 1200 feet east of the intersection of the airport access (Rt. 10A and Rt.16) along the Barrigada area. The total lot area is approximately 5,945 sq. meters or 64,000.00 square feet.

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the request provided the following conditions are met:

a) Applicant, must submit a preliminary site development plan and incorporate the proposed warehouse, office and storage area;
b) parking lay-out and details for stalls (compact, standard and accessible stalls) must meet the American Disability Act requirement (ADA); and
c) include solid waste trash area for either public or private services.

DPW recommends approval, subject to the above comments provided by the Application Review Committee (ARC) with conditions and prior to building permit application that a complete set of design drawings with all the engineering disciplines needed must be in conformance 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

GUAM POWER AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
FEB 14 2018
CLRC/GALC

February 2, 2018

MEMORANDUM

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

From: General Manager

Subject: Lots 5, Block 1, Tract 221, Municipality of Barrigada, (Behnam Ghafghazi); Zone Change Application from "A" (Agricultural) to "M-1" (Light-Industrial) to construct a warehouse with office. **Application No. 2018-11**

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

A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
   - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
   - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
   - Provide scheduling and magnitude of project power demand requirements for new loads.
   - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
   - **GPA reserves its easement rights established under Document No. 90077, Map 150FY69.**

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

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Behnam Ghafghazi
Location: Lot 5, Block 1, Tract 221, Barrigada
Type of Application: Zone Change
GLUC/GSPC Application No. 2018-11
Brief Project Description:
"A" to "M-1" to construct a warehouse with office.

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

Date

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

ASG/arp

Department of Agriculture
Dipåttamenton Agrikottura

Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

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

Matthew L.G. Sablan
Director

Jessie B. Palican
Deputy Director

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MAY 16 2018
DEPARTMENT OF LAND MANAGEMENT
CLUC/GALC/GLUC

ORIGINAL

May 15, 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 "Zone Change" request from an "Agricultural" to a "M1-Light Industrial" for application 2018-11 on Lots 5 Block1, Tract 221 Located in Barrigada. (Benham Ghafghazi c/o Harry D. Gutierrez).**

Agriculture has reviewed the subject lot for a "Zone Change" request from an **Agricultural to an M1-Light Industrial zone** and has no opposition to the proposed zone change. Our agency will recommend approval of the zone change with the following statements, conditions and requirements set forth in *21 GCA Chapter 61 Section 61637*. Inspection of the site found no adverse impact to **Agricultural** activity and to any **Endangered Species** as well as to **Coastal Zones, Wetland habitat** and **Watersheds.**

The proposed zone change for **Lot 5 Block 1, Tract 221** contains no commercial agricultural activity, based on the inspection no adverse impact to any agricultural activity and to native habitats where observed either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place. Firstly, should the proposed zone change be approved and the project moves into any proposed build phase be aware that the proper **"Clearing and Grading permits"** must be obtained and registered with the Department of Public Works One Stop section with all the regulatory agencies signed off on the permit in order to proceed with mass clearing and grading of the site. No land clearing activity is to occur prior to securing the proper permit.

As rapid development of this area occurs in the most heavily populated area of the island the destruction and removal of native tree species increases the potential for pollution and the loss of **Guam's Northern Aquifer** the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to this zone change and any proposed development of the sites.

Agriculture recommends that the lot if designated for build will have elements of a green zone dedicated to it as part of the overall landscaping plan. If this includes parking and green zones not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply re-planting of native trees in a dedicated section of the lot(s) or allowing the existing fauna to remain as is, is vital in maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The **Department of Agriculture** has several programs and personnel that can assist you in developing a plan to address this issue. Should the project be used to house industrial chemicals and any such synthetic material that has the potential for leaking into the soil and running off into adjacent lots and easements Agriculture will require that **Geo-Matting** and other **approved environmental mitigation** practices such as **run-off catchments and dedicated mixing stations** is incorporated into the project to protect seepage into the **Guam's Northern Aquifer.**

Please contact our **Agricultural Development Services & Forestry** divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our **Department of Agriculture Organic and Environmental Demonstration Farm**. The demonstration farm displays various planting techniques that will aid in the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment by erosion and leeching. The planting of native trees will add to the aesthetic appeal of the development as it uses the trees that were once abundant in this part of NCS Dededo. The trees will also serve to provide shading for its residents, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development that takes into account Guam's vital natural resources.

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

MATTHEW L.G. SABLAN
Director

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS
SAGAN PLANU SIHA YAN EMFOTMASION

Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
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Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

MAY 0 1 2018

DEPARTMENT OF LAND MANAGEMENT
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MAY 03 2018
CLTC/GALC/GLUC

MEMORANDUM

TO: Chairman, Guam Land Use Commission

VIA: Executive Secretary, Department of Land Management

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **Application No. 2018-11; Location:** Tract 221, Block 1, Lot 5, Municipality of Barrigada, Guam from "A" Rural Zone to "M-1" Light Industrial Zone **Applicant:** Mr. Benham Ghafghazi c/o Mr. Harry D. Gutierrez - Consultant

Håfa Adai! The applicant, Mr. Benham Ghafghazi represented by consultant Harry D. Gutierrez seeks to rezone property located in the Municipality of Barrigada, from "A" Rural Zone to "M-1" Light Industrial Zone. The applicant is proposing to construct a warehouse with office and storage space and engaging in light industrial activities as permitted in the light industrial zone in a total of 5,945 square meters or 64,002 square feet. Tract 221, Block 1, Lot 5 is located in the area known as Bello Road off Route 16 behind Kautz & Sons Glass Company, Inc. The property is currently forested on flat terrain and is surrounded by single family dwellings, automotive repair shops, apartment complex, and fuel station.

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

Land Use. The Bureau finds that the proposed project is within the General Residential category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP).

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

It is with the above in mind that the Bureau remind the land owner that the proposed activities not be deviated upon without ARC and TLUC approval prior to any changes occurring. As a condition to this use proposal any pesticides or hazardous materials must be contained and housed so as to prevent accidental spillage and contingent measures be implemented in order to minimize any negative impacts as possible.

Erosion Control. The alteration of vegetated areas to buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water resource.

The applicant is required to implement best management practices on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp3.guam.gov under the Guam Coastal Management Program.

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

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff. The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property.

The Bureau recommends the applicant to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration and pride in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook "Island Stormwater Practice

Design Specifications" is available at the Bureau's website www.bsp3.guam.gov.

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

The **Bureau recommends approval** to the Zone Change in order to construct and operate a warehouse with office and storage space that would be in conformance to activities and other compatible uses as permitted in a light industrial zone property.

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

MANUEL Q. CRUZ
Acting Director

ATTACHMENT F

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

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Governor

RAY TENORIO
Lieutenant Governor

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Deputy Director

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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

May 15, 2018

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2018-06
Tentative Subdivision request
Lot 29NEW, Block 1, Tract 10310 in the Municipality of Dededo
(Phase IIA and Block 2, Phase IIB)

1. PURPOSE:

a. Application Summary: The applicant, WSS Pacific Development Corporation represented by Mr. Jae Ji is requesting approval of a Tentative Subdivision to create a subdivision consisting of Twenty (20) Single Family residential on Lot 29NEW, Block 1, Phase IIA and Block 2, Phase IIB, Tract 10310 in the Municipality of Dededo.

b. Legal Authority: Title 21, GCA, Chapter 62, Article 2, Section 62201 thru 62204; Article 4, Section 62401; Article 5, Section 62501 thru 62504, Subdivision Law.

2. FACTS:

a. Location: The subject lots are located in Dededo, Phase 2A is located on the Northwest corner of the junction of Wusstig Road and Chalan Tun Juan Bonik and Phase 2B is located along Chalan Tun Juan Bonik across from Phase 2A.

b. Lot Area: 11,872± Square Meters (Phase IIA = 6,947 SM + Phase IIB = 4,925 SM) or 127,742± Square Feet (Phase IIA= 74,749± SF + Phase IIB = 52,993±).

c. Present Zoning: "R1" (Single Family Dwelling) Zone

d. Field Description: The proposed site is presently vacant, previously cleared and is presently overgrown with various types of ground cover vegetation, small bushes and dominant medium size tangantangan trees.

e. **'Masterplan:** Rural-Agricultural

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

g. **Previous Commission Action:**
April 25, 1996 (Then-Territorial Land Use Commission [TLUC] granted approval with conditions of a Tentative Subdivision of Tract 10310 for a forty-four (44) single family dwelling lot subdivision with full improvements).
March 27, 1997 – (TLUC granted approval with conditions of a final subdivision for Phase 1, Tract 10310 consisting of twenty-three (23) single family dwelling lots).

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** March 8, 2018

b. **Date Heard By ARC:** April 5, 2018

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

4. STAFF ANALYSIS:

The applicant request to assert action of the remaining twenty (20) residential lots as originally intended for the Wilson Ocean Subdivision. The remaining lots are part of the final phase (Phase IIA & IIB) of Tract 10310, providing:

a. **Phase IIA**- Designed to provide twelve (12) single family residential lots, each lot designed to contain 515± S.M. residential lot with a 759± SM public access and utility easement.

b. **Phase IIB**-Designed to provide eight (8) single family residential lots, each lot is to be 530± SM and a 682± SM public access and utility easement.

In its development concept, the applicant notes the subdivision will have lots that will comfortably hold a one or two story single family residence, landscaped streets, sidewalks and common areas with canopy trees, tropical and flowering sustainable plants. In addition, each house lot will have tropical landscaping and grassy open space areas.

The applicant further proposes to apply sustainable concepts of design and use to be applied throughout the development from the initial design, construction, maintenance and management of the subidivision community.

The applicant proposes to construct a single-family residential structure on each of the 20 residential lots and in its efforts to address the health, safety and general welfare issues of the proposed development and the public in general has been coordinating with the various government entities to ensure that their requirements are adhered to in order to develop the 40 feet access and utility easements (cul-de-sacs) complete with paved lanes, sidewalks, and landscaping from its junction with Chalan Tun Juan Bonik.

As required under Title 21 Guam Code Annotated, Chapter 62, *Subdivision Law,* the applicant is committed to providing full improvement on infrastructure. Thus, the applicant is to provide adequate connection to the public sewer system, provide adequate connection to the public water system and required number of fire hydrants, to provide adequate street lights and connect to the existing runoff

drainage system which connects to the existing underground bio-retention system located underneath the existing park/playground area (Lot 43).

5. RECOMMENDATION:

Based on the submitted application and supporting information, the applicants continuing efforts to work with the various government entities and the positive response from members of the ARC. We recommend **APPROVAL** with the following condition:

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

Marvin Q. Aguilar

Case Planner: F.P. Taitano

Attachments: ARC Memo to GLUC Member

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MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

May 10, 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. 2018-06 (Tentative Subdivision)

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
DLM recommends approval with the following conditions:

A. The applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement and the permitting agencies requirements.

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

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

A. Comments and Recommendation Concerning GPA requirements:

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

   a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
   b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;

c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
e. Provide scheduling and magnitude of project power demand requirements for new loads;
f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
g. GPA reserves its easement rights established under Document No. 5888027 and 652811.

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

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

DEPARTMENT OF PUBLIC WORKS (DPW):

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the request provided the following conditions are met:

a) storm drainage water disposal must be shown in detail in the final drawings to be supported with calculations;

b) setback requirements must be in place in each lot;

c) access road should be in conformance with the Highway Master plan to be coordinated w ith DPW (Rights of Way Section);

d) entrance/ exit road and sidewalks must be wide enough for public access;

e) designated area for bus shelter must be coordinated with the Division of Bus Operations;

f) traffic impact analysis must be coordinated with the Division of Highways (Traffic Control Section);

g) parking lay-out and details for stalls (compact, standard and accessible stalls) must meet the American Disability Act requirement (ADA);

h) parks, playground including landscaping must be designed in detail and make use of its physical and biological resources in order to ensure conservation;

i) if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way; and

j) must comply with all geotechnical requirements related to site preparations.

DPW recommends approval, subject to the comments above by the Application Review Committee (ARC) with conditions and prior to building permit application requirements that a complete set of design drawings with all the engineering disciplines needed must be in conformance with the latest building code edition signed by a registered architect or engineer.

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.

DEPARTMENT OF PARKS AND RECREATION (DPR):
Has not submitted Position Statement as of Staff Report date.

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

GUAM FIRE DEPARTMENT (GFD):
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.

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

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

Marvin Q. Aguilar
Guam Chief Planner



Attachment 1
Application No. 2018-06
Tentative Subdivision Request
-Lot 29NEW, Block 1 (Phase IIA)
-Block 2 (Phase IIB)
Municipality of Dededo

Doc. No. 34GL20-2282

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

public works
DIPATTAMENTON CHECHO' PUBLIKO
GLENN LEON GUERRERO
Director
ANDREW S. LEON GUERRERO
Deputy Director

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

APPLICANT: WSS Pacific Development Corporation

APPLICATION No.: 2018-06

SUBJECT: Zone "R-1" (Single Family Dwelling)
Lot 29 NEW, Block I, Phase IIA & Block 2, Phase IIA ; Tract 10310
Dededo

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Buenas yan Hafa Adai! The applicant. is proposing to construct 20 single and 2- storey, family dwelling houses approximately 2,000 of living area with covered 2 auto parking garage space (400 SF), 3 to 4 bed rooms, 2 to 3 baths, high ceilings with an open concept interior layout. The design concept is subject to change or modifications and may include energy efficient, sustainable design materials and bldg. methods on construction techniques. Additional parking area will be provided for the guests. The total lot area is approximately 11,872 square meters or 127,742 square feet and is and within the Municipality of Dededo.

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the request provided the following conditions are met:

a) storm drainage water disposal must be shown in detail in the final drawings to be supported with calculations;
b) setback requirements must be in place in each lot;
c) access road should be in conformance with the Highway Master plan to be coordinated with DPW (Rights of Way Section);
d) entrance/ exit road and sidewalks must be wide enough for public access;
e) designated area for bus shelter must be coordinated with the Division of Bus Operations;
f) traffic impact analysis must be coordinated with the Division of Highways (Traffic Control Section);
g) parking lay-out and details for stalls (compact, standard and accessible stalls) must meet the American Disability Act requirement (ADA);
h) parks, playground including landscaping must be designed in detail and make use of its physical and biological resources in order to ensure conservation;
i) if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way; and
j) must comply with all geotechnical requirements related to site preparations.

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GRACE VERGARA
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542 North Marine Corps Drive. Tamuning. Guam 96913 • (671) 646-3121 3232• Fax (671)649-6178

DPW recommends approval, subject to the comments above by the Application Review Committee (ARC) with conditions and prior to building permit application requirements that a complete set of design drawings with all the engineering disciplines needed must be in conformance with the latest building code edition signed by a registered architect or engineer.

Should you have any questions, please contact Mr. Max C. Manzano, P.E., Chief Engineer for the Division of Capital Improvement Projects @ (671) 988-6273 or Maryrose M. Wilson, Engineer III @ (671) 646-3224. **Dangkulu na Si Yu'os Ma'ase!**

4/19/18

GLENN LEON GUERRERO

GUAM POWER AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 10 2018
CLTC/GALC

March 30, 2018

MEMORANDUM

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

From: General Manager

Subject: Lots 29NEW, Block 1, Phase IIA & Block 2, Phase II3; Tract 10310, Municipality of Dededo, (WSS Pacific Development Corporation); Tentative Subdivision Application for a proposed twenty (20) single-family dwellings. **Application No. 2018-06**

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. 588027 and 652811.**

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

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: WSS Pacific Development Corporation
Location: Lots 29NEW, Block 1, Phase IIA & Block 2, Phase II3; Tract 10310, Dededo
Type of Application: Tentative Subdivision
GLUC/GSPC Application No. 2018-06
Brief Project Description:
A proposed twenty (20) single-family dwellings.

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

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

2. If the answer to #1 above is YES, then:
   I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **ADEQUATE** to support this project:
   Yes ☐ No ☒

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

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

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

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

4/5/18
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

ATTACHMENT G

DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÅHAN
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May 18, 2018

MEMORANDUM

To: Chairman, Guam Hybrid Land Use Commission

From: Guam Chief Planner

Re: Consideration of GLUC Resolution No. 2018-01
(Waste Oil Recycling)

On February 12, 2018, Oceana Oil Refinery, Inc. requested my opinion on allowing the process of recovering waste engine oil in recycled and usable oil within an "M-1" (Light-Industrial) Zone. I provide the following:

1. The requestor cited sections of the zoning code that would provide interpretation to allow such activity on an "M-1" (Light-Industrial) zone. §61309 (2) allows for the manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils). Succeeding section (3) further allows for the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials.

2. However, since methodologies of recycling can be broad and as the term "recycling" or methods thereof, are not literally provided in the code, thus, subjecting such use to an even broader interpretation, I found it only prudent to present the request before the Commission to address this particular method and others similar as an appropriate use with an "M-1 (Light-Industrial) zone.

A draft resolution befitting the intent of the zoning law is provided for your review.

Marvin Q. Aguilar

Attachments:
1. Requesting letter from Oceana Oil Refinery, Inc.
2. Draft Resolution NO. 2018-01

OCEANA OIL REFINERY, INC.
P.O. Box 11316
Tamuning, GU 96931

February 12, 2018

Marvin Aguilar, Chief Planner
Department of Land Management, Planning Division
Government of Guam
P.O. Box 2950
Hagatna, Guam 96910

Subject: FEMD TECH Engine Waste Oil Recycling as a Permitted Use in an M-1 Zone
Re: Request for concurrence

Hafa Adai Mr. Aguilar,

As a result of Guam Power Authority suspending its acceptance of engine waste oil as a fuel supplement starting in 2020, Guam will no longer have an environmentally safe and economical means of disposing this ubiquitous waste product. Fortunately, modern waste oil recycling processes are now available to recycle engine waste oil into clean, re-sellable products. My company is now pursuing this business opportunity, and the purpose of this letter is to gain your concurrence that this activity is a permitted use in an M-1 zone.

Recycling of Waste Engine Oil into Re-sellable Products

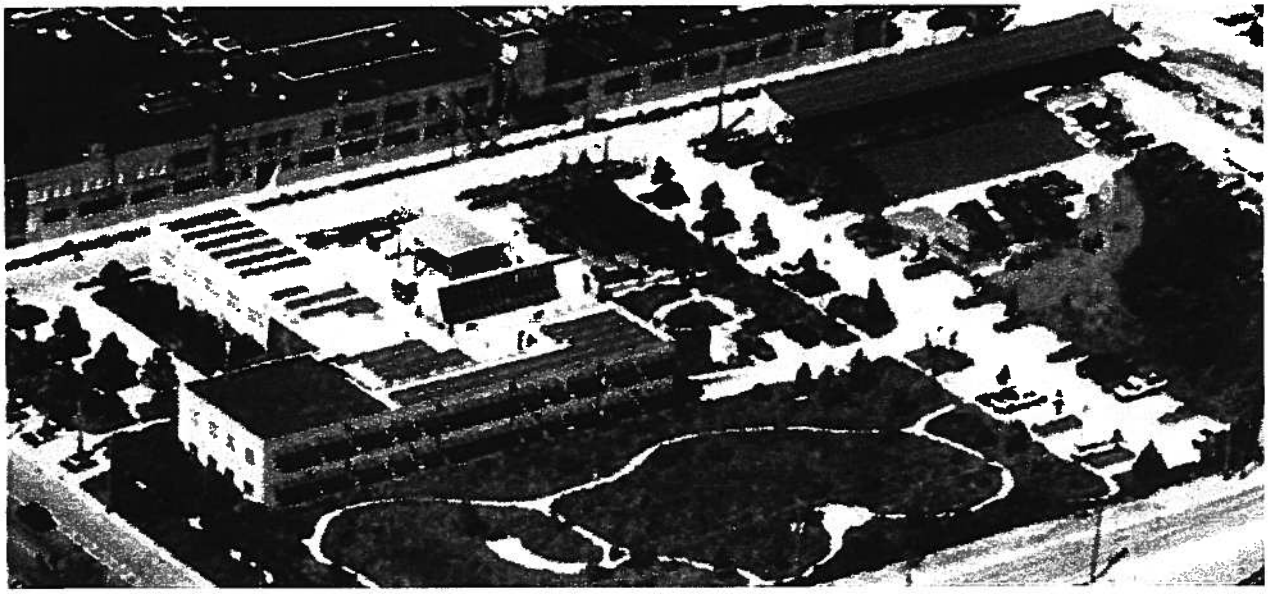
The annual volume of waste engine oil on Guam is estimated at 2 to 3 million gallons[1]. The major sources include automobiles, trucks, busses, generators and light and heavy equipment. GPA has been accepting this waste oil by-product to supplement its fuel oil for the Cabras 1 and 2 power plants; however, after decommissioning those two plants, GPA will no longer accept waste oil beginning in 2020[2]. Without a local, environmentally acceptable means of recycling engine waste oil, the only apparent options are shipment off-island (which is very expensive and will result in pass-through costs to consumers) or illegal disposal (which environmentally unacceptable).

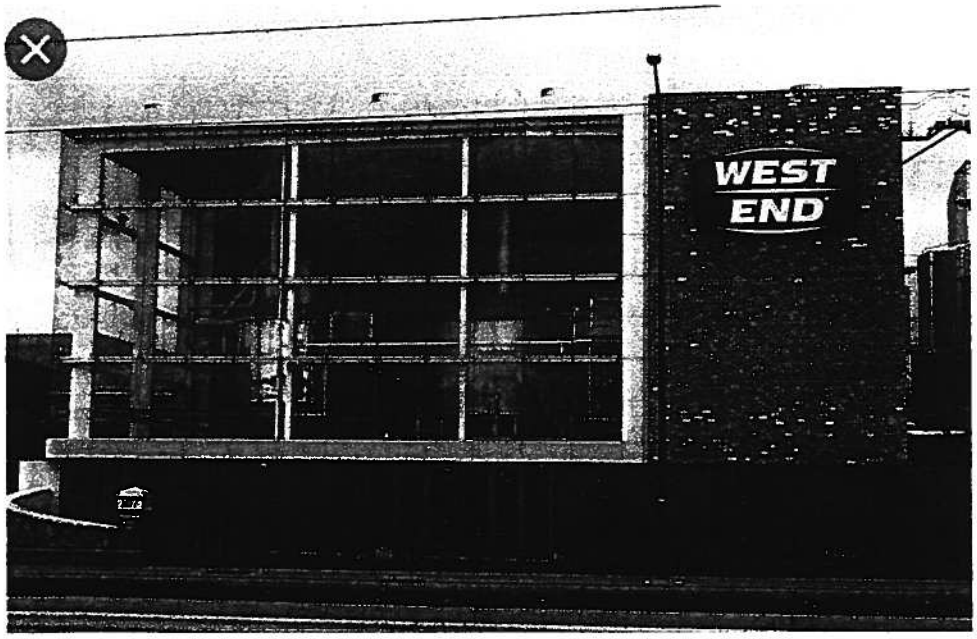
Fortunately, recent advances in waste oil recycling technology allow for an opportunity to recycle waste oil into re-sellable products. FEMD TECH (Film Evaporation and Molecular Distillation Technologies) uses multiple processes such as low-temperature heating, sedimentation, distillation, acid picking, alkali wash, and vacuum filtration to remove impurities and toxic substances from waste oil and convert it into salable by-products such as new engine oil, lubricants and sludge. These processes are regulated by US EPA under 40CFR Part 279 -

[1] "GPA studies burning waste auto oil for power". John O'Conner. The Guam Daily Post. March 26, 2017.
[2] Ibid.

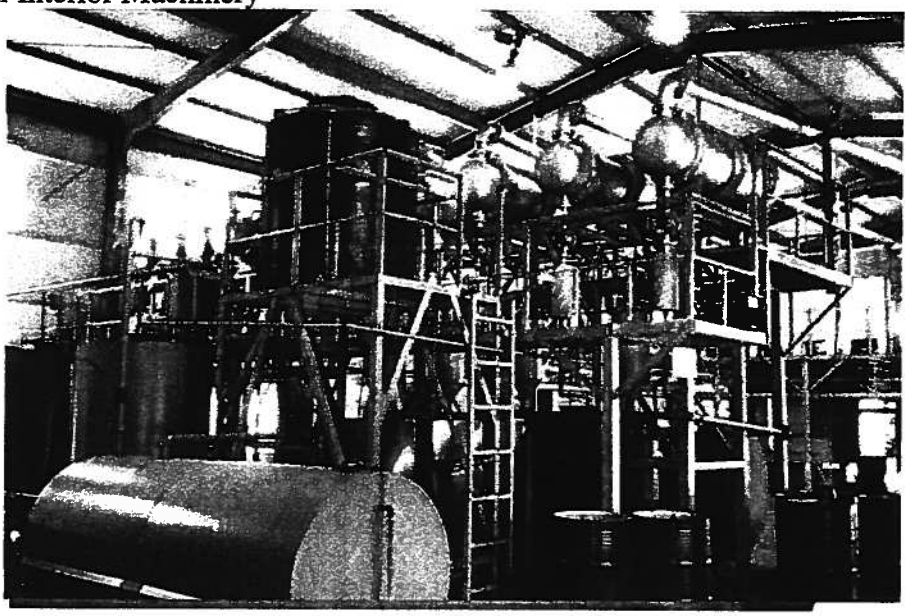
Standards for the Management of Used Oil; and ASTM has issued standards to test the raw materials, methodologies and final products.

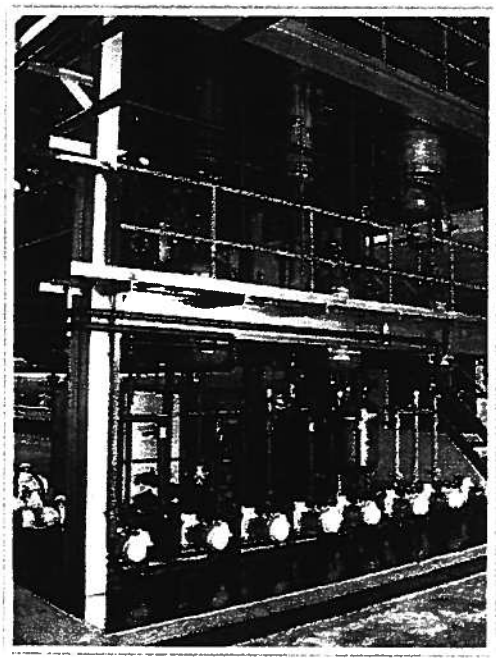
Typical Structure for Operations in Chicago

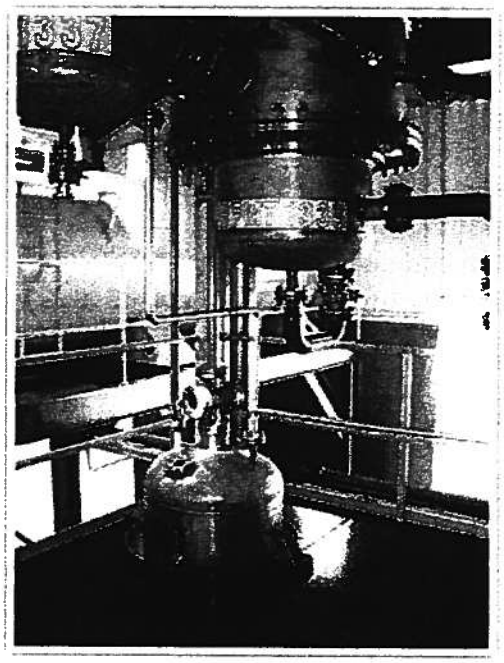




Typical Interior Machinery







This process does not produce emissions, as the working temperature ranges from only 480 to 660 degrees Fahrenheit. No additives or chemicals are employed. Additionally, the low temperatures and pressures preclude risk of explosion, and the noise level is less than 60dB (e.g., conversation in a restaurant or an air conditioning unit). The oily water waste by-product does not exceed 2% of the original raw product volume and is disposed via a 2-stage oil-water separator which eliminates free oil content in effluent down to less than 2ppm.

The final products are a high quality, neutral base oil, which can be marketed as engine oil or lubricant, and a residual oil sludge, which can be used to produce asphalt.

For further reference, I have enclosed a technical manual, "FEMD-TECH Technical Profile, Manufacturer with Emission & Chimney" from a similar company, Oceana Oil Recycling Inc., which uses this process.

Conformance of this Recycling Business Activity with the M-1 Zone

As you know, permitted uses for the M-1 (light industrial zone) as prescribed under GCA § 61309 include, in part:

> (2) The manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils).
>
> (3) The manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials.
>
> (12) Uses customarily accessory to any of the above listed uses, and accessory buildings.

Inasmuch as the bulk of our zoning code was written before "recycling", "reprocessing" and "collection of" waste materials have become necessary and preferred ways of modern life, such activities are not specifically listed as permitted uses. Nonetheless, Land Management has correctly interpreted subsections (2), (3) and (12), above, on multiple occasions to encompass recycling, reprocessing and collection activities for business licenses in an M-1 zone. Such examples include: tire shredding; metallic wastes, aluminum; cardboard; glass; copper; batteries; and plastics. Further, FEMD TECH does not create objectionable, obnoxious or offensive by-products by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste. The processing of a waste by-product into salable products (i.e. recycling) is a traditional permitted use within an M-1 zone and, therefore, FEMD TECH operations qualify.

In conclusion, we ask for your concurrence that the proposed FEMD TECH activity is a permitted use within an M-1 zoned property. If you agree, we will proceed with the design and building permit application process.

Thank you,

C.Y. Leung, President

Enclosure as stated

GUAM LAND USE COMMISSION
Department of Land Management
RESOLUTION 2018-01

A RESOLUTION TO DEEM THE PROCESS OF RECYCLING USED ENGINE OIL AS SIMILAR TO PERMITTED USES WITHN AN "M-1" (LIGHT-INDUSTRIAL) ZONE

WHEREIN, the Guam Land Use Commission ***(hereafter GLUC)*** maintains the fundamental authority over land use-related regulations, with particular interest in the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam in the execution of its authority; and

WHEREIN, such regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements; and

WHEREIN, the GLUC, through statutory support provided by the Department of Land Management, maintains authority of all matters relating to allowing certain land use activities within an "M-1" (Light-Industrial Zone); and

WHEREIN, such authority is cited under Title 21 Guam Code Annotated, Chapter 61, Zoning Law, §61309, subsection (11) where, "other uses which in the judgment of the Commission, as evidence by a resolution in writing, are similar to those listed (as permitted uses within an M-1 zone)".

NOW THEREFORE BE IT RESOLVED, that:

1. The Guam Land Use Commission accepts the process of recycling waste engine oil as similar to that as prescribed Title 21 Guam Code Annotated, Chapter 61, Zoning Law, §61309 (2) that allows "the manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils)" and §61309 (3) "the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials"; and

2. The process of recycling waste engine oil within an "M-1" (Light-Industrial) zone shall be restricted to methods that are free from effects considered to be objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste.

Doc. No. 34GL-18-2282.

SO SAYETH THE GUAM LAND USE COMMISSION AND ITS CHAIRMAN, THIS _____DAY of _____, IN THE YEAR OF OUR LORD, 2018.

_____ _____

JOHN Z. ARROYO *DATE*
CHAIRMAN, GUAM LAND USE COMMISSION

_____ _____

VICTOR CRUZ *DATE*
VICE-CHAIRMAN, GUAM LAND USE COMMISSION

ATTACHMENT H

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

May 15, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Commission Brief - Application No. 2015-29B
(2nd Order to Show Cause)

At its regularly scheduled meeting of March 8, 2018 the Guam Land Use Commission (Commission) directed the Executive Secretary to issue a Notice to Show Cause (OTSC) to Wan Fang Construction, Ltd. for the purpose of providing reason and/or causing failure to provide a six-month status report as a condition of approval. Condition No. 8c was provided in the initial Notice of Action dated May 3, 2016 for a height variance. This condition was carried over in the issuance of a second Notice of Action dated September 14, 2017 for an extension of the variance[1].

Since issuance of the OTSC and receipt by AES Construction, Inc. the Division of Planning has been in receipt of certain significant internal changes within the applicant's representation:

1. A letter dated March 30, 2018 by Mr. John Sherman, PE stating termination of AES's consulting services to Wan Fang Construction, Ltd.; and

2. A letter from Wan Fang, Ltd. Dated April 6, 2018 that acknowledges AES's resignation as representative to Wan Fang Ltd. However, itself appearing to have not received an official letter from AES, Construction, Inc. The letter further defers to Wan Fang's legal counsel, Mr. Jon Visosky, Esq.

The Division of Planning was advised to forward the OTSC to the office of Randall Cunliffe, Esq. However, to date the Division has yet to receive notification of any official representation for this project.

We remain available to provide further assistance to the Commission.

Marvin Q. Aguilar

Attachments

[1] With the exception of changes in zones, section 5 of Executive Order 96-26, allows applicants to secure a building or grading permit within one year of issuance of a Notice of Action. Otherwise, such approval will expire. The Commission may grant up to two (2) extension with cause.

GUAM LAND USE COMMISSION

IN THE MATTER OF:	LOT NO. 164-4NEW-1 MUNICIPALITY OF YONA
GUAM LAND USE COMMISSION	NOTICE & ORDER TO SHOW CAUSE
vs	
GUAM WANFANG CONSTRUCTION LTD.	**DECLARATION OF SERVICE**

I, JOHN J. GUMATAOTAO, being first duly sworn, depose and say: That I am a citizen of the United States of America, over the age of eighteen years, not a party in interest in the above-entitled case, and in no way disqualified from testifying as a witness. That on the dates indicated below, I personally served the **NOTICE & ORDER TO SHOW CAUSE** in the above entitled action as herein set forth:

CURRENT OWNER	ACTION and RESULT
Guam Wanfang Construction Ltd., Suite 102., Sunny Plaza 125 Tun Jesus Crisostomo St., Tamuning, Guam 96913	Acknowledged by GRACE PASCUA on 3 April 2018 at 1333

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 3RD day of April, 2018.

JOHN J. GUMATAOTAO SP 0026-16
SPECIAL PROCESS OFFICER

GUAM LAND USE COMMISSION
Department of Land Management
PO Box 2950, Hagatna, Guam 96932
(671) 649-5263 | dlmdir@land.guam.gov

In the Matter of:	)	
	)	Lot No. 164-4NEW-1
Guam Land Use Commission	)	Municipality of Yona
	)	
vs	)	
	)	**NOTICE & ORDER TO SHOW CAUSE**
Guam Wanfang Construction Ltd.	)	

THE GUAM LAND USE COMMISSION TO:

Guam Wanfang Construction Ltd.
125 Tun Jesus Crisostomo Street, Suite 102
Tamuning, Guam 96913

WHEREIN, at its regular hearing on August 24, 2017, the Guam Land Use Commission (GLUC) approved an extension of one year on a previously-approved variance for height in accordance with section 5 of Executive Order 96-26, as noted in a Notice of Action recorded at the Department of Land Management under document number 913334; and,

WHEREIN, granting of said extension was deliberated and acted on without cause to alter any conditions of the originally approved Notice of Action dated May 3, 2016, as recorded at the Department of Land Management under document number 892368; and,

WHEREIN, the deadline for the six-month report was November 2, 2017; and

WHEREIN, AES Construction Inc. was the authorized representative for Guam Wanfang Construction Ltd during the application process; and

WHEREIN, having received a letter from AES Construction Inc. **dated December 1, 2017,** stating the assumption of "restarting the six -month review clock for the next 12 months..."; and,

WHEREIN, as of issuance of this Order to Show Cause the Division of Planning at the Department of Land Management has not received as to reason and/or failure of Guam Wanfang Construction Ltd , through AES Construction, Inc. to cause the submission of a six-month report on a timely manner.

YOU ARE HEREBY ORDERED TO APPEAR at the GLUC Meeting at the International Trade Center Building, 590 S. Marine Corps Drive, 3rd floor, Department of Land Management Conference Room, Tamuning, Guam on **Thursday, May 10, 2018, at 1:30 p.m.** to address the following:

Order to show cause as to the reason(s) that you have not fulfilled a condition of your Notice of Action, particularly **Condition No. 8c** whereby such condition states, "From the date of recordation of approval, the applicant shall submit a written report every six (6) months to the GLUC on the status of the project with respect to associated phases of development to include a status of funding for the overall project".

Order to show cause as to reason(s) why the GLUC should not consider actions of:

1. Possible revocation of your Notice of Action for a Variance for Height; and/or,

2. To apply directives of significant modification to the construction of the proposed two-tower multi-unit at a height of eleven (11) and twelve (12) stories.

Dated this 3rd day of April 2018

GUAM LAND USE COMMISSION

By: _____

MICHAEL J.B. BORJA
Executive Secretary, Guam Land Use Commission

Received by: Grace Perez _____ **Date:** 4/3/18

Duly Authorized Representative
Guam Wanfang Construction Ltd.
125 Tun Jesus Crisostomo Street, Suite 102
Tamuning, Guam 96913

AES CONSTRUCTION INC.

1270 North Marine Corp Drive, Suite 101-236
Tamuning, Guam 96913

TEL: (671) 649-6321

March 30, 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 02 2018
920
CLTC/GALC/GLUC

Government of Guam
Department of Land Management
ITC Building Suite 733
590 S. Marine Corps Drive
Tamuning, GU 96913

Attention: Mr. Michael Borja
Director

Re: Zone Variance Application No 2015-29B,
Pago Bay Ocean Resort

Dear Mr. Borja,

Hafa Adai !

This letter is to advise you of our termination of consulting services with of Guam Wanfang Construction Ltd. for the subject project. Accordingly, our firm and its members no longer represent Wanfang Construction Ltd. and this separation was effective March 21, 2018. Please address all communications relating to the project application directly to Wanfang Construction Ltd.

Please take our special thanks to all past and current Land Use Commissioners who actively supported the project and have given us virtuous and impartial review of the application. We also express our deepest thanks to all staffs at your department who have consistently shown professionalism in their work.

Thank you.

AES CONSTRUCTION INC.

John Sherman, PE
Principal Engineer

Cc: Wanfang Construction Ltd
File

WAN FANG 辽宁万方房地产开发有限公司

April 6, 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 09 2019
CLTC/GALC/GLUC

Mr. Michael Borja, Director
GUAM LAND USE COMMISSION

RE: **Guam Wanfang Construction/Pago Bay Project**

Dear Director Borja:

We learned that recently AES, the engineering firm working on our project, submitted a letter of resignation to GLUC. We have not yet received a copy of that letter and would appreciate it if you could forward to us, via our legal counsel, Jon Visosky, Esq. Because of the resignation, we are re-organizing in Guam, and from now on contacts that need to be directed to us should be directed to Longzhi Sun (Mike), whose email address is tbgank@163.com

Should you have any questions in this regard, please do not hesitate to contact me or Mr Visosky.

Sincerely,

QINGGAO LAN
President of Liaoning Wanfang Real Estate Development Co ltd

Signature:

GOVERNMENT OF GUAM
DEPARTMENT OF LAND MANAGEMENT

892367

OFFICE OF THE RECORDER

RECORDING DATE:			NO. PAGE:
MAY 10 2016		892367	5

FILE TIME			FILING FEES	RECEIPT NO:
A.M.	P.M.		DE-OFFICIO	
	2:04			

Appointed Deputy Recorders for Ex-Officio Recorder	Signature of Recorder
Lisa K. Quitano ; Lisa P. Cruz, Jane T. Yamasaki; Victoria C. Torres; Amy T. Bautista; Joel Antenorcruz;	Jane Yamasaki

MARK (X) TYPE OF INSTRUMENT RECORDED			
	DEED		AFFIDAVIT
	MORTGAGE		RELEASE
	ASSIGNMENT		AMENDMENT
	ADDENDUM		ASSUMPTION
	DECREE		MAP
	ORDERS		JUDGEMENT
	POWER OF ATTORNEY		REVOCATION
	AGREEMENT		TERMINATION

MARK (X) TYPE OF INSTRUMENT RECORDED					
	LEASE		CLAIMS		
	CONTRACT		CANCELLATION		
	CERTIFICATE		NOTICE		
	DECLARATION		BILL OF SALE		
	EASEMENT		WITHDRAWAL		
	OTHERS:				

ABSTRACT OF TITLE SUMMARY			
ABSTRACT BY:	DATE	NEW CERTIFICATE OF TITLE NO.	CANCELLED CERTIFICATE OF TILE NO.

COMMENTS

DATA ENTRY INFORMATION SECTION			
PROPERTY LISTING NO.			
MUNICIPALITY:			
LOT NUMBER		UNIT OF MEASUREMENT	
BLOCK NUMBER		SQUARE METERS	
TRACT NUMBER		SQUARE FEET	
ESTATE NO.			
LM. NO.			
SEPIA NO.			
DATA ENTRY BY:			
SCANNED BY:			

Revised: 06/20/08

892367

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

File for Record is Instrument No. 892367

On the Year 16 Month 05 Day 10 Time 2:04

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder Jan Yamasaki

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

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

GUAM LAND USE COMMISSION

ORIGINAL

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

AMENDED
NOTICE OF ACTION

May 3, 2016
Date

To: **Wanfang Construction Ltd.**
c/o FC Benavente, Planners
127 Bejong Street, Barrigada, GU 96913

Application No. 2015-29A

The Guam Land Use Commission, at its meeting on April 28, 2016,

____/ Approved __XX__/ **Disapproved** __/ Approved with Conditions

____/ Tabled

Your request on **Lot 164-4NEW-1, Municipality of Yona, for a zone variance for density to allow a total of 304 residential units in an "R-2" (Multi-Family Residential) zone.**

892367

NOTICE OF ACTION
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016
Page 2 of 4

Application No. 2015-29A

ZONING

____/ Zone Change***

____/ Conditional Use

__XX__/ **Zone Variance**

[ ] Height
[X] **Density**
[ ] Side Yard
[ ] Use
[ ] Other (Specify)

____/ TENTATIVE DEVELOPMENT PLAN

SUBDIVISION

____/ TENTATIVE

____/ FINAL

____/ EXTENSION OF TIME

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

NOTE ON ZONE CHANGE

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

SEASHORE

____/ WETLAND PRMIT

____/ SEASHORE CLEARANCE

MISCELLANEOUS

____/ DETERMINATION OF POLICY AND/OR DEFINITIONS

____/ OTHER (SPECIFY)

HORIZONTAL PROPERTY REGIME

____/ PRELIMINARY

____/ FINAL

____/ SUPPLEMENTARY (SPECIFY)

892367

NOTICE OF ACTION **Application No. 2015-29A**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016
Page 3 of 4

APPLICATION DESCRIPTION: The Applicant, Wanfang Construction, Ltd requested to exceed the allowable unit per density of 239 residential units for a total of 304 residential units in an "R-2" (Multi-Family Residential) zone on Lot 164-4NEW-1- Municipality of Yona citing failure on the part of the applicant to justify such request.

COMMISSION DECISION: The Guam Land Use Commission **DISAPPROVED** the request for zone variance for density.

5/4/2016
Marvin Q. Aguilar **Date**
Guam Chief Planner
Department of Land Management

5/4/2016
John Z. Arroyo **Date**
Chairman
Guam Land Use Commission

Case Planner: Marvin Aguilar
Attachment(s): ARC Distribution List

Cc: Building Permits Section, DPW (Attn: Mr. Joseph Guevara)
Real Property Tax Division, Department of Revenue and Taxation

892367

NOTICE OF ACTION **Application No. 2015-29A**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

CERTIFICATION OF UNDERSTANDING

I/We_____ / Raymond Benavente FCB
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

_____ _____ _____ 5-10-16
Signature of Applicant Date Signature of Representative Date

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

_____ _____ _____ _____
Applicant **Date** **Representative** **Date**

GOVERNMENT OF GUAM
DEPARTMENT OF LAND MANAGEMENT

OFFICE OF THE RECORDER

RECORDING DATE:		NO. PAGE:
MAY 10 2016	892368	14

FILE TIME			FILING FEES	RECEIPT NO:
A.M.	P.M.			
	2:14		DE-OFFICIO	

Appointed Deputy Recorders for Ex-Officio Recorder	Signature of Recorder
Lisa M. Quitano ; Lisa P. Cruz, Jane T. Yamasaki; Victoria C. Torres; Amy T. Bautista; Joel Antenorcruz;	Jane Yamasaki JANE T YAMASAKI

MARK (X) TYPE OF INSTRUMENT RECORDED			
	DEED		AFFIDAVIT
	MORTGAGE		RELEASE
	ASSIGNMENT		AMENDMENT
	ADDENDUM		ASSUMPTION
	DECREE		MAP
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	CERTIFICATE		NOTICE		
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	EASEMENT		WITHDRAWAL		
	OTHERS:				

ABSTRACT OF TITLE SUMMARY			
ABSTRACT BY:	DATE	NEW CERTIFICATE OF TITLE NO.	CANCELLED CERTIFICATE OF TILE NO.

COMMENTS

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LOT NUMBER		UNIT OF MEASUREMENT	
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TRACT NUMBER		SQUARE FEET	
ESTATE NO.			
L.M. NO.			
SEPIA NO.			
DATA ENTRY BY:			
SCANNED BY:			

Revised: 06/20/08

892368

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

File for Record is Instrument No. 892368

On the Year 16 Month 05 Day 10 Time 2:19

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder Jan Yamasaki

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

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GUAM LAND USE COMMISSION *ORIGINAL*

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

AMENDED
NOTICE OF ACTION

May 3, 2016
Date

To: **Wanfang Construction Ltd.**
c/o FC Benavente, Planners
127 Bejong Street, Barrigada, GU 96913

Application No. 2015-29B

The Guam Land Use Commission, at its meeting on April 28, 2016,

____/ Approved ___/ Disapproved **XX/ Approved with Conditions**

____/ Tabled

Your request on **Lot 164-4NEW-1 in the municipality of Yona, for a zone variance for height to allow Commercial/common area height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and Tower 2 not to exceed 158-feet mean sea level in an "R-2" (Multi-Family Residential) zone.**

892368

NOTICE OF ACTION
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance - Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016
Page 2 of 8

Application No. 2015-29B

ZONING

____/ Zone Change***

____/ Conditional Use

__XX__/ **Zone Variance**

[X] Height [ ] Use
[ ] Density [ ] Other (Specify)
[ ] Side Yard

_____/ TENTATIVE DEVELOPMENT PLAN

SUBDIVISION

____/ TENTATIVE

____/ FINAL

____/ EXTENSION OF TIME

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

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SEASHORE

____/ WETLAND PRMIT

____/ SEASHORE CLEARANCE

MISCELLANEOUS

____/ DETERMINATION OF POLICY AND/OR DEFINITIONS

____/ OTHER (SPECIFY)

HORIZONTAL PROPERTY REGIME

____/ PRELIMINARY

____/ FINAL

____/ SUPPLEMENTARY (SPECIFY)

NOTICE OF ACTION Application No. 2015-29B
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance – Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

APPLICATION DESCRIPTION: The Applicant, Wanfang Construction, Ltd requested to exceed the allowable structural height limitation of thirty (30) feet to construct the Pago Bay Marina Resort, a proposed 14 story and 15 story multi-family structure in an "R-2" (Multi-Family Residential) zone on Lot 164-4NEW-1 Municipality of Yona.

COMMISSION DECISION: The Guam Land Use Commission **APPROVED WITH CONDITIONS** the request for zone variance for height. Conditions are as follows:

1. Commission approves the height variance which is lower than what the applicant requested with the following restrictions:
   a. Commercial/common area height is not to exceed 58-feet mean sea level;
   b. Tower 1 not to exceed 168-feet mean sea level ;and
   c. Tower 2 not to exceed 158-feet mean sea level).

2. Applicant adheres to all conditions listed below and as provided by the Application Review Committee. Such recommendations shall serve as conditions of approval under Condition 2 as follows:

   Conditions as recommended by the Guam Environmental Protection Agency:
   a. The applicant must conduct a comprehensive soil analysis to determine percolation rate, taking into consideration the water table, to be used as a basis of design for a storm water management plan;
   b. Comply with the requirements of the 2006 Guam CNMI and Guam Storm Water Management Manual or current storm-water management plan and associated pre-treatment program, as directed by GWA.
   c. The sewer discharge must be contained in a holding tank and a pump station with a capacity of 24 hours to allow schedule of pumping by GWA during non-peak hours, as directed by GWA.
   d. The proposed discharge points must bypass the Pago Double Shaft Sewer Pump Station, as directed by GWA.
   e. Cleaning and maintenance of any swimming pool must not be discharged to the sewer system. It must be pumped by a private company and discharged at an acceptable location, as directed by GWA.
   f. The wastewater pump station requires a certified operator to operate for compliance with the 10 GCA Chapter 52, the "Water and Wastewater Operator's Mandatory Certification Act", as directed by GWA.
   g. Pumping of sewage to GWA's gravity main must be scheduled during non-peak hours.
   h. The applicant must construct a water storage tank with a minimum capacity of 24 domestic demands and the required fire flow, as directed by GWA.
   i. The water point of connection must be before the Pago Bay Booster station to conserve energy, as directed by GWA.
   j. Non-potable water for landscape and other non-domestic use must be explored by collecting rainwater.
   k. With respect to wetland protection, wetland areas must be protected and a buffer of 30 feet must be maintained.
   l. The project must comply with all the requirements of Guam EPA regulations to be incorporated during the issuance of building permit clearance (i.e. Solid Waste Management Plan, Boring and Dewatering Permit, Air Emission permit, etc.).

Conditions of approval as recommended by the Guam WaterWorks Authority:

a. GWA recommends coordination with the GWA Engineering Department well in advance of the building permit application submittal. Discussions shall include the proposed project's impacts on existing water and sewer infrastructure and any required infrastructure improvements.
b. Water service point of connection, connection details, water service line and meter size must be illustrated in the design drawings and approved by GWA.
c. The water demand and sewer production calculations provided in the variance application do not specifically identify associated water uses, such as the pool and the water park. Utility calculations should identify all water demand activities and sewage sources, including restaurants and laundry facilities, if any.
d. If water and sewer infrastructure are installed by the developer, they will require prior approval and shall be subject to inspection by GWA.
e. The applicant shall install the water meters in the right of way or easement. If the developer will include a food preparation facility, then a grease trap shall be required. Backflow preventers are required for non-residential activities.
f. New development is subject to water and/or sewer system development charges (SDC).

Conditions of approval as recommended by the Guam Power Authority:

a. GPA has determined that significant infrastructure upgrades, that includes but is not limited to, switches, voltage regulators, load transfers and capacitor banks must be completed in order to support this project. GPA is also investigating the line extension of feeder P-211 to support the Pago Bay Marina Resort as a permanent solution. Consequently, the infrastructure upgrades, at a minimum of those referenced above, shall be completed prior to final service connection of Pago Bay Marina Resort.
b. The applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
    i. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
    ii. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code;
    iii. Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
    iv. Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
    v. Provide any revision to scheduling and magnitude of project power demand requirements for new loads.
    vi. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
    vii. Required system upgrades will be charged to the applicant. This includes relocation costs, new installation costs and all costs associated with modification of GPA facilities.

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

Conditions of approval as recommended by the Department of Parks & Recreation:

a. The developer must hire a qualified archaeologist to prepare an Archaeological Monitoring, Discovery, and Data Recovery Plan in consultation with our office. We recommend that Mr. Sana and Mr. Sherman schedule a meeting soon, with the appropriate DPR staff to discuss the concerns raised.
b. Prior to any approval by the GLUC, the developer must secure an agreement with DPR to address and resolve the reburial of human remains and the public beach access to the ocean shore.

Conditions of approval as recommended by the Department of Public Works:

a. Incorporate eco-green and energy efficient as part of your design concept.
b. Provide structural analysis for winds velocity that can withstand 170 mph;
c. Outdoor amenities including landscaping must be design in detail and make use of its physical and biological resources which will make a great impact to the environment;
d. Must provide a soil report and geology engineering report;
e. Must provide a traffic impact analysis to be coordinated with DPW, Division of Highways (Traffic Control Section); to include,
   i. A request the widening of Route 4; and
   ii. Creation of a turning lane south-bound into Yona.
f. Parking layout, parking stalls (compact standard and accessible stalls) must comply with the American Disability Act (ADA) requirements;
g. Entrance/exit must be wide enough for public access;
h. Must provide public access to the beach area; and
i. Provide solid waste compositions.
j. DPW recommends approval subject to comments review by the Application Review Committee (ARC) with conditions that the complete set of design drawings must meet all the requirements in conformance with the latest building code edition applicable to civil, structural, architectural, mechanical, electrical, plumbing including flood zone and ADA requirements.

Conditions of approval as recommended by the Bureau of Statistics & Plans:

a. Provide an open vegetated buffer between the shoreline and buildings in accordance with Policy NS-9 of the NCGLUP.
b. Employ erosion and sediment controls during construction of the 239-unit building to ensure that sedimentation is avoided and the debris are not allowed to fall and flow into the water.
c. Coordinated with the Guam Environmental Protection Agency (GEPA) for effective implementation of erosion control methods.
d. Guam Wanfang, Construction Ltd. is advised to avoid clearing, grading and construction over the wetlands located in Lot 164-4NEW-1.

e. Discharge of storm-water into the Pago River and Pago Bay should be avoided to the fullest extent practicable.

f. Submit a drainage plan showing methods or practices for managing storm-water on site implement best management practices on the property to control erosion and runoff during and after construction of the project in accordance with current storm-water management plan per DPW direction.

g. Consult with the Guam EPA for effective implementation of storm-water management practices.

h. The applicant is encouraged to implement Low-Impact Development (LID) practices such as permeable pavement for parking lots and walkways, grassed swales, island bio retention, and/or rain gardens into the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water. An electronic file of the guidebook "Island Storm-water Practice Design Specifications" is available at the Bureau's, Guam Coastal Management Program office.

i. The applicant is encouraged to implement LID practices such as permeable pavement for parking lots and walkways, grassed swales, island bio retention, and/or rain gardens into the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water.

j. Avoid the use of invasive plants is encouraged. Although the project identifies tropical landscaping on the property, the applicant is encouraged to incorporate native plants as well. The applicant is advised to preserve native vegetation on the property.

k. The applicant is encouraged to consult with Department of Agriculture in using organic fertilizers or pesticides for landscaping purposes to avoid additional contaminants from entering the Pago River and Pago Bay. The applicant may also seek guidance from Guam EPA regarding their Pesticide Control Program.

3. In matters remaining unresolved by individual agencies particularly that of matters concerning infrastructure, the applicant shall be restricted from submitting and/or securing any permit requests to include, not limited to, building permits until such time such agency concerns have been satisfied;

4. The applicant shall complete and implement a re-design plan. Such new design shall:
   a. Be based on maximum footprint consideration(s) available by law (239 units);
   b. Best blend into the natural beauty of Pago Bay;
   c. In its current design, the applicant attempts to promote a level view corridor serving reason for "two tower" design. The applicant shall resume or retain this intent to provide, as best as possible, a design that will not interfere with view corridors;
   d. SUCH DESIGN SHALL SERVE AS THE BASIS FOR IDENTIFYING APPROPRIATE HEIGHT LIMITATIONS; maximum height for the three structures – commercial building and common area the height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and for Tower 2 not to exceed 158-feet mean sea level; and,
   e. Within six (6) months of recordation of approval the applicant shall submit re-design plans with supporting information of such design to the Guam Chief Planner for assessment of compliance. After review, such information shall be forwarded to the Guam Land Use Commission for its consideration and approval at the next available regularly scheduled hearing.

NOTICE OF ACTION Application No. 2015-29B
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance – Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

5. All commercial operations associated with the Pago Bay marine Resort intended to occur within or in association with the Territorial Seashore Reserve shall require consent and approval by the Guam Seashore Protection Commission;
6. Owners/operators of the Pago Bay Marina Resort shall engage the technical assistance expertise of the University of Guam in implementing beach/bay cleanup program; and partnered marine science education program;
7. Owners/operators of the Pago Bay Marina shall provide public access to the beach area of the bay. Such access shall allow for egress/ingress of emergency vehicles and public use of the Territorial Seashore Reserve throughout the bay pursuant to the requirements of providing untrammeled use of the beach and its natural beauty pursuant to Title 21GCA, Chapter 61, Section 61617(e);
8. That prior to securing any permits for the purpose of construction, the applicant shall engage in crafting and securing an agreement between the applicant/property owner and the GLUC, where;
   a. The purpose of agreement shall serve solely to assure the availability of funding for demolition of structures associated with this project in the event the developer fails to realize the project completion as a result of lack of funding;
   b. The agreement shall contain and provide a timeline for projection completion;
   c. From the date of recordation of approval, the applicant shall submit a written report every six (6) months to the GLUC on the status of the project with respect to associated phases of development to include a status of funding for the overall project;
   d. Elements of agreement may include, but not limited to:
      i. Bonding at 110% of the cost of the project;
      ii. In the event that the Commission determines through substantial evidence the need, order and execute its authority vested in the agreement, the applicant may within a time period found to be reasonable by the Commission, appeal its decision citing appropriate reasonable justification to rescind such order;
      iii. The applicant may request release of bonding and/or instruments of binding agreement at the time of projection completion and final occupancy is secured through the Department of Public Works.
9. Conditions of approval shall be transferable to new owners, when applicable.

5/4/2016
Marvin Q. Aguilar Date
Guam Chief Planner
Department of Land Management

5/4/2016
John Z. Arroyo Date
Chairman
Guam Land Use Commission

Case Planner: Celine Cruz
Attachment(s): ARC Distribution List

Cc: Building Permits Section, DPW (Attn: Mr. Joseph Guevara)
Real Property Tax Division, Department of Revenue and Taxation

892368

NOTICE OF ACTION **Application No. 2015-29B**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance - Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

CERTIFICATION OF UNDERSTANDING

I/We_____ / Raymond Bower for Kwan
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

_____ _____ _____ 5-10-16
Signature of Applicant Date Signature of Representative Date

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

_____ _____ _____ _____
Applicant **Date** **Representative** **Date**

892368

Decision Granting Variance with Findings **Ref: Application No. 2015-29B**

ACKNOWLEDGEMENT

Filed with the Department of Land Management on 5th day of MAY, 2016 in accordance with 21 Guam Code Annotated Section 61620.

MICHAEL JB/BORJA
Director of Land Management
or Designee

ACKNOWLEDGEMENT

Filed with the Department of Public Works on 9th day of May, 2016 accordance with 21 Guam Code Annotated Section 61620.

GLENN LEON GUERRERO
DIRECTOR OF PUBLIC WORKS
or Designee

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

892368

DECISION GRANTING VARIANCE
WITH FINDINGS
[Pursuant to Title 21 GCA §61616 (a) through (h), (j) and (k)]

Guam Land Use Commission

WHEREAS, the following decision of the Guam Land Use Commission is made in accordance with 21 GCA §61616, §61617, and §61620, now therefore;

BE IT RESOLVED, that on the **28th day of April 2016**, a hearing of the Guam Land Use Commission (GLUC) was held in accordance with notices duly issued to consider the application of **Wanfang Construction, Ltd.** for a Zone Variance for (Setback/**Height**/Density/Sign/Parking) **on Lot 164-4NEW-1 in the Municipality of Yona.**

A quorum of the Commission was present. In attendance were:

1. **Mr. John Z. Arroyo, Chairperson**
2. **Mr. Victor Cruz, Vice-Chairman**
3. **Mrs. Beatrice P. Limtiaco, Member**
4. **Mr. Tae Oh, Member**

Appearing before the Commission representing the applicant were:

1. **Mr. Richard Sana (Planning Consultant)**
2. **Mr. John Sherman (Architecture & Engineering Consultant)**

Also appearing and testifying on the above project was/were:

See Attachment in favor / **against**
See Attachment **in favor** / against

After considering all statements and testimony presented by interested parties GLUC finds that the application, for **ZONE VARIANCE for Height is GRANTED** on the following grounds: (Note : All five (5) sections should be answered)

a. **THAT THE STRICT APPLICATION OF THE PROVISIONS OF TITLE 21, GCA, CHAPTER 61, RESULTS IN PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS INCONSISTENT WITH THE GENERAL PURPOSE AND INTENT OF THE LAW. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:**

The applicant provides that the variance requested is for an increase in height and density[1]. The applicant notes that north and west areas of the properties have setbacks in excess of 100' and 120' respectively; and which contributes immensely to increasing the open spaces on the property. The significant amount of property in

[1] The original variance request was two-fold as the applicant requested for both height and density variance. At the hearing date of April 28, 2016 the GLUC unanimously disapproved the request for a density variance, citing the lack of justification for such a request. The GLUC proceeded to approve with conditions that which was requested for a height variance.

wetlands (32%); coupled with the significant amount of lineal footage land, located within riverside and ocean shore frontage, places unique development constrain requirements on full use of the property; thus qualifying for a request for greater density. Ownership has worked diligently to prepare a design that works very well with the unique qualities of the property, providing adequate spaces for light and air, and preventing undue concentration of population, and assuring the adequate utilities and amenities are provided to support the project. Disallowing the height variance will result in difficulty and unnecessary hardship inconsistent with the general purpose, spirit and intent of the zoning law, which is the protection and promotion of the public health, safety and general welfare of the people of Guam. The GLUC further found where any consideration to recommend an allowance to exceed the height limitation was warranted only as recourse to protect nearby natural resources and sensitive habitat through avoidance. The statute covering density[2] allows the subject property 239 units. The placement of these units cannot follow standard or typical displacement throughout available land space due to development constraints that are driven by habitat and natural resource protection, as provided under current law.

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

The applicant submits the property is located in an area that encourages multi-family activity as displayed by the "R-2" zoning designation. A reasonable transition from a vacant unmanaged lot, to the Pago Bay Marina Resort twin tower multifamily building, housing a managed community which places a premium on the property's unique origin and its sensitive land features; and is dedicated to their protection, is an appropriate use of this property. The height and density variance allows for reasonable use of the property while complying with the existing zoning requirements. These circumstances do not apply to other properties in the same area. Again, the GLUC further found where any consideration to recommend an allowance to exceed the height limitation was warranted only as recourse to protect nearby natural resources and sensitive habitat through avoidance. The statute covering density[3] allows the subject property 239 units. The placement of these units cannot follow standard or typical displacement throughout available land space due to development constraints that are driven by habitat and natural resource protection, as provided under current law.

[2] See Title 21GCA, Chapter 61, Article 5, Sub-Article 5, Section 61502.
[3] See Title 21GCA, Chapter 61, Article 5, Sub-Article 5, Section 61502.

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

The GLUC found that implementing a design that restricts lateral development to a more restricted footprint compliments the general objective of promoting public health, safety and welfare by allowing more open space to displace flooding due to the effects of storm surges and committing the first few stories to commercial and not residential-occupancy use. As the property exists at near sea level and in close proximity to submerged areas, the GCP was confident the applicant will be required to meet certain flood elevation standards.

In analyzing structural elevations, that the first 30 feet of the structure will incorporate non-residential occupancy such as a sub-ground parking garage program, open space parking and recreational space at the baseline level, and commercial space on the first two floors. This design appears logical and sensible as a means to ultimately protect human life from hazards of flooding, storms, and possible tsunami.

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

The applicant submits that the "Guam Master Plan" as shown in the zoning map allows the location of multifamily uses in the "R-2" zone. This request is in reasonable accordance with and not contrary to the plan.

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

The applicant submits that the proposed building will substantially enhance the recreational, aesthetic, and commercial value of the beach area. Subsequent development of the property may be anticipated. However, plans will not interfere with or adversely affect the surrounding property owner's or public's rights to untrammeled use of the beach and its natural beauty. Likewise, as part of the

conditions associated with the issued Notice of Action, the applicant is required to provide appropriate access for the public and emergency vehicles to beach area resources.

The members of the commission, after due consideration, voted to approve the request for a height variance by granting such request with conditions.

The vote of the members is as follows:

4 Ayes **0 Nays** **0 Abstentions**

This decision was adopted the **28th** day of **April, 2016** and shall be filed with the Department of Land Management and the Department of Public Works as mandated under Title 21, GCA, Section 61616 to 61617 and 61501.

John Z. Arroyo
Chairman, Guam Land Use Commission

GOVERNMENT OF GUAM
DEPARTMENT OF LAND MANAGEMENT

913334

OFFICE OF THE RECORDER

RECORDING DATE:		NO. PAGE:
OCT 06, 2017	913334	5

FILE TIME			FILING FEES	RECEIPT NO:
A.M.	P.M.		DE-OFFICIO	
9:50				

Appointed Deputy Recorders for Ex-Officio Recorder	Signature of Recorder
Lisa M. Quitano; Lisa P. Cruz, Jane T. Yamasaki; Victoria C. Torres; Amy T. Bautista; Joel Antenorcruz; May M. Castro	Jane Yamasaki

MARK (X) TYPE OF INSTRUMENT RECORDED

	DEED		AFFIDAVIT
	MORTGAGE		RELEASE
	ASSIGNMENT		AMENDMENT
	ADDENDUM		ASSUMPTION
	DECREE		MAP
	ORDERS		JUDGEMENT
	POWER OF ATTORNEY		REVOCATION
	AGREEMENT		TERMINATION

MARK (X) TYPE OF INSTRUMENT RECORDED

	LEASE		CLAIMS		
	CONTRACT		CANCELLATION		
	CERTIFICATE		NOTICE		
	DECLARATION		BILL OF SALE		
	EASEMENT		WITHDRAWAL		
	OTHERS:				

ABSTRACT OF TITLE SUMMARY

ABSTRACT BY:	DATE	NEW CERTIFICATE OF TITLE NO.	CANCELLED CERTIFICATE OF TITLE NO.

COMMENTS

DATA ENTRY INFORMATION SECTION

PROPERTY LISTING NO.			
MUNICIPALITY:			
LOT NUMBER		UNIT OF MEASUREMENT	
BLOCK NUMBER		SQUARE METERS	
TRACT NUMBER		SQUARE FEET	
ESTATE NO.			
L.M. NO.			
SEPIA NO.			
DATA ENTRY BY:			
SCANNED BY:			

Revised: 06/20/08

913334

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

File for Record is Instrument No. 913334

On the Year 20 17 Month 10 Day 06 Time 9:50

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder Jan Yamasaki

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

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

GUAM LAND USE COMMISSION

ORIGINAL

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

AMENDED
NOTICE OF ACTION

September 14, 2017
Date

To: Wanfang Construction Ltd.
c/o AES Construction, Inc.
125 Tun Jesus Crisostomo Stree
Tamuning, Guam 96913-3551

Application No. 2015-29C

The Guam Land Use Commission, at its meeting on August 24, 2017,

XX / Approved ___/ Disapproved

Your request on Lot 164-4NEW-1 in the municipality of Yona, for an extension of a previously-approved zone variance pursuant to section 5 of Executive Order 96-26.

NOTICE OF ACTION **Application No. 2015-29C**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for extension of previously-approved Variance - Height
GLUC Hearing Date: August 24, 2017

ZONING

____/ Zone Change***

____/ Conditional Use

____/ Zone Variance

[ ] Height [ ] Use
[ ] Density [ ] Other (Specify)
[ ] Side Yard

_____/ TENTATIVE DEVELOPMENT PLAN

SUBDIVISION

____/ TENTATIVE

____/ FINAL

____/ EXTENSION OF TIME

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

NOTE ON ZONE CHANGE

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

SEASHORE

____/ WETLAND PRMIT

____/ SEASHORE CLEARANCE

MISCELLANEOUS

____/ DETERMINATION OF POLICY AND/OR DEFINITIONS

XX / OTHER (1-Year Extension per §5 of E.096-26)

HORIZONTAL PROPERTY REGIME

____/ PRELIMINARY

____/ FINAL

____/ SUPPLEMENTARY (SPECIFY)

NOTICE OF ACTION
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for extension of previously-approved Variance - Height
GLUC Hearing Date: August 24, 2017

Application No. 2015-29C

APPLICATION DESCRIPTION: The Applicant, AES Construction, LLC on behalf of Wanfang Construction, Ltd was granted a one (1) year extension of a variance for height pursuant to Section 5 of Executive Order 96-26, whereby the applicant must secure a building or grading permit within the one-year timeframe. The previously-approved variance was for height to allow Commercial/common area height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and Tower 2 not to exceed 158-feet mean sea level in an "R-2" (Multi-Family Residential) zone for height, to allow Commercial/common area height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and Tower 2 not to exceed 158-feet mean sea level in an "R-2" (Multi-Family Residential) zone. in an "R-2" (Multi-Family Residential) zone on Lot 164-4NEW-1 Municipality of Yona.

COMMISSION DECISION: The Guam Land Use Commission APPROVED the request for a one-year extension for the purpose of obtaining a building or grading permit within one year from the date of recordation of this Notice of Action otherwise, the approval of the height variance as granted by the Commission shall expire.

9-14-2017
Marvin Q. Aguilar **Date**
Guam Chief Planner
Department of Land Management

9/14/17
John Z. Arroyo **Date**
Chairman
Guam Land Use Commission

Case Planner: Celine Cruz/Marvin Aguilar
Attachment(s): ARC Distribution List

Cc: **Building Permits Section, DPW (Attn: Mr. Joseph Guevara)**
Real Property Tax Division, Department of Revenue and Taxation

NOTICE OF ACTION **Application No. 2015-29C**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for extension of previously-approved Variance - Height
GLUC Hearing Date: August 24, 2017

CERTIFICATION OF UNDERSTANDING

I/We_____ / Barbara Burkhardt
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

_____ _____ Barbara Burkhardt 10/6/2017
Signature of Applicant Date Signature of Representative Date

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

_____ _____ _____ _____
Applicant **Date** **Representative** **Date**

EXHIBITS

- **APPLICATION NO. 2018-10**
- **APPLICATION NO. 2018-11**
- **APPLICATION NO. 2017-49**
- **APPLICATION NO. 2017-41**

BARRIGADA

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

April 24, 2018

Mr. John Arroyo
Chairman, Guam Land Use Commission
Department of Land Management
Tamuning, Guam 96931

Re: **Zone Change Application No. 2018-11.** Applicant requesting for a zone change from "A" (Rural) to "M-1" (Light Industrial Zone), for the proposed construction of a warehouse, on Lot 5, Block 1, Tract 221, in the Municipality of Barrigada.

Dear Mr. Arroyo:

Buenas yan Hafa Adai! This is to inform you that Vice Mayor Jessie P. Bautista and I, together with the Barrigada Municipal Planning Council are currently reviewing the above named Zone Change Application No. 2018-11 and will be submitting a formal position via resolution in a couple of weeks.

Thank you for your time, and should you have any questions or concerns, please do not hesitate to email us at bmomayor@gmail.com; or jessie.bautista007@gmail.com or call us at 734-3737.

Sincerely,

JUNE U. BLAS
Mayor

JESSIE P. BAUTISTA
Vice Mayor

Attachment Draft Resolution

RECEIVED
DLM - 5/24/2018
@ 12:55pm

P.O. Box 786, Hagåtña, Guam 96932 * Tel: (671) 734-3737/3859 * Fax: (671) 734-1988 * Email: barrigadaoffice@gmail.com

BARRIGADA

Municipal Planning Council

Day, Month Date 2018

Resolution No. 2018 – 00___

Introduced by: Mayor,
Vice Mayor, and
All Members Municipal Planning Council

Relative to expressing the position of the Barrigada Municipal Planning Council on SZC 2018-11 to rezone property from "A" (Agricultural) to "M-1" (Light Industrial Zone) to allow for the construction of a warehouse, on Lot 5, Block 1, Tract 221, in the Municipality of Barrigada on property belonging to Mr. Behnam Ghafghazi represented by Harry D. Gutierrez, Consultant.

BE IT RESOLVED BY THE MUNICIPAL PLANNING COUNCIL OF BARRIGADA:

WHEREAS, the Mayor is in receipt of **Zone Change Application No. 2018-11,** wherein the Applicant (Mr. Behnam Ghafghazi represented by Harry D. Gutierrez, Consultant) is requesting a zone change for his property identified as Lot 5, Block 1, Tract 221, Barrigada from "A" (Rural) to "M-1" (Light Industrial Zone), for the purpose of constructing of a warehouse and other complimentary structures; and

WHEREAS, the zone change from "A" (Rural) to "M-1" (Light Industrial) is, in the opinion of the Barrigada Municipal Planning Council, the proper zoning designation for the intended use mentioned in the Zone Change Application; and

WHEREAS, notwithstanding the comments received from individuals present at the hearing held at the Barrigada Community Center, 6PM, on Tuesday, April 24, 2018, the Barrigada Municipal Planning Council has reviewed the position statements and comments submitted by government agencies regarding services, facilities and infrastructure servicing the area, specifically, sewer, liquid and solid waste disposal and storm water disposal; and

WHEREAS, the Barrigada Municipal Planning Council finds that the lot area of the property in questions is 5,945 square meters or 64,002 square feet with a total land area of 1.6 acres and will be able to accommodate the proposed use activities, such as parking, and loading and unloading areas; and

WHEREAS, the Barrigada Municipal Planning Council solicited the cooperation of the Applicant to insure that all conditions, concerns and requirements from permitting agencies are adhered to from clearing to.construction and final occupancy; and

WHEREAS, the Mayor and the Municipal Planning Council further express the following:

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

P.O. Box 786, Hagåtña, Guam 96932 * Tel: (671) 734-3737/3859 * Fax: (671) 734-1988 * Email: barrigadaoffice@gmail.com

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

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

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

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

(E) **Water Source Protection from Industrial Waste:** Lot 5, Block 1, Tract 221, Barrigada is located in and around the Northern Watershed, which is home to the Northern Guam Lens Aquifer. The aquifer is an essential resource for our island and is the primary source of drinking water for our island and shall protected at all times.

and

WHEREAS, the Mayor and Barrigada Municipal Planning Council find that there is an existing paved road (80-feet) fronting the subject property. Accordingly, it connects to the Airport access and Route 16 overpass and serves as the main access to the property in questions; and

WHEREAS, that the Mayor, Vice Mayor together with the Municipal Planning Council opine that it is of great importance to prevent sources of contamination from entering our island's water supply. The Barrigada Municipal Planning Council is concerned that the activities resulting from the rezoning would have adverse effects and therefore encourages the applicant to consult with Guam EPA and to implement practices for managing waste that would avoid potential contamination; now, therefore be it

RESOLVED, that the Barrigada Municipal Planning Council having reviewed the **Zone Change Application No. 2018-11** to rezone property from "A" (Agricultural) to "M-1" (Light Industrial Zone) to allow for the construction of a warehouse, on Lot 5, Block 1, Tract 221, in the Municipality of Barrigada on property belonging to Mr. Behnam Ghafghazi represented by Harry D. Gutierrez, Consultant; and be it further .

RESOLVED, that the Barrigada Municipal Planning Council exercising its rights and privileges to review all summary zone change application and zone changes involving real property within the its boundaries, does hereby express its support and endorsement Application No. SZC 2018-11, to rezone Lot 5, Block 1, Tract 221, Barrigada, from "A" (Agricultural) to "M-1" (Light Industrial Zone); and be it further

RESOLVED, that the Chairperson of the Council, certify to and the Vice Mayor and the Secretary of the Council attest to the adoption hereof, and that copies of the same be thereafter transmitted to Mr. Behnam Ghafghazi (Landowner) represented by Harry D. Gutierrez, Consultant; to the Executive Secretary of the Guam Land Use Commission; to the Director of the Department of Land Management; to the Executive Director of the Mayors Council of Guam; to the Honorable Benjamin J. F. Cruz, Speaker, Guam Legislature, and to the Honorable Edward J.B. Calvo, Governor of Guam.

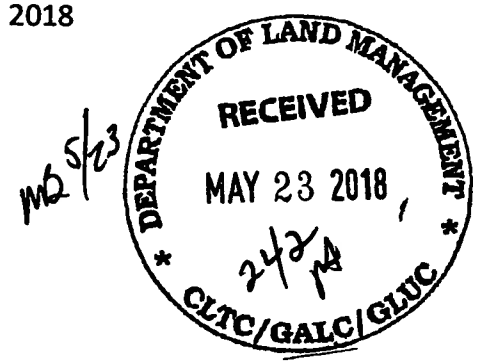
DULY AND REGUARLY ADOPTED ON THE ___th DAY OF MAY 2018.

JUNE U. BLAS
Mayor and Chairman

JESSIE P. BAUTISTA
Vice Mayor

THERESE B. MAZZEI
MPC Member and Council Secretary

P.O. Box 1355
Hagåtña, GU 96932-1355
May 23, 2018



Guam Land Use Commission
Department of Land Management
590 S. Marine Corps Drive ITC Building, Ste 733
Tamuning, Guam 96913

Guam Land Use Commission:

I wish to express my support for the zoning request pictured below. I own a condo in Harvest Residence at 153 Untalan/Torre Court, the street than runs along the south side of JS Store.

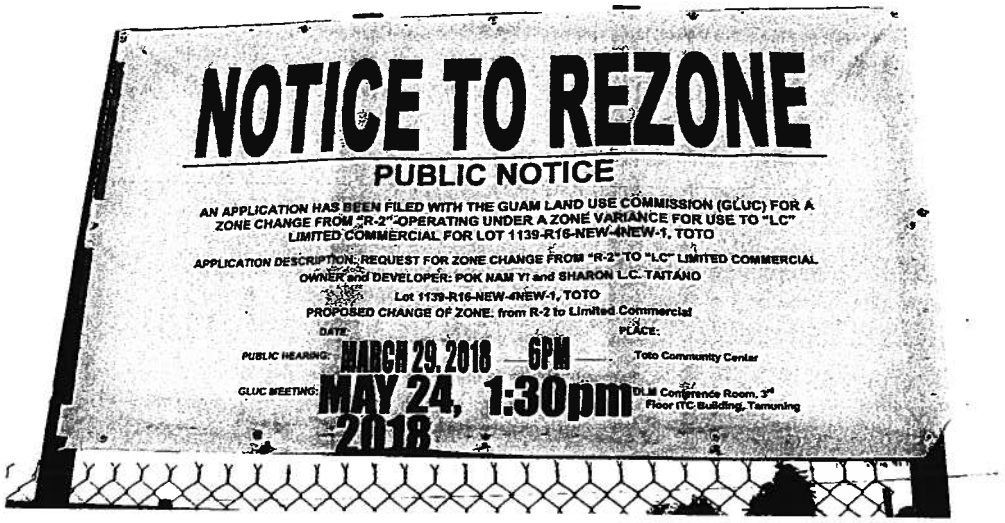
I have visited JS Store nearly every day for 8 years. I have found it to always be neat and clean and orderly and well-stocked. Sharon Taitano and her mother, Pok Nam Yi, work in the store nearly every day. Sharon's husband Joe brings Sharon lunch nearly every day, and helps her in the store. Occasionally their sons help in the store. This is truly a "Mom and Pop" store.

This store provides a great service to the community. Many customers walk to the store from the nearby housing projects. Customers are treated with respect in the store. I'm sure the future residents of Villa Del Mar will also find this store a welcome convenience. I hope the zoning request will be granted.

Sincerely,

Bruce M. Thorson

Bruce M. Thorson
brucethor@hotmamil.com



The Community of Education, Culture and Sports

Office of the Mayor
Municipality of Mangila



P.O. Box 786 Hagatna, GU 96932 (671) 734-2163 / 5731 Fax: (671) 734-4130

Allan G. Ungacta, Mayor **Thomas J. F. Duenas, Vice Mayor**

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 23 2018
CLTC/GALC/GLUC

M35/23

MANGILAO MUNICIPAL PLANNING COUNCIL RESOLUTION NO. 002

SPONSORED BY:

Elizabeth S. Acfalle
Juan A. Aguon
Tomas S.N. Chargualaf
Arthur Mariano
Darlene M. Taitano
Rosita D. Tosco

RELATIVE TO REQUESTING FOR ZONE CHANGE, LOT 1103-3-1A-1 FROM RESIDENTIAL 'R-1' TO COMMERCIAL 'C', MUNICIPALITY OF MANGILAO.

BE IT RESOLVED BY THE MUNICIPAL PLANNING COUNCIL OF THE MUNICIPALITY OF MANGILAO:

WHEREAS, it is the duty of the Municipal Planning Council to advise the Mayor on all matters affecting the well-being of the community in accordance with Chapter 40 of Title 5 of the Guam Annotated Code (GCA); and

WHEREAS, it is the duty of the Municipal Planning Council to review and express a view on all variance applications, zone changes, and government leases involving land within their districts in accordance with Chapter 40 of Title 5, Section 40128 (f); and

WHEREAS, Mr. Albert Sanga, through his project consultant, has applies for a zone change on Lot 1103-3-1A-1 from Residential (R-1) to Commercial (C) in the Municipality of Mangilao; and

WHEREAS, Mr. Albert Sanga, will construct a facility to operate a small retail, food service or catering business in the Municipality of Mangilao; and

WHEREAS, on January 30, 2018, a public hearing regarding Lot 1103-3-1A-1 was conducted by the Department of Land Management at the Mangilao Community Center, and

WHEREAS, adjacent residents voiced their great concerns and strongly opposed the request for a zone change and the future construction and operation of said business; and

WHEREAS, the infrastructure, power, water, sewer are readily available; the adjacent residents stated problems with water pressure, power fluctuations, traffic control within their area; therefore, be it

RESOLVED, that the Mayor with the consensus of the Municipal Planning Council at its April 11, 2018 meeting hereby oppose the request for zone change of Lot 1103-3-1A-1 in the Municipality of Mangilao; and be it further

RESOLVED, that the Mangilao Municipal Planning Council Chairman certify and the Council Secretary attest the opposition hereof, and that copies of the same be thereafter transmitted to the Director, Department of Land Management; to the Chairman of the Guam Land Use Commission; and to the Director, Department of Public Works.

DULY AND REGULARLY ADOPTED ON THE 21ST DAY OF MAY, 2018 AT THE MANGILAO MAYOR'S OFFICE.

CERTIFIED BY:

MAYOR ALLAN G. UNGACTA

MPC Chairman

ATTESTED BY:

ROSITA D. TOSCO

Secretary, MPC

MANGILAO MUNICIPAL PLANNING COUNCIL

MINUTES OF APRIL 11, 2018 MEETING
6:00 pm, Senior Citizens Center

I. CALL TO ORDER

A meeting of the Mangilao Municipal Planning Council (MMPC) was held on Wednesday, April 11, 2018, at 6:00 p.m. in the Senior Citizens Center. Mayor Allan G. Ungacta, presided as the Chairman of the Council.

II. ATTENDANCE

Council members present included: Liz Acfalle, John Aguon, Tom Chargualaf, Art Mariano, Darlene Taitano, Rosita Tosco. Attending from the Mayor's Office were Vice Mayor Tommy Duenas, Ms. Vanessa Aguero, Ms. Clarissa Borja, Jesse Palomo, Max Erickson, and Ed Tosco.

Special guests include Mr. Penmar Gulac, Dept of Land Management; and Mr. Harry Gutierrez, Consultant.

Concerned citizens present: Joann M. Blas, William D. Long, Mr. and Mrs.Vincent A. Leon Guerrero, Kenneth I. Concepcion, Esther Taitano-Hermal, Merlyn Weslyn T-Hermal and Gloria Long.

III. SECRETARY'S REPORT

Minutes for February 28, 2018 special meeting were distributed. Mr. Art Mariano made a motion to approve the minutes, subject to corrections; seconded by Ms. Liz Acfalle; unanimously approved.

IV. TREASURER'S REPORT

The Chairman noted that a balance of $9100.00 remains in the MPC non-appropriated account. He acknowledged that his staff has been actively involved with the Senior Center in trying to raise funds through its Friday bingo night activities. To date, an advance amount of $1,500.00 for the Donne' Festival fireworks (actual cost $3.000: company sole source) has been processed (received 6 council members' approval on March 9).

V. NEW BUSINESS

1. **Request for Zone Change, Lot 1103-3-1A-1 from R-1 to Commercial:**
   Mr. Penmar Gulac from the Deparment of Land Management presented a request from Mr. Albert Sanga for a zone change from R-1 (Residential) to C (Commercial). On January 30, 2018, a public hearing was held at the community center for the same property, Lot 1103-3-1A-1. Because of the small size of the area, certain criteria need to be addressed by the owner and developer. A Conditional Land Use Permit was discussed.
   On its application for zone change, it indicated that Zone C was necessary for the construction of a commercial building. Mr. Gulac stated the owner will operate a small retail, food service or catering business. He noted that the infrastructure; power, water, sewer, were readily available.
   The Guam Land Use Commission (GLUC) has scheduled a hearing for sometime in May.

A resolution depicting the Municipal Planning Council's (MPC) decision will be prepared and submitted before the hearing date.
Several residents from the area voiced great concern regarding the infrastructure; low water pressure during certain times of the day; and the constant flow of traffic entering and exiting the area at all times. The property is adjacent to a major roadway, Route 10; several traffic fatalities have occurred on this highway; no traffic control. Mr. Harry Gutierrez, Consultant to the project, indicated that the owner maybe required to install a water tank and pump to meet the low water pressure issue.
The residents asked why the owner was not present during the hearing and at this meeting; he should be available to better inform them on the project's development. A discussion on setting up and controlling the perimeters of the building and its surrounding areas took place. Their greatest concern is once the zone change is approved and the building is constructed, the owner may change the type of business to whatever he wants to operate. They were all in agreement to oppose the request.
Mr. Gulac stated he would be submitting additional information/documents to the Mayor at a later date.
Mr. Art Mariano made a motion to deny or oppose the zone change request; seconded by Mr. John Aguon. After a brief discussion, all council members present voted to approve the motion. A resolution will be prepared and will be submitted to the GLUC.

VI. OLD BUSINESS

1. Solar Plant Photovoltaic Facility

The Chairman presented a letter he received from KEPCO-LG CNS stating the Community Benefits Summary that was discussed during several past meetings with the company.
A discussion on Item 2, Street Lights, was noted. No exact number of lights was decided and company officials, with the Mayor's recommendation, will identify the areas where the lights are to be placed. The GLUC approved a Conditional Land Use application in its January 25, 2018 meeting. Recently, the Zone Change request has been approved.
A court suit maybe filed by concerned citizens, but to date, the Chairman has not seen it; he will update the Council of future development on this project.

VII. ANNOUNCEMENT(S)

In its last week's Mayors Council meeting, Mayors will be responsible for their own village floats and fireworks. GVB and the Chamorro Cultural Affairs office will be handling the Liberation Day festivities.

VIII. ADJOURNMENT

Ms. Darlene Taitano made a motion to adjourned; seconded by Ms. Liz Acfalle; unanimously approved. Meeting adjourned at 7:50 pm.

Respectfully submitted,

Rosita D. Tosco, Secretary
Date: April 16, 2018

ATTESTED TO:

ALLAN G. UNGACTA, Chairman
MANGILAO MUNICIPAL PLANNING COUNCIL

Office of the Mayor

Municipality of Tamuning-Tumon and Harmon

#120 Tun Jesus Crisostomo St. Tamuning, Guam 96913

P.O. Box 10513 Tamuning, Guam 96931

Telephone No.: (671) 646-5211/8646 Facsimile No.: (671) 646-5210

Email: teamtatuha2013@gmail.com

LOUISE C. RIVERA
Mayor
KENNETH C. SANTOS
Vice-Mayor



May 21, 2018

Mr. John Arroyo
Chairman
Guam Land Use Commission
Department of Land Management
590 S. Marine Corps Drive, ITC Bldg.
Tamuning, Guam 96913

Buenas yan Hafa Adai! I am pleased to inform you that at our Regular Monthly Meeting on April 05, 2018 the Tamuning-Tumon-Harmon Municipal Planning Council voted to approve Dr. Shieh and Raven's application for Conditional Use with a super majority.

Should you have any questions, please do not hesitate to contact me at 888-1540.

Sincerely,

LOUISE C. RIVERA
Mayor

RECEIVED
5-22-18
@ GLUC

JUNE U. BLAS
MAYOR

MUNICIPALITY OF BARRIGADA

OFFICE OF THE MAYOR & VICE MAYOR
124 LUAYAO LANE, BARRIGADA, GUAM 96913

JESSIE P. BAUTISTA
VICE MAYOR

May 21, 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 22 2018
CLTC/GALC/GLUC

Members of the Guam Land Use Commission
c/o John Arroyo, Chairman
Department of Land Management
590 S. Marine Corps Dr., ITC Building
Tamuning, Guam 96911

Dear Mr. Chairman, Members of the Guam Land Use Commission & Department of Land Management,

Buenas yan Hafa Adai! I have known Dr. Thomas Shieh since 2000 as he provided the utmost care when I had my first & only child in 2001. During the past 17 years Dr. Shieh continues to serve in his full capacity not only as a physician but as an active member in the community in Youth Sports Events.

I bestow and fully support Dr. Shieh and his continued efforts in his quest to obtain conditional use of property for a proposed clinic. His tremendous amount of experience along with this one of a kind facility with state of the art technology will be beneficial for women on the island.

Very Respectfully,

JUNE U. BLAS
MAYOR

RECEIVED
5.22.18

P.O Box 786, Hagatña, Guam, 96932 ◊ Tel: (671) 734-3737/3859 ◊ Fax: (671) 734-1988 ◊ Email: barrigadaoffice@gmail.com
Doc. No. 34GL-18-2282.

March 31, 2018

Mr. John Arroyo
Chairman
Guam Land Use Commission
Sent via: jarroyo@tgguam.net

RE: Letter of Support for Proposed Shieh Clinic

Hâfa adai Chairman Arroyo!

We are honored to submit this letter of support in behalf of Dr. Thomas Shieh and his medical staff in their effort to build a new medical clinic for women and children on Guam. According to Dr. Shieh, the property is zoned R-2 and may be developed under conditional use for a medical clinic. This is wonderful news for our families including hundreds of children including our 3-year old son, Thomas Aaron II, who received safe and excellent care from Dr. Thomas Shieh and his professional medical team.

With the future of healthcare on Guam always on his mind, Dr. Thomas Shieh is committed to continue providing superior care for women and children across our island for many years to come. Going forward, it is our hope that Dr. Shieh and his medical staff will be able to care for more of our families through their new medical clinic as proposed in the application currently before the Guam Land Use Commission

Please do not hesitate to contact us at 482-5346 should you have any questions or wish to discuss this matter further.

Senseramente,

Mr. & Mrs. Thomas A. Morrison

cc: Mayor Louise Rivera, Municipality of Tamuning

RECEIVED
5.22.18
DLM

N. Oscar Miyashita, CPA/PFS AIFA ®
Miyashita and Associates, P.C.

March 26, 2018

To: Members of the Guam Land Use Commission and Land Management
P.O. Box 2950
Hagatna, Guam 96932

From: N. Oscar Miyashita, CPA/PFS

RE: STRONG Support for Dr. Thomas Shieh's Medical Clinic Conditional use Application

Dear Members of the Guam Land Use Commission and Land Management:

My name is N. Oscar Miyashita, CPA/PFS. My wife Jocelyn, Senior VP BOG, and I have been a long time resident of Guam since 1984. Presently we live in the Talo Verde Estates located at the Ypao Road.

Further, as the founding partner of Ernst and Young Guam and Saipan/Micronesia offices, we have been in the Tamuning offices ever since the early 1980s and presently at the EY Building 231 Ypao Road.

I have known Dr. Thomas Shieh and his family for many years. He is a dedicated and philanthropic physician who has committed his medical practice to the People of Guam. He has been active with various charitable work related to the bone marrow campaign and other charitable endeavors for many kids, as well as been the sponsor of the Shieh Scholar Athletes scholarship program for the last 18 years. He is a Class A doctor who does nothing but the highest and quality work in a very professional environment. His current Tamuning clinic at the Hospital Road is a well maintained professional clinic.
I have full confidence that his new clinic will be one of the most attractive and well maintained building in Tamuning with State of the Art facilities. I have reviewed the building design and it reflects and fits Dr. Thomas Shieh's professionalism and indeed aesthetically attractive and functional.

Accordingly, I hereby support his building project in an unequivocal fashion.
Please let me know if you have any questions or concerns.

Kind Regards,

N. Oscar Miyashita, CPA/PFS AIFA®
Miyashita and Associates, P.C.
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913
Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com
CC: Mayor Luise Rivera, Dr. Thomas Shieh

RECEIVED

Shirley's
Coffee Shop Guam, USA

March 27, 2018

Chair, Guam Land Use Commission & Members
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: Complete Support for Dr. Shieh's Propose Conditional use of this Medical Clinic

Dear Members of the Guam Land Use Commission & Land Management:

Hafa Adai!

My family are residents of Guam and we own Shirley's Coffee Shop, which is directly across of the proposed new medical clinic of Dr. Shieh and his wife. On behalf of my family and business, we would like to lend our complete support to the proposed medical clinic and the approval for its conditional use.

The clinic's design is beautifully done and functional. Its appearance will add to the beauty of our island and create an economic stimulus that we very much need at this time.

Our island community has known Dr. Shieh and his wife Raven for their compassionate service and we believe their new clinic will improve not just Tamuning, but Guam in general. This project should be supported and encouraged.

Sincerely,

David Lai
Shirley's Coffee Shop

Cc: Mayor Louise Rivera, Tamuning

RECEIVED

April 7,2018

c/o Department of Land Management

P.O. Box 2950, Hagatna, Guam 96932

RE: Full support for Dr. Shieh's proposed conditional use of his medical clinic

Dear Members of the Guam Land Use Commission and Land Management,

Hafa Adai,

My Family and I are residents of Guam and we own the French bakery , Patisserie PariSco, behind Oka Payless in Tamuning. Our bakery is just a block away from the proposed new medical clinic of Dr. Shieh, his wife, Raven, and his team of wonderful staff.

On the behalf of my family and business, we would love to see Doctor Shieh's clinic grow and we encourage to support him. He has served our island for over 20 years and has been loyal to all his patients. I've been his patient since I was in high school and to this day, he is still helping me and my family even on his busiest schedule.

The design of his new clinic will be a piece of treasure in the heart of Tamuning.

Please with all due respect support and encourage his project.

Sincerely,

Shizuka and Michael Louboutin

Patisserie PariSco

RECEIVED

Paradise Smiles

"We shall never know all the good a simple smile can do"

April 20, 2018

Guam Land Use Commission

RE: SUPPORT for Dr. Shieh's Clinic C/O Department of Land Management
PO Box 2950, Hagatna, Guam 96932

To Guam Land Use Commissioners:

Recently, I met with Dr. Tom Shieh, long time practitioner on Guam as an OB-GYN clinician and physician. He reached out to me, as a potential neighbor to be, for the building of a new clinic directly next to Paradise Smiles Dental and Corporate office of Reaching Out Ministries. He showed me the professional renderings & drawings for his new dream clinic building. He was excited and eager to have approval for the new building. As Guam law states, public hearings are required for allowing any objections or approvals, prior to any final authorization being given to a future private or commercial building.

The Tamuning-Tumon- Harmon Municipal Planning Council has already approved his project per Dr. Shieh and his architect Mr. John Setiati this month.

That said, he still desired a "support" letter from myself, drafted & submitted.

Thus, I give hearty approval, believing it will be a very aesthetic building and clinic, increasing value to the general neighborhood of businesses, apartments and personal homes.

Knowing that I believe strongly in beautification of residences and business' curb appeal, I personally am excited to see another clinic come on line directly next to Paradise Smiles, where this same standard of aesthetics exist. I believe Dr. Shieh's vision and goals will come with very high "professionalism" and sensitivity towards all neighbors who presently exist, live and work here. I believe his clinic, will carry out the same quality and standards of upkeep as our clinic, with attention to detail and well kept maintenance overall throughout service as a clinician on Guam.

Our clinic looks forward to his new clinic's completion and are excited to see another professional high-caliber designed building next to our property, removing the eyesore of unkept and un-mowed open land & weeds.

RECEIVED

384 Governor Carlos Camacho Road • Tamuning, Guam 96913
Tel: (671) 646-2010• Fax: (671) 646-2070

Doc. No. 34GL-18-2282.

Paradise Smiles

"We shall never know all the good a simple smile can do"

Thank you for your approval, and if this helps in any way, we are happy to lend our written and verbal voice for strong approval! We can only wish and hope for quick construction success with minimal inconveniences, so that he can quickly relocate into his the new dream clinic

Kenny Bourgeois, DDS

President - Reaching Out Ministries, Religious Non-profit Corporation
Paradise Smiles Dental Clinic

Cc: Mayor Louise Rivera, Tamuning

RECEIVED

384 Governor Carlos Camacho Road • Tamuning, Guam 96913
Tel: (671) 646-2010• Fax: (671) 646-2070

PAUL M. McDONALD
515 Chalan Macjana Rd.
Agana Heights, Guam 96910

BOARD OF DIRECTORS
GUAM LAND USE COMMISSION
c/o Department of Land Management
Dipåttamenton Minanehan Tåno'
590 S. Marine Corps Drive, Suite 733
Tamuning **Guam** 96913

April 3, 2018

Re: LETTER OF SUPPORT FOR CONDITIONAL USE OF PROPERTY FOR DOCTOR THOMAS SHEIH'S PROPOSED CLINIC IN TAMUNING

Dear Guam Land Use Commission Board of Directors,

Hafa Adai!

I submit this letter in support of Doctor Thomas Sheih's conditional use of property for a proposed clinic in Tamuning.

My family and I became patients and lifelong friends of Doctor Shieh 20 years ago. We first met Doctor Shieh when he worked off-base assisting at The Doctors' Clinic and the Guam Memorial Hospital while serving as a U.S. Naval Officer at U.S. Naval Hospital, Guam. Having been a Mayor for over 25 years, I am well aware of Doctor Shieh's involvement in our community care, most especially with the Department of Public Health and Social Services, and throughout the community.

Two decades ago, I recollect Doctor Shieh having the opportunity to return to Honolulu, Hawaii, upon completion of his active duty obligations in the U.S. Navy, but he decided to stay on Guam with his young family. I recall how much he loved our island back then and how he wanted to be able to help provide much needed service to our island. I was honored and proud that Doctor Sheih and his wife Raven dreamed of making Guam their home and where they wanted to raise their children – 20 years later, I am proud to call Doctor Sheih a friend, but most especially proud to call him and his family fellow Guamainians.

Doctor Sheih took a big risk implanting his family on Guam soon after his military obligations ended, but his risk turned into a blessing for our island, having successfully saved many lives, delivering thousands of babies on Guam, and treating countless patients. Among his endless list of patients, the women in my family entrusted Doctor Sheih with their life, as did I – from my wife Elaine, to my daughters: Yvette McDonald Walton and Stacy McDonald Flores, and even delivering my granddaughters, my son, Eugene McDonald's daughters in recent years. With this said, my family and I can attest that Doctor Shieh goes far and beyond for his patients and their families, and my family and I truly believe that whatever he puts his heart, mind and hands into, will always be a blessing.

In the past years, Doctor Sheih has brought many gynecological advances to Guam, from medical equipment/machines, vaccines, to minimally invasive surgeries, and many other treatments.

RECEIVED

remedies/options/plans; he always follows through with his patients, and ensures the best possible care. With his exemplary service, his outstanding work ethics, and his genuine compassion for his patients, Doctor Sheih's proposed clinic will certainly be extremely beneficial and lifesaving for generations to come – it will be great for our island of Guam. In the last 20 years of his life and career on Guam, I know firsthand that Doctor Sheih has unselfishly given his time, money, and expertise into helping thousands of patients, even helping patients that are not his patients, and going the extra mile in helping the less fortunate as well. For those and many other countless reasons, on behalf of my wife Elaine, and my children: Eugene and Nikole, Yvette, and Stacy and Chris, I give my unwavering support to Doctor Sheih's proposed clinic in Tamuning, and I respectfully urge you to consider approving his request for this project.

I thank you, in advance, for your favorable consideration. If there is anything that I can assist you with in the process, please do not hesitate to contact me at any time.

Si Yu'us ma'ase!

Sincerely,



Paul M. McDonald

JUNE U. BLAS
MAYOR

MUNICIPALITY OF
BARRIGADA

OFFICE OF THE MAYOR & VICE MAYOR
124 LUAYAO LANE, BARRIGADA, GUAM 96913

JESSIE P. BAUTISTA
VICE MAYOR

May 21, 2018

Members of the Guam Land Use Commission
c/o John Arroyo, Chairman
Department of Land Management
590 S. Marine Corps Dr., ITC Building
Tamuning, Guam 96911

Dear Mr. Chairman, Members of the Guam Land Use Commission & Department of Land Management,

Buenas yan Hafa Adai! I have known Dr. Thomas Shieh since 2000 as he provided the utmost care when I had my first & only child in 2001. During the past 17 years Dr. Shieh continues to serve in his full capacity not only as a physician but as an active member in the community in Youth Sports Events.

I bestow and fully support Dr. Shieh and his continued efforts in his quest to obtain conditional use of property for a proposed clinic. His tremendous amount of experience along with this one of a kind facility with state of the art technology will be beneficial for women on the island.

Very Respectfully,

JUNE U. BLAS
MAYOR

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P.O Box 786, Hagatña, Guam, 96932 ◊ Tel: (671) 734-3737/3859 ◊ Fax: (671) 734-1988 ◊ Email: barrigadaoffice@gmail.com

HARVEST MINISTRIES

April 4, 2018

Attention: Chair and Members
Guam Land Use Commission
Department of Land Management
P.O. Box 2950
Hagatna, GU 96932

Re: Support for Dr. Shieh's Clinic

Dear Chair and Members of the Guam Land Use Commission:

Hafa adai! On behalf of Harvest Ministries, I would like to support the conditional use permit for Dr. Shieh's new medical clinic. Dr. Shieh has always stepped up to reach out and be a help to our staff, and we are grateful to have his medical expertise and love for people here on Guam. His new clinic, in its design and with its addition, continues to speak of his commitment to the people of Guam and bettering his island community for the people of Guam both now and for future generations.

My wife and I have been residents of Guam for the last eighteen years. We have four children, all of whom have been privileged to grow up on Guam, are married and appreciate the professional support of Dr. Shieh as well as his support of and involvement in the island community. He has been a personal help to our family and has also become a personal friend of ours because he loves Guam.

Thank you for your consideration of this project.

Respectfully submitted,

Marty Herron
Lead Pastor

RECEIVED

MH:pd
cc

PO Box 23189, Barrigada, GU 96921 • 671.477.6341 • hbcguam.net

MPG Pediatrics, P.C.
Dr. Maria B. Blancaflor
396 Chalan San Antonio
Tamuning Guam 96913
Tel: (671) 648-KIDS (5437)
Fax: (671) 649-KIDS (5437)

April 2, 2018

Chairman and Members
Guam Land Use Commission
c/o Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96932

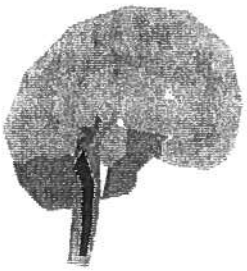
Re: Support for Dr. Shieh's Proposed Building of a Medical Clinic

I have known Dr. Shieh since 1999. I am one of the pediatricians who takes care of babies he delivers. I have utmost respect to him and his staff. He is one of a kind when it comes to patient care. We in the medical field should emulate him. I am writing to you in support of his application for a permit for the construction of his proposed medical clinic in Tamuning. I am sure this will be a top of the line clinic which will help in the advancement of medical care for women and children. His future clinic will be a great asset to our island. I humbly ask you to grant it immediately.

Sincerely,

Dr. Maria Blancaflor
mariablancaf@aol.com

RECEIVED



THE NEUROLOGY CLINIC

DR. RAMEL A. CARLOS
Board Certified Neurology

April 2, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
P.O. Box 2950, Hagatna, Guam 96932

Dear Chairman John Arroyo and members of GLUC,

RE: Strong Support for Dr. Thomas Shieh's Medical Clinic

I strongly support and endorse the proposed clinic that Dr. Thomas Shieh is planning to build in Tamuning.

Dr. Shieh's standard of medical practice is exemplary as he continues to advance the level of medical care in our beautiful island by planning to build a new clinic. He has unselfishly dedicated his medical practice in the entire community for the past two decades and now, his plan of building his clinic is a strong testament of his continued support for the years to come. I work with him closely as a consultant and I believe that his clinic will further advance the level of medical care as he brings world class technologies to Guam, which will be very vital in early detection and treatment of diseases.

It is without hesitation and reservation that I fully support his vision and plan to build his new clinic.

Sincerely,

Dr. Ramel A. Carlos
Diplomate, American Board of Neurology

CC: Tamuning Mayor Louise Rivera

241 Farenholt Avenue • Suite 102, Oka Building • Tamuning, Guam 96913 • Tel. Nos. (671) 646-6463 / 649-6463 • Fax No. (671)649-4323

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Guam Land Use Commission
c/o Department of Land Management
PO Box 2950 Hagatna, Guam 96932

RE: Letter in Support of Dr. Thomas Shieh's Medical Clinic (Conditional Use Permit)

Hafa Adai!

My name is Michele Catahay Perez. I am a resident of Tamuning, along with my husband Geoffrey D. Perez (Owner and Executive Chef of PROA Restaurant), our 15 year old son Tobin George, and 7 month old daughter Giuliana Delilah. I'm writing to express our complete support of the conditional use permit for Dr. Thomas Shieh's proposed women's clinic to be built in Tamuning, Guam.

I was first introduced to Dr. Tom Shieh as a news reporter at a local television news station, KUAM. In working with him, I covered numerous stories featuring his dedication to advancing women's healthcare on Guam and his constant drive to bring the latest technology to patients- whether they had the means to afford it or not. He was and continues to be an advocate for ALL women.

Dr. Shieh was also very passionate about saving lives. He organized Guam's first-ever bone marrow drive to help save the life of Justice Taitague. This was a huge undertaking for him and a big step for our island. But with his push for this, the island came together to find a match. Thereafter, he successfully organized more bone marrow drives to help find a match for other patients who sought help. His passion to help others shows he cares and is committed to Guam.

In 2017, as we were expecting our daughter Giuliana, we experienced first-hand his professionalism and willingness to help. He made himself available any time of the day and was open to answering questions at all stages of my pregnancy. My pregnancy was seamless under his guidance and care.

We applaud Dr. Tom Shieh's push to advance women's health on Guam. He is an asset to our community and he has our highest recommendation.

Sincerely,

Michele Catahay Perez
(Tamuning Residents)

Geoffrey D. Perez

RECEIVED

March 27, 2018

Chair, Guam Land Use Commission & Members
C/O Department of Land Management
P.O. Box 2950, Hagatna, Guam 96932

RE: Support for Dr. Shieh's Proposed Conditional Use of Medical Clinic

Hafa Adai Members of the Guam Land Use Commission and Land Management,

With the greatest respect, my family and I are writing to you in complete support of the new proposed medical clinic of Dr. Shieh, his wife Raven, and his team of nurses and staff. Furthermore, we are greatly encouraged to see Dr. Shieh invest in more services, amenities, and world class technology to provide care for our most precious resources, our island's mothers and babies.

We are lifelong residents of Guam as well as patients of Dr. Shieh's Clinic since June 2015 when we first found out we were pregnant to February 2, 2016 when we gave birth to our son, Cassius. I cannot express enough how truly excellent our personal experience was especially during a time of excitement, anxiety, and uncertainty as first time parents. We believe without equivocation that we received the best care on island.

Somehow Dr. Shieh believes that he and his staff can provide, impossibly, even better care for his patients and so we are completely supportive of his vision and this new proposed clinic. We urge you to also invest in our island's mothers and babies with your full consideration and support.

Yours Sincerely,

John T. Calvo, Paulette Saure, and Cassius Calvo, aged 2
Pacific Island Mannge Pops

CC: Mayor Louise Rivera, Tamuning

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AMERICAN MEDICAL CENTER, LLC
1244 North Marince Corps Dr., Suite 101
Tamuning, Guam 96913-4308
Tel. No.(671) 647-8262
Fax No. (671) 647-5252

May 18, 2018

To: Mr. John Arroyo, Chairman and Honorable Members
c/o Department of Land Management

RE: Strong Support of Dr. Shieh's Conditional Permit

Dear Mr. Arroyo, Members of GLUC

I am a long time family practice physician on Guam and I am writing on behalf of my entire family and my entire clinic, some of whom lives next to this lot to which Dr. Shieh's land is at and WE completely and **STRONGLY SUPPORT** his request for conditional use of this lot next to Paradise Dental Clinic for his Medical Clinic.

Dr. Shieh has been on Guam for 22 years. Since his arrive on Guam he has done so many things for our island. From bone bone marrow drives to save little kids to adults, from medical missions to student scholarships and not to mention all the medical advances he has brought to Guam all for the benefit of the people of this island.

Dr. Shieh is also a strong supporter of Guam Memorial Hospital. He never hesitated in jumping in to help a mother that is bleeding to death, even when there was no other doctor immediately available, Dr. Shieh jumped right in and saves her life. This is the type of doctor you want to remain on Guam. Thus, by him committed to build a medical clinic near in Tamuning is exactly what all of us could have dreamed for. This is GOOD for our island, and is a no brainer for anyone to see this as such a positive thing.

While many other doctors are leaving Guam, we know Dr. Shieh is staying with his non-selfish acts of kindness that is felt across our patient populations. We fully support his clinic in Tamuning and we have to support him so he can continue to help us save lives.

Sincerely,

Hoa Nguyen, MD
American Medical Clinic
Long time Resident of Guam

CC: Mayor Louise Rivera, Tamuning, Dept of Guam Land Management

RECEIVED

From: micah griffith <whitecat1181@yahoo.com>
To: mayorlcrivera.tatuha@gmail.com <mayorlcrivera.tatuha@gmail.com>
Sent: Fri, Apr 6, 2018, 12:30:59 AM
Subject: Support for Dr. Shieh's Proposed Medical Clinic

Dear Chairman John Arroyo, GLUC Members and Mayor Rivera,

I would like to commend all of you for the professionalism displayed this evening. For the portion I attended it seemed clear that the citizen's interest was being put first. I apologize if this letter is late but I wanted to talk to our HOA first about all that was discussed at the last meeting.

The homeowners of Grand Pacific Condominiums didn't seem to have any concerns with the proposed project when we first received notice because we didn't see any impact on our homes. After attending the meeting last Tuesday I realized that there would be an impact on our neighborhood, but it would be a positive one. Our neighborhood is saturated with apartments and condominiums so it is refreshing to have a beautiful building proposed that will not put a strain on the infrastructure. The proposed location also seems fitting because there are several medical buildings in the area, a dental clinic next door, and the hospital down the street.

Dr. Shieh has built a reputation from all the good he has done for the island and with this project he wants to do more. We are very proud to have him as our neighbor.

Thank you,
Micah Griffith



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Chiropractic Offices of
DR. GREGORY J. MILLER
2078 Army Drive, Suite C, Dededo, GU 96929
Telephone: (671) 637-7926/6683
Fax: (671) 637-8887
Email: gmdc671@yahoo.com

March 29, 2018

To: Guam Land Use Commission

Re: Shieh Medical Clinic

Dear Commission Members; I submit this letter in favor of the conditional use permit required for the construction of this clinic.
This is a needed state of the art project that will improve the delivery and standard of care for the women of Guam. In addition, the design of the facility is eco-friendly and will stand as an example for future buildings on Guam.

Thank you for your consideration in this matter.

Sincerely,

Gregory J. Miller D.C.

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April 2, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

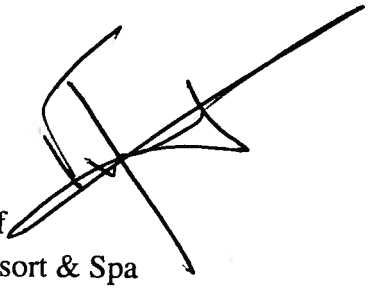
Hafa Adai, Chair and Members of the Guam Land Use Commission and Land Management,

My wife Li-Fen and I would like to give our complete support to Dr. Tom and Raven Shieh's vision of a new medical clinic in Tamuning.

Our island has known Dr. Shieh and his wife Raven for their years of commitment in providing exceptional services and supporting medical missions on and off island. We believe their new clinic will not only open up opportunities for employment, but will also serve to save lives and provide quality healthcare that will benefit the residents of Guam in the years to come.

We strongly believe in Dr. Shieh's medical skills and expertise, which is why this proposed medical clinic should be highly encouraged and supported.

Sincerely,



Leland Feng
Executive Chef
Pacific Star Resort & Spa

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GUAM TRAVELERS CLINIC
TUMON BAY CENTER 106
1051 PALE SAN VITORES ROAD, TUMON, GUAM 96913
Tel (671) 647-7771 Fax (671) 647-7773

March 29, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950
Hagatna, Guam 96932

RE: **STRONG Support for Dr. Thomas Shieh's Medical Clinic Conditional Use Permit**

Dear Members of the Guam Land Use Commission & Land Management

I am writing this letter in support of the conditional use permit for Dr. Thomas Shieh's vision of a medical clinic in Tamuning. This clinic will improve women's health in this island tremendously.

I am a doctor and permanently relocated to Guam 8 year ago, after 25 years medical practice in Chicago, Illinois. I currently run a Travelers' Clinic in Tumon for the Tourist.

I know Dr. Shieh well since my relocation to Guam, both personally and professionally. He is always available for my tourist patient, 24/7 whenever they have Obstetric & Gynecological need despite already very busy his day to day practice at his office and Guam Memorial Hospital. He is a super hero for Guam Women and my tourist patients.

Finally, I strongly believe that his new clinic in Tamuning will definitely raise the standards of healthcare on Guam and this is must have if Guam wish to keep up with medical advances in future.

Sincerely,

Akio Oiso, M.D.
Resident of Tamuning
Medical Director, Guam Travelers Clinic

RECEIVED

Cc: Mayor Louise Rivera, Tamuning

March 24, 2018

To: Members of the Guam Land Use Commission

From: Reynald Lim, MD

RE: **STRONG Support for Dr. Thomas Shieh's Medical Clinic**

Dear Members of the Guam Land Use Commission & Agencies:

My family and I are long time residents of Tamuning and are in strong support of Dr. Shieh & his wife Raven's vision of building a state of the arts clinic here in Tamuning without any reservations.

I am an anesthesiologist at GMH, and my wife is an internal medicine specialist in Tamuning. We both have witnessed the life saving efforts and unselfish work of Dr. Shieh for many years here on Guam. Dr. Shieh's expertise have saved many women of all age groups and have saved the lives of countless babies over the 21 plus years since his presence on this island. His medical expertise is vital to our community and we especially need his clinic close to GMH because response time is critical in saving lives, every second counts.

Additionally, Dr. Shieh is also an assistant clinical professor with the University of Hawaii Medical School, thus he have been a strong supporter and allowed countless of Guam's high school, GCC, and UOG students to shadow his work. He has supported so many of our Guam's students into the field of nursing and medicine that we will continue to benefit with his new clinic.

Finally, I have reviewed his drawings and this clinic in Tamuning will definitely raise the standards of healthcare on Guam for many years to come and it is vital that his clinic is fully supported so that we can continue to save lives here at the Guam Memorial Hospital and on Guam as a community.

Sincerely,

Reynald Lim, MD
Anesthesiologist
Resident of Tamuning

Cc: Tamuning Mayor Louise Rivera
Thomas Shieh, MD

RECEIVED

March 26, 2018

Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

To the Land Use commissioner and Members of the Commission:

Hafa Adai!

My wife Vicky and I would like to lend our SUPPORT to the proposed Clinic that Dr. Tom and Raven Shieh are planning on Hwy 30. My family are residents of Tamuning, just right up the road from this proposed project. We are extremely happy to support this worthwhile project.

The beautiful design will lend itself to the appearance of the area and the investment in Guam's future at this time is a statement of support and strength that believe is especially appropriate right now.

The community spirit of the Shieh family is well known. Dr. Tom and Raven have been VERY active in community projects supporting medical and youth outreach. I personally have been involved in many of these efforts that have been very beneficial to our community of Tamuning and to Guam itself. Their selfless acts have become a continuing annual project that is a model to others.

As a physician I have known Dr. Shieh professionally for eighteen (18) years and have worked with him for almost ten of those years. He stands out in every aspect of his practice and his personal life.

Together with his wife Raven they will improve Tamuning and Guam in general with their new clinic in every way and make the location blossom with new life! A place we can all look at with pride.

Sincerely,

Dr. Jeffrey and Vicky Gabel
Resident of Tamuning
Ph: (671) 929-9662

Cc: Mayor Louise Rivera, Tamuning

RECEIVED

March 27, 2018

To: Guam Land Use Commission, Chair & Directors, Guam Land Management and Mayor of Tamuning

FULL SUPPORT of Shieh Clinic in Tamuning (Conditional Use)

Dear Chair, Members of the Guam Land Use Commission, Guam Land Management, and Honorable Mayor Louisa Rivera:

I am a doctor, and long time RESIDENT of Tamuning. I work at Guam Memorial Hospital. I am submitting this letter in **very strong support** of Dr. Shieh's Clinic and it's conditional use of his planned medical clinic.

It is without a doubt that this new medical clinic is critically needed to support our life saving efforts at the hospital and for our entire community. Additionally the design of this clinic will add to the vibrancy of this area.

We very much need this clinic built, it will create jobs, add to our economic growth and more importantly it will help us save lives, and raise the quality of healthcare that will benefit the people of Guam.

My self and many of my medical colleagues on Guam whole heartily support Dr. Shieh's of his new clinic on this lot.

Sincerely,

Dr. Chris Bieling, MD
Resident of Tamuning

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Engineering Partners, Inc.
Consulting Engineers
Construction Management

April 9, 2018
Chariman, Guam Land Use Commission and Members
c/o Department of Land Management
PO Box 2950, Hagatna, GU 96932

Subject: Dr. Shieh's Proposed Conditional Use Medical Clinic, Tamuning, Guam

Dear Members of the Guam Land Use Commission and Land Management::

Our office and residence are within the general area of the proposed new medical clinic of Dr. Shieh. The proposed location is along Gov Carlos Camacho Road, with an existing two-way traffic 4-lane road. It has currently middle island and sidewalks both sides, connecting to Marine Corps Drive on one end and towards the Guam Memorial Hospital on the other. Hotels, restaurants are located across the street and apartments and dental clinic are adjacent to the property.

Activities of the proposed clinic is compatible with the existing nature of adjacent and neighborhood uses. Its conditional use will not be detrimental to the general public and is compatible with neighborhood development and regulations as they exist. It provides convenience to the neighboring apartments as well as hotels due to its close proximity.

There is a necessity to the proposed medical clinic because of the anticipated growth of the island's population brought about by the planned 5,000 Marine relocation along with required ancillary support from the community. Addition of the clinic will certainly make way for availability of the specialized services the clinic will provide. It will also alleviate traffic along Marine Corp Drive as patients have other alternate routes to the way of the clinic and not required to drive along Marine Corps drive to the clinic. The conditional use is reasonable and fits within the planned growth and activities in this area of Tamuning.

Public convenience is enhanced by providing immediately available medical services on Guam in a very accessible location. This location along Gov Carlos Camacho Road in Tamuning, provides public convenience so that both public and Dr. Shieh's patients will have easier access as well as services and followup service for these and other such services.

The medical clinic will also be bring about availability of new jobs, new public service opportunities and general increase in the revenue tax for Guam. There is no anticipated negative impacts to the neighboring infrastructure services as the area is already is adequately served with water, power, sewer, communication services, solid waste services, paved roads. The prosposed location is currently a vacant lot with overgrown trees and other invasive native plants making it eye soar to the public and the intended use will definitely replace it with a well planned and architecturally designed structure that blends with the current neighborhood and community with no effect on reduction or loss of use but only enhances it.

For above reasons, our company fully supports the construction of the proposed clinic.

Sincerely,

Ascencio R. Vicente, P.E.
President

RECEIVED

PO Box 10029 Tamuning, Guam 96931 Tel: (671) 646-5941 Fax: (671) 646-2279 Email: epi@guam.net

Doc. No. 34GL-18-2282.

March 29, 2018

Guam Land Use Commission
P.O. Box 2950
Hagatna, GU 96932

Ref: Letter of Support
Application for Conditional Use
Dr. Tom Shieh Medical Clinic

Hafa Adai, Chairman Arroyo and Commissioners. I write in support of Dr. Tom Shieh's application for a Conditional Use Permit for the construction of his proposed medical clinic in Tamuning.

The proposed clinic is much more than an investment by Dr. Shieh in a building in which to practice medicine. It is an investment in, and a welcome addition to, the overall healthcare of women and infants on Guam. I urge you to grant the application. In so doing, you will advance the state of healthcare on our island tremendously.

Peter J. Leon Guerrero
peterlg@gmail.com

cc: Honorable Louise C. Rivera
Mayor of Tamuning

Dr. Tom Shieh

RECEIVED

Lena Calvo Rodriguez

147 Kayen Tun Francisco
Dededo, Guam 96929

M 671.787.1573

lenacalvorodriguez@yahoo.com
www.weloveguam.com

Members, Guam Land Use Commission
c/o John Arroyo, Chairman
via Department of Land Management

590 S. Marine Corps Drive, ITC Bldg.
Tamuning, Guam 96911

Dear Commissioners,

It is in the island's interest for Dr. Shieh to succeed in his practice. I say this as the head of the Todu Guam Foundation, and as a mother. The reasoning goes: what is good for Dr. Shieh is good for Guam, so it is in Guam's interest that the government approve his request to build the Shieh Clinic.

Dr. Shieh has a special place in our hearts. He stands out as one of the medical providers who made it possible for the Todu Guam Foundation to provide mobile medical services to people who would not have seen a doctor otherwise. He has been a staunch supporter of our foundation, often sacrificing hours of his sleep, not to mention time when he could have made money, to give freely to poor families what he could have charged thousands in billable services. And it's not just our foundation, Dr. Shieh gives freely of himself whenever he can for the sake of mothers and the health of their babies in the womb, and their children as they grow.

I will never forget, when Dr. Shieh brought little Justice Taitague's beautiful face into the hearts of every citizen of Guam. He galvanized this community into action, springing forth an unprecedented community effort that was born from a single motive: he cared, and he knew we would, too.

The building of the Shieh Clinic should speak to all of us. It is a sign from above that we should take with haste. Dr. Shieh didn't have to practice on Guam. He came here years ago and fell in love with our island. He travels back and forth between Guam and his hometown of Hawaii, where he and his wife maintain a residence as well. But his practice is here. After all these years and with all the turmoil that our medical industry has faced, not to mention the political intrigues Dr. Shieh has been brave enough to face (many times on his own), this man is telling us he's willing to stay and help the people of Guam by building the Shieh Clinic. Not only should the Guam Land Use Commission allow this to happen, we should place a thank you note on the approval letter.

It's the least we all can do for this man. Thank you for considering my testimony in favor of Dr. Shieh's application.

Si Yu'us ma'ase,

Lena Calvo-Rodriguez

RECEIVED

March 30, 2018

Chairman, JOHN ARROYO
GUAM LAND USE COMMISSION and Members
C/O Department of Land Management
P.O.Box 2950
Hagatna, GUAM 96932

Re: Support for Dr. Shieh's Proposed Use for Medical Clinic

Buenas yan Hafa Adai!

It is with much enthusiasm that we submit our Letter of Support, for Dr. Shieh's proposed Medical Clinic. Without a doubt, we truly believe in his intents and Medical experience that he and his team of nurses and staff have to offer our community. We have experienced and benefited first hand, his expertise and Medical skills, one that we highly recommend to all women and mothers and one we look forward to receiving at a greater scale.

Dr. Shieh's clinic currently offers services and technology, second to none. Top notched services and technology compared to any other facility on Island; believe me when I say, "we've gone thru some terrible events with other Clinics, OB's and Physician." We especially like the fact that he is accessible, a all hours of the day or night, when there might be some concern, uncertainty...or as of recent, the urgency to deliver our latest grandchild to spare our daughter and grandchild a threatening and difficult delivery. He Cares!

His proposed Medical Facility WILL be a great asset and investment for our future and the people of GUAM. We stand behind Dr.Shieh and his wife Raven and we support them in their vision for an exceptional and proficient Medical Clinic.

We look to you in making this possible for the sake of our Island, and it's People.. Thank you in advan for your consideration and support.

Sensaremento,

Paul R. Suba and Joyleen S. Suba

CC: Mayor Louise Rivera, Tamuning

RECEIVED

April 03, 2018

Mr. John Arroyo
Chairman
Department of Land Management
P.O. Box 2950
Hagatna, Guam 96932

RE: Letter of support for Dr. Shieh's Proposed Medical Clinic, Tamuning

Dear Mr. Arroyo:

It is our pleasure to submit this letter of support for Dr. Thomas Shieh's proposed clinic development in Tamuning. Dr. Shieh and the medical Team that works alongside him provide women and children of Guam with quality medical care and we need to do all we can to increase the availability of such services. The proposed new clinic, across from Shirley's Coffee Shop in Tamuning, will allow those in need, better access to Dr. Shieh and his team of OB/GYN Professionals. The artist's rendition shows a beautiful, well-designed building that will provide the best care possible on Guam for years to come.

In addition, one could argue that this new building would be a welcome addition to a lesser developed part of Tamuning. It will be an asset to the community.

This Silva family has experienced great benefit from Dr. Shieh's care for the last 15 years and we know of many more couples that also have happy, healthy families because of his support. Dr. Shieh has, on many occasion, gone above and beyond the "norm" for his patients, such as being accessible via phone, test and email, no matter the time of day or even while on vacation on a Disney Cruise ship. He is available! He cares! He advocates! And, he gives back to the community.

We ask that you positively consider Dr. Thomas Shieh's Land Use Application for the proposed medical clinic in Tamuning.

Sincerely,

David & Kristina Silva
P.O. Box 8733
Tamuning, Guam 96932

CC: Mayor Louise Rivera, Tamuning

RECEIVED

March 30, 2018

John Arroyo
Chair, Guam Land Use Commission
Members
3rd/F GITC Building
590 South Marine Corps Drive
Tamuning, Guam 96931

Dear John,

I'm writing to commit full support to Dr. Tom Shieh's Application for Conditional Use of Medical Clinic.

My family and I have been patients in some way or another for over 17 years. He was the doctor who brought a whole generation of Gibson's and Silva's into the world. Likewise, he's been my primary physician since 2005. I personally attest to the quality work and professionalism Dr. Shieh and his team members provide locally and abroad to include his participation in humanitarian medical missions and continued purchase and implementation of state-of-the-art equipment for the mother's of Guam. Those advances in technology, coupled with his continuous learning and application of successful trends are a remarkable advantage to women's health on Guam and the region.

In this new endeavor to bring a full-service women's clinic to the community proves his exceptional devotion to women and girls. As I understand, the clinic will be close to our family homestead, where I grew up in Tamuning. I think that speaks to his determination to have a facility in proximity to where people can come and go in the privacy and confident in the security the new location will provide. As a patient, I know Dr. Shieh is sensitive to the personal and private needs of his patients.

The new location will also foster an interest in the next generation to raise the standards as Dr. Shieh has done, in obstetrics and gynecological care and women's health. I applaud that effort and definitely the high benchmark and standard of care he established 20 years ago and continues every day. My experience with Dr. Shieh whether I am home or traveling, he is available, concerned and participates as a partner in patient care and doesn't leave patient's needs whether 3pm in the afternoon or 4am in the morning.

With that, please accept my support and that of my family towards this new effort. I humbly request your prompt approval of the conditional use and his pursuit to elevate the healthcare opportunities for our sisters, mothers, daughters, aunties, granddaughters, nina's and nanas!

Sincerely,

Shelly Gibson
129 Golondrina Avenue
Barrigada, Guam 96913

formerly of 124 West Segundo Leon Guerrero Road
Tamuning, Guam 96931

CC: Mayor Louise Rivera

RECEIVED

April 1, 2018

Chair, Guam Land Use Commision & Members
C/O Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96932

Re: Letter in Support of Dr. Shieh's Clinic in Tamuning, Guam

Hafa Adai Chair, Directors, and Members,

My husband and I are residents of Guam and active members of our community. I produce films specialized in awareness campaigns and my husband is a professional MMA fighter in the Ultimate Fighting Championship (UFC). We both have a tremendous passion for our island, its culture, and community, and proudly represent and advertise our island home on an international basis.

I have been a patient of Dr. Shieh's for more than 5 years, and he will soon be delivering our second child. Dr. Shieh has always provided the safest, most state of the art treatment and care for each and every one of his patients. As an active patient, I am looking forward to the future he will CONTINUE to provide for me and all the other women of our community with his proposed state of the art clinic.

Please assist the women and future generations of our beautiful island by supporting Dr. Shieh and allowing his clinic to be built.

Best Regards,

Sarah F. Camacho, Franklin B. Camacho

CC: Mayor Louise Rivera, Tamuning

RECEIVED

March 27, 2018

To: Guam Land Use Commission, Chair & Directors, Guam Land Management and Mayor of Tamuning

From: Mieko Carey, Tamuning Resident

RE: I am a resident of Tamuning living just down the road from Dr. Shieh's proposed Clinic here to provide SUPPORT of Dr.Shieh's Conditional Use Permit.

Hafa Adai Chair, Members of the Guam Land Use Commission, Guam Land Management, and our Mayor Louise Rivera:

I am a resident just down the road from this land lot to be conditional used for a medical clinic that Dr. Shieh's has proposed. My family and I are in strong support of Dr. Shieh's New Clinic to be built here.

I have seen the design and it is a nice medical clinic that will add to our community here in Tamuning and close to Guam Memorial Hospital. I don't see any negative impacts that this clinic will have. He is not asking for any building variances or will be adding condos on top of his clinic, so we are in very STRONG SUPPORT for this clinic's conditional use permit.

Dr. Shieh has been supporting the island of Guam for many years. Not only has he delivered thousands of our residents, but he also supports them with his scholarship programs. Dr. Shieh has helped so many with their hopes and dreams and now it is time for Guam to give back to him.

Sincerely,

Mieko Carey
Resident of Tamuning

RECEIVED

April 1, 2018

Guam Land Use Commission
P.O. Box 2950
Hagatna, GU 96932

Ref: Letter of Support
Application for Conditional Use
Dr. Thomas Shieh Medical Clinic

Hafa Adai Chairman and Commissioners,

I write to you in support of the Dr. Thomas Shieh's application for a Conditional Use Permit for the construction of the proposed medical clinic in Tamuning.

As a satisfied patient of Dr. Shieh's for about six years, I am wholeheartedly in favor of the construction of this new clinic. Dr. Shieh has more than proven himself as one of Guam's most trustworthy and capable professionals in his field. Therefore, I believe that another medical institute under his care would be a much needed service to island residents, particularly women and infants. This being said, I urge you to grant his noble request.

Thank you for your time and consideration,

Nicole Leon Guerrero
npdlg19@gmail.com

cc: Honorable Lousie C. Rivera
Mayor of Tamuning

Dr. Thomas Shieh

RECEIVED

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Strong Support** of Dr. Shieh's Conditional Use Permit

Dear GLUC Chair, Dept of Land Management, Mayor Rivera of Tamuning:

I am a patient, a mother, a nurse who graduated from Guam Community College, and a current employee of Dr. Shieh's Clinic. I would like to share my experience and why we should support the building of his new clinic.

As a patient, I had a very high risk pregnancy. Dr. Shieh helped me a lot. He brought in the island's *only* Maternal Fetal Medicine (MFM) Specialist. Because of Dr. Shieh's collaboration with Dr. Hirata, they were able to diagnose me with placenta previa. It is a condition that if not detected, I would have had major blood loss and my son and I probably would not be alive today. We are not the only mother and child that this clinic has saved. Over the years there are hundreds of mothers and babies that this clinic has saved. Dr. Shieh's clinic is vital, and has our island's only MFM Specialist.

As a nurse, I have worked in several clinics and am currently working with Dr. Shieh for several years now. I can honestly say that Dr. Shieh truly cares about his patients. He has gone out of his way to help not just his own patients; but patients from other clinics, patients that have no doctor, and patients with no clinic to go to. Dr. Shieh has given back to our community in so many different ways, such providing free obstetric ultrasounds during community village outreaches. He also allows high school and college students to come in and observe him and the clinic staff. Many of whom have gone on to nursing school and medical school and have returned to serve on our island.

As a resident of Guam, we all know how difficult it is to retain our doctors. We see doctors come and leave. Dr. Shieh came with the Navy and never left. His commitment is real and sincere. My family, my co-workers, and my friends all support his plans to build this new clinic here in Tamuning.

Respectfully,

Rochelle Ebeo-Pangilinan
Licensed Practical Nurse

RECEIVED

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Full Support** of Dr. Thomas and Mrs. Raven Shieh's Conditional Use Permit

Dear GLUC Chair, Dept of Land Management, Mayor Rivera of Tamuning:

My family and I write in support of the conditional use permit for Dr. and Mrs. Shieh's vision of a medical clinic in Tamuning. This clinic will very much benefit our island.

As a retired Neonatal Intensive Care Unit (NICU) nurse from Guam Memorial Hospital (GMH), I have seen shortage of specialty doctors on the island. I am happy that Dr. Shieh has committed his services to the people of Guam. His clinic is a testament of his continued commitment to help our people with medical skills he and his staff possess.

Dr. Shieh's Clinic has the only doctor Maternal Fetal Specialist, Dr. Greigh Hirata. When my daughter was pregnant in 2013, Dr. Shieh, Dr. Hirata and their team were able to diagnose her with placenta previa in its early stage. Because of their advanced skills, my daughter is alive today and I have a healthy grandson.

I thank God everyday for the health of my daughter and grandson. We must show our support and encourage Dr. Shieh with his plan of building his own medical clinic. This clinic will ultimately save more lives for generations to come.

Thank you for your time and your support of this approval in advance.

Sincerely,

Rosemarie Ebeo

Rosemarie Ebeo
Retired GMH NICU nurse

RECEIVED

March 27, 2018

Members of the Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Letter in support for Dr. Shieh's Clinic**

Dear GLUC Chair and the Dept. of Land Management

Thank you for allowing me to provide support for this project.

I am a resident of Tamuning and I work in the field of healthcare utilization at Naval Hospital. I have known Dr. Shieh's since he arrived on Guam as a medical officer at the U.S. Naval Hospital Guam. Since then, it's been over 21 years and I am so glad to know that Dr. Shieh has decided to make Guam his home.

The design of his clinic is very advanced and is conducive to our community. This investment is a serous commitment from Dr. Shieh and his wife that they are here to stay and is something wonderful that we can embrace for many generations to come.

That said, I write in support of the conditional use permit for Dr. Shieh's Clinic because it is good for Guam, and it will improve the quality of care for many patients.

Sincerely,

Amelita Nucum
Tamuning

RECEIVED

March 30, 2018

To: Members of the Guam Land Use Commission
c/o Department of Land Management

From: Jack Larimer

RE: **STRONG & PASSIONATE** Support for Dr Shieh's Conditional use Application for a Medical Clinic.

Dear Sir or Madam of the Guam Land Use Commission,

My name is Jack Larimer, M.Ed. (GDOE). My wife Dianna and I were born and raised on Guam. We presently reside in the beautiful thriving village of Mangilao.

I have known Dr. Shieh, his employees and associates for the past 16 year given he delivered our first child in 2001. For the past 18 years, Dr. Shieh has served Guam's local women and mothers and it evident that he committed to Guam and it's people. As a dedicated doctor and philanthropist in the community is hard to not take notice of Dr. Shieh's love for the island and it's people. From planning a bone marrow drive campaign to providing scholar athletes scholarships; Dr. Shieh has been here for the island.

Dr Shieh is a doctor whom others should emulate. The professional and high quality customer service he, his employees and associates are second to none. Since his humble beginning in a small clinic off Fahrenholt Ave in Tamuning to his present location; Dr Shieh has ensured his equipment and facility were professionally maintained.

My wife Dianna and I are in full support of the proposed building project Dr Shieh has in planning. It will definitely bring a "breath of life" to the surrounding community with its beautiful design and professional services they will continue to provide to the people of Guam.

Sincerely,

Jack Larimer
Guam Educator and Resident of Mangilao

RECEIVED

Eva Garcia
145 Linda Way
Tamuning, Guam
(671) 988-3824, eva.r.c.garcia@gmail.com

March 31, 2018

Members, Guam Land Use Commission
c/o John Arroyo, Chairman
P.O. Box 2950
Hagatna, Guam 96910

Dear Chairman Arroyo and Commissioners,

Our family are lifetime residents of Tamuning, a few hundred feet from Dr. Shieh's proposed clinic. I would like to believe that Tamuning is the heart of our island, encompassing numerous businesses, medical facilities, schools, and restaurants. Dr. Shieh's clinic will increase the aesthetics and elevate the value of properties in surrounding areas. It only makes valid sense to have this clinic centrally located and in close proximity to Guam Memorial Hospital.

Dr. Shieh has been a blessing to countless many. From OB care to delivering precious angels, top notch woman screenings to various community outreach projects for the youth and medically uninsured- Dr. Shieh has had his hand in it all. He holds a very special place in the hearts of many Guam families.

As a mother of five children and soon to be grandmother, there is no other doctor I would trust for the prenatal care and delivery of my children and grandchildren. Dr. Shieh possesses a special gift and is the best in his field. I am able to confidently state on behalf of others, that he is one hundred percent entrusted in providing the best care for all his patients. He is the only doctor I know that is completely assessable via clinic visits, email, text messages, or a phone call.

Allow me to share a brief, although tragic story. My sister delivered her baby in California about a week ago. Her pregnancy was full term and there were no known medical concerns with mother or baby. At least that is what we were made to believe. Her baby was born weighing under 4 pounds and died shortly after as a result of several complications. I can't help but wonder if this story would have had a different ending had she been in the care of Dr. Shieh. I can't help but be angry that she wasn't provided the same attention that Dr. Shieh so willingly offers.

Without a doubt, it is in Guam's best interest that the government approve Dr. Shieh's request to build the Shieh Clinic. We are fortunate that he has chosen to make Guam his home, we are privileged that his desire is to continue his practice on our island. As I always tell Dr. Shieh, "We can surely use more of you!" Thank you for your time, and it is in great hopes that you stand with the rest of our community in support for the approval of the Shieh clinic.

Sincerely,

EVA GARCIA

Cc: Mayor Louise Rivera, Tamuning

RECEIVED

Chairman, Guam Land Use Commission

C/O Department of Land Management
P.O.Box 2950, Hagatna, Guam 96932

March 23, 2018

Dear Mr. Chairman and Commissioners,

With the utmost respect, my wife and I write to you to show our full support for Doctor Thomas Shieh's new clinic in Tamuning. Doctor Shieh is no stranger to our beautiful Island of Guam and it's People. He has done so many wonderful things outside of his practice of Advancing Women's Health.

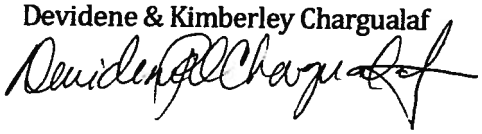
Doctor Shieh has always gone above and beyond for his patients. He is extremely sincere, generous, and has great interpersonal skills with his patients along with his wonderful staff, the best part is they treat you like family. With his knowledge and experience Dr. Shieh made our dream come true, it is because of him that we have a happy and healthy 17 month old daughter. We can never repay Doctor Shieh for helping us, but we can always support him and his cause.

There is only good that is to come out of his new clinic. My wife and I speak from personal experience, as he's helped us achieve our dream of having a family. Doctor Shieh and his staff are incomparable. The Island of Guam and it's People are very fortunate to have him here and Doctor's like him are far and few in between.

We humbly ask that without hesitation, grant Doctor Thomas Shieh's permit so that he can continue to help Mother's and their babies for many more years to come. Thank you.

Very Respectfully,

Devidene & Kimberley Chargualaf



RECEIVED

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

RE: **Please Support** of Dr. Shieh's New Clinic

Dear GLUC Chair and our Honorable Mayor of Tamuning Louis Rivera

My family and I have been residents of Tamuning for many years. We are writing in support for Dr. Shieh's conditional use permit to build a new clinic here in Tamuning.

We all know that diabetes is one of the highest diseases on this island that is affecting so many of our island residents, and Dr. Shieh's Clinic is one of the few if not the only one that can handle many of our complicated cases during pregnancy. I know because I am a diabetic.

We absolutely must support this clinic because we lack his specialty in taking care of our high-risk women and babies. Being a diabetic, I was able to be managed by his clinic was able to have our son delivered safely. I also have many friends who are diabetics and they also are Dr. Shieh's patients, we don't know what we do without his expertise.

Because of the life saving efforts of Dr. Shieh's Clinic, our families and friends are grateful and we are fully supportive of his new clinic. Please approve the conditional use so that more of our patients will live longer and more lives can be saved.

Sincerely,

Christiane Cachero

Resident of Tamuning
A mother with Diabetes

RECEIVED

May 10, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management

In Support of Dr. Shieh's New Clinic Conditional Use Permit

Dear GLUC Chair and Members:

I am writing this letter in full support of the Conditional Use Permit requested by Dr. Shieh for his new clinic. When my family learned that he was building a new clinic in Tamuning across Shirley's Coffee Shop next door to Paradise Dental Clinic, we were glad to know that he would be of service to the island for years to come.

My family and I have live all our lives in Guam and we are extremely proud to call this island our home. Although we do not reside in the vicinity of the proposed clinic, Dr. Shieh's plans for a new clinic would be a facility we would definitely welcome into the community, knowing the good it would provide for the entire island, as well as the confidence that he will put as much care and thought into building the new clinic to benefit Guam, without it being an inconvenience or detriment to its surrounding neighborhood.

Dr. Shieh's has done so much for our island over so many years. For as long as we have known him, he has shown tireless dedication to the people of Guam by giving back to the island community in numerous ways beyond his professional calling. After all, he has called Guam home, and there is no better way or proof to support that claim than his commitment of continuing to make this island, our home, a better place.

So I respectfully ask that Dr. Shieh and Mrs. Shieh's request for a Conditional Use Permit to build a clinic be granted, because they have done so much good for our island and this is another investment they are doing for many generations to come.

Sincerely,

B. Valera

Byron Valera and Family

RECEIVED

SENATOR DENNIS G. RODRIGUEZ, JR.

I Mina' Trentai Kuåttro na Liheslaturan Guåhan
Chairman, Committee on Health, Tourism, Military Affairs & Senior Citizens

March 28, 2018

Members of the Guam Land Use Commission
% John Arroyo, Chairman
Via Department of Land Management
590 S. Marine Corps Dr., ITC Building
Tamuning, Guam 96911

Dear Mr. Chairman and Commissioners,

It is not often I have this opportunity to do for Dr. Tom Shieh what he does for countless people: help. If in any way this testimony helps in the Guam Land Use Commission's approval of Dr. Shieh's application to build the Shieh Clinic, then at least I can say that I helped to give back to Dr. Shieh at least a small fraction of the goodwill he has contributed to our island home.

No doubt the people of Guam will benefit from this endeavor of his. As the legislative health committee chairman the past eight years I've had the pleasure of working closely with this man to advocate a great number of issues and projects that improved the lives of many, and contributed to longer and better life for some. The growth of his clinical business means the growth of his practice. That simply means he'll be helping more women and children to be healthier and happier.

Few people have contributed as much as Dr. Shieh has to this island. It's not that he should be rewarded GLUC approval. What this says about this man is that he'll be a good neighbor; a responsible steward of this community and an example for children to follow. After all, the purpose of land use regulation is to ensure we live in communities that meet the environmental, technological, and cultural norms of our modern age. Dr. Shieh improves communities wherever he is.

I encourage the GLUC to welcome him with open arms.

Put respetu,

Dennis G. Rodriguez, Jr.

RECEIVED

April 20, 2018

To: Guam Land Use Commission, Chair & Directors, Guam Land Management and Mayor of Tamuning

Nurse Graduate SUPPORT the Conditional use of Shieh Clinic in Tamuning

Dear Chair, Members of the Guam Land Use Commission, Guam Land Management, and Honorable Mayor Louisa Rivera:

I am a Licensed Practical Nurse and alumna of the Guam Community College. I write in STRONG SUPPORT for Dr. Shieh to continue his mission in providing healthcare for this island. Let me share with you my perspective as one of his nurses.

Dr. Shieh hires local, and even during the worst of Guam's economic times, Dr. Shieh continues to give selflessly to people who are in most need. I know, because I personally witness what he does for many years. He is very compassionate person as well as a caring doctor.

As a graduate from GCC, times were difficult for "local graduates" in securing a job, especially as a new nurse, but Dr. Shieh gave me a chance and I am forever grateful. Now I know Dr. Shieh only hires from GCC and UOG. Additionally, he also gives his time without pay to teach our local high school and college students, and constantly encouraging them to better themselves.

Dr. Shieh also serves as an Admissions Interviewer Officer for the Univ. of Hawaii Medical School, and each year I witness him writing recommendations and conducting admission interviews for our local college graduates and advocating on their behalf. I am proud to work along side him, and this new clinic is not just for Dr. Shieh, but it is a testament to his personal commitment to this beautiful island.

Finally, the design of the clinic is very fitting, he is not asking for any variances, and will add to the Tamuning Community and benefit the people for many years to come. My self and many of my nursing graduates on Guam really support Dr. Shieh's Clinic on this lot. Please approve his request.

Thank you,



GRACE SALAMERA, Licensed Practical Nurse
Alumna, Guam Community College

RECEIVED

April 19, 2018

GLUC Chair, Mr. John Arroyo and Members

Mayor of Tamuning, Louise Rivera

SUPPORTING Building Dr. Shieh's Clinic in Tamuning

Dear Mr. Arroyo and Mayor Rivera and Members of GLUC

Hafa Adai!

We are from Guam and have families living in Tamuning area, close to this land where Dr. Shieh's is asking to build his new clinic. I am writing in FULL SUPPORT of Dr.Shieh's New Clinic in Tamuning.

Dr. Shieh is one remarkable doctor with so much dedication, integrity, education, and his expertise is far more than any OB/GYN doctor on Guam. He is very much needed on our island. He makes each individual feel like family not a patient. He has made Guam and its people a priority since he came to our island when he was still in the military. He has hosted bone marrow drives and has helped nonprofit organizations on his own, something you barely see happen from most doctors.

When it comes to women's healthcare, he is the most advanced with the newest technology for his clinic. He has Dr. Hirata the maternal specialist come to island each month to make sure mother and baby health are okay and if there is something wrong like health complications both Dr. Shieh and Dr. Hirata make that complication a priority to either be fixed or consistently monitor at each visit. His medical team at his clinic also follows in his footsteps providing the best quality care any patient would appreciate.

My biggest reason to add to this support is my experience I had during my pregnancy in 2014. I will never ever forget the good heart Dr. Shieh had for my son and I. Before my son's arrival in December, my husband and I faced financial hardships. I was terminated in October 2014 from an employer that did not want to accommodate my pregnancy needs. My husband lost his job the day after thanksgiving due to contract with the

RECEIVED

military that ended. I felt so hopeless and depressed like any mother to be/wife would be going through all this before giving birth. Public Health and Social Services gave us a hard time and made us do run arounds only to get MIP not Medicaid regardless if we did not have income. I seriously thought Dr. Shieh was going to make us transfer back to Public health but he did not. Instead he answered my prayers and continued to provide the best quality care for my son and I. At each appointment he reassured me that he will continue my care. He kept his word even after delivery my son on December 29, 2014. He also continued post-partum care.

There is no good reason he should not be supported for his conditional use. People who complain is not focused, and maybe irrational. If you really look at the plan for this building, it is fitting for this area. It's right next to a dental clinic and it is within code. He is NOT asking for any variances. His clinic has no negative environmental impact. Most of the environmental issues are across the street at the hotels that are built many stories high, the highest occupancy 24 hours of the day and waste made from either the people or the chemicals used at these places and traffic of the busses that go through that area. This is not Dr.Shieh's Clinic.

Today, he still continues my care with my other pregnancy and I would not change my doctor or clinic. We have a baby girl arriving in a few weeks and I am happy that I stayed with Team Shieh. The quality care from the doctors, nurses and the advanced technology has won my heart all over again. I continue to pray each day that we get see this clinic be built for all women and their babies. This clinic will help ease our pregnancy or other health issues and more lives will be saved.

Please APPROVE this Conditional Use, so that more women and children on Guam will be served.

Thank you,

R. Recheungel

Rita Recheungel

RECEIVED

March 28, 2018

Guam Land Use Commission, Chair & Directors, Guam Land Management and Mayor of Tamuning

RE: I am ALIVE today because of Dr. Shieh. I SUPPORT building Dr. Shieh's Clinic in Tamuning Lot for Conditional Use.

Hafa Adai GLUC and Mayor:

I just want you to know that I am alive and my babies are alive today because of Dr. Shieh and his clinic staff.

I don't need to go into details, but I have seen the clinic drawings and the location is good. It provides a positive addition to Tamuning.

Please SUPPORT Dr. Shieh's conditional use permit so he can save more lives and help families on Guam.

Thank you!

Natsuyo Monastar

Natsuyo Jasimine Mana
A Guam Mother and Wife

RECEIVED

March 27, 2018

Chairman, Guam Land Use Commission
c/o Department of Land Management

Support of Dr. Shieh's New Clinic of Conditional Permit

Dear GLUC Chair:

I am resident of Guam and writing in full support of Dr. Shieh's new clinic in Tamuning.

I just want to share with you why. My mother in law who was in a car accident broke her hips several years ago and was in chronic pain. Recently, she fractured her hip and leg again. Even though she has Medicaid and was not a patient of Dr. Shieh, he was able to see her and help us when there was little hope. Dr. Shieh cared enough that he found us a specialist that helped my mom replace her hip, and leg. Dr. Shieh even loaned us his clinic's wheelchair when my mother in law was unable to walk for three months.

Today, my mother is walking on her own, which is a blessing. We know that Dr. Shieh's Clinic has helped many others on Guam for many years and this is the type of doctor and clinic we need more of near our hospital. We fully support his clinic in Tamuning and we hope that you will too.

Sincerely,

Josephus Javonillo

RECEIVED

March 27, 2018

Chair and Directors
Guam Land Use Commission
c/o Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96932

Re: Letter in Support of Dr. Shieh's Clinic in Tamuning, Guam

Dear Chair, Directors and Members,

Buenas!

My wife and I are long-time residents of Guam for over 50 years—born and raised! We write this letter in ***FULL SUPPORT*** of Dr. Shieh's Clinic and its conditional use permit to build his clinic in Tamuning, Guam.

My wife and two daughters have been patients of Dr. Shieh for many years. His dedication and contribution to our island of Guam goes far beyond that of your average physician. We know no other physician that would put his patients first--as his priority!

Having Dr. Shieh build his clinic in Guam will only contribute to the beauty of our island and ensures he will bring only the best and most advanced "high-tech" equipment for the care of our families.

We humbly ask this Commission to approve Dr. Shieh's permit application which will not only be advantageous to Guam from an economical standpoint but foremost to his patients.

Si Yu'os Ma'ase',

JOSEPH G. JACKSON, JR.

CHRISTINE MANIBUSAN JACKSON

(Contact: (671) 734-6032)

RECEIVED

April 2, 2018

Chair, Guam Land Use Commission and Members

c/o Department of Land Management

PO Box 2950 Hagatna, Guam 96932

RE: Complete Support for Dr. Shieh's Propose Conditional use of this Medical Clinic

To Whom is May Concern,

I have been a patient of Dr. Shieh for more than 10 years in which I can attest to his commitment to our island's needs.

This clinic is to provide advanced OB/GYN services to our growing community in which is necessary.

This project should be supported as we support other local business to grow.

Best Regards,

Jennifer Holbrook-Fegurgur

RECEIVED

March 27, 2018

Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

SUBJECT: Official support for Dr. Thomas Shieh's Conditional Use for Tamuning Medical Clinic

Hafa Adai!

My name is Avelino (AL) Garrido, and I am a resident of Tamuning along with my wife Natasha Garrido and our three children. I have known Dr. Shieh for over 20 years and have worked beside him as he has tirelessly sacrificed time and money for his community.

I recently found out about his proposed clinic located in Tamuning, directly across Shirley's Coffee Shop. I have seen the beautiful design and have heard Dr. Shieh's dreams as he once again looks to pump millions of dollars into our economy with this endeavor. I have been an educator for over 20 years, but it doesn't take a degree to realize all the positive outcomes that Guam will benefit with this clinic.

Dr. Shieh's commitment to Guam is once more in public view as he pursues yet another chance to improve our community. Dr. Shieh and his wife Raven chose Guam many years ago when they had the opportunity to make more money elsewhere. That alone is enough to earn my family's support. But it is his undying dedication that has won us over.

We completely and fully support this medical clinic in our community, and we believe that the village of Tamuning will gain a much-needed asset during our current economic strife. Dr. Shieh's venture into this project should be encouraged and supported by all who have our village in its best interest.

Please feel free to call me or message me should you have any questions.

Best Regards,

Avelino (AL) Garrido
Administrator and Educator
Resident of Tamuning
1-671-969-8433
garridosguam@gmail.com

RECEIVED

March 27, 2018

Chair, Guam Land Use Commission (GLUC) & Members
c/o Department of Land Management (DLM)
PO Box 2950 Hagatna, Guam 96932

RE: Full Support of Dr. Shieh's Proposed Conditional Use for Medical Clinic

Hafa Adai Members of GLUC and DLM,

We are writing in full support of Dr. Shieh's proposed medical clinic and approval for its conditional use. As both locals of our island, we are certain that this clinic will be a tremendous asset for our community; not only in healthcare but for our economy.

Our island is in dire need of better healthcare. Dr. Shieh's clinic will be serving this need for women and children. He has been on island serving our community for over 15 years. This proposed clinic proves his commitment to continue improving and serving healthcare needs on island. This clinic will help boost economic growth in a time when it is needed the most. It speaks volumes when a member of our community is willing to take a risk during our current financial crisis. This displays great character and most importantly passion to improve women's healthcare on island and contribute to our island's economy.

The building design exhibits a natural and serene atmosphere and is truly a state of the art clinic. Dr. Shieh's service to our island has by far surpassed our expectations. In fact, our daughter Lola (10 months) is alive today because of him. We are certain there are many other families he has helped. Approving this will only raise our island's standards of healthcare and prove that the members in our community can improve our island when given the opportunity. We are in full support of this project.

Saina Ma'åse,

Bryon and Laura Cepeda

Cc: Mayor Louise Rivera, Tamuning

RECEIVED

March 30, 2018

To: Guam Land Use Commission, Chair John Arroyo
Guam Land Management and Mayor of Tamuning

SUBJECT: I SUPPORT building Shieh's Clinic in Tamuning Lot for Conditional Use.

Hafa Adai GLUC and Mayor:

I work at Guam Memorial Hospital, and I have witnessed the life saving efforts of Dr. Shieh for the last 21 years. He is a life saver, and we MUST keep Dr. Shieh near GMH. The lot to which he is planning to build his new clinic is perfect for the area.

My friends and my self live close and work at GMH, so WE support the medical clinic permit for Dr. Shieh. His design will add to the positives only in Tamuning, and we cannot afford to lose a great doctor like Dr. Shieh for the LIVES he may save in the future maybe yours or one of your families or friends.

FULL SUPPORT please.

Thank you!

Cherry Callos

RECEIVED

April 2, 2018

Guam Land Use Commission
c/o Department of Land Management
PO Box 2950
Hagatna, Guam 96932

RE: Support for Dr. Thomas Shieh's Conditional Use for Tamuning Medical Clinic

Dear Sir/Ma'am,

Hafa Adai. My name is Joy James Ada, and I am writing in support of Dr. Thomas Shieh's proposed medical clinic in the in the village of Tamuning. As a resident, my husband and I, along with our three children, have been fortunate to know Dr. Shieh both as a friend and healthcare professional. Dr. Shieh has committed countless efforts and resources to our island families and community, and I can attest personally, that Dr. Shieh saves lives.

I am so excited to hear about Dr. Shieh's proposed clinic located in the village of Tamuning, directly across Shirley's Coffee Shop. As long as I have known him, Dr. Shieh has always looked for ways to invest in Guam and her future, and this new medical clinic is no different. From his passion to promote excellence in athletics and education through the Shieh Su Ying Scholar Athlete Award, to community and regional outreach medical missions, to his tireless efforts to safely deliver thousands of Guam's children, Dr. Shieh is a hero and advocate for everything that makes Guam good.

For over 20 years, Dr. Shieh has provided the highest quality healthcare to Guam's women and babies, using certified techniques with the most advanced and modern technology. His presence on island has been a constant assurance to women and expectant mothers that our future generations are in good hands. Now, with this new clinic in Tamuning, knowing he will be making a permanent stake on Guam means many more generations will be born under the best possible care.

It is for this reason, that I fully and wholeheartedly support Dr. Shieh's medical clinic in our community. The village of Tamuning and the island of Guam look to gain a vital asset that will not only generate millions of dollars into our economy, but will also mark the future of our island with health and vitality.

Should you have any questions or inquiry regarding this letter of support, please don't hesitate to contact me directly.

Sincerely,

Joy James Ada
Educator
671-487-8820
joyjames.guam@gmail.com

RECEIVED

April 5, 2018

Chair, Guam Land Use Commission & Members
C/O Department of Land Management
P. O. Box 2950, Hagatna, Guam 96932

RE: Complete Support for Dr. Shieh's Proposed Conditional use of this Medical Clinic

Dear GLUC Chair, Dept. of Land Management, Mayor Rivera of Tamuning:

My name is Lauren Mechelle Agar; I am a mother of three beautiful girls, and a resident of Guam. With upmost respect, my family and I fully support the proposed Clinic that Dr. Tom and Raven Shieh are planning to build in Tamuning.

I am a current patient of Dr. Tom Shieh and have been extremely pleased with the services he has provided for my family and I. Having another baby after a 10-year gap, and having seizures classified as frequently infrequent seizures, I wanted to make I had the best care during my pregnancy. During my maternity check-ups, I found out that Dr. Shieh's clinic is the only clinic on island that provides a Maternal Fetal Specialist, from Dr. Hirata who flies out every couple of months to provide such service.

Dr. Shieh goes above and beyond his clinical duties and makes himself available to his patients 24/7. He is selfless and compassionate when it comes to serving our island community. His push to help improve GMH's maternity ward, and his willingness and openness to stand up for important health care issues, speaks volumes of the person he is.

I am in full support of Dr. Shieh's vision to open up his own clinic. I believe that this clinical advancement will be a benefit to our island. Dr. Shieh's new clinic will continue to provide the highest standards for technology and care for Women, Mothers, & Babies. Such a vision should not only be supported, but also encouraged.

Sincerely,

Lauren Mechelle Agar
Lauren Mechelle Agar
Resident of Guam
Patient of Dr. Shieh

RECEIVED

March 27, 2018

From: Pram Sullivan, Resident of Tamuning
PO Box 3267, Hagtana Guam 96932

To: **Chairman, Guam Land Use Commission**
c/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

SUBJ: **YES to Dr. Shieh's Conditional Use for Medical Clinic**

Dear GLUC Chair and Guam Land Use Commission:

Hafa Adai!

I am an elderly woman who has been residents of Tamuning for the majority of my life and I am writing to support Dr. Shieh's conditional use permit to build a new clinic here in Tamuning.

This clinic is fitting to be built on this lot. Next to it, is already a dental clinic and right up the road is Guam Memorial Hospital, to which is in much need for Dr. Shieh's expertise. The clinic will also enhance this area and will provide a much-needed service to not only women and children, but it will provide service to elderly women such as myself.

I know of Dr. Shieh's life saving work for many years, from the Bone Marrow Drive for Justice to many of the medical missions that he as provided to the people of Guam. Additionally, I know of so many women that Dr. Shieh have helped and he will go out of his way to make sure that the care he provides is above standards.

As a woman of 75 years old, as a resident of Guam in Tamuning, I support this conditional use without any reservations. This is good for Guam.

Sincerely,

Pramila Sullivan

Pram Sullivan
Resident of Tamuning

RECEIVED

Cc: Mayor Louise Rivera

March 28, 2018

Guam Land Use Commission

C/o Department of Land Management

PO Box 2950 Hagatna, Guam 96932

SUBJECT: Official Support for Dr. Thomas Shieh's Conditional Use for Tamuning Medical Clinic

Hafa adai,

My name is Selina Darlene Guerrrero Tereas, resident of Dededo along with my other half Kenneth JT. Susuico of Agat. We have had the privilege of knowing Dr. Thomas Shieh as he brought care to my boys, Kenny-Kage Jerard, 2012 and in 2015 delivered my 11.1 lb baby boy, Kenny-Kade Siro.

For the past 8 years we have known Dr. Shieh, I have seen him strive and advocate for womens health on island, in the Philippines, and Hawaii. His sacrifice, hard work and generosity to the community and the Island he calls home goes beyond no limit. I've seen him push for our government to build the Women Birthing Facility since it was proposed and yet to see any movement on that. His endless support and annual community contributions to the kids through the Shieh Volleyball Tournament as well as the Shieh Student Athlete Scholarships, to name a few.

It is time Guam gives back and help his vision as he proposes to open up a bigger clinic to accommodate the many mothers that seek his care. I see his proposed vision of the Tamuning Clinic a benefit to the community as it will create jobs, as well as cater to the needs of all future mothers and women's health in general.

Dr. Shieh's commitment to Guam is seen through his actions and not just words. His dedication to his patients as well as the community of Guam, his advocacy to Women Health is the reason why I support his vision and proposed clinic.

For any questions, please reach me at 8640068.

Respectfully,

Selina Darlene G Tereas

Mother of 3,

HR Manager Tereas, Inc.

RECEIVED

March 28, 2018
Guam Land Use Commission
c/o Department of Land Management
PO Box 2950, Hagatna Guam 96932

SUBJECT: Official support for Dr. Thomas Shieh's Conditional use for Tamuning Medical Clinic

Hafa Adai

My name is Matthew Surawski and my wife Florence May Surawski and our two children are residents of Dededo. I have been on Guam over 10 years and for the past 18 months my wife has been a patient of Dr. Shieh's before, during and after the birth of our second child. I actively pursed her having Dr. Shieh as her OB/Gyn after hearing of his dedication and excellence from others over my time here. Everything I had heard about him was true and then some. A more dedicated and professional in this or any field would be very hard to find and my wife and I are forever grateful for his dedication and saving our baby via an emergency c-section.

I have recently found out about his proposed clinic located in Tamuning, across Shirleys Coffee Shop. Having seen the design and knowing the location we believe this is an ideal fit to benefit Guam's residents and a continuance in growing Guam's economy and health care facilities. We firmly believe that this medical clinic would be an asset to the community.

We fully support his proposal and believe it will benefit many for years to come. We believe it should be supported by all who have the best interests of the community in mind. We hope you see the value in Dr. Shieh's proposal and look at it favorably.
Please feel free to contact me if you have any questions.

Best Regards

Matthew and Florence Surawski
1-671-988-7470
jacksurawski@hotmail.com

RECEIVED

Thomas Shieh, M.D., FACOG
Board Certified Diplomate
American Board of Obstetrics & Gynecology
American College of Obstetrics & Gynecology

WOMEN'S HEALTH CARE PHYSICIANS
Fellow
American College of Obstetricians and Gynecologists

643 Chalan San Antonio, Suite 108
Tamuning, Guam 96913
Ph: (671) 648-2229, Fax: (671) 648-2220
www.ShiehClinic.com

Chairman, Guam Land Use Commission
C/o Department of Land Management
PO Box 2950, Hagatna, Guam 96932

March 27, 2018

RE: **Conditional Use Permit for Dr. Shieh's Medical Clinic**

Dear Chairman Arroyo, Members of the GLUC, Land Management, and Honorable Mayor Louise Rivera:

Hafa Adai!

I came to Guam with my wife and my two daughters with the United States Navy 21 years ago as a medical officer stationed at U.S. Naval Hospital Guam, but the first baby I delivered was at Guam Memorial Hospital not at the Naval Hospital. I was helping my good friends Dr. Chris Perez and Dr. Debbie Ericson with their emergencies.

My colleagues and especially my patients on Guam encouraged me to stay on Guam after my active duty orders. After delivering thousands of babies and patients, it was really hard to leave them. So now I call Guam HOME - going on 22 years.

I love Guam. After seeing through our Bone Marrow Drives for Justice, for baby Noah, and other community service events that I have been involved in, I consider my patients, my staff, my friends on this island MY FAMILY.

This new clinic will provide the highest in cancer detection technology, the highest standards of care for pregnant moms, and we will enhance our health care education that can help our community stay healthy on topics of not just prenatal care, but gynecological care for women of all ages.

So this is my commitment to this beautiful island to show that I am not another doctor that will come and go, I am a doctor that will stay on Guam and make continuous improvements for our island.

Thank you in advance and I look forward to making continuous improvements on this beautiful island.

Sincerely,

Thomas Shieh, MD, FACOG
Board Certified
Resident of Tamuning

RECEIVED

Advancing Women's Health

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

File for Record is Instrument Number 925108

on the Year 20 18 Month 08 Day 02 Time 11:20

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jani Yamasaki
JANET YAMASAKI

Above Space for Recorder's Use only

COPY
Legislature

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, June 28, 2018
1:37 p.m. to 4:20 p.m.

GUAM LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning
Thursday, June 28, 2018 • 1:37 p.m. to 4:20 p.m.

MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Commissioner

Mr. Hardy T.I. Vy, Commissioner

[Excused: Vice Chairman Tae Oh and Commissioner Conchita Bathan]

PLANNING STAFF PRESENT:

Mr. Michael Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

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, June 28, 2018

Time of Meeting: GLUC: 1:37Pm GSPC:

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

COMMISSION MEMBERS	SIGNATURE
Chairman John Z. Arroyo	
Vice Chairman Tae Oh	Excused
Commissioner Conchita D. Bathan	Excused
Commissioner Victor Cruz	
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: 4:20pm GSPC:

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

[X]	GLUC	[X]	Regular	Date:	Thursday, June 28, 2018
[ ]	HLUC	[ ]	Special	Time:	1:37 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	4:20 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.
Richard Sanz	Grandview Mall LLC	687-9865
	Ben & Joe Chong	" "
Ignacio Santos	Item A & B	777-3812
Mike Sun		
JEFF COOK	WANNFANG	472-1824
PHILLIP SCHRAGE	GRANDVIEW DEVELOPMENT	777921
Fred YAMON	GRANDVIEW DEV.	6885391
Melinda Swavely	Legacy Condo HOA	646-1222
	NOTHING FOLLOWS	

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, June 28, 2018
[X]	HLUC	[ ]	Special	Time:	1:37 PM
[✓]	Quorum	[ ]	No Quorum	Adjournment:	4:20pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
JONITA KERR		
Vicente Lizama		
Paul Schembri		

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

GUAM LAND USE COMMISSION

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

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

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

AGENDA

Regular Meeting

Thursday, June 28, 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 June 21st and June 26th, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, May 24, 2018

III. Old or Unfinished Business

IV. New Business

Zone Change

A. **Application No. 2012-43**, Christine Joon Chang represented by Ignacio Santos; Zone Change request from "A" (Rural) to "M-1" (Light Industrial) zone, for the proposed construction of warehouse structures, on Lot 5223-6-NEW-9-R1, in the Municipality of Barrigada.
Case Planner: Celine Cruz

B. **Application No. 2013-25**, Han Sun Reep represented by Ignacio Santos; Zone Change request from "A" (Rural) to "M-1" (Light Industrial) zone, for the proposed construction of a church and warehouse facility, on Lot 5223-6-NEW-9-1, in the Municipality of Barrigada.
Case Planner: Celine Cruz

C. **Application No. 2017-36**, Christina M. Borja; request for a Zone Change from "A" (Rural) to "C" (Commercial) zone, for the continued operation of an existing video/water store, on Lot 101-9, in the Municipality of Yona.

Zone Variance/Tentative Development Plan

D. **Application No. 2015-28**, Ben & Jae K. Chong represented by FC Benavente, Planners; Zone Variance for Height and Tentative Development Plan for the proposed construction of a six-story, eighteen dwelling apartment complex, on Lot 5137-4-3, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

Horizontal Property Regime

E. **Application No. 2008-78I**, Karen Young S. Kim represented by Melinda S. Swavely, Esq.; requests issuance of its Ninth (9th) Supplementary final Public Report for Happy Condo, on Lot 10, Block 1, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning, HPR No. 160, under Application No. 2008-78I. Case Planner: Celine Cruz

Status Report

F. **Application No. 2008-003B**, Grandview Development LLC; requests acceptance of its six-month status report in continuance of an Order to Show Cause for failure to comply with the conditions of approval of an amended TDP for the Tumon Bay Mall. Case Planner: Frank Taitano

Order to Show Cause

G. **Application No. 2015-29**, Guam Wanfang Construction Ltd., Order to Show Cause as to reason(s) and/or failure to submit its required six-month status report in a timely manner for the Pago Bay Resort project, on Lot 164-4NEW-1, in the Municipality of Yona.
Case Planner: Marvin Aguilar/Celine Cruz

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, June 28, 2018 • 1:37 p.m. to 4:20 p.m.

I. Notation of Attendance

Chairman Arroyo called the regular meeting of the Guam Land Use Commission for Thursday, June 28, 2018 to order at 1:37 p.m., noting a quorum.

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

[Excused: Vice Chairman Tae Oh and Commissioner Conchita Bathan]

Chairman Arroyo before the Commission is today's agenda. Is the order of the agenda okay with the Commissioners.

Marvin Aguilar (Chief Planner) FC Benavente, Planners requested to go before the Commission as the first item on the agenda; Item IV-C.

Chairman Arroyo acknowledges the request for Application 2015-28 to move to the top of New Business; with no objection from the Commissioners.

II. Approval of Minutes

Chairman Arroyo the Minutes of May 24, 2018 was just mailed out this morning. Chairman Arroyo was unsure if the Commissioners present had had the chance to review the draft. In addition, there are two Commissioners who are not present at today's meeting. Therefore, Chairman Arroyo postponed the approval of the Minutes of May 24, 2018 meeting minutes until the next available scheduled GLUC meeting. **[No objections noted from the Commissioners]**

III. Old or Unfinished Business [None Noted]

IV. New Business

Zone Variance & Tentative Development Plan

A. **Application No. 2015-28 A/B**, Applicants Ben and Jae K. Chong represented by FC Benavente, Planners; request for a Zone Variance and Tentative Development Plan for the proposed construction of a six-story, eighteen units, apartment complex, on Lot 5137-4-3-, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning.
Case Planner: Frank Taitano

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

[Attachment A – Staff Reports dated July 22, 2018]

Chairman Arroyo clarified that the Commission is looking two applications; one is for the approval of the TDP and the second for a height variance for a six-story structure to be built on the property. Questions for staff.

[Exhibit 1 – correspondence from FC Benavente, Planners in response to Mr. Neil Paytner's letter dated June 27, 2017]

Commissioner Cruz inquired if the Mayor/Vice Mayor and/or staff was in attendance at the public hearing.

Frank Taitano (Case Planner) noted that the Mayor was not in attendance at the public hearing; staff in attendance was there to ensure the community center was secured after the public hearing.

Chairman Arroyo what is the cost of the development.

Richard Sana (Representative) believes that the cost of the project is over three-million dollars.

Chairman Arroyo the Guam Land Use Commission does not have the authority to review this request and will need to be forwarded to the Hybrid Commission.

Richard Sana since the inception of the Hybrid Commission, do applications that were submitted prior to the approval of the law apply or not.

Chairman Arroyo asked Legal Counsel for a response.

Nick Toft (Legal Counsel) asked for a few minutes to review the law.

[Chairman Arroyo called for a recess at 1:52 p.m. and reconvened the meeting at 1:57 p.m.]

Nick Toft (Legal Counsel) 21GCA, Section 60410B states that the Hybrid Commission shall be empaneled for projects or applications projected to have a development cost of more than three-million dollars. It does not have a date listed whether it applies to applications that were submitted prior to the passage of the Bill. There is no clarification on that. Given that the Commission has faced a lot scrutiny in the last year, especially as it relates to the Hybrid Commission, it was Legal Counsel's advice that the Commission play it on the safe side and forward this to the Hybrid Commission. This is the first hearing of this application and there maybe legal arguments by any opponents for this project if the Commission was to move forward to potentially to derail based on the fact there is not a Hybrid Commission when it is the first hearing on this in front of this Commission.

Chairman Arroyo agrees with Legal Counsel Toft especially since the intent in the change of the law is to give the community input on projects that are set over a dollar amount. Even though this application was submitted prior to the change in the law, Legal Counsel is correct in stating that this is the Commission's first hearing of this application. If the Commission does not give the community, through the Hybrid Commission, the ability to weigh in on a decision for this application, the Commission will be overstepping the actual intent of the law.

Chairman Arroyo advised Mr. Sana that this application will be taken off today's agenda because the GLUC does not have the authorization to review and/or approve it. Mr. Sana was asked to

work with the Chief Planner and the Case Planner to be reschedule this application through the Hybrid Commission.

Richard Sana requested for a written legal opinion from the AG's Office on today's decision. This application was submitted in 2015, has gone through the ARC and public hearing process before the new law passed requiring a hybrid commission for projects with development costs of over three-million dollars.

Nick Toft it will state exactly what was stated at today's meeting.

Chairman Arroyo the request will be submitted to the AG's Office. The position of the Commission is to protect the applicant and it does not want to make a decision that would raise undo scrutiny for this project. The Commission reviews and approves this application today, Chairman Arroyo stated that he does not want the applicants to be in a situation later on where the decision of the Board is challenged which will cause further delays in moving forward with the development. It is better for the Board to be safe than to not be.

Richard Sana agreed with Chairman Arroyo, and just asked that he has something in writing to provide to his client.

Nick Toft requested that a written request be forwarded to the Attorney General for a memorandum of opinion.

[Discussion ensues]

Michael Borja (Executive Secretary) suggested that the Chairman's decision to move this application to the hybrid commission be made by motion.

Nick Toft concurred with Mr. Borja's suggestion.

Chairman Arroyo requested for a motion.

Commissioner Vy made a motion to present Application No. 2015-28A/B before the Hybrid Commission.

Commissioner Cruz second.

Chairman Arroyo motion by Commissioner Vy, seconded by Commissioner Cruz. No discussion noted on the motion, Chairman put the motion to a vote.

All in favor say "aye" [Chairman Arroyo, Commissioner Vy, Commissioner Cruz], all opposed say "nay." **[Motion passed; 3 ayes, 0 nay]**

Next item on the agenda –

Zone Changes

B. Application No. 2012-43, the Applicant Christine Joon Chang represented by Ignacio Santos; Zone Change request from "A" (Rural) to "M-1" (Light Industrial) zone for the proposed construction of warehouse structures, on Lot 5223-6-NE-9-R1, in the Municipality of Barrigada. Case Planner: Celine Cruz

Celine Cruz (Case Planner) reads the staff report to include summary, facts, public hearing results, staff analysis/discussion, and recommendation. [For full content/context, please see attached report.]

[Attachment B – Staff Report dated June 21, 2018]

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

Ike Santos (representing Christine Joon Chang) the applicant currently owns a couple of hair salon businesses; one at GPO and the other at Micronesia Mall. The applicant proposes to build two 5,000 square foot warehouses; one to be used for by the applicant and her husband and the other one for lease.

There is also a lot next door which is the next item on the agenda for a zone change. Both applicants have agreed to share the expense of improving the infrastructure which includes the road and the water and sewer lines. The Mayor of Barrigada has requested access to use government land that is located on the other side (referring to the drawing displayed). There is an 80-foot setback.

(Using drawing for reference) This is the subject lot, and all the parcels indicated in blue are all zoned M1.

Chairman Arroyo what are zones of lots that are located to the left, above and below the subject lot.

Ike Santos explained the location of the Department of Revenue and Taxation, directly behind that is Foremost building, auto repair shop, Guam Construction warehouse which is zoned agricultural.

Commissioner Cruz is there a structure on the lot.

Celine Cruz there is a warehouse on the lot, but does not appear that it is being utilized.

[Discussion ensues on zoning of lots close to the vicinity of the subject lot; access to the subject property.]

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

Public Comments [There was no public comments noted, Chairman Arroyo closed the public comment period.]

Chairman Arroyo the Commission has been reviewing several application requests for this particular area to rezone from agriculture to M-1 zone, and it seems that it is a better zoning for properties in this area, and did not see that this request for a zone change as an exception.

There were no additional comments from the Commissioners, Chairman Arroyo was ready to entertain a motion.

Commissioner Cruz made a motion to approve Application No. 2012-43 for the applicant Christine Joon Chang represented by Ignacio Santos requesting for a zone change for Lot 5223-66-NEW-9-R1 in the municipality of Barrigada from agricultural to light industrial zone for the purpose of constructing warehouses; subject to the applicant adhering to the ARC conditions and requirements as stipulated in the official position statements.

Chairman Arroyo motion has been made by Commissioner Cruz to approve Application 2012-43 to change the zone of Lot 5223-6-NEW-9-R1 in the municipality of Barrigada from rural to light industrial zone. Is there a second.

Commissioner Vy second.

Chairman Arroyo seconded by Commissioner Vy. Noting no discussion on the motion, Chairman Arroyo put the motion to a vote. All in favor of the motion say "aye" [Chairman Arroyo, Commissioner Cruz and Commissioner Vy], all opposed say nay. **[Motion passed; 3 ayes, 0 nay]**

Zone Change

C. **Application No. 2013-25,** the Applicant, Han Sun Reep represented by Ignacio Santos; Zone Change Request from "A" (Rural) to "M-1" (Light Industrial) zone, for the proposed construction of a church and warehouse facility, on Lot 5223-6-NEW-9-1, in the Municipality of Barrigada. Case Planner: Celine Cruz

Marvin Aguilar asked that the Commissioners take into consideration, for the record, that the attributes of this property is similar if not identical to the previous property that the Commission had just approved. An AIS has been provided for this application and this requirement has been fulfilled; the property is within the AICUZ, LDN 1. (Air Installation Compatible Use Zone, noise level). And requested, from the Commission, to proceed to the public comment portion.

Chairman Arroyo what is staff's recommendation.

Marvin Aguilar Planning is recommending approval of the request subject to the applicant adhering to the ARC conditions and requirements stipulated in the official position statements.

[Attachment C – Staff Report/Summary of Position Statement Report dated June 22, 2018]

Chairman Arroyo similar to the last application, this property is adjacent to the one that was just approved. No questions noted for staff, Chairman Arroyo opened the floor to the applicant's representative.

Ike Santos (representing the applicant Han Sun Reep] stated that his client owns a retail store that is located in Mangilao. She currently has two warehouses and has a business selling toys to retailers. There are two warehouses proposed for this parcel; one will be used for her business, and the other for her church.

[Discussion ensues on location of the project site, joint effort with Christine Chang to develop the road and water/sewer lines.]

Chairman Arroyo the two properties together will jointly develop the water, sewer and the roads. Will improvement be from where their respective lots are located all the way to Route 16.

Ike Santos that is correct. There are other owners situated on this side (referring to the drawing) that will more than likely contribute to the development of the access road and the infrastructure.

Chairman Arroyo opened the floor for public comments.

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

Chairman Arroyo there were no additional comments and/or comments, Chairman Arroyo was ready to entertain a motion.

Commissioner Cruz Mr. Chairman, I would like to make a motion to approve Application No. 2013-25, Han Sun Reep represented by Ike Santos; Zone Change for Lot No. 5223-6-NEW-9-1, in the municipality of Barrigada, from "A" (Rural) to "M-1" (Light Industrial) zone for the proposed construction of a church and warehouse facility; subject to the condition that the applicant adheres to the ARC conditions and requirements as stipulated in their official position statements.

Chairman Arroyo there's a motion on the floor by Commissioner Cruz to approve Application No. 2013-25 to change the zone on Lot 5223-6-NEW-9-1, in the municipality of Barrigada from "A" (Rural) to "M1" (Light Industrial) zone subject to ARC conditions. Is there a second.

Commissioner Vy I second.

Chairman Arroyo seconded by Commissioner Vy. No discussion noted, Chairman Arroyo puts the motion to a vote. All in favor of the motion say aye [Chairman Arroyo, Commissioner Cruz, Commissioner Vy], all opposed say nay. **[Motion passed; 3 ayes, 0 nay]**

V. Administrative and Miscellaneous Matters

Horizontal Property Regime

D. **Application No. 2008-78I**, the Applicant, Karen Young S. Kim represented by Melinda S. Swavely, Esq.; requests issuance of its Ninth Supplementary Final Public Report for Happy Condo, located on Lot 10, Block 1, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning, HPR No. 160. Case Planner: Celine Cruz

Celine Cruz summarizes the staff report to include purpose, facts, staff analysis/discussion, recommendation and condition. Issuance of the 9th supplementary final public report will have an expiration date of thirteen months from the date of the GLUC meeting which is July 28, 2019. [For full content/context, refer to attached report]

[Attachment D – Staff Report dated June 11, 2018]

Chairman Arroyo questions for staff.

Commissioner Cruz verified with the Case Planner the bank for Happy Condo.

Celine Cruz it is Bank of Hawaii (not Bank of Guam as stated when reading the report).

Chairman Arroyo opened the floor to the applicant's representative.

Melinda Swavely (representing Happy Condo) as Ms. Cruz mentioned this is the 9th time before the Commission and they asking for a renewal. Ms. Swavely stated that her client is still not sure when she will be able to sell the remaining units and would like to keep her options open.

Chairman Arroyo any questions for Ms. Swavely. [None noted] Chairman Arroyo asked for a motion.

Commissioner Vy makes a motion to accept the issuance of the 9th supplementary final public report for Happy Condo on Lot 10, Block 1, in the municipality of Tamuning in an "R2" zone, HPR No. 160, under Application No. 2008-78I pursuant to Sections 54101 to 54155, Chapter 45, Horizonal Property Regime Act.

Chairman Arroyo the motion is to accept the 9th supplementary final public report for Happy Condo on Lot 10, Block 10 in the municipality of Tamuning; made by Commissioner Vy, is there a second.

Commissioner Cruz second.

Chairman Arroyo seconded by Commissioner Cruz. No discussion noted; Chairman Arroyo puts the motion to a vote. All in favor of the motion say aye [Chairman Arroyo, Commissioner Vy and Commissioner Cruz], all opposed say nay. **[Motion passes; 3 ayes, 0 nay]**

Next item on the agenda –

Status Report

E. **Application No. 2008-003B** the Applicant, Grandview Development LLC; requests acceptance of its six-month status report in continuance of an Order to Show for failure to comply with conditions of approval of an amended TDP for Tumon Bay Mall.
Case Planner: Frank Taitano

Marvin Aguilar summarizes the Commission Brief [for full content/context, please see attached report]

[Attachment E – Commission Brief dated June 18, 2018]

Chairman Arroyo inquires on item number two with respect to a traffic control light and the removal of curbs and center lane median.

Marvin Aguilar perhaps the applicant and/or the representative can speak on this matter.

Chairman Arroyo no questions noted, Chairman Arroyo opened the floor to the applicants.

Richard Sana (with Phillip Schrage and Fred Yamon, Grandview Development LLC) the Case Planner had suggested that a supplemental report for the Commission was needed to further explain the reasons leading up to the issuance of the Order to Show Cause by the Commission which began in 2008 and moving forward to date.

Mr. Sana stated that the applicants are still preserving the integrity of this development by completing Phase I of the construction and was completed a few months back. They are now moving forward with discussion with DPW with respect to the removal of the center-lane median.

Chairman Arroyo is the traffic light that is being installed permanent or temporary.

Richard Sana it is permanent. Mr. Sana assures the Commission that the property will not deteriorate because Grandview Development continues to maintain the property and has hired JJ Global to maintain the landscaping; private security company has been retained to monitor the property 24-7 to ensure that there is no vandalism and to protect the property.

Chairman Arroyo questions.

Commissioner Cruz how is the search for an anchor company coming along.

Phillip Schrage states that he had nothing to announce at this time, they are still looking.

Chairman Arroyo what is being constructed at the corner portion of the Mall.

Phillip Schrage Jollibee Restaurant; and the other construction that looks like an additional building is not, French drains are being added to the parking lot.

Chairman Arroyo there were no additional comments and/or questions, Chairman Arroyo was ready to entertain a motion.

Commissioner Vy Mr. Chairman, I make a motion to accept the six-month status report in compliance of an Order to Show cause for failure to comply with the conditions of approval of Application No. 2008-003B, of an amended tentative development plan for Lot numbers 5131NEW, 5131-1, 5126-3-1NEW, in the municipality of Tumon/Tamuning.

Chairman Arroyo there's a motion to accept the six-month status report for Application No. 2008-003B by Commissioner Vy. Is there a second.

Commissioner Cruz second.

Chairman Arroyo seconded by Commissioner Cruz; discussion on the motion. None noted, Chairman Arroyo puts the motion to a vote. All in favor say aye [Chairman Arroyo, Commissioner Vy and Commissioner Cruz], all opposed say nay. **[Motion passes; 3 ayes, 0 nay]**

[Chairman Arroyo calls for a 10-minute recess at 2:37 p.m. and reconvened the meeting at 2:45 p.m.] Next item on the agenda –

Order to Show Cause

F. **Application No. 2015-29**, Guam Wanfang Construction Ltd., Order to Show Cause as to reason(s) and/or failure to submit its required six-month status report in a timely manner for the Pago Bay Report project, on Lot 164-4NEW-1, in the municipality of Yona.
Case Planner: Marvin Aguilar/Celine Cruz

Marvin Aguilar reads the Commission Brief [for full content/context, please refer to attached report].

[Attachment F – Commission Brief dated June 27, 2018]

Chairman Arroyo noted that this was the second Order to Show Cause (OTSC) for basically same reason the first OTSC was issued. Chairman Arroyo asked from the last time that the Commission had met was for Chief Planner to summarize the failure of Wanfang to adhere to the conditions of the NOA and attempts to get them to comply with the conditions. What are the number of attempts and whether or not if we have been proactive and they have been kind of reluctant.

Marvin Aguilar prior to the OTSC, there was the question on submittal of the six-month report which he had advised (then) Ms. Burkhardt to respond. They were working on internal issues and eventually received the report, but it was having to reach out to them and this was done several times.

Chairman Arroyo one of the comments at one of the previous hearings was that they were reluctant to proceed further in light of the lawsuit that was ongoing and still ongoing. And it was mentioned at the last meeting that as far as the Commission is concerned there is a viable project and the Commission's decision was well made. And until the Court decides otherwise, the Commission has to proceed.

Nick (Toft), would you like to provide anymore comments on the Commission's options or revocation.

Nick Toft (Legal Counsel) what had been communicated to Mr. Aguilar in what he had just briefed the Commission on is that there are plenty laws on how to grant a variance, but there is nothing on what to do when terms are violated. It is of Mr. Toft's opinion that the Board has the authority to take actions if conditions are not met, up to and including revocation of the variance based on the severity of the violation or past actions as well, the Board is allowed to consider in its review.

Chairman Arroyo questions.

Commissioner Cruz after reading the brief it is in the hands of the Commission to vote on the project. The Commission has bent over backwards for this project. Mr. Cruz states that he had nothing further to say other than the fact that the applicant has failed to comply with the conditions. This is a project that would have been great for the south.

Chairman Arroyo there is a request to continue the hearing of this Order to Show Cause to the latter part of July per request from Attorney Cunliff. [Mr. Aguilar responds, "yes."] The last time the Commission met, it was noted that they should provide the six-month status report within 30-days and it has been over that timeline.

Marvin Aguilar they were scheduled and came in well within that time; Mr. Cunliff's letter is dated June 22nd.

Chairman Arroyo opened the floor to the applicant and the applicant's representative.

[Before the Commission was Attorney Jeff Cook, Mike Sun and Willie Flores]

Jeff Cook as previously stated, Mr. Cunliff is currently off-island. Mr. Cook was here primarily to ask if the Commission will consider holding this off until the return of Mr. Cunliff who is the one from the office that has been actively working on this matter with their client. However, Mr. Flores is here and he can say that while the report has not been submitted yet, and it was supposed to

be, the client does actively want to pursue this project. Guam Wanfang has retained Mr. Flores to start doing the work that is outlined in Mr. Cunliff's letter. They are in the process of retaining a new architect. The resignation of AES, obviously, has put the applicant in a position where they have to get a new architect and engineers. Mr. Flores has advised us that he could have the report completed within a week or two. Mr. Cook humbly requested for an extension on the meeting to give Mr. Flores the opportunity to complete the report, and then the Commission can give their client a better look at where they are at once the Commission has received and read the report. Mr. Cook apologized to the Commission for not having the report available at today's meeting.

Chairman Arroyo the expiration date of the first extension is October 2018. How far along is the company in obtaining the permit.

Willie Flores in terms of the permit what he had advised the developer was that the grading permit had to be something that is environmentally acceptable and from his standpoint, culturally acceptable. What they have done is they have prepared the grading permit, the grading plans, the environmental protection plans, filed the electronic notice with USEPA which is required and upon indication of USEPA, they may advise them to go back to SHPO (State Historic Preservation Office) for additional consultation or they maybe required to update the biological, endangered species survey. Mr. Flores is confident that USEPA will respond in a timely manner to their notice.

All of these documents are ready and they are ready to move forward. The developer has been in dialogue with a new architect who would like to provide a different perspective on the architecture for the project, and perhaps less visual impact. Until that happens, they will not be able to obtain a building permit; however, that should be able to be submitted before October. Mr. Flores believes that the traffic impact will be the biggest impact and will need to be looked into thoroughly. They are currently working on double-compound highway curves, two-lane double compound curves with soft shoulders on each side and that will be something that needs to looked at very carefully. This is a high fender-bender zone and they wanted to ensure that they are able to decrease that chance and that they enhance motorists' safety.

Mr. Flores stated that he can't speak about previous activities by the former consultants. But after reviewing the Notice of Action he does not see why they would not be available to submit a proper status report for the Commission and did not believe and/or feel they will have any issues meeting the October deadline. Mr. Flores has confidence that it can be done.

Chairman Arroyo talking about issuance of the permit.

Willie Flores the first permit will be the grading permit followed by a foundation permit. The foundation permit requires that the final plans are completed. There is still quite a bit of work that needs to be done with Guam Waterworks and Guam Power, but is confident they can accomplish this as well.

Chairman Arroyo it was mentioned that you are engaging with an architect and possibly reducing the visual impact of the building.

Willie Flores did not want to speak for the architect; but, what was stated was that this project is located in the south, he did not want the appearance of a big bulk-head, fortress like structure. He is moving rapidly to come up with architecture that more in line with Guam, more in line with a tropical design, and something that enhances sustainability in terms of appearance, energy and accessibility. He hasn't come back and said, as far as he knows, that he will be changing the

layout of the footprint. At the present time, he is looking at the current layout and seeing how that will work.

Chairman Arroyo what are you envisioning? Are you thinking about reducing the height of the building? Reducing the size of the building? What is the company thinking?

Mike Sun it is the company's choice to keep the current height, density and conditions. The Board members are open to reducing the height of the buildings. Mr. Sun sated that they are currently working with a new architectural firm and discussion is ongoing on architectural designs, and that they are currently in negotiation to retain this new company.

Chairman Arroyo are you looking at a complete re-design of the building, reducing the height of the building, the size. What are the plans.

Mike Sun the plan is to stay with the previous design; however, the new architectural firm is expressing ideas to better fit the Guam community.

Willie Flores the architect is strongly recommending a reduction in height and this will be discussed with the client.

Chairman Arroyo is the reduction in height is such that a variance will no longer be needed.

Willie Flores the height variance will still be needed.

Chairman Arroyo why is this being considered.

Willie Flores this discussion has been ongoing even prior to them being engaged by Wanfang. The re-designing of the buildings is a very strong consideration of the architect.

Commissioner Cruz what was disturbing was that the developer did not take the opportunity to meet with the community to discuss their development, and that they only time they had met with the community was during the public hearing. The Commission has waited for some time, continuation after continuation of this application; but, the previous consultants could not really tell and/or answer the Commission's questions. Mr. Cruz asks what difference was between the current consultant versus the previous consultant; regardless of how the Commission votes today, Mr. Cruz suggests that Mr. Sun and the consultant meet with the Yona community regarding this project.

Chairman Arroyo what additional information will Attorney Cunliff provide the Commission in another month.

Jeff Cook honestly could not answer this question. Mr. Cook reiterates that he has not been involved in any of the discussions with Mr. Flores or with the potential architect to include Mr. Sun. Mr. Flores has pointed out that he is moving forward and has been hired to do the work, and ensures that he will get the report to the Commission. And within a month, there maybe a more final determination on what is going on with the change in plans.

Michael Borja Mr. Sun who is the architectural firm that you are looking at.

Mike Sun Andrew Laguana.

Commissioner Cruz asks if there has been any change in the structure of the company; questions on finances have never been answered.

Mike Sun owners still remain the same. As far as finances for the development, Mr. Sun comments that they have funds to complete the design process and working very actively with Chinese owned banks to secure financing of the project. Banks are requiring the company to obtain a building permit before they move forward with providing finances for the project.

Commissioner Cruz if the design of the project will change how long will this process take.

Willie Flores Mr. Laguana is very cognizant on what the Commission has approved. Whatever design he comes up with will be within the regime of what the Commission has approved. What they are saying is that the final architectural flavor for the project will definitely be inline and upgraded. If there are any amendments from what was approved by the Commission that will be addressed accordingly. Mr. Flores does not want the Commission to misunderstand what he conveying.

Commissioner Cruz there were also issues from the other property that has not been resolved such as the internment of the human remains. It is Mr. Cruz's feeling that the developer should "scrap and go back and start all over." [SIC]

Jeff Cook a major part of the problem was when AES stopped doing any work on the project, and they have retained all of their designs pursuant to their contract and it is there position that it's all their property. They are in the process of dealing with obtaining that but AES has refused to turn it over. When talking about Mr. Laguana and Mr. Flores coming in for this project, it may be a total redesign of what was originally proposed.

[Discussion ensues on designs of the project.]

Chairman Arroyo we can be talking about years on a design.

Jeff Cook does not believe so.

Chairman Arroyo if they are starting from scratch it could be another year.

Willie Flores what they were able to obtain was records of what was approved, the footprint and the elevations of the proposed project; and, from that they were able to assemble a grading plan. Mr. Flores' point is that whatever the Commission has approved, whatever is on that footprint, whatever the requirements are will have to be followed. If these are the requirements of the Notice of Action, they will be addressed and complied with.

Chairman Arroyo another requirement prior to the grading permit was the need for a demolition bond, and asked where they were with respect to obtaining the bond.

Mike Sun comments that he was unsure on the percentage for the bond that is needed.

Chairman Arroyo the percentage of 110% noted on the Notice of Action was accepted by Guam Wanfang. By signing the NOA it was accepted, you accepted the conditions of the NOA.

[Discussion ensues to the demolition bond. Mr. Sun believes that once a grading permit is acquired they can work with the bank to assist them in obtaining the needed bonding.]

Willie Flores the building permit fee is tied into the construction amount ninety-nine percent of the time. Was there a basis noted in the NOA for the 110-percent number.

Chairman Arroyo was not sure what it was based on and asked Chief Planner Aguilar if there was projected dollar amount provided.

Marvin Aguilar the bonding was to be used in the event that demolition of the structure needed to occur.

[Discussion ensues on the demolition bond]

Jeff Cook in reading the agreement it is stated that elements of agreement include bonding of a 110-percent cost of the project. And presumably that would be the bond that they will need once a building permit is obtained.

[Discussion continues on the demolition bonding.]

Jeff Cook on behalf of his client requested for an extension of time of two weeks to provide the status report to the Commission. Mr. Cook reiterates that he would like to be more helpful; but, does not have the answers for the Commission.

Chairman Arroyo realizes that the new consultant and engineer company is just coming into this project late in the game. Mr. Chairman believes that they have every intention to correct this problem; however, the Commission has been dealing with this for almost two years and it seems to be going nowhere. The Commission is now being asked to grant another extension; it seems that everytime the Commission is requesting for a report there is an excuse to delay the submittal of the report or not provide it at all. At the last meeting, it was requested that a status report to the Commission be provided by the next time this Board meets and both you (Mr. Sun) and Attorney Cunliff stated that it was possible to achieve this.

Jeff Cook explains to the Commission that Mr. Flores was retained only recently.

Chairman Arroyo the Commission wanted to resolve this issue today.

Willie Flores in addition to the status report, another requirement was for a submittal of a timeline. If this meeting is continued, Mr. Flores comments that he will be able to provide a timeline for the activities and that is something that should have been easily done and provided to the Commission.

Chairman Arroyo asks what the Commissioners would like to do.

Vice Chairman Cruz feels that this will "drag" on.

Commissioner Vy is unsure of the bonding requirement needed for this application.

[Discussion ensues amongst the Commissioners]

Michael Borja (Executive Secretary) commented that as a result of this specific project significant changes to the law was impacted; in which the Hybrid Commission was created. This project has resulted in significant changes to this Commission.

Willie Flores has a better understanding the need for the demolition boding. If the Commission grants the continuation of this meeting, it will not be difficult for them to take the plans that accompanied the approved NOA; within the next status report, to actually obtain pricing from demolition companies to demolish this project should it come to that.

[Discussion ensues]

Michael Borja on the initial report that was requested under the first Order to Show Cause was the need for a financial status of the project; a bank's guarantee that they were funding the project. What was received was a verbal comment from the previous consultant who said to the effect that they thought they were good because their salaries were being paid for. And this was the financial status report that was provided which was totally inadequate.

[Discussion ensues on the status report]

Commissioner Cruz the Notice of Action states that you are to obtain a grading permit within a year which was basically ignored.

Chairman Arroyo the Executive Order that requires to obtain a permit within a year is beyond the Commission's control. The only thing that this Commission can provide is an extension if the company had some difficulty in getting a permit. You are against the clock again, and the only difficulty that you had is that the project was let go. There was nobody overseeing it.

[Discussion ensues]

Commissioner Cruz was still unsure the company can complete this project based on the responses that are being provided at this meeting.

Chairman Arroyo asked of Commissioner Vy what he needed to better understand in order to feel comfortable about making a decision on this application.

Commissioner Vy states that he is coming into this application as a new Commissioner and from what he has heard at today's hearing he will need to trust the judgement of the Board on this application. Commissioner Vy adds that he has not been able to thoroughly grasp the issues of what happened prior to him joining the GLUC.

Chairman Arroyo it was a difficult application, a very controversial application. Even during the hearing of this application, it was not easy, and it was almost as if the representative of the developer was reluctant to engage with the community and provide additional information to the Commission. The Commission at that time had enough information to make a decision, and it was a good decision at the time. But since then, it has been a struggle to have them comply with the conditions of the NOA. The Commission has pretty much been compelled to have them come before the Commission to provide status reports that are required and each time they vowed to do better and have not.

Mike Sun they had a local manager working with Mr. Sherman and when they resigned representing Guam Wanfang the local manager was let go. Mr. Sun just came into the picture in late April. And since he has taken over the project, he has had to reorganize the office here on Guam; has since engaged with Attorney Cunliff and Mr. Flores to represent the company for this project and has had discussions with Mr. Andrew Laguana on the design of the project. He is working diligently along with their staff in China to see this project through and move forward.

Chairman Arroyo appreciates Mr. Sun's comments. But the fact of the matter is the ball was dropped on this project which has put the Commission in a difficult position; and for whatever the causes are on the company's end, it is really immaterial to the Commission.

Jeff Cook since technically they still have October, we would ask to be able to show that their clients are able to perform with this new team. And if he does not then the Commission can follow Legal Counsel's direction to revoke the Notice of Action.

Chairman Arroyo let's say October you are able to get the grading permit, foundation permit. The company will still need to come back before the Commission with a design change.

Willie Flores if there is a change in the design of the project.

Chairman Arroyo it seems as if this is the direction the company is moving towards.

Jeff Cook it is a maybe at this point.

[Discussion ensues on the designs of the project.]

Chairman Arroyo asked Commissioner Vy if he was comfortable voting to revoke the NOA.

Commissioner Vy at this current time he was not ready to make a decision to revoke.

Chairman Arroyo two of the members of the Commission are not present at this meeting, and the Commission cannot make a decision today if a member is not ready to vote one way or the other.

Marvin Aguilar in listening to the discussion going back and forth, it appears that the magic number is four weeks to provide the Commission with a status report with appropriate information touching up on the conditions of the NOA. What is needed from Wanfang is a clear understanding of the way this NOA was designed. It was designed on AES's insistence that things can be done within a short period of time because (and not to quote AES) it was noted that most of the items was done already. There was confidence that this project could be built and all that was needed was the variance approval.

Chairman Arroyo the Commission has no choice because there is nothing that can be done today.

Commissioner Cruz what is the timeframe.

Marvin Aguilar inquire what can be provided in one month; otherwise, revocation of the NOA.

Commissioner Cruz what is the timeframe Wanfang is looking at.

Willie Flores the status report can be done in two weeks. If the thirty days will be given, every aspect of every little nuance and every little item in the NOA can be addressed. The key issues for Mr. Flores will be focused on, in addition to the traffic analysis, is the reinternment of the human remains and the demolition issue.

[Discussion ensues amongst the Commissioners]

Commissioner Cruz wanted to know how items 4 and 6 noted on Mr. Cunliff's letter will be addressed.

Willie Flores from his standpoint they need to really look at the lines of sight, signalization or adding additional lanes and shoulder widening. And as for the reinternment of the remains, Mr. Flores will meet and discuss this with Mr. Vic April and will have the response available in the status report.

[Discussion ensues on traffic analysis and reinternment.]

Marvin Aguilar it would be interesting to see how far AES has really gone with the different agencies; Guam Waterworks, Guam Power Authority, DPW, Guam EPA.

Chairman Arroyo it is refreshing to know that there is a new set of people involved with this project who seem to be a bit more open. There is nothing the Commission can do today regarding the Notice of Action since there are not enough members present at today's meeting to pass a motion if a motion was to be made one way or the other.

It was the order of Chairman Arroyo to continue the hearing of this application until the next GLUC hearing scheduled for **Thursday, July 26, 2018**.

Chairman Arroyo Mr. Flores, the Commission will hold you to the report that you have stated that you will have for the Commission. Between now and the time before the next meeting, and since you do have a renewed willingness to move forward with this project to even make some changes to make it more appealing to the public, I highly encourage you to visit the Mayor's office, to engage the residents of both Chalan Pago and Yona to see if there are some rough roads that was created previously that can possibly be smoothened out through some kind of contingencies on your end. [sic]

Commissioner Cruz when will the grading permit be processed.

Willie Flores the application will be submitted tomorrow; and, the application to the USEPA has already been submitted.

Chairman Arroyo is there any other business to discuss.

Marvin Aguilar for the record, an opinion has been received from the Attorney General's Office with regards to the voting procedure for the Guam Land Use Commission as it pertains to Public Law 33-219.

Nick Toft (Legal Counsel) 18GAR Section 3118 which is the section that references when an insufficient number of affirmative or negative votes are obtained and an action would automatically be tabled. That regulation would then, essentially, implied that the repeal by the hybrid commission law. It is a combination of the hybrid commission law and the changes made to the make-up of the Land Use Commission which went from seven members to now five. The AG's opinion is that because the Commission is five and the hybrid is nine, the rule that states four affirmative or negative votes needed is basically non-applicable and can be read in reconciliation with the two new statutes.

The action taken for the LZ Company did not pass and was not tabled; and therefore, effectually null.

Chairman Arroyo asked that Chief Planner Aguilar to instruct the staff to provide a copy of this opinion to Mr. Mark Zhao and Dr. Lombard.

Michael Borja comments that he will send a letter out to both Mr. Zhao and Dr. Lombard to officially inform them on the disapproval of their application.

Chairman Arroyo asked of Commissioner Vy if he needed to sit with Chief Planner Aguilar and/or Celine Cruz with regards to familiarizing himself with the Wanfang application. So that when he is called on to cast a vote that he is comfortable with making the decision.

[Lengthy discussion ensues]

There is no additional discussion, Chairman Arroyo calls for the next item on the agenda --

VI. Adjournment

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

The regular meeting of the Guam Land Use Commission for Thursday, June 28, 2018 was adjourned at 4:20 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Land Use Commission

Date approved:

7/26/18

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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Governor

RAY TENORIO
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July 22, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2015-28A, Tentative Development Plan for Lot No. 5137-4-3, Tumon, Municipality of Tamuning

1. PURPOSE:

a. **Application Summary:** The applicant, Ben Y. and Jae K. Chong represented by FC Benavente, Planners is requesting for a Tentative Development Plan approval to construct a 6-story, 18 unit apartment building on Lot No. 5137-4-3, Tumon, Municipality of Tamuning.

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

2. FACTS:

a. **Location:** The subject site is located east of the Guma Trankiludat Elderly Residences, west of the Fiesta Resort and behind the two commercial buildings as located on Lots 5137-4-R4 and 5137-4-R6. Access is through a forty-foot wide easement from Pale San Victores Road along the eastern boundary of Lot 5137-3-R4 and through a Cul-de-Sac fronting the subject lot (**see Attachment 1**).

b. **Lot Area:** 2,270.41 Square Meters or 24,438.49 Square Feet.

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

d. **Field Description:** The site presently is vacant, with regularly maintained ground cover and gradually slopes towards the northeastern portion of the property.

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

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

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** September 22, 2016

b. **Date Heard By ARC:** November 3, 2016

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

4. DISCUSSION and STAFF ANALYSIS:

The requested Tentative Development Plan proposes to construct a six-story residential building containing a total of eighteen (18) residential units. The ground (1st) floor level is intended for office, lobby, a mechanical and electrical room and to support 39 parking stalls. The 2nd, 3rd and 4th floors will contain 4 residential units consisting of one 1-bedroom unit, one 2- bedroom unit and two 3-bedroom units. The 5th and 6th floors will each contain 3 residential units, consisting of two 3-bedroom units and one 4-bedroom unit for a total of eighteen (18) residential units.

To accommodate the demand on density, parking and other elements of the proposed development, the applicant submits;

a. As to density, the proposed development of eighteen (18) residential apartment units is six (6) units less than the maximum allowed twenty-four (24) dwelling units.

b. As to storm water containment, the applicant provides that the continued management of storm water for the proposed development can be accommodated through the construction an Infiltration Trench System incorporated to mitigate rain and manage rain and storm water on site.

c. As to parking, to provide two (2) parking stalls per unit, the applicant provides thirty-nine (39) parking stalls on the ground floor which includes thirty-six (36) stalls for the eighteen (18) units and two (2) ADA accessible parking stalls and one (1) parking stall for the office use.

d. As to Landscaping, the applicant provides to incorporate a landscaping plan that utilizes tropical flora such as lawn, ground cover, palms, shrubs and trees to provide a peripheral buffer and screening and would aesthetically enhance the area.

In line with the Zoning Law and the Interim "H" Resort-Hotel Zone Rules and Regulations, the Commission may approve a tentative development plan upon determination that such use is normally to be found in a tourism-related development area. The Commission must also determine that such use is reasonably compatible with existing or reasonably-foreseeable development in the surrounding area.

Uses normally to be found in a tourism-related development area as described in the permitted land uses of the Interim "H" Zone Rules and Regulations include cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks, marinas, zoos, amusement activities and supportive services. Permitted accessory uses and structures include uses and structures which are customarily accessory and clearly complimentary to permitted principal uses and structures reasonably compatible with existing or reasonably foreseeable development in the surrounding area.

In the analysis of this application as it pertains to the request, we find that as presented by the applicant the proposed development is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations, whereby the development is compatible with the surrounding existing uses and the reasonably foreseeable development in the surrounding area, therefore, proper that it be considered favorably by the Guam Land Use Commission.

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

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

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

   c. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the infrastructure improvements as specified in the application shall be completed within 1-year from date of Commission approval;

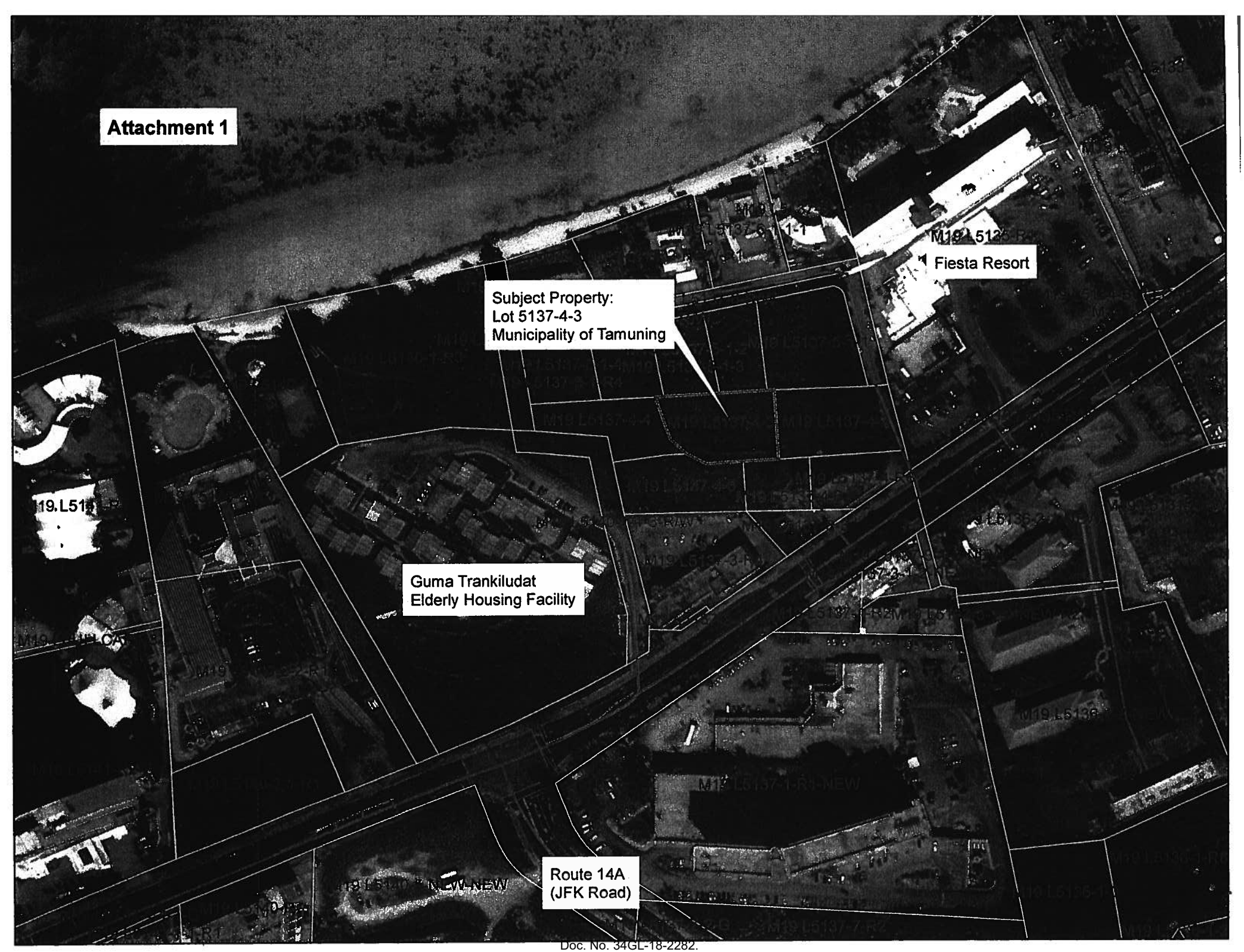
   d. That the applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations;

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

   f. That the applicant adheres to all government-endorsed comprehensive planning efforts crafted for the purpose of eliminating or mitigating adverse impacts resulting from flooding in the immediate area, as may applicable to the subject lot.

Marvin Q. Aguilar

CASE PLANNER: F.P.TAITANO


Attachment 1
Fiesta Resort
Subject Property:
Lot 5137-4-3
Municipality of Tamuning
Guma Trankiludat
Elderly Housing Facility
Route 14A
(JFK Road)

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

June 22, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2018-28B
Zone Variance- Height
Lot No. 5137-4-3, Municipality of Tamuning

1. PURPOSE:

a. **Application Summary:** The applicant, Ben Y. and Jae K. Chong represented by FC Benavente, Planners is requesting for a Zone Variance for Height approval for a proposed 6-story, 73 feet high, 18 unit apartment building on Lot 5137-4-3, Tumon, Municipality of Tamuning.

b. **Legal Authority:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances) and Section 61311 ("H" (Hote/Resort) Zone) and Section IV (Procedures for Development within an "H" Zone) of the Interim "H" (Hotel-Resort) Zone Rules and Regulations.

2. FACTS: Please reference Staff Report prepared

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** September 22, 2016

b. **Date Heard By ARC:** November 3, 2016

c. **Public Hearing Results:** March 28, 2017
(See Attachment "A" for minutes of the hearing)

(**Note:** In response to the public notification for the above public hearing, on June 29, 2018, we received a letter of objection from Mr. Neil Paynter who is a property owner within a 500 feet radius of the proposed development. Please see **Attachment B**).

The applicants' representative was provided a copy of Mr. Paynter's letter and he is to be submitting a response paper to the concerns listed.

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the request is a height variance for a proposed 6 story, 73 feet high apartment building, 3 stories above the allowed 3 stories and 43 feet above the allowed 30- foot height.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

That the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and that the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owner's or the public right to untrammeled use of the beach and it's natural beauty.

In response to the above the applicant provides the following justification;

"The project is located in a high density, high intensity tourist district area in Tumon Bay next to major hotels, condominiums and businesses making it compatible with the surrounding land uses. Being in the heart of Tumon, a thriving tourist resort district, it will afford and provide an alternative to tenants and guests seeking apartment type accommodation in lieu of hotel rooms especially those with longer stays. It will be a residence of convenience for those persons owning businesses and those employed in this part of the island.

The project will not be detrimental to public safety and welfare for it will be developed and properly constructed with best management practice.

The strict application of the provisions of Section 61617, 21 GCA would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law applies to this property due to its location and lot configuration. The property has an irregular shape due to it being located at the inner end of a cul-de-sac road easement creating an arch shape southern boundary. In view of this, additional floors and height is needed to compensate for a building design to allow 18 dwelling units still below the maximum dwelling units allowed.

The ground level will be the office/lobby, electrical room, mechanical room, elevator, and automobile parking. Second floor through six will be 18 residential dwelling units. This project is consistent with the "Guahan Master Plan" and will enhance the existing and future development of the area."

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provide adequate justification in reference to their request that there are practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law.

That there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan, that the proposed building will enhance the recreational, aesthetic or commercial value of the beach, will not adversely affect the surrounding properties or public right to an untrammeled use of the beach and its natural beauty.

We find that information provided to support the request to exceed the standard height requirement is alone consistent with efforts to address issues of flooding. The request is also in line with the Interim "H" Hotel-Resort Zone Rules and Regulations, whereby the development is compatible with the surrounding existing uses. We therefore conclude that this request is in proper form and context to be considered favorably by the Guam Land Use Commission.

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

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

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

   c. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the infrastructure improvements as specified in the application shall be completed within 1-year from date of Commission approval; and

   d. That the applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations; and

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

Marvin Q. Aguilar

CASE PLANNER: F.P.TAITANO

Doc. No. 34GL-18-2282.

Attachment "A"

Minutes of Public Hearing

Application No. 2015-28B – Zone Variance
Lot 5137-4-3, Tumon, Municipality of Tamuning

On March 28, 2017 - 6:05 P.M. a public hearing was conducted at the Tamuning Community Center, present was the applicant's representative, Mr. Richard Sana with FC Benavente, Planners, and 5 public attendees.

Case Planner called the meeting to order, introduced himself, the application and explained that the purpose of the public hearing is to allow public input regarding the proposed application. He then introduced Mr. Sana who would explain the purpose of the application.

Mr. Sana introduced himself representing FC Benavente Planners who are representing Ben and Jae Chong in this matter. He thanked case planner for the introduction then briefly explained the location of the proposed development and the zone variance request for height, for a proposed 6 story, 18 unit, apartment complex to be at a height of 73 feet/6 stories, for a 43 feet/3 stories Height Variance.

The floor was open for comments:

Comments:

Mr. Baldyga commented that he supports the project and that he has spoken to some of the neighbors about it.

Mr. Concepcion asked, how taller is the proposed building to the existing building across?
Mr. Sana responded that the proposed building is about twice the height of that building.

Mrs. Santos asked, will this development bring the value of the properties up?
Mr. Sana responded that he is not in the position to say that it will or it wouldn't.

Mr. Baldyga asked if the units are to be run as condos or hotel?
Mr. Sana responded that it's for an apartment complex in the application which could later be converted into condos, but it will not be run as a hotel.

Mr. Baldyga asked, how do you calculate how many units can you put into the lot?
Mr. Sana responded that based on the hotel rules and regulations 24 units are allowed on the lot and we are only proposing 18 units.

Mr. Baldyga asked what is the average square feet difference between the 2 and 4 bedroom units?
Mr. Sana responded that the 4 bedroom unit is about 25 percent bigger than the 2 bedroom

Mr, Concepcion commented that Lot 5137-4-2 has a forty feet easement that leads to the lots towards the beach side and his auntie, Agnes C. Santos did not agree to the forty feet easement on her property.

Minutes of Public Hearing
Application No. 2015-28B (Zone Variance)
Lot 5137-4-3, Tumon, Municipality of Tamuning
Page No. 2

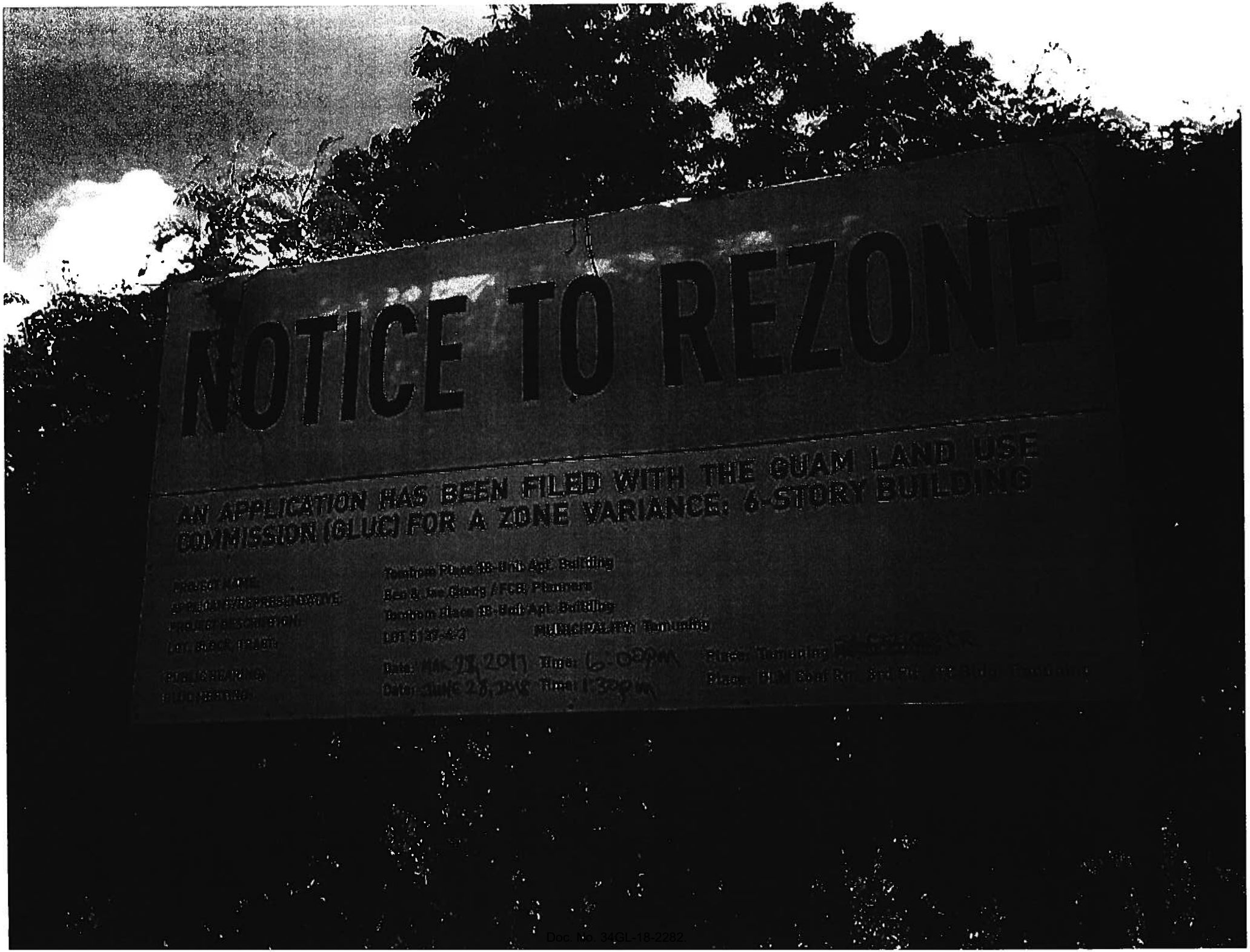
Case Planner responded that the easements were create as a result of the division of Lot 5137-4-R1, under Survey Map 206FY68, that the map was create pursuant to a Court Distribution, as a result of Probate Case and was approved by the Administrator, Pete L.G. Concepcion any issues in reference to the process taken to create the map or the context of the map must be address to the Department of Land Management separate from the ongoing application process.

Mr. Baldyga commented that, he they own a property towards the wedding chapel and in the future they will like to build but, will be blocking you view and for the record, I am supportive of this application if the applicant will be supportive of our development in the future.

Mr. Concepcion commented that for the record also, my auntie, Mrs. Santos, who did not agree to the 40 feet easement that is designated on her property, is opposed to the easement.

After no further concerns or question was put forth by the attendees case planner thanked those in attendance and adjourned the meeting at 6:50 P.M.

Frank P. Taitano
Case Planner



Doc. No. 34CL-18-2282

ARi Partners Architecture
ARCHITECTURE ▪ RETAIL ▪ INTERIOR DESIGN

June 27, 2017

Executive Secretary
Guam Land Use Commission
DLM
PO Box 2950

RECEIVED
JUN 29 2017
Department of Land Management
Time 4:12 Init

RE: Zone Variance /TDP Ref No. 2015-28A/B

Dear Mr. Borja,

I am in receipt of your letter dated March 7th 2017, concerning the above referenced zone variance application, and am writing as a property owner located within the 500 ft. radius of the said development. Upon review of the TDP, I have several questions, which I seek further clarification on.

1. The application is for a 6 story, eighteen unit apartment building, however, cursory review of the drawings suggests the roof will be utilized. Please clarify therefore, is this a 6 or 7 story building. What restrictions will be placed on the developer to limit the use of the roof?

2. Please clarify, is the application seeking a variance for 73' as stated on the application form, or a 71' high building, as described in the drawings, or a variance to 107' for its flagpole? It is not clear.

3. I do not believe the application has addressed the requirement to provide a development schedule.

4. I do not believe the application has addressed the requirement to provide a statement of tentative plans for the future selling or leasing of the development. In fact, there is some suggestion that this may be operated as a 'hotel', which raises significant concerns in this predominantly quite single family neighborhood. The intent must be clarified one way or the other.

5. I do not believe the application has addressed the requirement to provide the location of all existing utilities, sewers, drainage ditches, located adjacent to the proposed development. There is no information contained in the drawings which describes anything beyond the

Members American Institute of Architects
ARI Partners Architecture P.C. Tumon Bay Business Center, Suite 201, 919 Pale San Vitores Road, Tumon, Guam 96913
Tel: (671) 646 5145 Fax: (671) 646 5143 E-mail: ariadmin@ariarchitecture.com

4/20

property boundaries, and important design considerations including potential run off towards Tatuha Tasi lane and towards the foreshore, have not been addressed in any way.

6. The proposed method of onsite storm water management will surcharge and undermine any boundary wall structures, whether erected by this developer or the adjacent property owners. Instead of containing storm water on site this proposal simply shifts the problem to the boundary with neighboring properties particularly on the north 'downhill' side.

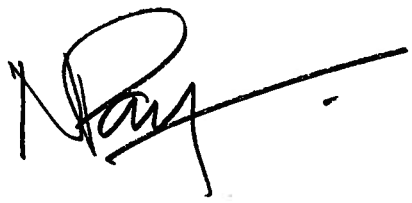
7. There is no indication in the drawings describing the locations, names and widths of adjoining streets, or the proximity to San Vitores Road, that could provide any basis for evaluating whether the access to the property is adequate. For example, there is no indication in the drawings whether this property can be serviced by emergency vehicles. I would also question whether the impact of the additional traffic at the junction of Tatuha Tasi Lane and Pale San Vitores Rd is manageable with the current road layout.

8. I fail to see how the proposed landscaping constitutes 2% of the total construction cost of the project as mandated.

I feel that the application raises more questions than it answers, and, I wish to record my strong objection, as it simply does not adequately justify the proposed project in relation to adjacent and neighborhood developments as they exist.

Thank you for your consideration of these matters and I look forward to you presenting them to the Commissioners in due course.

Best Regards,



Neil Paynter, AIA

Cc Frank Taitano – DLM / Case Planner

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

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

Website:
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E-mail Address:
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671-649-LAND (5263)

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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

June 18, 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. 2015-28A (Tentative Development Plan) and 2015 - 28B (Zone Variance)

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
DLM recommends approval with the following conditions;

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

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

C. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the infrastructure improvements as specified in the application shall be completed within 1-year from date of Commission approval; and

D. That the applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations; and

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

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

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

A. Comments and Recommendation Concerning GPA requirements:

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

   a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
   b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;
   c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
   d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
   e. Provide scheduling and magnitude of project power demand requirements for new loads;
   f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
   g. GPA reserves its easement rights established at the Department of Land Management under document number **89572** on map **206FY68**

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

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

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

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

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the request provided the following conditions be in place:

- storm drainage water disposal must be shown in details in the final drawings and to be supported with calculations;
- parking layout and parking stalls (compact, standard and accessible stalls) must meet the American Disability Act (ADA) requirements;
- adequate egress ingress must be coordinated with the Division of Highways, Rights of Way Section;
- entrance and exit should be wide enough for public access to accommodate emergency vehicles (fire truck, ambulance) in the event of fire; and emergency reasons
- if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way;
- landscaping must be design in detail and make use of its physical and biological resources which will have a great impact to the environment;
- must comply with all the geotechnical requirements related to site preparations;
- ecological planning is needed to ensure the conservation of its resources;
- provide structural analysis that can withstand 170 mph wind velocity; and
- structure shall conform to Seismic Zone base on the latest IBC Code.

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with conditions that for building permit application that a complete set of design drawings must meet be complete with the necessary disciplines needed and must be in conformance with the latest building code edition. Plans must be sign by a registered architect or engineer.

GUAM WATERWORKS AUTHORITY (GWA):
This memorandum shall serve as GWA's position statement to the above height variance request and tentative development plan for the proposed construction of a six-story, eighteen-unit multi-family dwelling. This position statement is related to the availability of water and sewer infrastructure to serve the proposed development. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to GWA rules and regulations. Any required extension to the existing facilities to serve the subject properties shall be at the applicant's expense.

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone change application:

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

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

   Given current growth in Tumon, it is likely that future developments will be required to increase the sewer system capacity through offsite utility improvements.

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

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

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

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

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

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

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

9. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system. The applicant would be responsible for the design, permitting, construction, and maintenance of a lift station to meet this requirement.

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

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

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

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submits the following position;

We reviewed the subject application by FC Benavente, Planners for applicant Ben Y Chong and Jae K. Chong for height to construct a six story, eighteen dwelling unit apartment building in a Hotel "H" Resort Zone. We found it acceptable, therefore, we have no objection to the approval of this Zone Variance Application. However the subject lot will require a Site Inspection prior to any Permitting Application.

BUREAU OF STATISTICS AND PLANS (BSP):
The Bureau of Statistics and Plans (Bureau) completed its review of the application and provides the following comments and recommendations.

Land Use. The proposed project is in line the Future Land Use Map as outlined by the North and Central Guam Land Use Plan's Tourist Resort category, which states:

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

The Bureau finds that the proposed project is consistent with the North and Central Guam Land Use Plan.

Protection of Marine Waters. Enacted in 1974, the Guam Territorial Seashore Protection Act (21 GCA63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas and sole source Northern Guam Lens Aquifer, and to protect the natural resources present there. The proposed 18-unit apartment site is within the vicinity of Guam's Tumon Bay Marine Preserve, a marine protected area (MPA). The Bureau is concerned that the proposed construction of the apartment will have adverse effects on the preserve if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site, which includes Tumon Bay Marine Preserve.

Moreover, the proposed project increases impervious surfaces in the form of rooftops, driveways, sidewalks, and parking lots. These surfaces greatly increase runoff volume carrying pollutants into the bay and accelerating erosion. The Bureau recommends that the applicants to:

a. Employ erosion and sediment controls before, during, and after construction of the 18-unit apartment to ensure that runoff and sedimentation is avoided. Best management practices including silt fencing may be found in the CNMI Guam Stormwater Management Manual, October 2006.

b. Coordinate with the Guam Environmental Protection Agency (GEPA) for effective implementation of erosion control methods.

***Stormwater* Management** Stormwater management is a major factor in the protection of Guam's vital water resource. Surface runoff carries pollutants into Guam waters causing siltation, increasing sediment loads, which impairs receiving coral reefs. The alteration of vegetated areas to buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. The application site plan identifies trench drains to manage stormwater on site. However, the Bureau gives emphasis to the protection of Guam's natural resources. Therefore, discharge of stormwater into Tumon Bay Marine Preserve should be avoided to the fullest extent practicable. The Bureau recommends the applicants to:

a. Implement best management practices on their property to control erosion and runoff during and after construction of the project in accordance with the CNMI Guam Stormwater Management Manual, October 2006, specifically in sections:
    - 2.1 Construction Stormwater Treatment Criteria and Standards;
    - 2.2 Post-construction Stormwater Treatment Standards and Criteria;
    - 3.1 Erosion and Sediment Control for Construction Sites;
    - 3.2 Acceptable Post-Construction BMPs.
b. Where feasible, schedule construction during dry season.
c. Stabilize construction entrances to reduce the tracking of sediment/mud from the construction site onto paved roads and parking lots.
d. Consult with the Guam EPA for effective implementation of stormwater management practices.

We also refer the applicants to the "Guam Erosion and Sediment Control Field Guide" for contractors and site inspectors. An electronic version of the CNMI and Guam Stormwater Manual and field guide can also be obtained at the Guam EPA office or the Bureau.

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

The project site lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP), impervious surfaces in this area have increased by 5.17% between the years 2005 to 2011. Accordingly, this project will contribute to an increase in impervious surfaces in Tumon.

The applicants are encouraged to implement LID practices such as permeable pavement for parking lots and walkways, grassed swales, island bioretention, green roofs and/or rain gardens into the landscaping design as a means to reduce runoff and control erosion from their property. One such practice could be incorporating a rain garden in the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water. An electronic file of the guidebook *`Island Stormwater Practice Design Specifica tions"* is available at the Bureau's, Guam Coastal Management Program office.

Invasive Species. The protection from invasive species is crucial in preserving Guam's native plant and animal species; thus, avoiding the use of invasive plants is encouraged. The landscaping plan identifies yellow oleander, an invasive plan. The Bureau discourages the use of invasive plants for its negative impacts on native flora and tropical landscapes. Therefore, the applicants are encouraged to incorporate native plants into the design plan. The applicants are also advised to consult with the Department of Agriculture's Division of Forestry and Soil Resources Division and Agricultural Services Division on using native plants to avoid invasive species outbreaks.

Historic Preservation. To preserve historic properties and artifacts, the applicants are advised to coordinate with the Department of Parks and Recreation, Guam Historic Resources Division, especially if excavation is involved.

Beach Access. The applicants are advised to ensure that beach access pre and post construction is not restricted in accordance to 21 GCA Real Property Ch. 65, Public Access to the Ocean Shore.

In light of the points presented above, the Bureau finds that activities of the proposed construction and impervious surfaces from the six-story, 18-unit apartment within the vicinity of a marine protected area, can adversely affect coral reefs and marine ecosystems if measures are not in place to manage stormwater and control erosion and sediment on site.

At the same time, we find that the proposed project is consistent with the North and Central Guam Land Use Plan.

Subsequently, if this application is approved, the Bureau recommends that the applicants Ben Chong and Jae K. Chong comply with the above listed recommendations and established laws.

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

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
Has not submitted Position Statement as of Staff Report date.
GUAM FIRE DEPARTMENT (GFD):
Has not submitted Position Statement as of Staff Report date.
DEPARTMENT OF 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.
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):
Has not submitted Position Statement as of Staff Report date.
GUAM PUBLIC SCHOOL SYSTEM (GPSS):
Has not submitted Position Statement as of Staff Report date.

Marvin Q. Aguilar
Guam Chief Planner

Attachments: ARC Position statements
CC: Executive Secretary, GLUC

Eddie B. Calvo
Governor

Ray Tenorio
Lt. Governor

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

Robert S. Lizama
Director

William N. Reyes
Deputy Director

In reply refer to:
RC 2016-1002

RECEIVED
NOV 16 2016
Department of Land Management
Time 2:25 pm

November 9, 2016

Memorandum

To: Director, Department of Land Management

From: Director, Department of Parks and Recreation

Subject: Application No. 2015-28: Tentative Development Plan and Zone Variance application for a 6 story, 18 Unit Apartment Building in an "H" Zone on Lot 5137-4-3 Tumon, Guam

We reviewed the subject application by FC Benavente, Planners for applicant Ben Y Chong and Jae K. Chong for height to construct a six story, eighteen dwelling unit apartment building in a Hotel "H" Resort Zone. We found it acceptable, therefore, we have no objection to the approval of this Zone Variance Application. However the subject lot will require a Site Inspection prior to any Permitting Application.

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

Sincerely,

for Robert S. Lizama

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

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

November 29, 2016

MEMORANDUM

RECEIVED
DEC 01 2016
Department of Land Management
Time 10:45 AM

MB 12/2

TO: Director, Department of Land Management

FROM: Director

APPLICANT: Ben Y. Chong and Jae K. Chong

SUBJECT: Position Statement No. 2015 – 28A/B
Lot Nos. 5137-4-3, Tumon

Buenas yan Hafa Adai!

The above applicants, are requesting a height zone variance for the above subject position statement. The property measures approximately 2,270 +/- square meters. A road easement terminates at the southwest corner of property at a cul de sac .The property is relatively flat.

The proposed project intent is to construct an apartment building consisting of 18 units in an "H" zone area. The building height will measure 6 stories, 73 feet from ground elevation to the top of the roof line. The ground floor level will consists of an office, lobby, electrical and mechanical rooms. The 2nd, 3rd and 4rth floors will have 3 floor plan layouts at each level. The 5th and 6th floors comprises a total of 18 dwelling units. A total of 39 parking stalls are provided in the design of the building that will comply with American Disability Act (ADA's) requirements.

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

- storm drainage water disposal must be shown in details in the final drawings and to be supported with calculations;
- parking layout and parking stalls (compact, standard and accessible stalls) must meet the American Disability Act (ADA) requirements;
- adequate egress ingress must be coordinated with the Division of Highways, Rights of Way Section;
- entrance and exit should be wide enough for public access to accommodate emergency vehicles (fire truck, ambulance) in the event of fire; and emergency reasons
- if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way;
- landscaping must be design in detail and make use of its physical and biological resources which will have a great impact to the environment;
- must comply with all the geotechnical requirements related to site preparations;
- ecological planning is needed to ensure the conservation of its resources;

12/01/16
P. Gibbon
Land Plans

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

Doc. No. 34GL-18-2282.

12/2/16

- provide structural analysis that can withstand 170 mph wind velocity; and
- structure shall conform to Seismic Zone base on the latest IBC Code.

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with conditions that for building permit application that a complete set of design drawings must meet be complete with the necessary disciplines needed and must be in conformance with the latest building code edition. Plans must be sign by a registered architect or engineer.

If you have any questions, please call Mr. John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CIP) at 646- 3189/3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

GUAM POWER AUTHORITY

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

RECEIVED
OCT 17 2016
Department of Land Management
Time 2:45 pm/am

October 13, 2016

MEMORANDUM

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

From: General Manager (A)

Subject: Lot 5137-4-3, Municipality of Tamuning, (Ben Y. Chong and Jae K. Chong); Tentative Development Plan and Zone Variance Application for a 6-Story, 18-Unit Apartment Building. **Application No. 2015-28 A/B**

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

A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
   - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
   - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
   - Provide scheduling and magnitude of project power demand requirements for new loads.
   - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
   - GPA reserves its easement rights established at the Department of Land Management under document number **89572** on map **206FY68**.

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.

MELINDA C. MAFNAS, P.E.

ASG/arp

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Ben Y. Chong and Jae K. Chong
Location: Lot 5137-4-3, Tamuning
Type of Application: Tentative Development Plan and Zone Variance
GLUC/GSPC Application No. 2015-28 A/B
Brief Project Description:
For a 6-Story, 18-Unit Apartment Building.

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

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

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

   Yes ☐ No ☒

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

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

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

MELINDA C. MAFNAS, P.E.
General Manager (A)

10-14-16
Date

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

ASG/arp

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

William M. Castro
Director
Manuel Q. Cruz
Deputy Director

DEC 0 9 2016

RECEIVED
DEC 12 2016
Department of Land Management
Time 1:04 pm

MB 12/12

MEMORANDUM

TO: Chairman, Guam Land Use Commission

VIA: Executive Secretary, Department of Land Management

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **APPLICATION NO.** 2015-28 A/B; **LOCATION:** Lot No. 5137-4-3, Tumon **APPLICANT:** Ben Chong and Jae K. Chong; **PROPOSED USE:** Tentative Development Plan and Zone Variance for a 6-Story, 18-Unit Apartment Building

The applicants, Ben Chong and Jae K. Chong, represented by Richard Sana of FC Benavente Planners, request a tentative development plan and zone variance to construct a 6-story, 18-unit apartment building in Tumon. The building height will measure 73 feet from ground elevation to the top of the roof line. The ground floor level will consist of an office, lobby, electrical, and mechanical rooms. The 2nd, 3rd, and 4th floors comprise one, two, and three bedrooms units, with the 5th and 6th floors having two 3-bedroom and one 4-bedroom units. The project proposes a total of thirty-nine (39) parking stalls.

Located just off of Pale San Vitores Road, Lot 5137-4-3 covers approximately half (0.56) an acre in size. Surrounding land uses include resorts, residential homes, an elderly home, apartments, condominiums, and commercial activities.

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

Land Use. The proposed project is in line the Future Land Use Map as outlined by the North and Central Guam Land Use Plan's Tourist Resort category, which states:

> *"The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These*

categories are located primarily along the shoreline and include existing and future tourist and resort areas."

The Bureau finds that the proposed project is consistent with the North and Central Guam Land Use Plan.

Protection of Marine Waters. Enacted in 1974, the Guam Territorial Seashore Protection Act (21 GCA63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas and sole source Northern Guam Lens Aquifer, and to protect the natural resources present there. The proposed 18-unit apartment site is within the vicinity of Guam's Tumon Bay Marine Preserve, a marine protected area (MPA). The Bureau is concerned that the proposed construction of the apartment will have adverse effects on the preserve if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site, which includes Tumon Bay Marine Preserve. Moreover, the proposed project increases impervious surfaces in the form of rooftops, driveways, sidewalks, and parking lots. These surfaces greatly increase runoff volume carrying pollutants into the bay and accelerating erosion. The Bureau recommends that the applicants to:

a. Employ erosion and sediment controls before, during, and after construction of the 18-unit apartment to ensure that runoff and sedimentation is avoided. Best management practices including silt fencing may be found in the CNMI Guam Stormwater Management Manual, October 2006.
b. Coordinate with the Guam Environmental Protection Agency (GEPA) for effective implementation of erosion control methods.

Stormwater Management. Stormwater management is a major factor in the protection of Guam's vital water resource. Surface runoff carries pollutants into Guam waters causing siltation, increasing sediment loads, which impairs receiving coral reefs. The alteration of vegetated areas to buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. The application site plan identifies trench drains to manage stormwater on site. However, the Bureau gives emphasis to the protection of Guam's natural resources. Therefore, discharge of stormwater into Tumon Bay Marine Preserve should be avoided to the fullest extent practicable. The Bureau recommends the applicants to:

a. Implement best management practices on their property to control erosion and runoff during and after construction of the project in accordance with the CNMI Guam Stormwater Management Manual, October 2006, specifically in sections:
    - 2.1 Construction Stormwater Treatment Criteria and Standards;

- 2.2 Post-construction Stormwater Treatment Standards and Criteria;
- 3.1 Erosion and Sediment Control for Construction Sites;
- 3.2 Acceptable Post-Construction BMPs.

b. Where feasible, schedule construction during dry season.
c. Stabilize construction entrances to reduce the tracking of sediment/mud from the construction site onto paved roads and parking lots.
d. Consult with the Guam EPA for effective implementation of stormwater management practices.

We also refer the applicants to the "Guam Erosion and Sediment Control Field Guide" for contractors and site inspectors. An electronic version of the CNMI and Guam Stormwater Manual and field guide can also be obtained at the Guam EPA office or the Bureau.

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

The project site lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP), impervious surfaces in this area have increased by 5.17% between the years 2005 to 2011. Accordingly, this project will contribute to an increase in impervious surfaces in Tumon.

The applicants are encouraged to implement LID practices such as permeable pavement for parking lots and walkways, grassed swales, island bioretention, green roofs and/or rain gardens into the landscaping design as a means to reduce runoff and control erosion from their property. One such practice could be incorporating a rain garden in the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water. An electronic file of the guidebook *"Island Stormwater Practice Design Specifications"* is available at the Bureau's, Guam Coastal Management Program office.

Invasive Species. The protection from invasive species is crucial in preserving Guam's native plant and animal species; thus, avoiding the use of invasive plants is encouraged. The landscaping plan identifies yellow oleander, an invasive plan. The Bureau discourages the use of invasive plants for its negative impacts on native flora and tropical landscapes. Therefore, the applicants are encouraged to incorporate native plants into the design plan. The applicants are also advised to consult with the Department of Agriculture's Division of Forestry and Soil Resources Division and Agricultural Services Division on using native plants to avoid invasive species outbreaks.

Historic Preservation. To preserve historic properties and artifacts, the applicants are advised to coordinate with the Department of Parks and Recreation, Guam Historic Resources Division, especially if excavation is involved.

Beach Access. The applicants are advised to ensure that beach access pre and post construction is not restricted in accordance to 21 GCA Real Property Ch. 65, Public Access to the Ocean Shore.

In light of the points presented above, the Bureau finds that activities of the proposed construction and impervious surfaces from the six-story, 18-unit apartment within the vicinity of a marine protected area, can adversely affect coral reefs and marine ecosystems if measures are not in place to manage stormwater and control erosion and sediment on site.

At the same time, we find that the proposed project is consistent with the North and Central Guam Land Use Plan. Subsequently, if this application is approved, the Bureau recommends that the applicants Ben Chong and Jae K. Chong comply with the above listed recommendations and established laws.

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

MANUEL Q. CRUZ
Acting

cc: GEPA
DPW
DPR
DOAG

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 18 2018
2:51
CLTC/GALC/GLUC

MB 6/19

MEMORANDUM

June 8, 2018

TO: Michael Borja Director, Department of Land Management

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

SUBJECT: Position Statement Renewal for Zone Change Application No. 2015-28 A/B for Lot 5137-4-3, in the Municipality of Tamuning

APPLICANT(S): Ben Y. Chong and Jae K. Chong

This memorandum shall serve as GWA's position statement to the above height variance request and tentative development plan for the proposed construction of a six-story, eighteen-unit multi-family dwelling. This position statement is related to the availability of water and sewer infrastructure to serve the proposed development. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to GWA rules and regulations. Any required extension to the existing facilities to serve the subject properties shall be at the applicant's expense.

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone change application:

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

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

Given current growth in Tumon, it is likely that future developments will be required to increase the sewer system capacity through offsite utility improvements.

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

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

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

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

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

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

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

9. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system. The applicant would be responsible for the design, permitting, construction, and maintenance of a lift station to meet this requirement.

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

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

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

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

ATTACHMENT B

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

June 21, 2018

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report – Zone Change Request
(Application No. 2012-43)
Lot 5223-6-NEW-9-R1, Municipality of Barrigada

1. PURPOSE:

a. **Application Summary:** The applicant, Christine Joon Chang, represented by Mr. Igancio Santos is requesting approval for a Zone Change of Lot 5223-6-NEW-9-R1, Municipality of Barrigada, from "A" (Rural) to "M-1" (Light Industrial) Zone for a proposed warehouse.

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

2. FACTS:

a. **Location:** The subject lot is located along a 40-foot unnamed public access street about 1,650 feet east and inward of Route 16, with the entrance to this street located north and at the corner of the Conwood hardware store (**see Attachment 1).**

b. **Lot Area:** 5,271 Square Meters or 56,733 Square Feet
(Ref: LM Map No. 274FY86)

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

d. **Field Description:** The property is vacant with no structures located within the lot. It is occupied by overgrown vegetation and trees.

e. **Masterplan:** Rural-Agricultural

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

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

3. **APPLICATION CHRONOLOGICAL FACTS:**

a. **Date Application Accepted:** July 25, 2012

b. **Date Heard by ARC:** August 16, 2012

c. **Public Hearing Results:** On April 2, 2013, a Public Hearing was conducted at the Barrigada Community Center. Present were DLM Planning Division staff, the applicant's representative, the Barrigada Mayor and Vice Mayor, members of the Municipal Planning Council and two concerned citizens.

Mr. Ike Santos presented the application to those in attendance; the requested zone change is to allow the construction of two warehouses to store building materials. Mayor June Blas expressed concern about the proposed use over the Northern Aquifer. Another concern of the public is that if the zone change is approved, any light industrial activity can occur in those warehouses. There is concern for the storage of paint and other chemicals that will affect air quality and impact the surrounding residents. Mr. Castro, a member of the Barrigada Municipal Planning Council noted that the road is in poor condition but recommended that the applicant seek out the other property owners to share the cost for making road improvements to the 40 feet wide right of way. There was also a request to install a 6-inch water line as opposed to a 2-inch water line so that existing uses are not negatively impacted. There were no other concerns or comments and the hearing concluded shortly after.

a. **Posting of Public Notice:** Pursuant to Title 21GCA, Ch.61, §61633 (b)(1-2) regarding posting of public notice, a photo of the billboard is provided (**see Attachment 2).**

b. **Review by Municipal Planning Council (MPC):** Pursuant to Title 21GCA, Ch.61, §61638, no MPC resolution from the Barrigada MPC has been forwarded to Planning Division as of preparation of this report.

4. **STAFF ANALYSIS:** As proposed by this application, the request is to change the existing designated "A" (Agricultural/Rural) zone of the subject lot to "M-1" (Light Industrial) in order to construct two warehouses. If favorably considered, the proposed development must to meet the minimum requirements for setbacks, height, parking, on site storm water retention, and landscaping.

A request for a change of zone must address positive impacts contributing to Public Necessity, Convenience and General Welfare. Justification to support these caveats is provided for in the application as the proposed construction of warehouses underscores the need for revitalizing the image of development within the area and perhaps from a perspective of providing consistency as may be vetted to surrounding development. It affords convenience through the availability of warehousing service, or for such matter activities associated light-industrial services within the area of a major thoroughfare, Route 16.

The development trend shows growth from rural residential to commercial/light industrial uses within the area, and future commercial/light industrial growth is

foreseeable as this property lies less than 500 feet inland from Route 16. This and the existence of adequate infrastructure will accommodate and serve the growth of this area.

With respect to protecting the welfare of the general public, a critical land use element considered in our analysis is the impact of the AICUZ (Air Installation Compatible Use Zone) generated by aircraft activities utilizing the Guam International Air Terminal. Based on the existing AICUZ, the subject property falls within an area designated as Accident Potential Zone 1 (APZ I) and Ldn (noise level) of 65-70 decibels. Any type of activity within the surrounding area will be affected by noise levels not conducive to residential use within this area but can be addressed through appropriate soundproofing. The AICUZ requirements do not favor residential development within the area as opposed to commercial/industrial, agricultural, golf courses or open space. As such, it is the position of Planning Staff that the area is best suited for industrial type uses followed by commercial activities/uses.

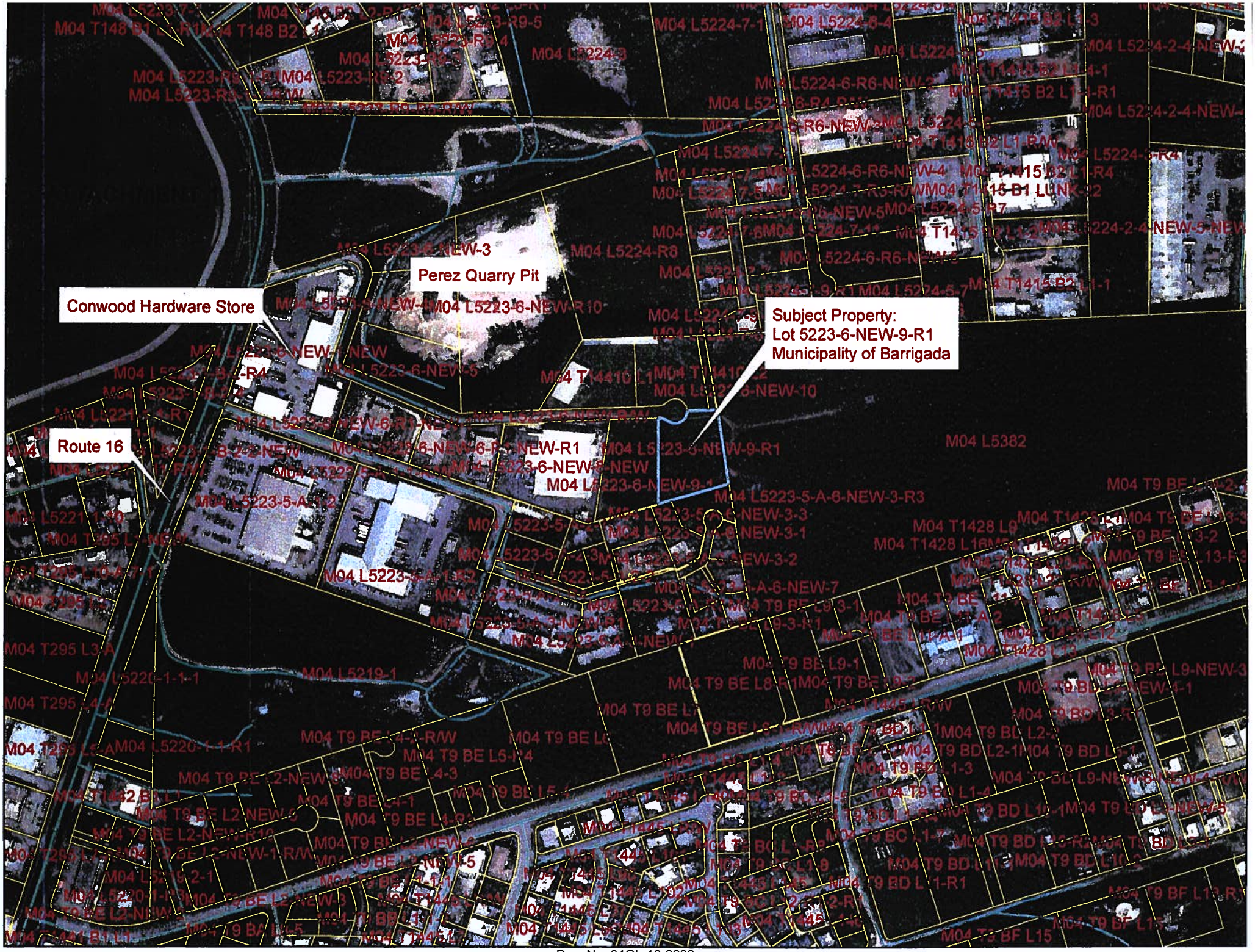
Since the lot is presently zoned "A", the required "Agricultural Impact Statement" indicated no major impacts to any agricultural activity and to any environmental issues regarding endangered species and habitat. We have reviewed the submitted ARC positions and find that there are "No Objections with conditions" for the zone change. We find within the context of the application, justification that the public necessity, convenience and general welfare, adequately supports a positive action on the zone change request.

5. **RECOMMENDATION:** Based on the above, Planning Staff recommends **Approval** with the following condition:

That the applicant adheres to the ARC conditions as stipulated on their Position Statements.

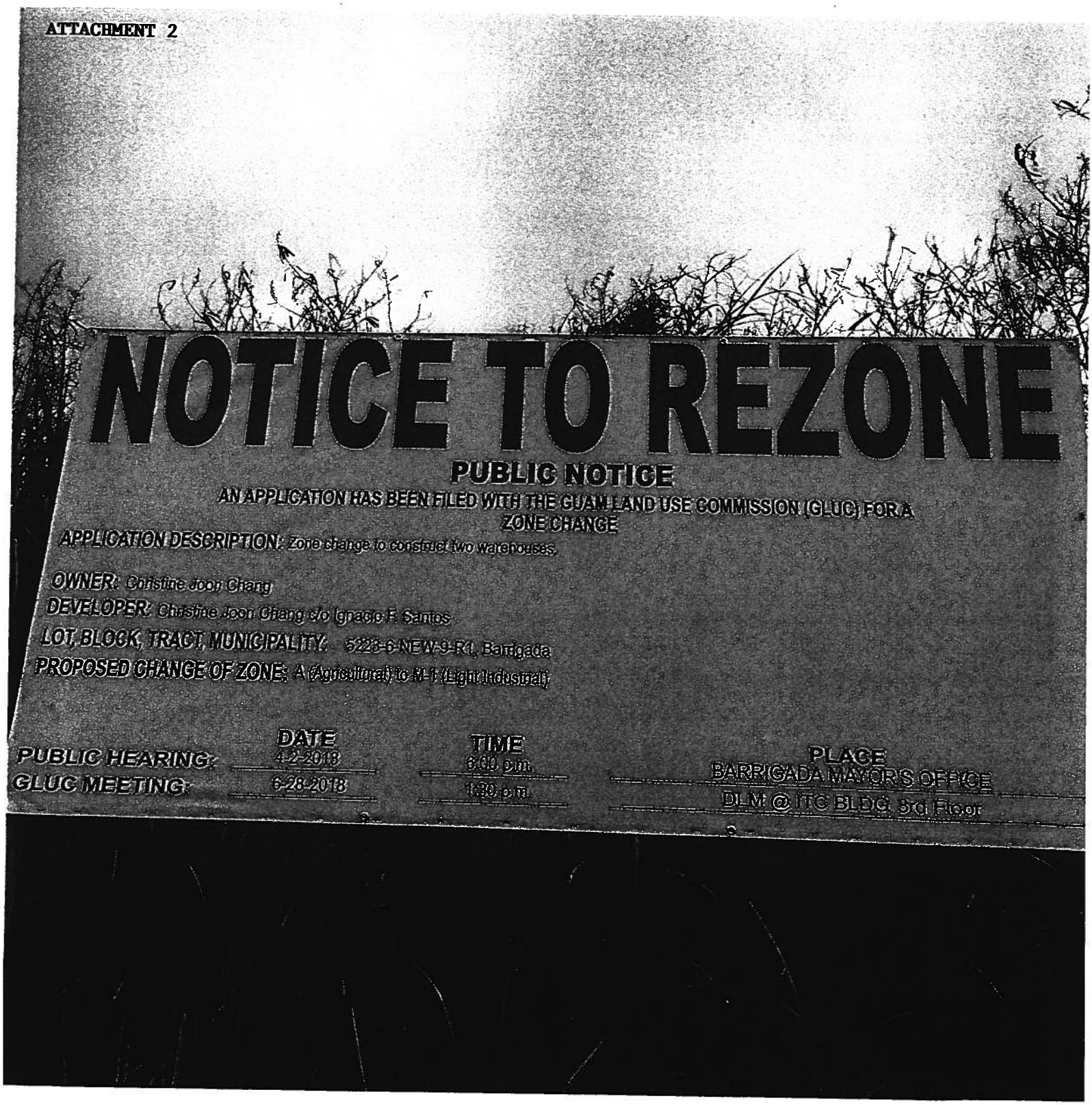
Marvin Q. Aguilar

Attachments: Location Map
Public Notice Sign



Doc. No. 34GL-18-2282.

ATTACHMENT 2



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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383



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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

June 21, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Change Application – 2012-43

Listed below are the APPLICATION REVIEW COMMITTEE POSITION STATEMENTS as submitted:

PERMANENT VOTING MEMBERS

1. DEPARTMENT OF LAND MANAGEMENT: Recommend APPROVAL WITH CONDITIONS as follows:
   That the Applicants adhere to all ARC recommendations as provided in their respective position statements.

2. GUAM ENVIRONMENTAL PROTECTION AGENCY:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

3. DEPARTMENT OF AGRICULTURE:
   Agriculture has reviewed the subject lot and request for a "Zone Change" from an "Agricultural" to an "M1" zone and finds that there are no major impacts to any agricultural activity and to any environmental issues regarding endangered species and habitat. However, our agency does recommend and require that proper mitigation measures are in place to prevent spillage of any industrial chemicals associated with any development activities. This is to protect our "Northern Aquifer" the major source of Guam's drinking water. To also aide in protecting our environment Agriculture encourages the land owner and developer to incorporate a landscaping plan that includes indigenous and/or fruit tree species planted on the site. These trees will help filter chemical pollutants and have the added benefits of windbreak protection, shading and an aesthetic component to enhance the area.

4. GUAM WATER WORKS AUTHORITY:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

5. GUAM POWER AUTHORITY:
Comments and Recommendations Concerning GPA requirements:
- GPA has no objection; however, customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations.
- Coordinate overhead/underground power requirements with GPA Engineering for new structure.
- Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
- Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
- Developer/Owner shall provide necessary electrical 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.
- Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

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

6. DEPARTMENT OF PARKS AND RECREATION:
No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

7. DEPARTMENT OF PUBLIC WORKS:
No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

8. BUREAU OF STATISTICS AND PLANS:
Based on our review of the subject application as submitted, the Bureau provides the following comments and/or concerns:

1. The Bureau believes the proposed activity is consistent with existing activities in this particular area. According to the AICUZ (Air Installation Compatible Use Zone) study and maps, this area is classified as APZ 1 (Accident Potential Zone), Ldn 65-70 (day-night average sound level). The AICUZ area represents the environs of an air facility, both on and off station, that are impacted by either safety hazards of noise from aircraft operations. APZ 1, Ldn 65-70 is described as imposing a lessened degree of hazard but is still of strong enough impact to seriously affect residential or populated areas. The area is loud, but more tolerable in soundproofed structures. Industrial and commercial activities would be acceptable, along with agricultural uses.
2. Given that the adjacent lot and lots nearby are a warehouse/equipment storage type activity and the activity due west is a light industrial/commercial land use

(Conwood Hardware), the Bureau views the proposed zone change for auto repair and safety inspection activity expansion as a compatible activity.

3. Because the subject lot is located over the Northern Lens, we are concerned with oil petroleum and lubricants that may be stored or used on site. Also, we are concerned with the potential of these fluid accidentally making their way to the ground and seeping below. Steps must be taken to ensure that the Pollution Protection Plan is submitted to Guam Environmental Protection Agency (GEPA) for approval.

4. Should the zone change be approved, the Bureau recommends that there are measures to ensure that the property will be landscaped in such a way to provide a buffer between the subject lot and residential dwellings. This will improve the area in order to be aesthetically pleasing but also help reduce storm water runoff.

5. Because the site is presently an agricultural designated lot, we suggest that the applicant coordinate with the Department of Agriculture for an Agricultural Impact Statement.

6. This area is not served by public sewer. The closest sewer line in the immediate vicinity is along Route No. 16. The applicant proposes a sanitary holding tank to handle all wastewater from the proposed project. Due to the activity proposed, the Bureau believes waste water generated from the site will be minimal. However, the Guam Environmental Protection Agency (GEPA) and the Guam Waterworks Authority (GWA) will be the entities to determine the appropriateness of a sanitary holding tank.

In light of the increase of development and need for warehouse activity, the Bureau finds the proposed zone change request to adequately justify public necessity, public convenience and general welfare, and therefore recommends approval. With regards to the proposed church, the use is permitted in an "M-1" zone. The Bureau hopes our concerns and recommendations are taken into consideration as the commission reviews this application and makes its final decision.

EX-OFFICIO MEMBERS

1. DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

2. GUAM FIRE DEPARTMENT:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

3. GUAM ECONOMIC DEVELOPMENT AUTHORITY:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

4. GUAM PUBLIC SCHOOL SYSTEM:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

5. DEPARTMENT OF CHAMORRO AFFAIRS:
   No Position Statement has been received as of the date of this Memorandum of June 21, 2018.

Marvin Q. Aguilar
Chairman, ARC

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS

SAGAN PLANU SIHA YAN EMFOTMASION
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3 Fax: (671) 477-1812

Thomas A. Morrison
Director

RECEIVED
SEP 28 2012
Department of Land Management
Time: 3:55 Intl: CB

9.28.12
RECEIVED
POSTED
CB

MEMORANDUM

To: Chairman, Guam Land Use Commission

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: Position Statement on **Application No. 2012-43**; Lot 5223-6-NEW-9-R1, Barrigada; Christine Joon Chang; Zone Change – A to M-1; Proposed Use: Storage & Warehouse.

The applicant is requesting to rezone the subject lot from "A" (agriculture) to "M-1" (light industrial) in order to construct two warehouse facilities with an area of 5,000 square ft. per warehouse. According to the applicant's representative, the warehouses will be used to store construction materials. The property is 5,271 square meters or 1.42 acres in land area and is adjacent to an existing heavy equipment, construction and warehouse facility. Access to the property is via Route 16 onto an unnamed street north of Conwood Products Inc. on the foot of Barrigada Heights. The surrounding land uses within a 750 feet radius consists of a warehouse, construction material sales yard, auto repair shop, a quarry and single family dwellings.

Based on our review of the subject application as submitted, the Bureau provides the following comments and/or concerns.

1. The Bureau believes the proposed activity is consistent with existing activities in this particular area. According to the AICUZ (Air Installation Compatible Use Zone) study and maps, the area is classified as APZ 1 (Accident Potential Zone), Ldn 65-70 (day-night average sound level). The AICUZ area represents the environs of an air facility, both on and off station, that are impacted by either safety hazards of noise from aircraft operations. APZ 1, Ldn 65-70 is described as imposing a lessened degree of hazard, but is still of strong enough impact to seriously affect residential or populated areas. The area is loud, but more tolerable in soundproofed structures. Industrial and commercial activities would be acceptable, along with agricultural uses.

2. Given that the adjacent lot is a warehouse/equipment storage activity and the activities due west and northwest are all light industrial/commercial land uses, the Bureau views the proposed zone change for construction storage and warehousing as a compatible activity.

3. Because the subject property is located above the Northern Lens, we are concerned with the type of construction materials that will be stored within the

10.3.12

proposed warehouses. Steps must be taken to ensure that the Pollution Protection Plan is submitted to Guam Environmental Protection Agency (GEPA) for approval.

4. Should the zone change be approved, the Bureau recommends that there are measures to ensure that the property will be landscaped in such a way to provide a buffer between the subject lot and residential dwellings. This will improve the area in order to be aesthetically pleasing but also help reduce storm water runoff.

5. Because the site is presently an agricultural designated lot, we feel that the Department of Agriculture should provide an Agricultural Impact Statement.

6. The area is not served by public sewer. The closest sewer line in the immediate vicinity is along Route No. 16. The Applicant proposes a sanitary holding tank to handle all wastewater from the proposed project. Due to the activity proposed, the Bureau believes waste water generated from the site will be minimal. However, the Guam Environmental Protection Agency (GEPA) and the Guam Waterworks Authority (GWA) will be the entities to determine the appropriateness of a sanitary holding tank.

In light of the increase of development and need for warehouse activity, the Bureau finds the proposed zone change request to adequately justify public necessity, public convenience and general welfare, and therefore recommends approval. In addition, the Bureau hopes our concerns and recommendation are taken into consideration as the commission reviews this application and makes its final decision.

THOMAS A. MORRISON

Cc: GEPA
DoAG
DPW
DPR
GWA

GUAM POWER AUTHORITY

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

August 23, 2012

RECEIVED
AUG 28 2012
Department of Land Management
Time: 2:40 Intl: CB

MEMORANDUM

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

From: General Manager

Subject: Lot 5223-6-NEW-9-R1, Municipality of Barrigada, (Christine Joon Chang); Zone Change Application from "A" (Agricultural) to "M-1" (Light Industrial) to construct two (2) warehouse buildings. **Application No. 2012-43**

POSTED

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

A. Comments and Recommendations Concerning GPA requirements:

1. GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
   - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
   - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
   - Provide scheduling and magnitude of project power demand requirements for new loads.
   - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.

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

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

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

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

JOAQUIN C. FLORES, P.E.

ASG/arp

Doc. No. 34GL-18-2282.

9.4.12

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Christine Joon Chang
Location: Lot 5223-6-NEW-9-R1, Barrigada
Type of Application: Zone Change
GLUC/GSPC Application No. 2012-43
Brief Project Description:
"A" to "M-1" to construct two (2) warehouse buildings.

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

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

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

   Yes ☐ No ☒

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

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

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

JOAQUIN C. FLORES, P.E.
General Manager

9/27/12
Date

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

ASG/arp

Department of Agriculture
Dipåttamenton Agrikottura

RECEIVED
JUL 11 2016
Department of Land Management
Time 7:58 rcvd

Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

Director's Office
Agricultural Development Services
Plant Nursery
Aquatic & Wildlife Resources
Forestry & Soil Resources
Plant Inspection Station
Animal Health

300-7970 / 7969 / 7966
300-7973 / 7972 / 7967
300-7974
735-3955/56; Fax 734-6570
300-7975/6
475-1426/27; Fax 477-9487
300-7965 Fax 734-6569

Matthew L.G. Sablan
Director

Jessie B. Palican
Deputy Director

POSTED

July 8, 2016
Memorandum

To: Director, Department of Land Management

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

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for a "Zone Change" request from an "Agricultural Zone" to an "M1" on Lot 5223-6-NEW-9-R1 located on a private road off of Rte. 16 and behind Conwood Lumber in the Municipality of Barrigada (Christine Joon Chang).**

Agriculture has reviewed the subject lot and request for a "Zone Change" from an "Agricultural" to an "M1" zone and finds that there are no major impacts to any agricultural activity and to any environmental issues regarding endangered species and habitat. However, our agency does recommend and require that proper mitigation measures are in place to prevent spillage and contamination by any industrial chemicals associated with any development activities that are typical of "M1" Light Industrial Zones. These measures include absorption mats and catchment basins this is to protect our **"Northern Aquifer"** the major source of Guam's drinking water. To also aide in protecting our environment Agriculture encourages the land owner and developer to incorporate a landscaping plan that includes indigenous and/or fruit tree species planted on the site. These trees will help filter chemical pollutants and have the added benefits of windbreak protection, shading and an aesthetic component to enhance the area.

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.**

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

MATTHEW L.G. SABLAN
Director

ATTACHMENT C

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

June 6, 2018

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report – Zone Change Request
(Application No. 2013-25)
Lot 5223-6-NEW-9-1, Municipality of Barrigada

1. PURPOSE:

a. **Application Summary:** The applicant, Han Sun Reep, represented by Mr. Igancio Santos is requesting approval for a Zone Change of Lot 5223-6-NEW-9-1, Municipality of Barrigada, from "A" (Rural) to "M-1" (Light Industrial) Zone for a proposed church and warehouse.

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

2. FACTS:

a. **Location:** The subject lot is located along a 40-foot unnamed public access street about 1,550 feet east and inward of Route 16, with the entrance to this street located north and at the corner of the Conwood hardware store (**see Attachment 1).**

b. **Lot Area:** 5,271 Square Meters or 56,738 Square Feet
(Ref: LM Map No. 274FY86)

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

d. **Field Description:** The property is vacant with no structures located within the lot. It is occupied by overgrown vegetation and trees.

e. **Masterplan:** Rural-Agricultural

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

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

3. **APPLICATION CHRONOLOGICAL FACTS:**

a. **Date Application Accepted:** April 12, 2013

b. **Date Heard by ARC:** May 2, 2013

c. **Public Hearing Results:** On November 26, 2014, a Public Hearing was conducted at the Barrigada Community Center. Present were DLM Planning Division staff, the applicant's representative, the Barrigada Mayor and Vice Mayor, and a member of the Municipal Planning Council.

Mr. Ike Santos presented the application to those in attendance; the requested zone change is to allow the construction of two warehouses, one for storing toys and the other to be used as a church. The mayor asked what type (denomination) of church and how large is the congregation. She wanted to know because she said the road leading to the property is bad. Mr. Castro, a member of the Barrigada Municipal Planning Council agreed that the road is in poor condition but recommended that the applicant seek out the other property owners to share the cost for making road improvements. There were no other concerns or comments and the hearing concluded shortly after.

d. **Posting of Public Notice:** Pursuant to Title 21GCA, Ch.61, §61633 (b)(1-2) regarding posting of public notice, a photo of the billboard is provided (**see Attachment 2).**

e. **Review by Municipal Planning Council (MPC):** Pursuant to Title 21GCA, Ch.61, §61638, no MPC resolution from the Barrigada MPC has been forwarded to Planning Division as of preparation of this report.

4. **STAFF ANALYSIS:** As proposed by this application, the request is to change the existing designated "A" (Agricultural/Rural) zone of the subject lot to "M-1" (Light Industrial) in order to construct two warehouses. If favorably considered, the proposed development must to meet the minimum requirements for setbacks, height, parking, on site storm water retention, and landscaping.

A request for a change of zone must address positive impacts contributing to Public Necessity, Convenience and General Welfare. Justification to support these caveats is provided for in the application as the proposed construction of warehouses underscores the need for revitalizing the image of development within the area and perhaps from a perspective of providing consistency as may be vetted to surrounding development. It affords convenience through the availability of warehousing service, or for such matter activities associated light-industrial services within the area of a major thoroughfare, Route 16.

The development trend shows growth from rural residential to commercial/light industrial uses within the area, and future commercial/light industrial growth is foreseeable as this property lies less than 500 feet inland from Route 16. This and the existence of adequate infrastructure will accommodate and serve the growth of this area.

With respect to protecting the welfare of the general public, a critical land use element considered in our analysis is the impact of the AICUZ (Air Installation Compatible Use Zone) generated by aircraft activities utilizing the Guam International Air Terminal. Based on the existing AICUZ, the subject property falls within an area designated as Accident Potential Zone 1 (APZ I) and Ldn (noise level) of 65-70 decibels. Any type of activity within the surrounding area will be affected by noise levels not conducive to residential use within this area but can be addressed through appropriate soundproofing. The AICUZ requirements do not favor residential development within the area as opposed to commercial/industrial, agricultural, golf courses or open space. As such, it is the position of Planning Staff that the area is best suited for industrial type uses followed by commercial activities/uses.

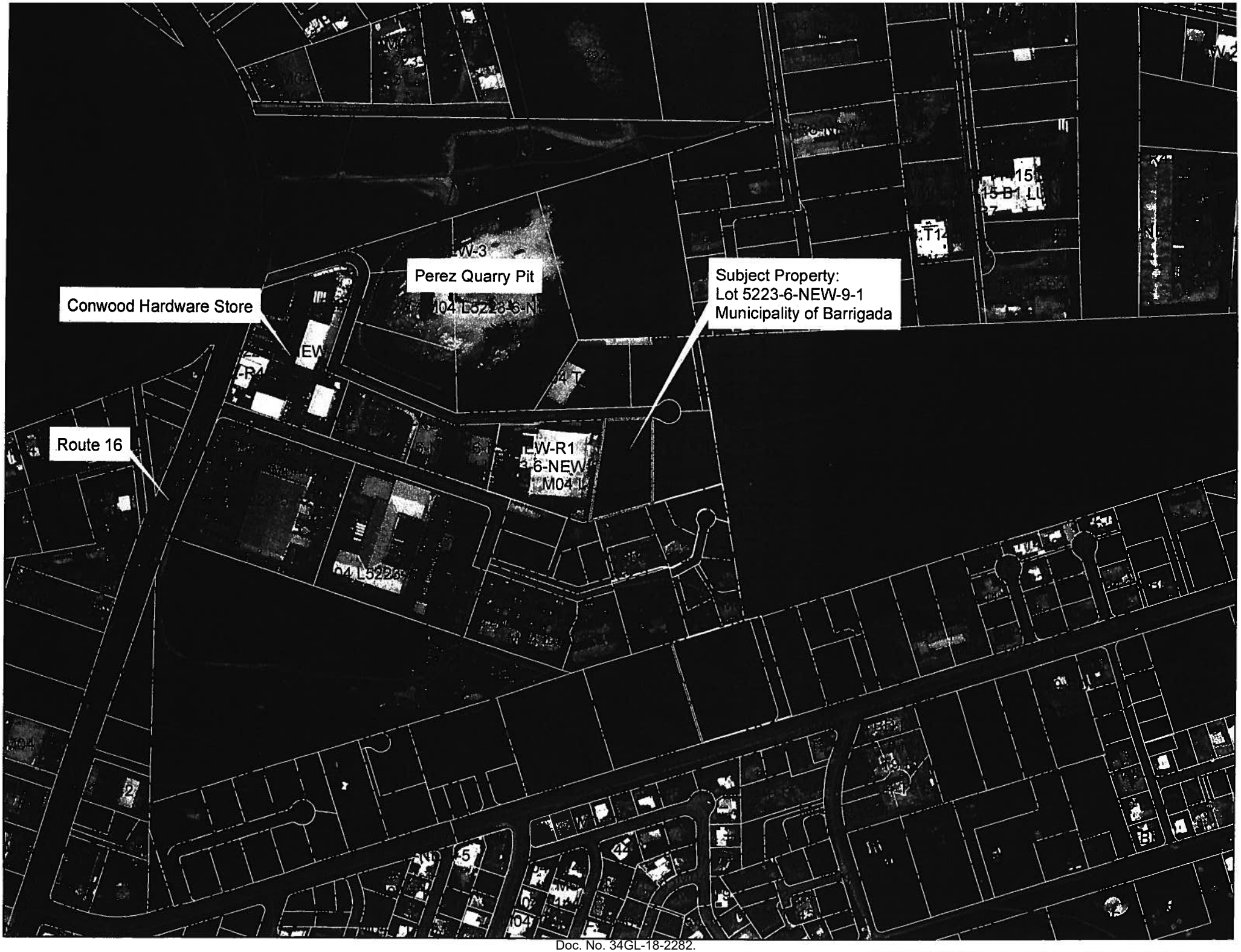
Since the lot is presently zoned "A", the required "Agricultural Impact Statement" indicated no major impacts to any agricultural activity and to any environmental issues regarding endangered species and habitat. We have reviewed the submitted ARC positions and find that there are "No Objections with conditions" for the zone change. We find within the context of the application, justification that the public necessity, convenience and general welfare, adequately supports a positive action on the zone change request.

5. **RECOMMENDATION:** Based on the above, Planning Staff recommends **Approval** with the following condition:

That the applicant adheres to the ARC conditions as stipulated on their Position Statements.

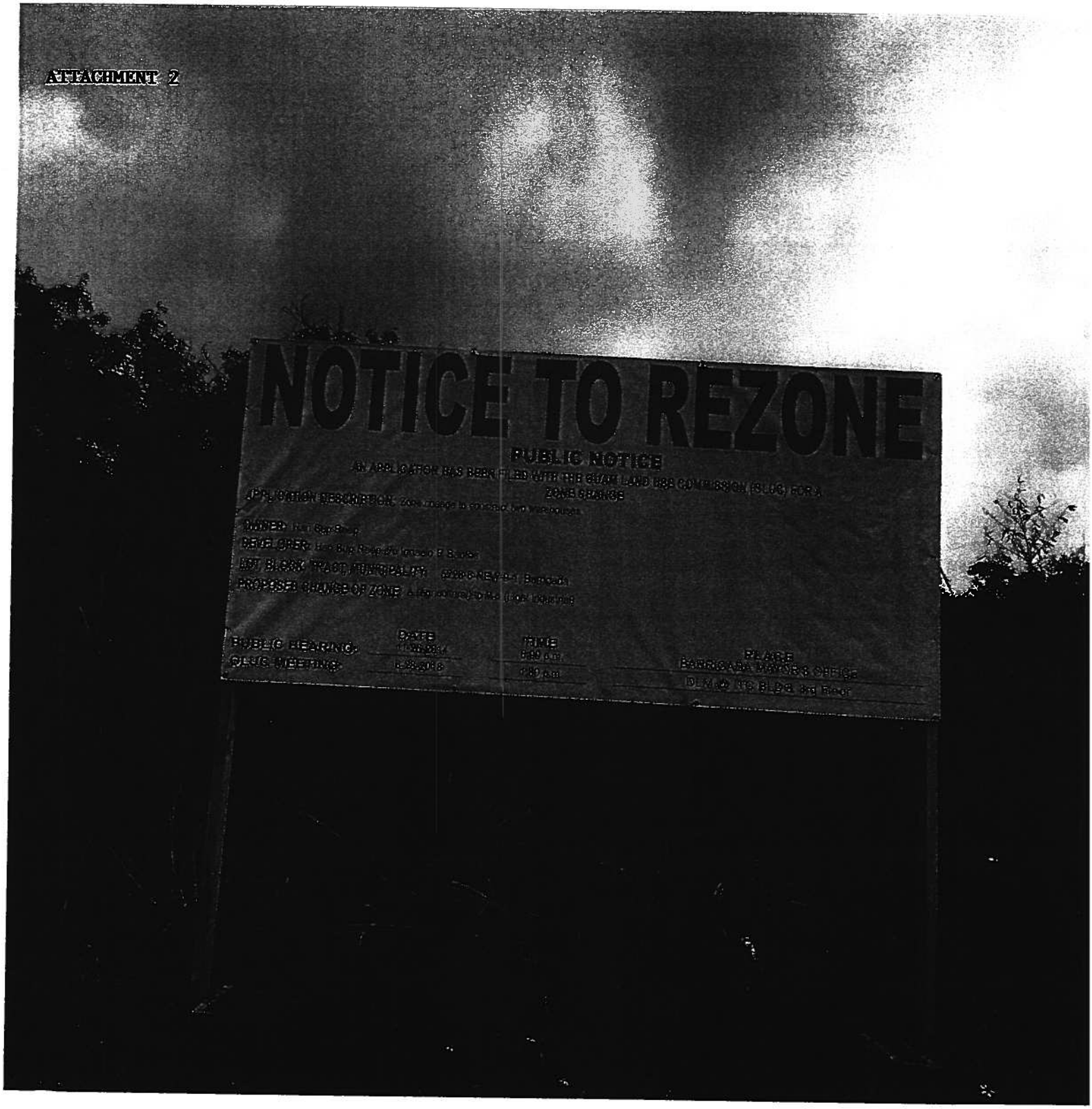
Marvin Q. Aguilar

Attachment: Location Map



Doc. No. 34GL-18-2282.

ATTACHMENT 2



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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

June 6, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Change Application – 2013-25

Listed below are the APPLICATION REVIEW COMMITTEE POSITION STATEMENTS as submitted:

PERMANENT VOTING MEMBERS

1. DEPARTMENT OF LAND MANAGEMENT: Recommend APPROVAL WITH CONDITIONS as follows:
   That the Applicants adhere to all ARC recommendations as provided in their respective position statements.

2. GUAM ENVIRONMENTAL PROTECTION AGENCY:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

3. DEPARTMENT OF AGRICULTURE:
   Agriculture has reviewed the subject lot and request for a "Zone Change" from an "Agricultural" to an "M1" zone and finds that there are no major impacts to any agricultural activity and to any environmental issues regarding endangered species and habitat. However, our agency does recommend and require that proper mitigation measures are in place to prevent spillage of any industrial chemicals associated with any development activities. This is to protect our "Northern Aquifer" the major source of Guam's drinking water. To also aide in protecting our environment Agriculture encourages the land owner and developer to incorporate a landscaping plan that includes indigenous and/or fruit tree species planted on the site. These trees will help filter chemical pollutants and have the added benefits of windbreak protection, shading and an aesthetic component to enhance the area.

4. GUAM WATER WORKS AUTHORITY:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

5. GUAM POWER AUTHORITY:
   Comments and Recommendations Concerning GPA requirements:
   - GPA has no objection; however, customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations.
   - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
   - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electrical 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.
   - Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
   - A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
   - All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

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

6. DEPARTMENT OF PARKS AND RECREATION:
   We reviewed the subject application and have determined that the proposed zone change will not affect historic properties within the subject lot. Therefore, we have no objection to the approval of this zone change application.

7. DEPARTMENT OF PUBLIC WORKS:
   The Department of Public Works (DPW) has inspected the location area on April 25, 2013 and has no objection to the applicant's requests, with the following conditions:

   To install a sign on site, which is one of the requirements from the applicant, that will serve as a landmark to the exact location of the property; Restroom must be ADA compliant; and, If the owner chooses to use a solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not impact the public rights of way.

8. BUREAU OF STATISTICS AND PLANS:
   Based on our review of the subject application as submitted, the Bureau provides the following comments and/or concerns:

   The Bureau believes the proposed activity is consistent with existing activities in this particular area. According to the AICUZ (air Installation Compatible Use Zone) study and maps, this area is classified as APZ 1 (Accident Potential Zone), Ldn 65-70 (day-night average sound level). The AICUZ area represents the environs of an air facility, both on and off station, that are impacted by either safety hazards of noise from aircraft operations. APZ 1, Ldn 65-70 is described as imposing a lessened degree of hazard but is still of strong enough impact to seriously affect

residential or populated areas. The area is loud, but more tolerable in soundproofed structures. Industrial and commercial activities would be acceptable, along with agricultural uses. Given that the adjacent lot and lots nearby are a warehouse/equipment storage type activity and the activity due west is a light industrial/commercial land use (Conwood Hardware), the Bureau views the proposed zone change for auto repair and safety inspection activity expansion as a compatible activity.

Because the subject lot is located over the Northern Lens, we are concerned with oil petroleum and lubricants that may be stored or used on site. Also, we are concerned with the potential of these fluid accidentally making their way to the ground and seeping below. Steps must be taken to ensure that the Pollution Protection Plan is submitted to Guam Environmental Protection Agency (GEPA) for approval.

Should the zone change be approved, the Bureau recommends that there are measures to ensure that the property will be landscaped in such a way to provide a buffer between the subject lot and residential dwellings. This will improve the area in order to be aesthetically pleasing but also help reduce storm water runoff.

Because the site is presently an agricultural designated lot, we suggest that the applicant coordinate with the Department of Agriculture for an Agricultural Impact Statement.

This area is not served by public sewer. The closest sewer line in the immediate vicinity is along Route No. 16. The applicant proposes a sanitary holding tank to handle all wastewater from the proposed project. Due to the activity proposed, the Bureau believes waste water generated from the site will be minimal. However, the Guam Environmental Protection Agency (GEPA) and the Guam Waterworks Authority (GWA) will be the entities to determine the appropriateness of a sanitary holding tank.

In light of the increase of development and need for warehouse activity, the Bureau finds the proposed zone change request to adequately justify public necessity, public convenience and general welfare, and therefore recommends approval. With regards to the proposed church, the use is permitted in an "M-1" zone. The Bureau hopes our concerns and recommendations are taken into consideration as the commission reviews this application and makes its final decision.

EX-OFFICIO MEMBERS

1. DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

2. GUAM FIRE DEPARTMENT:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

3. GUAM ECONOMIC DEVELOPMENT AUTHORITY:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

4. GUAM PUBLIC SCHOOL SYSTEM:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

5. DEPARTMENT OF CHAMORRO AFFAIRS:
   No Position Statement has been received as of the date of this Memorandum of June 6, 2018.

Marvin Q. Aguilar
Chairman, ARC

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

Lorilee T. Crisostomo
Director

5/17/2013

MAY 14 2013 RECEIVED

RECEIVED
MAY 15 2013
Department of Land Management
Time: 7:20 Init:

MEMORANDUM

To: Chairman, Guam Land Use Commission

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: Position Statement on **Application No. 2013-25**; Lot 5223-6-NEW-9-1, Barrigada; Han Sun Reep; Zone Change – A to M-1; Proposed Use: Warehouses.

The applicant is requesting to rezone the subject lot from "A" (agriculture) to "M-1" (light industrial) in order to construct two (2) 5,000 square feet warehouses. One of the warehouses will be for storage and the other will be used on the weekends as a place of assembly for the church which the applicant attends. The on-site improvements will consist of 58 parking stalls with 4 accessible parking stalls and a catchment system to handle all surface water runoff within the project boundary. A six foot high concrete wall will be installed along the rear and side yards of the property and all utility infrastructures such as water and power to serve the project will be located underground and within the property boundaries. Public sewer is not available. The property is 5,271 square meters or 1.42 acres in land area and is adjacent to other property applying for a zone change to "M-1" light industrial as well. Access to the property is via Route 16 onto an unnamed road north of Juan G. Fejeran Street on the foot of Barrigada Heights and also north of the Department of Revenue and Taxation compound. According to the applicant's representative, construction of the 2 structures will be of butler style material. The surrounding land uses within a 750 feet radius consists of a warehouse, the Coca Cola storage facilities, Catholic Social Services, a quarry and single family dwellings.

Based on our review of the subject application as submitted, the Bureau provides the following comments and/or concerns.

1. The Bureau believes the proposed activity is consistent with existing activities in this particular area. According to the AICUZ (Air Installation Compatible Use Zone) study and maps, the area is classified as APZ 1 (Accident Potential Zone), Ldn 65-70 (day-night average sound level). The AICUZ area represents the environs of an air facility, both on and off station, that are impacted by either safety hazards of noise from aircraft operations. APZ 1, Ldn 65-70 is described as imposing a lessened degree of hazard, but is still of strong enough impact to seriously affect residential or populated areas. The area is loud, but more tolerable in soundproofed structures. Industrial and commercial activities would be acceptable, along with agricultural uses.

6-17-13

2. Given that the adjacent lot and lots nearby are a warehouse/equipment storage type activities and the activity due west is a light industrial/commercial land use (Conwood Hardware), the Bureau views the proposed zone change for auto repair and safety inspection activity expansion as a compatible activity.

3. Because the subject property is located above the Northern Lens, we are concerned with oil, petroleum and lubricants that may be stored or used on site. Also, we are concerned with the potential of these fluids accidentally making their way to the ground and seeping below. Steps must be taken to ensure that the Pollution Protection Plan is submitted to Guam Environmental Protection Agency (GEPA) for approval.

4. Should the zone change be approved, the Bureau recommends that there are measures to ensure that the property will be landscaped in such a way to provide a buffer between the subject lot and residential dwellings. This will improve the area in order to be aesthetically pleasing but also help reduce storm water runoff.

5. Because the site is presently an agricultural designated lot, we suggest that the applicant coordinate with the Department of Agriculture for an Agricultural Impact Statement.

6. The area is not served by public sewer. The closest sewer line in the immediate vicinity is along Route No. 16. The Applicant proposes a sanitary holding tank to handle all wastewater from the proposed project. Due to the activity proposed, the Bureau believes waste water generated from the site will be minimal. However, the Guam Environmental Protection Agency (GEPA) and the Guam Waterworks Authority (GWA) will be the entities to determine the appropriateness of a sanitary holding tank.

In light of the increase of development and need for warehouse activity, the Bureau finds the proposed zone change request to adequately justify public necessity, public convenience and general welfare, and therefore recommends approval. With regard to the proposed church, the use is permitted in an "M-1" zone. The Bureau hopes our concerns and recommendation are taken into consideration as the commission reviews this application and makes its final decision.

LORILEE T. CRISOSTOMO

Cc: GEPA
DoAG
DPW
DPR
GWA

GUAM POWER AUTHORITY

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

RECEIVED
MAY 03 2013
Department of Land Management
Time: 10:41 Intl:

POSTED

April 30, 2013

MEMORANDUM

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

From: General Manager

Subject: Lot 5223-6-NEW-9-1, Municipality of Barrigada, (Han Sun Reep); Zone Change Application from "A" (Agriculture) to "M-1" (Light Industrial) to construct a church and warehouse building. **Application No. 2013-25**

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

A. Comments and Recommendations Concerning GPA requirements:

1. GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
   - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
   - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
   - Provide scheduling and magnitude of project power demand requirements for new loads.
   - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.

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

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

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

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

JOAQUIN C. FLORES, P.E.

ASG/arp

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Han Sun Reep
Location: Lot 5223-6-NEW-9-1, Barrigada
Type of Application: Zone Change
GLUC/GSPC Application No. 2013-25
Brief Project Description:
"A" to "M-1" to construct a church and warehouse building.

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

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

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.

JOAQUIN C. FLORES, P.E.
General Manager

5-2-13
Date

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

ASG/arp

The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor

DLM Planning Div.
Stephanie Dueñas
9:36 A.M 5/23/13

RECEIVED

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
Carl V. Dominguez
Director
Jon Jay Rojas
Deputy Director

May 17, 2013

RECEIVED
MAY 23 2013
Department of Land Management
Time: 2:13 Intl: JM

POSTAL

MEMORANDUM

TO: Chairperson, Guam Land Use Commission

VIA: Director, Department of Land Management

FROM: Acting Director

SUBJECT: Position Statement on Application No. 2013-25
Zone Change from Agricultural ("A") to Light Industrial ("M-1")
Lot No. 5223-6-NEW-9-1, Municipality of Barrigada

Buenas yan hafa adai !

The applicant, Han Sun Reep, is petitioning GLUC for a zone change requests from ("A") to ("M-1"). The proposed project entails the construction of two 5,000 square feet butler type buildings. Thepurpose of the structure is for storing toys and the other to be utilized as a church. The total land area of 5,271 square meters or 56,738 square feet. The existing property is located within the Municipality ofBarrigada.

The Department of Public Works (DPW) inspected the location area on April 25, 2013 and has no objection to the applicant's requests, with the following conditions:

1. to install a sign on site, which is one of the requirements from the applicant, that will serve as a landmark to the exact location of the property;

2. restroom must be ADA compliance; and,

3. if the owner chooses to use a solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not impact the public rights of way.

Dangkulu na si Yu'os Ma'ase !

JON JAY ROJAS

Mrwilson: 5/16/2013
cc: CIP- Acting COE
Chrono

542 North Marine Corps Drive, Tamuning, Guam 96913 • Tel (671) 646-3131 / 3232 • Fax (671) 649-6178

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

Eddie B. Calvo
Governor

Ray Tenorio
Lt. Governor

Raymond F.Y. Blas
Director

In reply refer to:
RC2013-0655

July 23, 2013

RECEIVED
JUL 24 2013
Department of Land Management
Time: 4:22 Init:
POSTED

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DLM Application No.: 2013-25, Zone Change
Lot No. 5223-6-NEW-9-1, Municipality of Barrigada
Applicant: Han Sun Reep, Rep. by: Ignacio F. Santos
Case Planner: Celine Aguilar

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

If you have any questions, please call us at 475-6339.

Raymond F.Y. Blas

Department of Agriculture
Dipåttamenton Agrikottura

RECEIVED
JUL 11 2016
Department of Land Management
Time 3:50 Intl

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

7-11-16

July 8, 2016
Memorandum

To: Director, Department of Land Management

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

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for a "Zone Change" request from an "Agricultural Zone" to an "M1" on Lot 5223-6-NEW-9-1 on a private road off of Rte. 16 and behind Conwood Lumber in the Municipality of Barrigada (Han Sun Reep).**

Agriculture has reviewed the subject lot and request for a "Zone Change" from an "Agricultural" to an "M1" zone and finds that there are no major impacts to any agricultural activity and to any environmental issues regarding endangered species and habitat. However, our agency does recommend and require that proper mitigation measures are in place to prevent spillage and contamination by any industrial chemicals associated with any development activities that are typical of "M1" Light Industrial Zones. These measures include absorption mats and catchment basins this is to protect our **"Northern Aquifer"** the major source of Guam's drinking water. To also aide in protecting our environment Agriculture encourages the land owner and developer to incorporate a landscaping plan that includes indigenous and/or fruit tree species planted on the site. These trees will help filter chemical pollutants and have the added benefits of windbreak protection, shading and an aesthetic component to enhance the area.

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.

7.14.16

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**.

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

MATTHEW L.G. SABLAN
Director

ATTACHMENT D

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

June 11, 2018

Memorandum

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2008-78I Request for Issuance of Ninth (9th) Supplementary Final Public Report

RE: Happy Condo – Registration Number 160

1. PURPOSE:

A. Application Summary: Karen Young S. Kim, represented by Melinda C. Swavely, Esq. request for the Ninth (9th) Supplementary Final Public Report for "Happy Condo", on Lot 10, Block 1, in the Municipality of Tamuning, in an "R-2" (Multi-Family Dwelling) zone, HPR Registration No. 160, under application No. 2008-78I, pursuant to §45101 to §45155, Chapter 45, Horizontal Property Regime Act.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act), §45154, Automatic Expiration of Public Reports.

2. FACTS:

A. Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for "Happy Condo" August 14, 2007 and with an expiration date of September 14, 2009. (Reference Instrument No. 780259 dated October 3, 2008).

B. First Supplementary Final Report was issued on September 24, 2009, expiring on October 24, 2010. (Reference Instrument No. 796768 dated September 2, 2009).

C. Second Supplementary Final Report was issued on June 13, 2011, expiring on November 24, 2012. (Reference Instrument No. 822857 dated June 6, 2011).

D. An Amended Second Supplementary Final Report was issued with a new expiration date of November 24, 2011. (Reference Instrument No. 844836 dated December 3, 2012).

E. Third Supplementary Final Report was issued on November 8, 2012, expiring on December 24, 2012. (Reference Instrument No. 844936 dated December 5, 2012.

F. Fourth Supplementary Final Report was issued on December 24, 2012, expiring on January 24, 2014. (Reference Instrument No. 845124 dated December 11, 2012).

G. Fifth Supplementary Final Report was issued on February 13, 2014 and expiring on March 13, 2015. (Reference Instrument No. 862339 dated March 5, 2014.)

H. Sixth Supplementary Final Report was issued on February 26, 2015, expiring on March 26, 2016. (Reference Instrument No. 875876 dated March 13, 2015).

I. Seventh Supplementary Final Report was issued on April 14, 2016, expiring on May 14, 2017. (Reference Instrument No. 892401 dated May 11, 2016).

J. Eighth Supplementary Final Report was issued on May 12, 2017, expiring on June 12, 2018. (Reference Instrument No. 907811 dated May 30, 2017).

K. Units A and B of the Project have been sold. The developer wishes to continue sale of the remaining units, units C and D.

L. Material changes to the project are as follows:
The project is now subject to the following mortgage and assignment of rental income: 1) Mortgage dated and recorded on May 31, 2012, under Instrument No. 837301, in the Department of Land Management, Government of Guam, executed by Karen Young Sook Kim in favor of Bank of Hawaii in the principal sum of $230,000 plus interest; 2) Assignments of Rents dated and recorded May 31, 2012, under Instrument No. 837302, in the Department of Land Management, Government of Guam, executed by Karen Young Sook Kim, assignor to Bank of Hawaii, Assignee.

The Developer will obtain a partial release of the above reference Real Property Mortgage and Assignment of Rental Income from Bank of Hawaii for each unit at the time of conveyance of such unit.

3. **STAFF RECOMMENDATION:** We recommend issuance of a Ninth Supplementary Final Public Report in order for the developer to continue to market the remaining 2 condominium units, and pursuant to §45154 of Chapter 45, Title 21 the issuance of this Ninth Supplementary Final Public Report is for a period of thirteen months from the date of the GLUC meeting (July 28, 2019).

Marvin Q. Aguilar
Chief Planner

Case Planner: Celine Cruz

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

June 11, 2018

Memorandum

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2008-78I Request for Issuance of Ninth (9th) Supplementary Final Public Report

RE: Happy Condo – Registration Number 160

1. PURPOSE:

A. **Application Summary:** Karen Young S. Kim, represented by Melinda C. Swavely, Esq. request for the Ninth (9th) Supplementary Final Public Report for "Happy Condo", on Lot 10, Block 1, in the Municipality of Tamuning, in an "R-2" (Multi-Family Dwelling) zone, HPR Registration No. 160, under application No. 2008-78I, pursuant to §45101 to §45155, Chapter 45, Horizontal Property Regime Act.

B. **Legal Authority:** Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act), §45154, Automatic Expiration of Public Reports.

2. FACTS:

A. Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for "Happy Condo" August 14, 2007 and with an expiration date of September 14, 2009. (Reference Instrument No. 780259 dated October 3, 2008).

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I. Seventh Supplementary Final Report was issued on April 14, 2016, expiring on May 14, 2017. (Reference Instrument No. 892401 dated May 11, 2016).

J. Eighth Supplementary Final Report was issued on May 12, 2017, expiring on June 12, 2018. (Reference Instrument No. 907811 dated May 30, 2017).

K. Units A and B of the Project have been sold. The developer wishes to continue sale of the remaining units, units C and D.

L. Material changes to the project are as follows:
The project is now subject to the following mortgage and assignment of rental income: 1) Mortgage dated and recorded on May 31, 2012, under Instrument No. 837301, in the Department of Land Management, Government of Guam, executed by Karen Young Sook Kim in favor of Bank of Hawaii in the principal sum of $230,000 plus interest; 2) Assignments of Rents dated and recorded May 31, 2012, under Instrument No. 837302, in the Department of Land Management, Government of Guam, executed by Karen Young Sook Kim, assignor to Bank of Hawaii, Assignee.

The Developer will obtain a partial release of the above reference Real Property Mortgage and Assignment of Rental Income from Bank of Hawaii for each unit at the time of conveyance of such unit.

3. **STAFF RECOMMENDATION:** We recommend issuance of a Ninth Supplementary Final Public Report in order for the developer to continue to market the remaining 2 condominium units, and pursuant to §45154 of Chapter 45, Title 21 the issuance of this Ninth Supplementary Final Public Report is for a period of thirteen months from the date of the GLUC meeting (July 28, 2019).

Marvin Q. Aguilar
Chief Planner

Case Planner: Celine Cruz

RECEIVED
5·22·18 PLANNING
CB

ROBERTS FOWLER & VISOSKY LLP
ATTORNEYS AT LAW

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

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

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

Writer's Direct Email:
swavely@guamlawoffice.com

May 21, 2018

2008-78I
Karen Young S. Kim - Happy Condo
HPR - 9th Supplementary Report
Accepted Date: 22-May-18
Case Planners: Celine Cruz

Via Hand Delivery

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

SUBJECT: **HAPPY CONDO**
REGISTRATION NO.: **160**
TYPE: **REQUEST FOR APPROVAL OF A NINTH SUPPLEMENTARY FINAL REPORT**

Dear Chairman Arroyo and Commissioners:

Our firm represents Karen Young S. Kim ("Developer") of Happy Condo ("Project") on Lot No. 10, Block No. 1, Estate No. 8385, Tumon Heights, Guam 5091#1-1REM-3NEW, Dededo, Guam.

The Developer is requesting the issuance of a Ninth Supplementary Final Report. The Developer has sold two of the four units. However, the Developer sold those units at a loss due to financial hardship at that time. Developer is waiting for Guam housing market prices to go up to sell the remaining units.

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

Sincerely,

Melinda S. Swavely

Attachments

INFORMATION IN SUPPORT OF THE ISSUANCE OF A NINTH SUPPLEMENTARY FINAL REPORT FOR HAPPY CONDO

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

   a. Name of Project: Happy Condo

   b. Location: Lot No. 10, Block No. 1, Tumon Heights, Tamuning, Guam

   c. Zoning: R-2

   d. Developer: Sung Min Choi (now deceased) and Karen Young S. Kim

   e. No. of Buildings and Floors: There is one (1) reinforced concrete apartment building with three (3) floors, the ground level consisting of an access way for ingress and egress to the apartment building, eight (8) parking stalls, gates, refuse facilities and ciphered locked entrance door; the second floor consisting of two (2) units; the third floor consisting of two (2) units.

   f. No. of Units and Unit Types: There are four (4) units. All of the four (4) units have three (3) bedrooms, two (2) bathrooms, a kitchen, living area, dining area, laundry room and a balcony.

   g. Parking Stalls: There are eight (8) parking stalls on the ground level of the Project reserved for use by the individual unit owners, with each unit being assigned two (2) parking stalls for its exclusive use as a Limited Common Element appurtenant to the Unit. Each parking stall shall contain no less than one hundred eighty (180) square feet, and shall have immediate access from the ground level in the Project to the access ways, which lead to the public street. The parking stalls appurtenant to each of the units are as follows:

Apt. No.	Parking Stall Nos.
Unit A	1 & 2
Unit B	3 & 4
Unit C	5 & 6
Unit D	7 & 8

   h. Other Amenities or Features: Gates, access ways, ciphered locked entrance door and refuse facilities.

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

Unit A and Unit B.

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

The following units are not sold: Unit C and Unit D.

4. **Type of extension requested.**

[ ] Preliminary [X] Final

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

Ninth

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

The Developer plans to sell Units C and D when the housing market prices on Guam go up. The Developer sustained a loss on the sale of Units A and B and hopes to recoup some of the loss through the sales of Units C and D. The Developer previously retained the services of Soo K. Choi, principal broker for MACKS Realty, to market the units. At this time, the Developer is marketing the units herself.

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

The Developer plans to sell the remaining two condominium units when Guam's housing market prices go up.

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

The Developer has re-financed the mortgage on the Property. The following prior mortgages and assignments of rental income have been released: 1) Mortgage dated and recorded on November 30, 2007, under Instrument No. 765246, in the Department of Land Management, Government of Guam, executed by Sung Min Choi in favor of Citizens Security Bank (Guam), Inc. in the principal amount of $99,000.00, plus interest; 2) Assignment of Rents dated and recorded November 30, 2007, under Instrument No. 765247, in the Department of Land Management, Government of Guam, executed by

Sung Min Choi, assignor to Citizens Security Bank (Guam) Inc., Its Successors and/or Assigns, assignee; 3) Mortgage dated and recorded on January 22, 2008, under Instrument No. 767754 in the Department of Land Management, Government of Guam, executed by Sung Min Choi in favor of Citizens Security Bank (Guam), Inc., in the principal amount of $150,000.00, plus interest; and 4) Assignment of Rents dated and recorded January 22, 2008, under Instrument No. 767755, in the Department of Land Management, Government of Guam, executed by Sung Min Choi, assignor to Citizens Security Bank (Guam) Inc., Its Successors and/or Assigns, assignee.

The Project is now subject to the following mortgage and assignment of rental income: 1) Mortgage dated and recorded on May 31, 2012, under Instrument No. 837301, in the Department of Land Management, Government of Guam, executed by Karen Young Sook Kim in favor of Bank of Hawaii in the principal sum of $230,000.00; and 2) Assignment of Rental Income dated and recorded on May 31, 2012, under Instrument No. 837302, in the Department of Land Management, Government of Guam, executed by Karen Young Sook Kim, Assignor, to Bank of Hawaii, Assignee.

Developer will obtain a partial release of the above-referenced Real Property Mortgage and Assignment of Rental Income from Bank of Hawaii for each unit at the time of conveyance of such unit.

ATTACHMENT E

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

June 18, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Commission Brief – 6-Month Status Report and Compliance to Conditions of Approval of Application No. 2008-003B, Amended Tentative Development Plan for Lot Nos. 5131NEW, 5131-1, 5126-3-1NEW, Tumon, Municipality of Tamuning

Grandview Development , LLC submits its status report in response to the required 6-month status report condition, as noted on its issued Notice of Actions dated March 29, 2013 and October 27, 2017.

1. With respect to utilities, the applicant submits the installation of underground electrical lines and transformer equipment are pending and waiting on GPA to proceed with the work. and;

2. With respect to utilities, the applicant submits that on November 21, 2017, Grandview Development, LLC met with Stanley Consultants and Parsons. The meeting resulted in a determination that a traffic control light will be required by DPW to support removal of the curbs and center lane median at the proposed main entrance to the mall building and in addition, other upgrades are being required on San Vitores Road aside from the traffic signal light at the intersection and topographic surveys were performed in the 3 areas of concerned and that, ASC Engineers were commissioned for the design and is presently ongoing. and;

3. With respect to new construction, the applicant provides that the approved upgrades as designed by Laguana Architects LLC have yet to go out for bids.

We have review the applicant's submittal and at this time reserved our response and remit it to the Commission for their action.

Marvin Q. Aguilar
Chief Planner

ATTACHMENTS: 6-Month Status Report
NOA dated 3/29/13
NOA dated 10/27/17

FC BENAVENTE, PLANNERS

Planning, Zoning, Land Development Consulting, Permitting

127 Bejong Street, Barrigada, GU 96913
Tel: 671.687.9865 richardjsana@yahoo.com

April 9, 2018

MB 4/9

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 09 2018
CLTC/GALC/GLUC

Mr. Michael Borja
Executive Secretary
Guam Land Use Commission
Department of Land Management
P.O. Box 2950
Hagatna, Guam 96932

Subject: Application No. 2008-003B – Status Report

Hafa Adai Mr. Borja:

We are pleased to submit the attached status report of the approved TDP for Grandview Development LLC a.k.a. Tumon Bay Mall. This was required by the GLUC to submit a status report every six months from the original date of approval of the TDP.

Si Yu'os Ma'ase,

Verified by PDFfiller
04/09/2018

Richard J. Sana
A Duly Authorized Representative

Cc: Mr. Marvin Aguilar, Chief Planner, DLM

Attachments
1. Status Report ✓
2. Notice of Action NOT INCLUDED

Grandview Development LLC
Application No. 2008-003B

Status Report-Updates

Utilities:

Installation of the underground electrical lines and transformers are pending and waiting on GPA to proceed with the work.

Traffic Study:

On November 21, 2017, Grandview Dev. LLC met with Stanley Consultants and Parsons and was determined that a traffic control light will be required by DPW for removal of the curbs and center lane median located at the front of the proposed main entrance to the mall building. Other upgrades are being required on San Vitores Road aside from traffic signal light at the intersection. Topographic surveys were performed in the 3 areas of concerned. ASC Engineers were commissioned for the design and is presently ongoing.

Construction:

The upgrades as designed by Laguana Architects LLC have yet to go out for bids

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

File for Record is Instrument Number 916053
on the Year 20 17 Month 12 Day 19 Time 9:04
Recording Fee DE-OFFICIO Receipt No.
Deputy Recorder: Jane Yamasaki
JANE T. YAMASAKI

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

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

COPY

GUAM LAND USE COMMISSION
Department of Land Management
Government of Guam
P.O. Box 2950
Hagåtña, Guam 96932

NOTICE OF ACTION

October 27, 2017
Date

To: **Grandview Development, LLC**
c/o FC Benavente, Planners
2149 San Miguel Building
Suite 1, Army Drive
Dededo, GU 96929

Application No. 2008-003B

The Guam Land Use Commission, at its meeting on **October 26, 2017**.

____/ Approved ____/ Disapproved **xx**/ Approved with Conditions;

6-month Status Report in compliance to conditions of approval of Application No. 2008-003B, amended Tentative Development Plan for Lot Nos. 5131NEW, 5131-1, 512-3-1NEW, Tumon, Municipality of Tamuning.

NOTICE OF ACTION
Grandview Development, LLC
RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW
Municipality of Tamuning
GLUC Hearing Date: October 26, 2017
Date: October 27, 2017

Application No. 2008-003B

ZONING

___/ Zone Change***

___/ Conditional Use

___/ Zone Variance
[ ] Height [ ] Use

XX/ **6-Month Status Report and Order to Show Cause for an Approved Amended Tentative Development Plan (TDP.**

SUBDIVISION

___/ Tentative

___/ Final

___/ Extension of Time

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

NOTE ON ZONE CHANGE

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

SEASHORE

___/ Wetland Permit

___/ Seashore Clearance

HORIZONTAL PROPERTY REGIME

___/ Preliminary

___/ Final

___/ Supplementary (Specify)

MISCELLANEOUS

___/ Determination of Policy and/or Definitions

___/ Other (Specify)

APPLICATION DESCRIPTION: The Applicant, Grandview Development, LLC; submission of its six-month status report in continuance of an Order to Show Cause for failure to comply with the conditions of approval of an amended TDP for the Grandview Shopping Mall as noted on the GLUC Notice of Actions dated March 29, 2013 and April 14, 2017 under Application No. 2008-003B.

COMMISSION DECISION: The Guam Land Use Commission accept the applicant's Six Month Status Report and that, the applicant is to return in six (6) months for the next status report.

Marvin Q. Aguilar Guam Chief Planner	10-30-2017 Date	John Z. Arroyo Chairman Guam Land Use Commission	12/14/17 Date

Case Planner: Frank P. Taitano
Cc: Building Permits Section, DPW
Real Property Tax Division, Department of Revenue and Taxation

Application No. 2008-003B

CERTIFICATION OF UNDERSTANDING

I/We _____ / _____
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

_____ _____
Signature of Applicant Date

_____ 12/15/2017
Signature of Representative Date

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

_____ _____
Applicant **Date**

Lourdes Benavente 12/20/2017
Representative **Date**

ATTACHMENT G

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

June 27, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Commission Brief - Application No. 2015-29B
(Continuation 2nd Order to Show Cause)

At its regularly scheduled meeting of March 8, 2018 the Guam Land Use Commission (Commission) directed the Executive Secretary to issue a Notice to Show Cause (OTSC) to Wan Fang Construction, Ltd. (WFCL)for the purpose of providing reason and/or causing failure to provide a six-month status report as a condition of approval. Condition No. 8c was provided in the initial Notice of Action dated May 3, 2016 for a height variance. This condition was carried over in the issuance of a second Notice of Action dated September 14, 2017 for an extension of the variance[1].

Since issuance of the OTSC and receipt by AES Construction, Inc. the Division of Planning has been in receipt of certain significant internal changes within the applicant's representation:

1. letter dated March 30, 2018 by Mr. John Sherman, PE stating termination of AES's consulting services to Wan Fang Construction, Ltd.; and

2. A letter from Wan Fang, Ltd. Dated April 6, 2018 that acknowledges AES's resignation as representative to Wan Fang Ltd. However, itself appearing to have not received an official letter from AES, Construction, Inc. The letter was further deferred to Wan Fang's legal counsel, Mr. Randall Cunliffe, Esq. of the Office of Cunliffe & Cook.

[1] With the exception of changes in zones, section 5 of Executive Order 96-26, allows applicants to secure a building or grading permit within one year of issuance of a Notice of Action. Otherwise, such approval will expire. The Commission may grant up to two (2) extension with cause.

On May 24, 2018, the Commission directed the following:

1. Chairman's order that the OTSC be continued for another 30 days with the applicant to return to return on the regularly scheduled meeting of June 28th, 2018 with the following deliverable items:

    a. Prepare an updated status report and timeline on what work can be done within the five months prior to the expiration date of the first extension. In addition, the applicant is to work with Chief Planner on the status report.

    In response, Mr. Cunliffe submitted a letter dated June 22, 2018 as to actions taken to date on behalf of WFCL to address immediate needs of the project at hand. Engaging local engineering group, WB Flores and Associates, the letter briefly addresses the grading plan, an GEPA plan, traffic impact, archeological assessment needs, and monument for disinterred ancient human remains. Mr. Cunliffe further requests a continuance of the OTSC until July 2018.

    The direction to assist the applicant was intended to provide technical assistance to the applicant, particularly at a time where all work efforts to date appear to remain with the original designer, AES Construction, Inc. Since the May 24th meeting, Planning Division has extended its assistance to certain individuals associated with the project.

2. The Chairman further tasked the Chief Planner to discuss with legal counsel on the Commission's authority to revoke the Notice of Action and provide other possible options of action. Mr. Nicolas Toft, Esq. provides *that "there (are) no specific statute regarding revocation – just a general statement in section 61620 that the variance is upon such terms and conditions as the commission deems necessary to conform to the general intent and purpose of the law. (In this respect) it would have to be made clear that the variance was granted with terms and conditions, and that those conditions have not been met. And if those conditions are not met, the board has the authority to take punitive action, including revocation of the variance".*

    We agree with Mr. Toft's opinion as it aligns with our opinion wherein the extent of authority is drawn from the fundamental requirement of protecting and encouraging the health, safety and general welfare of the people of the Territory. Thus, conditions of approval reflect the Commission's intent to remain compliant with its authority and caveats of protection prevails.

    Executive Order 96-26, section 5 requires applicants of land use requests of this sort to obtain building or grading permit for their project within 1 year from the date of NOA recordation. Section 5 further affords the Commission to grant a second extension based on just findings. This project is currently running the one-year course, yet there remains the concern of achieving the goal of compliance given the time remaining on the extension. The granted extension expires on October 6, 2018 or 3 months and 1 week from preparation of this report. And while Mr. Cunliffe's letter focus' on obtaining a permit from the

Department of Public Works, there remains prerequisites of condition that must be satisfied prior to securing such permit. This fact has been articulated to the applicant on various occasions with the suggestion that such prerequisites serve as the basis of any immediate strategic planning to both past and present representatives of this project.

The possibility of revocation is a viable option. We believe the Commission is well within its authority to seek revocation of the one-year extension at any time with the given timeline, provided just cause and reasoning (such as a vote of no confidence) is provided. Given time remaining on the extension, the Commission may also consider allowing the extension to lapse in hope the applicant has secured an approved building or grading permit within time allotted. Granting and denying a second extension may be considered, again with just due process.

We remain available to provide further assistance to the Commission.

Marvin Q. Aguilar

Attachments

1. June 22, 2018 Letter by Mr. Randall Cunliffe, Esq.
2. Copy – E.O. 96-026, section 5
3. Notice of Action
    a. May 3, 2016
    b. September 14, 2017

TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 96-26

RELATIVE TO CREATING THE APPLICATION REVIEW COMMITTEE TO REPLACE THE DEVELOPMENT REVIEW COMMITTEE, AND TO STREAMLINE THE REVIEW PROCESS FOR THE TERRITORIAL LAND USE COMMISSION/TERRITORIAL SEASHORE PROTECTION COMMISSION/GUAM NATURAL RESOURCES BOARD.

WHEREAS, Title 21, Guam Code Annotated created the Territorial Land Use Commission/Territorial Seashore Protection Commission/Guam Natural Resources Board (hereinafter collectively and individually referred to as the "Commission") and invested in the Commission the authority to review all matters pertaining to the zoning, subdivision, granting of conditional uses and variances, and other land and water related uses of public and private land and development within the Territory of Guam; and

WHEREAS, in general, matters coming before the Commission represent exceptions or departures from the Master Plan or existing land use laws of Guam and thus comprise requests for the Commission, acting on behalf of the people of Guam, to grant such exceptions; and

WHEREAS, Executive Orders Nos. 90-09 and 92-06 established and revised the Development Review Committee (DRC) in order to review the impact of proposed developments in the Territory of Guam, Executive Order No. 90-15 established interim guidelines for the DRC, and Executive Order No. 90-10 established requirements for Environmental Impact Assessments for all Commission actions; and

WHEREAS, there is a need for a more efficient and streamlined review process, which entails replacing the existing Development Review Committee (DRC) with a new Application Review Committee ("Committee" or "ARC"), and charging the ARC with the responsibility of evaluating applications for land use matters, and reporting its findings and recommendations to the Commission; and

WHEREAS, the ARC is formulated for the purpose of providing the Commission with technical and professional review, analysis, and advice through individual agency positions concerning various development activities on Guam, so that the Commission can ensure that proposed developments achieve both maximum utility and livability, through provisions for adequate utilities and facilities such as power, water, drainage, schools, parks, traffic circulation, and open spaces for light and air; and

WHEREAS, commercial and residential development in Guam continues at an accelerated rate, and many aspects of these developmental activities create a significant impact upon the environment of Guam; and

WHEREAS, the Guam Environmental Protection Agency (GEPA), pursuant to Chapters 45 through 52, Title 10, Guam Code Annotated, is responsible for providing a

unified, integrated, and comprehensive territory-wide program of environmental protection and procedures to fulfill that responsibility; and

WHEREAS, conducting environmental review and impact assessments is a vital and integral part of the development planning process and is therefore of substantial value and utility to developers and landowners, as well as being in the public interest.

NOW, THEREFORE, I, CARL T. C. GUTIERREZ, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and the laws of Guam, do hereby order that, notwithstanding any other executive order:

(1) For the purposes of implementing this Executive Order and supplementing definitions not contained in Chapters 61 through 63 of Title 21, Guam Code Annotated, the following definitions shall apply:

(a) "**Accessory use**" means a use of land or a building or a portion thereof, when such use is customary and incidental to the actual principal use of the land or building and such accessory use is located on the same parcel of property as the principal use.

(b) "**Applicant**" means the person, government, or other entity which submits any application for consideration before the Commission.

(c) "**Application**" means the complete application form and all supporting documentation required for a project.

(d) "**Barracks**" means a building containing One (1) or more rooms intended or designed to be used or rented for living and sleeping purposes, typically but not exclusively housing provided by an employer for employees. A barracks shall not be construed to mean a hotel.

(e) "**Bed and Breakfast Inn**" means a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

(f) "**Club**" means an organization which operates an establishment for objectives of an athletic, patriotic, political or social nature and not for pecuniary gain, having a bona fide membership list, the majority of members of which pay dues at least once in every year.

(g) "**Clubhouse**" means a building used to house a club or social organization, not conducted for private profit and not an adjunct to, operated by, or in connection with a public tavern, bar, cafe, or other public place.

(h) "**Day**" means a calendar day unless otherwise specified.

(i) "**Lodging House**" or "**Rooming House**" means any building, or portion thereof, containing not more than five guest rooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A lodging house shall

comply with all of the requirements of the Building Code for dwellings.

(j) **"Planned Unit Development"** means land under unified control to be planned and developed as a whole in a single development operation or a programmed series of development operations or phases. A planned unit development generally as a range of uses including residential, commercial, office, and recreational that are designed to be in a harmonious relationship with each other. Such a development is built according to specific plans that include not only streets, utilities, lots, and building locations, but also site plans for all buildings that are intended to be located, constructed, used and related to each other and plans for other uses and improvements on the land as related to the buildings.

(k) **"Project"** means any type of proposal that comes before the Commission for approval.

(2) There is created an Application Review Committee ("Committee" or "ARC") which is comprised of the following permanent voting members:

(a) Department of Land Management, Planning Division (DLM);

(b) Guam Environmental Protection Agency (GEPA);

(c) Department of Agriculture (DAGR);

(d) Guam Waterworks Authority (GWA);

(e) Guam Power Authority (GPA);

(f) Department of Parks and Recreation (DPR);

(g) Department of Public Works (DPW); and

(h) Bureau of Planning (BOP).

The heads of such agencies shall assign senior members of their respective departments to attend the ARC meetings.

(3) Interim ARC Guidelines are hereby established, pending promulgation as rules through the Administrative Adjudication Law. The Interim Guidelines are attached as Appendix A.

(4) This Executive Order shall govern all land and water uses that come before the ARC and the Commission. All applications and other matters that come before the ARC or Commission shall be in compliance with this Executive Order and the attached and incorporated Interim Application Review Committee (ARC) Guidelines. The requirement to conform to the Interim Guidelines shall cease upon the promulgation of rules pursuant to the Administration Adjudication Law.

(5) All applications for Commission action shall first be submitted to the voting member agencies of the ARC for their technical review and analysis. The period of this review and analysis shall not exceed Sixty (60) days from the first ARC meeting at which the application appears on the ARC's agenda; provided, however, that this period may be reasonably extended by the Commission upon written request of an ARC member or the applicant. No items shall be placed on the Commission agenda unless the items are first approved by the ARC. All Commission agenda items must be approved by the ARC not less than Two (2) weeks prior to the scheduled Commission meeting. Except for applications for zone changes, the applicant shall apply for and receive a building or grading permit for the approved 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 expire; provided, however, that the Commission may grant Two (2) one-year extensions of the above approval period.

(6) All applications for conditional use, zone change, variance, subdivision approval, golf courses, any proposed developmental action in wetlands, or for development of aquaculture facilities shall be required to s an Environmental Impact Assessment (EIA) in the format required by the Guam Environmental Protection Agency (GEPA) Administrator; provided, however, that the proposed action may be determined by the GEPA Administrator to be exempt from the EIA requirement as set forth below:

(a) One (1) or Two (2) single family dwelling units on a single lot;

(b) a single duplex;

(c) sign or setback variances;

(d) reduction, relocation or deletion of easements; and

(e) horizontal property regimes.

The above listed projects shall not be exempt from the EIA requirement if the project involves construction and is located within an environmentally sensitive area, which includes, but is not limited to, areas that affect seashore, rivers and streams, wetlands, critical fauna and flora habitats, and aquifer recharge areas.

(7) When there is a change in ownership, management, or directorship of any development project before, during, or after construction on the project, and the project requires an EIA under provisions of this Executive Order, each subsequent owner, manager, or director of the development project shall be subject to all provisions of the EIA in the same manner as the original owner, manager, or director of the development. The owner of the development project shall give written notice to the GEPA and the Territorial Planner of a change in ownership, project manager, or directorship, within Thirty (30) days of the change.

(8) The Planning Division of the Department of Land Management shall provide adm support staff and services for the ARC.

(9) No act prohibited or restricted by any statute, rule, law, or executive order shall be permitted by reason of compliance with this Executive Order No. 96-26.

(10) No permit, license, or requirement under any statute, rule, or law, federal or territorial, shall be waived by reason of compliance with this Executive Order No. 96-26.

(11) This Executive Order No. 96-26 shall operate prospectively only, and applies to all applications submitted to the Department of Land Management after the effective date of this Executive Order No. 96-26. All previously submitted applications shall continue under the procedures in force when the applications were accepted by the Department of Land Management.

(12) The provisions of this Executive Order No. 96-26 are severable and if any provision or part is held invalid, unconstitutional, or inapplicable to any person or circumstances, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of this Executive Order. If the use of the Interim Application Review Committee (ARC) Guidelines are invalid or unlawful, the existing Development Review Committee (DRC) Rules and Regulations, promulgated January 1995, as far as practicable, shall govern all matters before the ARC and Commission until the ARC Rules can be promulgated pursuant to the Administrative Adjudication Law.

(13) Executive Orders Nos. 90-09, 90-10, 90-15, and 92-06 are rescinded.

SIGNED AND PROMULGATED at Agaña, Guam this 28th day of October, 1996.

CARL T. C. GUTIERREZ
Governor of Guam

COUNTERSIGNED:

MADELEINE Z. BORDALLO
Lieutenant Governor of Guam

APPENDIX A
of Executive Order No. 96-26

INTERIM
APPLICATION REVIEW COMMITTEE (ARC)
GUIDELINES

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§1000. Order of Business.
§1100. Severability.

§100. Authority. These Interim Guidelines are established under the authority of Executive Order 96-26 pending promulgation through the Administrative Adjudication Law, Chapter 9 of Title 5, Guam Code Annotated.

§200. Official Name. The official name of the Committee is the "Application Review Committee", referred to as "ARC" or "Committee".

§300. Purpose. The Committee is formulated for the purpose of providing the Territorial Land Use Commission/Territorial Seashore Protection Commission/Guam Natural Resources Board (hereinafter referred to as the "Commission") with technical and professional review, analysis, and advice through individual agency positions concerning various development activities in Guam. Within its mandated area of authority, each ARC agency shall:

(a) Ensure compliance with applicable law, regulatory standards, procedures, policies, and rules within its mandated area of concern;

(b) Evaluate alternative development strategies with the applicant to provide the best development plan for the developer and the community; and

(c) Develop and provide official position statements on applications submitted to the Commission.

§400. Organization. (a) **Permanent Voting Members.** The permanent voting members of the ARC as defined in this Executive Order are:

913334

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

File for Record is Instrument No. 913334

On the Year 20 17 Month 10 Day 06 Time 9:50

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder Jane Yamasaki

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

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

GUAM LAND USE COMMISSION

ORIGINAL

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

AMENDED
NOTICE OF ACTION

September 14, 2017
Date

To: **Wanfang Construction Ltd.**
c/o AES Construction, Inc.
125 Tun Jesus Crisostomo Stree
Tamuning, Guam 96913-3551

Application No. 2015-29C

The Guam Land Use Commission, at its meeting on August 24, 2017,

XX / Approved ___/ Disapproved

Your request on **Lot 164-4NEW-1 in the municipality of Yona, for an extension of a previously-approved zone variance pursuant to section 5 of Executive Order 96-26.**

NOTICE OF ACTION **Application No. 2015-29C**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for extension of previously-approved Variance - Height
GLUC Hearing Date: August 24, 2017

ZONING

____/ Zone Change***

____/ Conditional Use

____/ Zone Variance

[ ] Height [ ] Use
[ ] Density [ ] Other (Specify)
[ ] Side Yard

_____/ TENTATIVE DEVELOPMENT PLAN

SUBDIVISION

____/ TENTATIVE

____/ FINAL

____/ EXTENSION OF TIME

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

NOTE ON ZONE CHANGE

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

==========

SEASHORE

____/ WETLAND PRMIT

____/ SEASHORE CLEARANCE

HORIZONTAL PROPERTY REGIME

____/ PRELIMINARY

____/ FINAL

____/ SUPPLEMENTARY (SPECIFY)

MISCELLANEOUS

____/ DETERMINATION OF POLICY AND/OR DEFINITIONS

_XX_ / OTHER (1-Year Extension per §5 of E.O96-26)

==========

NOTICE OF ACTION **Application No. 2015-29C**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for extension of previously-approved Variance - Height
GLUC Hearing Date: August 24, 2017

APPLICATION DESCRIPTION: The Applicant, AES Construction, LLC on behalf of Wanfang Construction, Ltd was granted a one (1) year extension of a variance for height pursuant to Section 5 of Executive Order 96-26, whereby the applicant must secure a building or grading permit within the one-year timeframe. The previously-approved variance was for height to allow Commercial/common area height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and Tower 2 not to exceed 158-feet mean sea level in an "R-2" (Multi-Family Residential) zone for height, to allow Commercial/common area height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and Tower 2 not to exceed 158-feet mean sea level in an "R-2" (Multi-Family Residential) zone. in an "R-2" (Multi-Family Residential) zone on Lot 164-4NEW-1 Municipality of Yona.

COMMISSION DECISION: The Guam Land Use Commission APPROVED the request for a one-year extension for the purpose of obtaining a building or grading permit within one year from the date of recordation of this Notice of Action otherwise, the approval of the height variance as granted by the Commission shall expire.

9-14-2017
Marvin Q. Aguilar **Date**
Guam Chief Planner
Department of Land Management

9/14/17
John Z. Arroyo **Date**
Chairman
Guam Land Use Commission

Case Planner: Celine Cruz/Marvin Aguilar
Attachment(s): ARC Distribution List

Cc: **Building Permits Section, DPW (Attn: Mr. Joseph Guevara)**
Real Property Tax Division, Department of Revenue and Taxation

NOTICE OF ACTION **Application No. 2015-29C**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for extension of previously-approved Variance - Height
GLUC Hearing Date: August 24, 2017

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CERTIFICATION OF UNDERSTANDING

I/We_____ / Barbara Burkhardt
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

_____ _____ Barbara Burkhardt 10/6/2017
Signature of Applicant Date Signature of Representative Date

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

_____ _____ _____ _____
Applicant **Date** **Representative** **Date**

892368

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

File for Record is Instrument No. 892368

On the Year 14 Month 05 Day 10 Time 2:19

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder Jane Yamasaki

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

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

GUAM LAND USE COMMISSION *ORIGINAL*

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

AMENDED
NOTICE OF ACTION

May 3, 2016
Date

To: **Wanfang Construction Ltd.**
c/o FC Benavente, Planners
127 Bejong Street, Barrigada, GU 96913

Application No. 2015-29B

The Guam Land Use Commission, at its meeting on April 28, 2016,

____/ Approved ___/ Disapproved **XX/ Approved with Conditions**

____/ Tabled

Your request on **Lot 164-4NEW-1 in the municipality of Yona, for a zone variance for height to allow Commercial/common area height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and Tower 2 not to exceed 158-feet mean sea level in an "R-2" (Multi-Family Residential) zone.**

892368

NOTICE OF ACTION
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance - Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016
Page 2 of 8

Application No. 2015-29B

ZONING

____/ Zone Change***

____/ Conditional Use

__XX__/ **Zone Variance**

[X] **Height** [ ] Use
[ ] Density [ ] Other (Specify)
[ ] Side Yard

_____/ TENTATIVE DEVELOPMENT PLAN

SUBDIVISION

____/ TENTATIVE

____/ FINAL

____/ EXTENSION OF TIME

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

NOTE ON ZONE CHANGE

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

==========

SEASHORE

____/ WETLAND PRMIT

____/ SEASHORE CLEARANCE

MISCELLANEOUS

____/ DETERMINATION OF POLICY AND/OR DEFINITIONS

____/ OTHER (SPECIFY)

HORIZONTAL PROPERTY REGIME

____/ PRELIMINARY

____/ FINAL

____/ SUPPLEMENTARY (SPECIFY)

==========

NOTICE OF ACTION **Application No. 2015-29B**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance – Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

APPLICATION DESCRIPTION: The Applicant, Wanfang Construction, Ltd requested to exceed the allowable structural height limitation of thirty (30) feet to construct the Pago Bay Marina Resort, a proposed 14 story and 15 story multi-family structure in an "R-2" (Multi-Family Residential) zone on Lot 164-4NEW-1 Municipality of Yona.

COMMISSION DECISION: The Guam Land Use Commission APPROVED WITH CONDITIONS the request for zone variance for height. Conditions are as follows:

1. **Commission approves the height variance which is lower than what the applicant requested with the following restrictions:**
   a. **Commercial/common area height is not to exceed 58-feet mean sea level;**
   b. **Tower 1 not to exceed 168-feet mean sea level ;and**
   c. **Tower 2 not to exceed 158-feet mean sea level).**

2. **Applicant adheres to all conditions listed below and as provided by the Application Review Committee. Such recommendations shall serve as conditions of approval under Condition 2 as follows:**

   Conditions as recommended by the Guam Environmental Protection Agency:
   a. **The applicant must conduct a comprehensive soil analysis to determine percolation rate, taking into consideration the water table, to be used as a basis of design for a storm water management plan;**
   b. **Comply with the requirements of the 2006 Guam CNMI and Guam Storm Water Management Manual or current storm-water management plan and associated pre-treatment program, as directed by GWA.**
   c. **The sewer discharge must be contained in a holding tank and a pump station with a capacity of 24 hours to allow schedule of pumping by GWA during non-peak hours, as directed by GWA.**
   d. **The proposed discharge points must bypass the Pago Double Shaft Sewer Pump Station, as directed by GWA.**
   e. **Cleaning and maintenance of any swimming pool must not be discharged to the sewer system. It must be pumped by a private company and discharged at an acceptable location, as directed by GWA.**
   f. **The wastewater pump station requires a certified operator to operate for compliance with the 10 GCA Chapter 52, the "Water and Wastewater Operator's Mandatory Certification Act", as directed by GWA.**
   g. **Pumping of sewage to GWA's gravity main must be scheduled during non-peak hours.**
   h. **The applicant must construct a water storage tank with a minimum capacity of 24 domestic demands and the required fire flow, as directed by GWA.**
   i. **The water point of connection must be before the Pago Bay Booster station to conserve energy, as directed by GWA.**
   j. **Non-potable water for landscape and other non-domestic use must be explored by collecting rainwater.**
   k. **With respect to wetland protection, wetland areas must be protected and a buffer of 30 feet must be maintained.**
   l. **The project must comply with all the requirements of Guam EPA regulations to be incorporated during the issuance of building permit clearance (i.e. Solid Waste Management Plan, Boring and Dewatering Permit, Air Emission permit, etc.).**

Conditions of approval as recommended by the Guam WaterWorks Authority:

a. GWA recommends coordination with the GWA Engineering Department well in advance of the building permit application submittal. Discussions shall include the proposed project's impacts on existing water and sewer infrastructure and any required infrastructure improvements.
b. Water service point of connection, connection details, water service line and meter size must be illustrated in the design drawings and approved by GWA.
c. The water demand and sewer production calculations provided in the variance application do not specifically identify associated water uses, such as the pool and the water park. Utility calculations should identify all water demand activities and sewage sources, including restaurants and laundry facilities, if any.
d. If water and sewer infrastructure are installed by the developer, they will require prior approval and shall be subject to inspection by GWA.
e. The applicant shall install the water meters in the right of way or easement. If the developer will include a food preparation facility, then a grease trap shall be required. Backflow preventers are required for non-residential activities.
f. New development is subject to water and/or sewer system development charges (SDC).

Conditions of approval as recommended by the Guam Power Authority:

a. GPA has determined that significant infrastructure upgrades, that includes but is not limited to, switches, voltage regulators, load transfers and capacitor banks must be completed in order to support this project. GPA is also investigating the line extension of feeder P-211 to support the Pago Bay Marina Resort as a permanent solution. Consequently, the infrastructure upgrades, at a minimum of those referenced above, shall be completed prior to final service connection of Pago Bay Marina Resort.
b. The applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
    i. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
    ii. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code;
    iii. Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
    iv. Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
    v. Provide any revision to scheduling and magnitude of project power demand requirements for new loads.
    vi. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
    vii. Required system upgrades will be charged to the applicant. This includes relocation costs, new installation costs and all costs associated with modification of GPA facilities.

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

Conditions of approval as recommended by the Department of Parks & Recreation:

a. The developer must hire a qualified archaeologist to prepare an Archaeological Monitoring, Discovery, and Data Recovery Plan in consultation with our office. We recommend that Mr. Sana and Mr. Sherman schedule a meeting soon, with the appropriate DPR staff to discuss the concerns raised.
b. Prior to any approval by the GLUC, the developer must secure an agreement with DPR to address and resolve the reburial of human remains and the public beach access to the ocean shore.

Conditions of approval as recommended by the Department of Public Works:

a. Incorporate eco-green and energy efficient as part of your design concept.
b. Provide structural analysis for winds velocity that can withstand 170 mph;
c. Outdoor amenities including landscaping must be design in detail and make use of its physical and biological resources which will make a great impact to the environment;
d. Must provide a soil report and geology engineering report;
e. Must provide a traffic impact analysis to be coordinated with DPW, Division of Highways (Traffic Control Section); to include,
   i. A request the widening of Route 4; and
   ii. Creation of a turning lane south-bound into Yona.
f. Parking layout, parking stalls (compact standard and accessible stalls) must comply with the American Disability Act (ADA) requirements;
g. Entrance/exit must be wide enough for public access;
h. Must provide public access to the beach area; and
i. Provide solid waste compositions.
j. DPW recommends approval subject to comments review by the Application Review Committee (ARC) with conditions that the complete set of design drawings must meet all the requirements in conformance with the latest building code edition applicable to civil, structural, architectural, mechanical, electrical, plumbing including flood zone and ADA requirements.

Conditions of approval as recommended by the Bureau of Statistics & Plans:

a. Provide an open vegetated buffer between the shoreline and buildings in accordance with Policy NS-9 of the NCGLUP.
b. Employ erosion and sediment controls during construction of the 239-unit building to ensure that sedimentation is avoided and the debris are not allowed to fall and flow into the water.
c. Coordinated with the Guam Environmental Protection Agency (GEPA) for effective implementation of erosion control methods.
d. Guam Wanfang, Construction Ltd. is advised to avoid clearing, grading and construction over the wetlands located in Lot 164-4NEW-1.

e. Discharge of storm-water into the Pago River and Pago Bay should be avoided to the fullest extent practicable.

f. Submit a drainage plan showing methods or practices for managing storm-water on site implement best management practices on the property to control erosion and runoff during and after construction of the project in accordance with current storm-water management plan per DPW direction.

g. Consult with the Guam EPA for effective implementation of storm-water management practices.

h. The applicant is encouraged to implement Low-Impact Development (LID) practices such as permeable pavement for parking lots and walkways, grassed swales, island bio retention, and/or rain gardens into the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water. An electronic file of the guidebook "Island Storm-water Practice Design Specifications" is available at the Bureau's, Guam Coastal Management Program office.

i. The applicant is encouraged to implement LID practices such as permeable pavement for parking lots and walkways, grassed swales, island bio retention, and/or rain gardens into the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water.

j. Avoid the use of invasive plants is encouraged. Although the project identifies tropical landscaping on the property, the applicant is encouraged to incorporate native plants as well. The applicant is advised to preserve native vegetation on the property.

k. The applicant is encouraged to consult with Department of Agriculture in using organic fertilizers or pesticides for landscaping purposes to avoid additional contaminants from entering the Pago River and Pago Bay. The applicant may also seek guidance from Guam EPA regarding their Pesticide Control Program.

3. In matters remaining unresolved by individual agencies particularly that of matters concerning infrastructure, the applicant shall be restricted from submitting and/or securing any permit requests to include, not limited to, building permits until such time such agency concerns have been satisfied;

4. The applicant shall complete and implement a re-design plan. Such new design shall:
   a. Be based on maximum footprint consideration(s) available by law (239 units);
   b. Best blend into the natural beauty of Pago Bay;
   c. In its current design, the applicant attempts to promote a level view corridor serving reason for "two tower" design. The applicant shall resume or retain this intent to provide, as best as possible, a design that will not interfere with view corridors;
   d. SUCH DESIGN SHALL SERVE AS THE BASIS FOR IDENTIFYING APPROPRIATE HEIGHT LIMITATIONS; maximum height for the three structures – commercial building and common area the height is not to exceed 58-feet mean sea level, Tower 1 not to exceed 168-feet mean sea level and for Tower 2 not to exceed 158-feet mean sea level; and,
   e. Within six (6) months of recordation of approval the applicant shall submit re-design plans with supporting information of such design to the Guam Chief Planner for assessment of compliance. After review, such information shall be forwarded to the Guam Land Use Commission for its consideration and approval at the next available regularly scheduled hearing.

NOTICE OF ACTION **Application No. 2015-29B**
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance – Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

5. **All commercial operations associated with the Pago Bay marine Resort intended to occur within or in association with the Territorial Seashore Reserve shall require consent and approval by the Guam Seashore Protection Commission;**
6. **Owners/operators of the Pago Bay Marina Resort shall engage the technical assistance expertise of the University of Guam in implementing beach/bay cleanup program; and partnered marine science education program;**
7. **Owners/operators of the Pago Bay Marina shall provide public access to the beach area of the bay. Such access shall allow for egress/ingress of emergency vehicles and public use of the Territorial Seashore Reserve throughout the bay pursuant to the requirements of providing untrammeled use of the beach and its natural beauty pursuant to Title 21GCA, Chapter 61, Section 61617(e);**
8. **That prior to securing any permits for the purpose of construction, the applicant shall engage in crafting and securing an agreement between the applicant/property owner and the GLUC, where;**
   a. **The purpose of agreement shall serve solely to assure the availability of funding for demolition of structures associated with this project in the event the developer fails to realize the project completion as a result of lack of funding;**
   b. **The agreement shall contain and provide a timeline for projection completion;**
   c. **From the date of recordation of approval, the applicant shall submit a written report every six (6) months to the GLUC on the status of the project with respect to associated phases of development to include a status of funding for the overall project;**
   d. **Elements of agreement may include, but not limited to:**
      i. **Bonding at 110% of the cost of the project;**
      ii. **In the event that the Commission determines through substantial evidence the need, order and execute its authority vested in the agreement, the applicant may within a time period found to be reasonable by the Commission, appeal its decision citing appropriate reasonable justification to rescind such order;**
      iii. **The applicant may request release of bonding and/or instruments of binding agreement at the time of projection completion and final occupancy is secured through the Department of Public Works.**

9. **Conditions of approval shall be transferable to new owners, when applicable.**

5/4/2016
Marvin Q. Aguilar **Date**
Guam Chief Planner
Department of Land Management

5/4/2016
John Z. Arroyo **Date**
Chairman
Guam Land Use Commission

Case Planner: Celine Cruz
Attachment(s): ARC Distribution List

Cc: **Building Permits Section, DPW (Attn: Mr. Joseph Guevara)**
Real Property Tax Division, Department of Revenue and Taxation

892368

NOTICE OF ACTION
Wanfang Construction, Ltd.
Lot 164-4NEW-1- Municipality of Yona
Request for Variance - Height
GLUC Hearing Date: April 28, 2016
Date of Preparation of NOA: May 3, 2016

Application No. 2015-29B

==========

CERTIFICATION OF UNDERSTANDING

I/We_____ / Raymond Bower for GB Hanse,
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

_____ _____ _____ 5-10-16
Signature of Applicant Date Signature of Representative Date

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

_____ _____ _____ _____
Applicant **Date** **Representative** **Date**

892368

Decision Granting Variance with Findings **Ref: Application No. 2015-29B**

ACKNOWLEDGEMENT

Filed with the Department of Land Management on 5th day of MAY, 2016 in accordance with 21 Guam Code Annotated Section 61620.

MICHAEL JB BORJA
Director of Land Management
or Designee

ACKNOWLEDGEMENT

Filed with the Department of Public Works on 9th day of May, 2016 accordance with 21 Guam Code Annotated Section 61620.

GLENN LEON GUERRERO
DIRECTOR OF PUBLIC WORKS
or Designee

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

892368

DECISION GRANTING VARIANCE
WITH FINDINGS
[Pursuant to Title 21 GCA §61616 (a) through (h), (j) and (k)]

Guam Land Use Commission

WHEREAS, the following decision of the Guam Land Use Commission is made in accordance with 21 GCA §61616, §61617, and §61620, now therefore;

BE IT RESOLVED, that on the **28th day of April 2016**, a hearing of the Guam Land Use Commission (GLUC) was held in accordance with notices duly issued to consider the application of **Wanfang Construction, Ltd.** for a Zone Variance for (Setback/**Height**/Density/Sign/Parking) **on Lot 164-4NEW-1 in the Municipality of Yona.**

A quorum of the Commission was present. In attendance were:

1. **Mr. John Z. Arroyo, Chairperson**
2. **Mr. Victor Cruz, Vice-Chairman**
3. **Mrs. Beatrice P. Limtiaco, Member**
4. **Mr. Tae Oh, Member**

Appearing before the Commission representing the applicant were:

1. **Mr. Richard Sana (Planning Consultant)**
2. **Mr. John Sherman (Architecture & Engineering Consultant)**

Also appearing and testifying on the above project was/were:

See Attachment in favor / **against**
See Attachment **in favor** / against

After considering all statements and testimony presented by interested parties GLUC finds that the application, for **ZONE VARIANCE for Height is GRANTED** on the following grounds: (Note : All five (5) sections should be answered)

a. **THAT THE STRICT APPLICATION OF THE PROVISIONS OF TITLE 21, GCA, CHAPTER 61, RESULTS IN PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS INCONSISTENT WITH THE GENERAL PURPOSE AND INTENT OF THE LAW. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:**

The applicant provides that the variance requested is for an increase in height and density[1]*. The applicant notes that north and west areas of the properties have setbacks in excess of 100' and 120' respectively; and which contributes immensely to increasing the open spaces on the property. The significant amount of property in*

[1] The original variance request was two-fold as the applicant requested for both height and density variance. At the hearing date of April 28, 2016 the GLUC unanimously disapproved the request for a density variance, citing the lack of justification for such a request. The GLUC proceeded to approve with conditions that which was requested for a height variance.

wetlands (32%); coupled with the significant amount of lineal footage land, located within riverside and ocean shore frontage, places unique development constrain requirements on full use of the property; thus qualifying for a request for greater density. Ownership has worked diligently to prepare a design that works very well with the unique qualities of the property, providing adequate spaces for light and air, and preventing undue concentration of population, and assuring the adequate utilities and amenities are provided to support the project. Disallowing the height variance will result in difficulty and unnecessary hardship inconsistent with the general purpose, spirit and intent of the zoning law, which is the protection and promotion of the public health, safety and general welfare of the people of Guam. The GLUC further found where any consideration to recommend an allowance to exceed the height limitation was warranted only as recourse to protect nearby natural resources and sensitive habitat through avoidance. The statute covering density[2] allows the subject property 239 units. The placement of these units cannot follow standard or typical displacement throughout available land space due to development constraints that are driven by habitat and natural resource protection, as provided under current law.

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

The applicant submits the property is located in an area that encourages multi-family activity as displayed by the "R-2" zoning designation. A reasonable transition from a vacant unmanaged lot, to the Pago Bay Marina Resort twin tower multifamily building, housing a managed community which places a premium on the property's unique origin and its sensitive land features; and is dedicated to their protection, is an appropriate use of this property. The height and density variance allows for reasonable use of the property while complying with the existing zoning requirements. These circumstances do not apply to other properties in the same area. Again, the GLUC further found where any consideration to recommend an allowance to exceed the height limitation was warranted only as recourse to protect nearby natural resources and sensitive habitat through avoidance. The statute covering density[3] allows the subject property 239 units. The placement of these units cannot follow standard or typical displacement throughout available land space due to development constraints that are driven by habitat and natural resource protection, as provided under current law.

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[2] See Title 21GCA, Chapter 61, Article 5, Sub-Article 5, Section 61502.
[3] See Title 21GCA, Chapter 61, Article 5, Sub-Article 5, Section 61502.

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

The GLUC found that implementing a design that restricts lateral development to a more restricted footprint compliments the general objective of promoting public health, safety and welfare by allowing more open space to displace flooding due to the effects of storm surges and committing the first few stories to commercial and not residential-occupancy use. As the property exists at near sea level and in close proximity to submerged areas, the GCP was confident the applicant will be required to meet certain flood elevation standards.

In analyzing structural elevations, that the first 30 feet of the structure will incorporate non-residential occupancy such as a sub-ground parking garage program, open space parking and recreational space at the baseline level, and commercial space on the first two floors. This design appears logical and sensible as a means to ultimately protect human life from hazards of flooding, storms, and possible tsunami.

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

The applicant submits that the "Guam Master Plan" as shown in the zoning map allows the location of multifamily uses in the "R-2" zone. This request is in reasonable accordance with and not contrary to the plan.

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

The applicant submits that the proposed building will substantially enhance the recreational, aesthetic, and commercial value of the beach area. Subsequent development of the property may be anticipated. However, plans will not interfere with or adversely affect the surrounding property owner's or public's rights to untrammeled use of the beach and its natural beauty. Likewise, as part of the

conditions associated with the issued Notice of Action, the applicant is required to provide appropriate access for the public and emergency vehicles to beach area resources.

The members of the commission, after due consideration, voted to approve the request for a height variance by granting such request with conditions.

The vote of the members is as follows:

4 Ayes **0 Nays** **0 Abstentions**

This decision was adopted the **28th** day of **April, 2016** and shall be filed with the Department of Land Management and the Department of Public Works as mandated under Title 21, GCA, Section 61616 to 61617 and 61501.

John Z. Arroyo
Chairman, Guam Land Use Commission

F. RANDALL CUNLIFFE
JEFFREY A. COOK

JEFFREY A. MOOTS

LAW OFFICES

Cunliffe & Cook

Suite 200
210 Archbishop Flores Street
Hagåtña, Guam 96910

TELEPHONE (671) 472-1824
TELEFAX (671) 472-2422
E-MAIL cclaw@teleguam.net



NB 6/22

June 22, 2018

HAND DELIVER

Mr. John Z. Arroyo, Chairman
GUAM LAND USE COMMISSION
590 S. Marine Corps Dr.
Ste. 733, ITC Bldg.
Tamuning, GU 96913

RE: **Guam Wanfang Construction**

Dear Chairman Arroyo:

I write on behalf of Guam Wanfang to provide you some updated information. Guam Wanfang has retained WB Flores and Associates to assist with the process. Mr. Flores advises that:

(1) The Grading plan will be finalized by 6-25 and ready for certification and permit application.

(2) The EPA plan will be completed on 6-24.

(3) The Stormwater Pollution Protection Plan will be completed on 6-22 and the electronic notice of intent for a general construction permit will be filed with USEPA on 6-25.

(4) They are looking at the traffic impact from the development planning, including appropriate thresholds of significance.

(5) Guam Wanfang has spoken to Vic April regarding the need for an archeologist. He has indicated a willingness to assist.

(6) Guam Wanfang has discussed the monument for the disinterred human remains from the neighboring project. Exactly what will be done is under review.

Mr. Flores is engaged in expediting the project. Both he and I have been in contact with Marvin Aguilar for his invaluable assistance in bringing this project into compliance. There is still much to do.

All that having been said, I am requesting a continuance of Guam Wanfang's next hearing until the latter part of July, as I am currently off island on business. I return to Guam on June 24, 2018, but have to depart again on June 27, 2018 and return July 18, 2018.

Any consideration to this request will be most appreciated.

Sincerely,

CUNLIFFE & COOK

F. RANDALL CUNLIFFE

FRC:rsb Letters 2018
June, 2018 G-0199

cc: Mr. Mike Sun
Mr. William B. Flores

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

File for Record is Instrument Number 926081

on the Year 20 18 Month 09 Day 24 Time 3:18

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANE T. YAMASAKI

Above Space for Recorder's Use only

COPY

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, July 26, 2018
1:40 p.m. to 2:45 p.m.

GUAM LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning
Thursday, July 26, 2018 • 1:40 p.m. to 2:45 p.m.

MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Tae S. Oh, Vice Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Hardy I.T. Vy, Commissioner

[Excused: Commissioner Victor F. Cruz]

PLANNING STAFF PRESENT:

Mr. Michael Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

Mr. Marvin Aguilar, Guam Chief Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, July 26, 2018 • 1:40 p.m. to 2:45 p.m.
[As advertised in the Guam Daily Post on July 19th, 2018 and July 24th, 2018]

I. Notation of Attendance

Chairman Arroyo called to order the regular meeting of the Guam Land Use Commission for Thursday, July 26, 2018 at 1:40 p.m., noting a quorum.

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

[Excused: Commissioner Victor Cruz]

II. Approval of Minutes

Chairman Arroyo for approval today is the Minutes of the GLUC meeting of May 24, 2018; Commissioners have had the opportunity to review the Minutes, Chairman Arroyo entertained a motion for approval.

Commissioner Vy Mr. Chair, I make a motion to approve the GLUC meeting Minutes of May 24, 2018.

Chairman Arroyo motion to approve by Commissioner Vy; second?

Commissioner Bathan second.

Chairman Arroyo seconded by Commissioner Bathan. [No discussion noted] All in favor of the motion to approve say "aye" [Chairman Arroyo, Commissioner Vy, Commissioner Bathan], all opposed say "nay." **[Motioned passed – 3 ayes, 0 nay]**

Also, on the table for approval is the Minutes of the GLUC meeting of June 28, 2018 which has also been emailed to the Commissioners. Chairman Arroyo asked for a motion.

Commissioner Vy Mr. Chair, I make a motion to approve the GLUC Minutes of June 28, 2018.

Commissioner Bathan seconds the motion.

Chairman Arroyo motion made by Commissioner Vy, seconded by Commissioner Bathan. [No discussion noted] All in favor of the motion say "aye" [Chairman Arroyo, Commissioner Vy, Commissioner Bathan], all opposed say "nay." **[Motion passed – 3 ayes, 0 nay]**

III. Old or Unfinished Business [None]

IV. New Business [None]

V. Administrative and Miscellaneous Matters

Order to Show Cause

A. **Application No. 2015-29**, Guam Wanfang Construction Ltd., represented by Atty. Randy Cunliffe; Order to Show Cause as to reason(s) and/or failure to submit its required six-month status report in a timely manner for the Pago Bay Resort project, on Lot 164-4NEW-1, in the Municipality of Yona. **[Continuation – GLUC Hearing of June 28, 2018]**
Case Planner: Marvin Aguilar/Celine Cruz

Chairman Arroyo Marvin or Celine, is there anything more you want to add.

Marvin Aguilar (Guam Chief Planner) noted that there was no supplementary report for the Commission today.

Chairman Arroyo for the record, Chairman Arroyo notes the receipt of correspondence authorizing Mr. Andrew Laguana to take any and all action necessary to effectuate the representation of Guam Wanfang at today's hearing.

[Exhibit 1 – Letter of Authorization dated July 24, 2018]

Chairman Arroyo invited the applicant's representative to come forward and provide the Commission with its presentation.

Randy Cunliffe Legal Counsel for Guam Wanfang Construction with Mr. Andrew Laguana, Architect.

Chairman Arroyo an Order to Show Cause was issued approximately about 60-days ago. The Order to Show cause was basically to provide the Commission with a response as to why Guam Wanfang has not been providing its six-month status report as required by the Notice of Action (NOA). At the last meeting attended by Attorney Cunliffe, he had mentioned that he was just recently hired by the company and was having difficulties obtaining information from the previous representative who was also the architect of the project. The Commission then allowed for an additional 30-days to return to the Commission, and at that time there was a request to postpone the hearing because Attorney Cunliffe was off-island; however, Mr. Jeff Cook who was present at that last meeting was not able to provide the Commission with any information.

The Commission is here today to obtain a status on where the project is at this point and time in meeting the deadlines of the NOA, and moving forward with the permits. The NOA expires October 10th, 2018.

Last year, the Commission granted a one-year extension to Guam Wanfang Construction; and come October 2018, it will be two-years since the NOA was issued, and still nowhere any further than where the Commission was two years ago.

Randy Cunliffe Mr. Sun, who is the new representative for Guam Wanfang could not be on Guam for this meeting due to Visa issues. Mr. Cunliffe explains that he returned a week ago and what has happened since is that AES has filed a lien against the property, materials lien based upon the previous work for the project. Guam Wanfang has since hired Mr. Laguana as the new architect on the case who has advised Mr. Cunliffe that he has serious concerns about his ability to work with the documents that were prepared by AES because of proprietary issues. Mr.

Laguana has drawn new architectural designs which Mr. Cunliffe understands are different from the original designs and will be presented to the Commission today. It is Mr. Cunliffe's understanding that the designs are almost complete.

Mr. Laguana has also been in communication with Guam Waterworks Authority regarding availability of water for this project. Mr. Cook has only been involved with regard to the potential litigation with AES and is currently working with AES's lawyer. Mr. Willie Flores who has also been retained for the project's engineering work could not make today's meeting. Mr. Cunliffe added that he had spoken with Mr. Flores yesterday, but was not aware on how far he has gotten with the project. Because of the new design for the project it casts a new light on the situation.

Andrew Laguana explains that he was hired by the applicant approximately three weeks ago to come up with a design for the project.

The land area is 28,000 square meters and that is about six-acres of land, and 8,000 square feet of that is wetland. Considering the 28,000 square meters, 241 units can be built on this parcel; however, if you are only looking into the 20,000 square meters that can be developed what would be the new density. The 8,000 square meters of wetland can be considered open space and becomes a buffer to the river and the residents of Chalan Pago.

Mr. Laguana continues to discuss the parking structure; number of parking spaces for new density; the height of the structures; setbacks; the parcel's elevation; traffic impact study due to the blind curves; what is considered a good residential project. Mr. Laguana clarified that this is strictly condominiums and not a resort or hotel. Mr. Laguana took into consideration a "new village" that could include a convenience store, daycare, coffee shop, bakery, and possible storage units for the tenants. These are the things that would comprise of a good residential complex.

[Recording Secretary – notes arrival of Vice Chairman Tae Oh at 1:50 p.m.]

Andrew Laguana if two building structures are to be built, there will be 180-feet wide between the buildings which will have a huge view corridor of the ocean. Mr. Laguana has designed the buildings to be nine-stories high (131-feet building height) which includes the ground floor parking, second floor podium and the rest of the floors for residential units.

[Mr. Laguana shows preliminary drawings to include various views of the structure from street level, ocean view, front view, beach access for the public, open space.]

Chairman Arroyo asked if the new designs will be submitted to the Commission.

Andrew Laguana responds that he would he like to formally submit the design to the Commission.

Chairman Arroyo questions.

Andrew Laguana added that he has only had three weeks to work on this project, and it will take quite a bit of time to develop a good project. Mr. Laguana comments that it took him six-months to design the new Guam Museum, and that his goal is to provide good architecture on Guam; and, is very sensitive to what is built on the island.

Randy Cunliffe inquired how many copies of the new design will be needed.

Chairman Arroyo the Commission is looking at a brand-new project. Chairman Arroyo comments that he was not too sure how the Commission would treat this new information that was provided today's because it seems that the whole process will need to start from the beginning since the height has been lowered, there is a new design, wetlands discussed, parking numbers, traffic study, etc.; and now it appears as though the applicant will be requesting for additional time, and that the October deadline for building permit to be obtained will not be met.

Andrew Laguana comments that his major concern is the availability of water for this project, and has been meeting and discussing this issue with Guam Waterworks. This is highest impact for the residents living in this area. Other items that need to be addressed is availability of sewer and a traffic impact study to be done.

Chairman Arroyo the design that was presented to the Commission today is definitely an improvement over what was originally presented to the Commission. However, Chairman Arroyo's feeling is that this is a brand new project, and thinks that the community deserves input on this new design. The Commission would be doing a dis-service to the community if we did not allow the residents to state their concerns or their support of this project by making a decision today.

Randy Cunliffe has discussed these issues with Mr. Laguana, and Mr. Cunliffe has also discussed them with the principles in China and how they wish to proceed with the project. They have indicated that they would like to proceed as it is going now. Mr. Cunliffe advised them that he was not sure if that would happen or not.

Chairman Arroyo asked Legal Counsel's comments.

Nick Toft (Legal Counsel) there is nothing in the variance code that covers what happens when a project that starts out as something and changes half-way through. Questions that come to mind are how different are the effects on the power, water, ecological footprint, does the new project comply with Codes. It seems like an entirely whole new project.

Chairman Arroyo since the density is less, Chairman Arroyo assumes that there would be less demand on water, power, sewer and less demand on traffic as well. Chairman Arroyo further comments that he cannot disregard the public. This project was a very difficult one to deal with originally, and at the initial stages we gave the public every opportunity to voice their opinion and it was by large part negative. He cannot ignore the public's concerns with respect to this new re-design. Chairman Arroyo is considering the revocation of the approved variance and start this project all over again.

Vice Chairman Oh a status update is supposed to provide the Commission on what has progressed since the issuance of the NOA. Understanding the history of this project, the NOA had been issued quite sometime ago and that no clearing and/or grading permit has been issued. Vice Chairman adds that he was unsure if it was possible at this point to obtain the permits before the expiration of the NOA in October 2018; and, would like to know where the project stands. From what was presented at today's meeting it seems that the project has taken some steps back from the last hearing. The last hearing, the representative from Wanfang discussed issues on the reburial of human remains, current lawsuit, building permits, etc. Today, it appears to be back to square one with a whole new design phase. The Commission has to consider the intent of the NOA and the fact that the NOA was very specific in terms of ensuring that the developer had to meet the certain conditions which has not been met. Vice Chairman Oh agrees with Chairman

Arroyo that the Commission has to reconsider this project, and agreed that it is a whole new design and new intentions for residential use only.

Andrew Laguana comments that if he is to work on this project, it will be what he comes up with because he is very sensitive to what is built on Guam, and agrees with Chairman Arroyo that the public's input is needed as well as the Mayor's support of the project, what is the water demand, what are the impacts, and what is needed to fix it so that the project is a viable one.

Randy Cunliffe when it became an issue that they did not believe that they could use any of the previously created designs everything had to start again and everything was put on hold. It is a whole new scope of work, and until this gets approved and ready to go, the other questions cannot be answered and this has been discussed with his clients.

Chairman Arroyo the Commission is all on the same page on this situation. And as you move forward with this new design you can work closely with the community because there were issues on the previously approved design; and hopefully, you can work together and find a win win situation for both the developer and the neighbors. Chairman Arroyo was ready to entertain a motion to revoke the variance.

Commissioner Bathan commends the applicant for providing the new design that they are currently working on which is somewhat a scaled down project, and considering the comments of the community and that is a good start. It is the best interest of the developer and the community to start fresh with this project.

Vice Chairman Oh because of the Commission's past experience, Vice Chairman Oh wanted a definitive answer as to who the representatives were for Wanfang Construction. Vice Chairman Oh is aware that Mr. Cunliffe is Legal Counsel, Mr. Willie Flores is providing the engineering work, and Mr. Mike Sun is the legal representative of the developer.

Randy Cunliffe confirms that Mr. Flores is still working on the engineering portion for the project other than the architectural work, and that they are currently working on a visa for Mr. Sun who is the representative from the company so that he will be allowed to stay on Guam to oversee the project rather than flying back and forth when a visa is available.

[Discussion ensues]

Commissioner Bathan whatever the decision is made by the Commission today with regards to this project, Commission Bathan states for the record that the Commission is not against development on the island, and for this project specifically, this will be best decision that the Commission will make for the community.

Vice Chairman Oh wanted a clear picture on who represents the developer and to ensure that there is consistency in representation.

Commissioner Bathan Mr. Chair, I would like to make a motion to **revoke** the Notice of Action that was issued to the Pago Bay Resort project on Lot 164-4NEW-1, in the Municipality of Yona.

Chairman Arroyo there is a motion on the floor made by Commissioner Bathan to revoke the Notice of Action. Is there a second.

Vice Chairman Oh seconds the motion.

Chairman Arroyo seconded by the Vice Chairman; any discussion on the motion.

Marvin Aguilar (Guam Chief Planner) two Notices of Action was issued for this project; the original variance and the extension of time, and asked that the motion be clarified on the Notices of Action.

[Discussion ensues]

Chairman Arroyo since the motion has been seconded, Chairman Arroyo asked that Commissioner Bathan withdraw her original motion and restate it to include the Notices of Action as mentioned by Mr. Aguilar. ***[Commissioner Bathan withdraws her original motion; acknowledged by Chairman Arroyo – first motion has been withdrawn.]***

Commissioner Bathan Mr. Chair, I would like to make a motion to **revoke** the Notice of Action that was issued to Pago Bay project, on Lot 164-4NEW-1, in the municipality of Yona under Application No. 2015-29B, recorded under Instrument Number 892368, and Application No. 2015-29C, recorded under Instrument Number 913334.

Chairman Arroyo the motion by Commissioner Bathan to revoke both Notices of Action; is there a second.

Vice Chairman Oh I second.

Chairman Arroyo seconded by Vice Chairman Oh; discussion on the motion. [None]

All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Oh, Commissioner Bathan, Commissioner Vy], all opposed say "nay." **Motion is approved; 4 ayes, 0 nay.**

Is there any other business for discussion today.

Chairman Arroyo when is the next meeting Cris –

Cristina August 9th and/or August 23rd.

[Discussion ensues]

Chairman Arroyo is there anything else.

Vice Chairman Oh discussed the voting requirements under the new hybrid commission. There was legal opinion issued that was disseminated by email; however; Vice Chairman Oh would like it to be read for the record.

Nick Toft (Legal Counsel) there was an existing rule/regulation that stated a minimum of four (4) positive votes were acquired for a motion to pass and this was prior to the hybrid law being passed, and that was when the Commission was seven (7) members. And that regulation had not been amended either when the Commission went to five members or when the hybrid commission was added. The effect of that rule/regulation was that if a motion did not pass it was merely tabled unless there was an equal, common motion to disapprove and then passed. The AG's opinion stated that due to the passing of the hybrid commission law, and the non-amendment of the rule and regulation, that that rule and regulation was essentially null and void.

Going forward, the Commission should treat that rule/regulation as if it did not exist and go basically under the regular Robert's Rules of motion passing and how things are effective.

Vice Chairman Oh and would be under regular Commission ---

Nick Toft if a vote does not pass it does not mean that the issue is tabled for the next hearing, the application "dies" at that point.

Marvin Aguilar but in order to disapprove a project, another motion has to be made to disapprove.

Nick Toft under the old rules that needed to be done, not anymore.

[Discussion ensues. Mr. Borja brings up the LZ Company project; and comments that as a result of the AG's opinion, LZ Company was on its second table from two motions that did not garnish support; and because of this recent opinion, that application is now denied.]

Chairman Arroyo reaffirms Mr. Toft's comment that this Commission has the authority to make its own rules and regulations.

Nick Toft it would have to go through the proper notification; and placing it on the Commission's agenda.

[Lengthy discussion ensues on voting.]

Chairman Arroyo if there is nothing further, Chairman Arroyo was ready to entertain a motion to adjourn.

VI. Adjournment

Vice Chairman Oh made a motion to adjourn today's meeting, seconded by **Commissioner Vy**; with all in favor.

The regular meeting of the Guam Land Use Commission for Thursday, July 26, 2018 was adjourned at 2:45 p.m.

Approved by:

John Z. Arroyo, Chairman
Guam Land Use Commission

Date approved:

Aug. 23, 2018

Transcribed by:

M. 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, July 26, 2018

Time of Meeting: GLUC: 1:40pm | GSPC:

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

COMMISSION MEMBERS	SIGNATURE
Chairman John Z. Arroyo	
Vice Chairman Tae Oh	
Commissioner Conchita D. Bathan	
Commissioner Victor Cruz	ABSENT (MEDICAL)
Commissioner Hardy T.I. Vy	

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

ADJOURNMENT GLUC: 2:45 PM GSPC:

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

[X]	GLUC	[X]	Regular	Date:	Thursday, July 26, 2018
[ ]	HLUC	[ ]	Special	Time:	1:40 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	2:45 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.
RANDALL CUNLIFFE	GUAM WANFANG	472-1824
ANDREW LAGUAÑA	ARCHITECTS LAGUAÑA Inc	632-6251/2
	- Mike Follows -	

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, July 26, 2018
[X]	HLUC	[ ]	Special	Time:	1:40 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	2:45 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Vicente Strong	Save Southern Guam, Inc.	789-4500
CHELIKA GARCIA	ARCHITECTS LAGUA	632-6251/2
URIAH PEREZ	MCAG	355-2342
Lagia Casil	Save Southern GUAM	688-7139
John Stehgall	Pago Bay	788-2222
Joanne Brann	Pres. Pago Bay Save Southern Guam — nothing further —	789-2241

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

GUAM LAND USE COMMISSION

Chairman John Z. Arroyo
Vice Chairman Tae S. Oh
Commissioner Conchita D. Bathan

Commissioner Victor F. Cruz
Commissioner Hardy T.I. Vy

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

AGENDA

Regular Meeting
Thursday, July 26, 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 July 19th and July 24th, 2018]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, May 24, 2018 and June 28, 2018

III. Old or Unfinished Business [NONE]

IV. New Business [NONE]

V. Administrative & Miscellaneous Matters

Order to Show Cause

A. **Application No. 2015-29**, Guam Wanfang Construction Ltd., Order to Show Cause as to reason(s) and/or failure to submit its required six-month status report in a timely manner for the Pago Bay Resort project, on Lot 164-4NEW-1, in the Municipality of Yona. **(Continuation – GLUC Hearing of June 28, 2018]** Case Planner: Marvin Aguilar/Celine Cruz

VI. Adjournment



July 24, 2018

TO: GUAM LAND USE COMMISSION

RE: AUTHORIZATION

To whom it may concern:

This shall authorize, **Andrew Laguana**, to take any and all actions necessary to effectuate representation of **GUAM WANFANG CONSTRUCTION LTD.** at the hearing scheduled for Thursday, July 26, 2018, at the Guam Land Use Commission.

Dated this 24th day of July, 2018.

GUAM WANFANG CONSTRUCTION LTD.

By _____
LONGZHI SUN (Mike Sun)
Its Assistant Manager

Authorization re Guam Wanfang

F. Randall Cunliffe <cclaw3@teleguam.net>

Tue 7/24/2018 5:29 PM

To: 'William B. Flores' <wbsmflor@wbflores.com>; admin@architectslaguana.com <admin@architectslaguana.com>; LAND MGT DIRECTOR <LANDMGTDIRECTOR@land.guam.gov>;

Importance: High

1 attachment

Auth re GuamWanfang.pdf;

Dear Sirs:

Attached please find a copy of the Authorization from Mr. Sun to Mr. Andrew Laguana with regard to representing Guam Wanfang Construction at the hearing scheduled July 26, 2018 before the Guam Land Use Commission. Should you have any questions, please do not hesitate to contact me. Thank you.

/s/

F. Randall Cunliffe, Esq.
CUNLIFFE & COOK
210 Archbishop Flores St., Ste. 200
Hagåtña, GU 96910-5189
Telephone: (671) 472-1824
Telefax: (671) 472-2422
Email: **cclaw3@teleguam.net**

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