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

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

PAUL L. SANTOS
Acting Director

January 29, 2019

35GL-19-0084

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

From: Planning Division
Department of Land Management

2019 JAN 30 PM 4:32 KC

Hafa Adai,

Pursuant to 5GCA, Chapter 8, Section 8113.1; submitted herewith for your perusal are the Guam Land Use Commission Minutes for:

1. Guam-Hybrid Land Use Commission, Thursday, September 27, 2018; and,
2. Guam-Hybrid Land Use Commission, Thursday, December 13, 2018.

Please call our office at 649-5263 ext. 300 or 375 if you have any questions and/or require additional information.

Thank you,

Speaker Tina Rose Muna Barnes

RECEIVED
DATE: 1-30-19
2:40PM

0084

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

File for Record is Instrument Number 930898

on the Year 20 19 Month 01 Day 28 Time 3:04

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANE T. YAMASAKI

Above Space for Recorder's Use only

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GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, September 27, 2018
1:42 p.m. to 3:45 p.m.

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning, Guam
Thursday, September 27, 2018

GLUC MEMBERS PRESENT:

Mr. Tae S. Oh, Acting Chairman
Ms. Conchita D. Bathan, Commissioner

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

HYBRID MEMBERS PRESENT:
Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon
Mr. Rudy Matanane, Mayor of Yigo
Ms. Melissa Savares, Mayor of Dededo
Mr. Rudy Paco, Mayor of Mongmong-Toto-Maite

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

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, September 27, 2018

Time of Meeting:

GLUC:	
HYBRID:	1:42 pm

	GLUC
	Regular
	Special
	Quorum
	No-Quorum

X	HLUC
X	Regular
	Special
✓	Quorum
	No-Quorum

COMMISSION MEMBERS	SIGNATURE
Acting Vice Chairman Tae S. Oh	
Commissioner Conchita D. Bathan	
Commissioner Hardy T.I. Vy	Excused
Chairman, VACANT	
Commissioner, VACANT	

HYBRID COMMISSION: Tumon Sands Plaza, Application No. 2018-35A-D MCoG DLM 2018-07

Mayor Louise Rivera	
Mayor Rudy Matanane, Yigo	
Mayor Melissa Savares, Dededo	
Mayor Rudy Paco, Mongmong-Toto-Maite	
Michael J.B. Borja, Executive Secretary	
Nicolas E. Toft, Legal Counsel (OAG)	
Marvin Q. Aguilar, Chief Planner	
Frank Taitano, Planner IV	
Penmer Gulac, Planner IV	
Celine Cruz, Planner IV	
M. Grace Vergara, Planner II	
M. Cristina Gutierrez, W	

ADJOURNMENT: GLUC: HLUC: 3:45 pm

GUAM-HYBRID 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

[ ]	GLUC	[X]	Regular	Date:	THURSDAY, SEPTEMBER 27, 2018
[X]	HLUC	[ ]	Special	Time:	1:42pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	3:45 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.
DAN SOAVELY	GLUC #2018-35 (A, B, C, D	688-8029
MONTE MESA	TSP	888-1944
	— NOTHING FOLLOWS —	

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

GUAM-HYBRID 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

[ ]	GLUC	[X]	Regular	Date:	THURSDAY, SEPTEMBER 27, 2018
[X]	HLUC	[ ]	Special	Time:	1:42pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	3:45 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
RICHARD MESA	TSP	888-1944
[illegible] FRYER	TSP	689-4266
STEVEN STREIB	TSP	888-6283
	— NOTHING FOLLOWS —	

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETNG MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, September 27, 2018 • 1:42 p.m. to 3:45 p.m.
[As advertised in the Guam Daily Post on September 20th and 25th, 2018]

I. Notation of Attendance

Acting Chairman Oh called to order, the regular meeting of the Guam-Hybrid Land Use Commission for Thursday, September 27, 2018 at 1:42 p.m., noting a quorum.

Present were: Acting Chairman Tae Oh, Commissioner Conchita Bathan, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Chief Planner Marvin Aguilar, Mayor Louise Rivera (Tamuning), Mayor Melissa Savares (Dededo), Mayor Rudy Paco (MTM) and Mayor Rudy Matanane (Yigo).

[Excused: Commissioner Hardy Vy]

II. Approval of Minutes

Acting Chairman Oh before the Commission today is the Minutes from the last GLUC-Hybrid Commission meeting of Thursday, August 23, 2018. Commissioners have had the opportunity to review the Minutes, Acting Chairman Oh requested for a motion.

Mayor Savares made a motion to approve the Minutes of August 23, 2018 as submitted.

Mayor Rivera seconds the motion.

Acting Chairman Oh motion on the floor made by Mayor Savares, seconded by Mayor Rivera [No discussion noted] All in favor of the motion to approve the Minutes of August 23, 2018 say "aye" [Acting Chairman Oh, Commissioner Bathan, Mayor Rivera, Mayor Savares, Mayor Paco and Mayor Matanane], all opposed say "nay."

[Motion passed; 6 ayes, 0 nay]

III. Old or Unfinished Business [None]

IV. New Business

Tentative Development Plan

A. Application No. 2018-35A, the Applicant, S1082 SPE LLC, dba: Tumon Sands Plaza (TSP) represented by Daniel D. Swavely; requests an amendment to a previously approved Tentative Development Plan for their Tumon Sands Plaza Redevelopment Plan 2018, on Lots 5093-R1-R2-1NEW-NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planner: Celine Cruz/Frank Taitano [MCoG DLM 2018-07]

Celine Cruz (Case Planner) reads the staff report to include purpose, facts, chronological facts, discussion and staff analysis, recommendation and conditions. [For full content/context, see attached staff report]

[Attachment A – Staff Report dated September 24, 2018]

Acting Chairman Oh questions for staff.

Commissioner Bathan asked whether or not the landscaping cost requirement of ten-percent applies to this application.

Celine Cruz responded that since this is an amendment to a previously approved TDP it shouldn't; however, it was included because there will be additional landscaping that needs to be involved in this development. But, also art-scaping is included as well. The applicant may meet the ten-percent development cost based on this.

Acting Chairman Oh based on the agenda received, the TDP application number is 2018-35D; the staff report states 2018-35A.

Marvin Aguilar (Chief Planner) for the record, the correct application number is 2018-35A; the TDP has to stand before any variances can be considered.

[It was noted that an adjustment in the application numbers will be revised]

Acting Chairman Oh noting no further questions for staff, Acting Chairman Oh invited the applicant's representative to present the application.

Daniel Swavely joined by Mr. Monte Mesa, General Manager for Tumon Sands Plaza. Presented the application before the Commission.

- 45 years ago, when Tumon Sands Plaza was developed in Tumon it has become a successful business and a landmark in Tumon and has been good for the tourist industry. Visitor profile is different now consisting of young singles, young families, families, so things are changing not only on Guam, but globally. There is a shift away from luxury market goods to upper scale goods plus family dining and family entertainment.
- This new tentative development will introduce to Guam three new restaurants within Tumon Sands Plaza and a virtual reality entertainment center.
- Footprint describes the egress/ingress into TSP. The new features of the TDP is a new two-story structure to the back which will add a couple hundred extra parking spaces to the already existing 300 parking spaces. It is a two-story steel over the existing parking lot.
- On the side is the general location of the virtual reality entertainment center. This concept will be new on Guam and presented by this specialty business.
- The other strip, about 100-feet of the 336-foot long is where they are requesting approval for a partial front yard setback variance to accommodate al fresco dining for the bottom restaurant Red Lobster and for the top restaurant which is Chili's.

[This concluded Mr. Swavely's presentation]

Acting Chairman Oh Commissioners, any questions for the applicant. [None noted] Acting Chairman Oh is aware that a public hearing was held for this application, and asked if there were any major concerns and/or issues from the residents or community.

Dan Swavely responds that he did not see any concerns, and a lot of the questions were answerable by either yes or no; and, that the public hearing wrapped up fairly quick. The brunt of the concerns was generated by the Tamuning Municipal Planning Council.

Mr. Swavely explains that there were two aspects that arose from the TMPC;

1. The TMPC did not want an issue that will come up in the future with for the request of a side yard setback variance. This variance is needed because of an easement going back to Hambros, and there is nothing that can be built next to it because it is an easement, and the variance is justifiable. The concern of the MPC with regards to the vacant parcels is the possibility of the parcels being consolidated. This led the applicant to submit a supplemental application deleting the request for the easement.
2. The proposed patio at the bottom floor is asking for authority into TSP's 10-foot setback; anywhere from 3'8-1/2" to 5'6-3/4" from the property line rather than 10-feet. MPC understands the concept, but is requesting that the sidewalk is at least 8-feet wide. This will be at the greatest constrictor between the patio coming out and the edge of the sidewalk; 8-feet wide. Bear in mind that TSP does not sit flushed with San Vitores Road; 20-feet from one end and 10-feet on another end. The farther you come from this direction the more the building goes back from the right-of-way. After adjustments were made it will be 8-feet, 6-1/2" wide.

Acting Chairman Oh trying to understand the ingress/egress into the property. From the eastern side and northern side, Acting Chairman Oh asked if this was an ingress/egress.

Dan Swavely it is both egress/ingress on both sides.

Acting Chairman Oh if there is a new structure going in the northern side it will sit on top of the egress/ingress.

Dan Swavely it is a second story structure only; 14-feet, 6-inch clearance between the parking and floor of the new structure. The structure sits on columns. It is above because of the repositioning business model. TSP would like more people circulating Tumon Sands Plaza. They do not want a street entrance for this attraction, foot traffic is wanted to traverse through the Plaza. And for this reason, that is why the parking structure is only a second-story.

This TDP took years to develop and really well thought out and this is why the virtual reality entertainment center is a second story only structure.

Monte Mesa the reason for the 14-1/2-feet height request is in order to accommodate shipping containers for TSP's tenants. There will be some covered parking from this building.

[Discussion ensues on egress/ingress and parking]

Acting Chairman Oh asked that they further elaborate on the type of business and/or concept of the virtual reality center.

Monte Mesa explained that this is a new concept that was developed and happening already in the U.S. Mainland. There is one particular company that TSP has been in discussion with in Korea that has opened up four of these virtual reality entertainment centers within a shopping center. Discussion has been ongoing to potentially bring this type of center to Guam. They have expanded outside of Korea into Hongkong and Thailand and possibly Vietnam. This particular project is different from what they are used to because shopping centers in Korea already have structures that are able to accommodate their minimum requirement of a 20-foot high ceiling so that they could have rides for kids and adults and also bring in the aesthetics of themed characters that are huge. With an approval of the application, TSP is hoping that this will entice the company to make the investment here on Guam. The company is excited about bringing this center into the U.S. and Guam will be the first opportunity to do so.

Acting Chairman Oh is the virtual reality structure is a one-story structure.

Dan Swavely it is a tall structure. First, they are starting at 14-1/2 feet above grade, and secondly, they need a more than normal space between the floor deck and the finished floor to accommodate facilities that will support the entertainment center. And as mentioned, the company requires 20-feet clear space for the facilities. And above that they require the average amount of area, clear space, and then a 5-foot parapet around the roof to protect roof top equipment. When this is all added together, they are up 47-1/2 feet and only allowed 30-feet. The height variance can be 5-feet less than that is being requested because this would be legal for the parapet.

Acting Chairman Oh this is an additional 20,000 square feet which is about an increase of 15-percent of floor space being created. And the need for additional parking?

Dan Swavely the current footprint is about 132,000+/- feet. With respect to parking, Tumon Sands Plaza does not get calculated on parking the way a normal retail store walk-in/out. TSP monitored visitors coming into the Plaza everyday, every hour; and for that reason, they know that 50-percent of the people in TSP walk in; 32-percent get to TSP by either shuttle or trolley; 2-percent by limo and taxi and the remaining 16-percent are privately owned vehicles.

Acting Chairman Oh is an MPC required for a TDP application.

Marvin Aguilar this is a hybrid commission including the MPC; but in the past, it is at the initiative of the Commission to vote outside of any other concurrence.

Mayor Rivera in the past, any applications that go before the MPC is voted on after the public hearing. Being that this application's public hearing was on September 18th, the MPC was not scheduled to meet until the following week and this was explained to Mr. Swavely. The MPC was presented the application prior to the public hearing; and they had concerns which was addressed by the applicant. The MPC has not voted on this application as a whole.

Dan Swavely understands the Mayor's position on the application. Mr. Swavely added that they are very respectful of the MPC's concerns; they had two and was addressed in writing, both

positively. They deleted the setback and gave assurance of an 8-1/2-feet clearance at the smallest constricted area between the patio and the landscaping. The insurance is this, TSP cannot get a beneficial occupancy permit until it is measured and approved by a Public Works' inspector. Mr. Swavely believes that the legit concerns of the MPC has been covered.

Acting Chairman Oh it was mentioned that to the north where Hambros is located there is an easement; is this public easement.

Dan Swavely it is a public easement.

Acting Chairman Oh does TSP have access to this easement.

Dan Swavely technically they could, but it does not fit because where they go out, they have to come in as well and that is why they have retained their north easement of their property entirely.

Marvin Aguilar this easement was granted by the property owner; the property owner is the second property of this huge parcel, and was granted for the property that contains Hambros and specifically constructed for them and the other two lots behind Hambros which has now been incorporated Tumon Sands Plaza scheme. So technically, it is for Hambros only. It is a dotted easement and the Lot No. is 5079A-R1. When that lot comes in for development it is possible for that easement to be removed to accommodate that will occur in that one big parcel.

Acting Chairman Oh there was a recent approval of a hotel abutting the other side of this property. There was discussion about egress/ingress in this area and how difficult it could be. There should be discussion with the neighboring property to address a shared egress/ingress which can benefit both properties.

Acting Chairman Oh comments that there is a lot of working currently going on at Tumon Sands Plaza, and asked if they could further elaborate on what is to come to TSP.

Monte Mesa explained that at this time they are finishing up the construction for the Olive Garden; this is entirely inside the building. The original building of the TSP was the first phase, and when Tiffany's and Louis Vuitton were added that was the second phase, and the third phase is the south-side building where Olive Garden will be situated. The new building will be the fourth phase of the redevelopment of Tumon Sands as they continue to adapt to the changing trends here on Guam with both the local and tourist markets.

Acting Chairman Oh any questions.

Commissioner Bathan the virtual reality entertainment center will become very popular amongst the tourists and locals at the present time; however, with technology evolution, what is Plan B for this structure in the future.

Monte Mesa it will be about timing on the decision that will be made the Commission today in order for them to continue discussions with the company. There are other retailers who can use larger pieces of real estate that they are also pursuing. If the center is not going to happen, they have retailers looking for larger retail space.

Acting Chairman Oh in any part of Plan B are there plans to split the space into two-floors.

Monte Mesa at this time, it is one floor with possibly a mezzanine.

Commissioner Bathan if the character and/or use of the entertainment is changed in the future, will TSP have to return before the Commission for an amended TDP.

Marvin Aguilar the development scheme will be restricted with what is presented today; otherwise, they will have to return for additional activities and/or parking space.

Mayor Melissa Savares (Dededo) the only concern of the MPC was the sidewalk and the front yard setback.

Dan Swavely yes, that is what we walked away with.

Mayor Louise Rivera (Tamuning) we are always excited about new development, and we are excited with this new development. Mayor Rivera further stated that she had contacted all the MPC members, and a majority of the members had no objection to the project.

Mayor Rudy Matanane (Yigo) commended Mr. Swavely and Mr. Mesa on today's presentation. It is important to promote tourism on Guam and hopes that they have additional plans for use of the new structure should the virtual center does not happen. Mayor Matanane states that he supports the project.

Acting Chairman Oh noting no additional comments, Acting Chairman Oh opened the floor for public comments.

Public Comments [seeing no public comment, Acting Chairman Oh closed the public comment period.]

Acting Chairman Oh there being no further discussion, Acting Chairman Oh was ready to entertain a motion.

[Acting Chairman Oh called for a five-minute recess at 2:40 p.m. and reconvened the meeting at 2:50 p.m.]

Mayor Savares makes a motion to approve the Applicant, S1082 SPE LLC, dba: Tumon Sands Plaza; a request to amend a previously approved Tentative Development Plan for their Tumon Sands Plaza redevelopment plan 2018, on Lots 5093-R1-R2-1NEW-NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning with the following conditions:

1. The six (6) lots subject of this application be consolidated within one (1) year of recordation of the Commission's Notice of Action;
2. The applicant shall adhere to all the ARC conditions and requirements as stipulated in their official position statements;

3. 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;
4. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, paragraph F, the improvements as specified in the TDP shall be completed within 4 years from date of the Commission approval;
5. That the applicant shall also ensure compliance to the one-year time restriction that states that ***"a grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise, the approval as granted by the Commission be NULL AND VOID per E.O. 96-26, Section 5."; and,***
6. 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.

Acting Chairman Oh motion on the floor by Mayor Savares, is there a second.

Mayor Matanane seconds the motion.

Acting Chairman Oh seconded by Mayor Matanane. Any discussion.

Mayor Matanane amended the motion to correct the municipality to Tamuning and not Tumon as stated by Mayor Savares.

Mayor Rudy Paco (MTM) seconds the amended motion.

Acting Chairman Oh on the amended motion; all in favor say "aye" [Acting Chairman Oh, Commissioner Bathan, Mayors Savares, Matanane, Rivera and Paco], all opposed say "nay."

[Amended motion passed with a vote of 6 ayes, 0 nay]

Acting Chairman Oh on the main motion, all in favor say "aye" [Acting Chairman Oh, Commissioner Bathan, Mayors Savares, Matanane, Rivera and Paco], all opposed say "nay."

[Motion to approve Application No. 2018-35 was passed unanimously; 6 ayes, 0 nay]

Acting Chairman Oh moving onto the next item on the agenda –

Zone Variance

B. Application No. 2018-35B the Applicant, S1082 SPE LLC, dba: Tumon Sands Plaza represented by Daniel Swavely; request for a Zone Variance for an existing front yard setback of 10-feet, 3'8-inch setback, short 5-ft,7-inches from the required 15-feet setback, on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R1, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. [MCoG DLM 2018-07] Case Planner: Celine Cruz/Frank Taitano

C. Application No. 2018-35C the Applicant, S1082 SPE LLC, dba: Tumon Sands Plaza represented by Daniel Swavely; request for a Zone Variance for Sign, for the front façade signage in order to accommodate the new, modern décor for Tumon Sands Plaza, on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R1, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. [MCoG DLM 2018-07] Case Planner: Celine Cruz/Frank Taitano

D. Application No. 2018-35D the Applicant, S1082 SPE LLC, dba: Tumon Sands Plaza represented by Daniel Swavely; request for a Zone Variance for Height to accommodate the new virtual reality entertainment center on the second-floor level of the Tumon Sands Plaza, on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R1, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. [MCoG DLM 2018-07] Case Planner: Celine Cruz/Frank Taitano

Celine Cruz (Case Planner) summarized the staff report to include the purpose, facts, staff discussion and analysis, public hearing results, recommendation and conditions. [For full content/context, see attached report.]

Ms. Cruz further stated that based on a letter dated May 10, 2017 from the Attorney General to the Chairman of the Guam Land Use Commission, the AG states that it is not within the Commission's authority to grant a variance for existing sign requirements for commercial activity.

[Attachment B – Staff Report dated September 24, 2018]

Acting Chairman Oh questions for staff.

Commissioner Bathan for the zone variance application, Commissioner Bathan comments that the applicant marked Item 7 that the project is less than three-million, and technically the entire project is more than three-million. This will need to be corrected.

Celine Cruz there was discussion with the applicant, and in terms of each variance application itself it does not exceed the three-million cost; however, the overall project for the redevelopment plan does exceed the three-million-dollar threshold.

Acting Chairman Oh can we get an opinion from Legal Counsel on this.

Marvin Aguilar certain components of this overall application is less than three-million and does not require a hybrid commission. Can the Commission vote on that particular component if it is less than the three-million cost or does the Commission look at it as a cumulative project.

Nick Toft (Legal Counsel) responds that he did not think it would hurt to look at the application as a cumulative perspective.

[Discussion ensues]

Dan Swavely for the tentative development which is the basket for this project, none of the variances can be approved without the TDP. The TDP has a threshold of a three-million-dollar

construction cost, but the variances do not. Mr. Swavely stated that he is willing to make the change if it pleases the Commission.

Acting Chairman Oh perhaps for the record it can be stated in the presentation. Acting Chairman Oh also asked of Legal Counsel on the request for a Sign Variance. There was an opinion from the Attorney General on electronic billboards, and LED billboards are outside of the Commission's authority to approve. This is a request for building coverage, and the coverage exceeds the allowable ten-percent threshold. The signs are for businesses that are on premise. In the past the Commission has granted sign variances based on face area; but, wanted an opinion on this.

Nick Toft in reading the May 10th, 2017 AG's opinion; in applying that to this case, Legal Counsel Toft notes that unlike that case this sign application would be limited to a non-flashing, non-moving sign that does indicate the business occupying the premises. The statute 61616(C) of 21GCA, Title 61 states, *that a variance can be used to permit the addition, enlargement or moving of a non-conforming building or structure.*

Arguably, the sign would be the structure in this instance; but, Legal Counsel would in this case have the Commission go over each of the variance elements and make specific findings. He believes that the Commission has the ability to grant a variance in this instance; but the Commission should go over the five specific variance justifications on record to avoid disputes in the future.

The variance requirements in Section 61617, the Commission has to find;

1. That strict application of the provisions of this Chapter will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law;
2. That there are exceptional circumstances or conditions applicable to this property involved or the intended use thereof that do not apply generally to other properties in the same zone;
3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located;
4. That the granting of such variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature; and,
5. Beach access does not apply to this application.

So, it is only four. There is additionally the hotel zoning law as well which *states that it is intended in view of the unusual visual exposure that adverse visual influences such as excessive signs and inappropriate lighting and open storage shall be prohibited.*

It is restricted but not completely. The Commission should listen to the applicant's arguments on the issue and to consider the four factors read previously before making its decision.

Acting Chairman Oh noted for the record that there was a previous decision on September 28, 2006 made by the GLUC for an approval of a Zone Variance for signage; and it was a variance for height and area of the standard commercial sign. The precedence has been set when it comes

to these types of sign variances. Legal Counsel feels that the Commission is in line with the laws in place to make a decision on this request today.

[Discussion ensues]

Marvin Aguilar for the record, what is being discussed today is on premise business signs.

Acting Chairman Oh noting no additional questions for staff, Acting Chairman Oh opened the floor to the applicant.

Dan Swavely there are three variances before the Commission;

First Variance request:

- Allow TSP to get within 3-feet, 8-inches and 5-feet, 6-3/4 inches from the property line in order to accommodate the outdoor/patio dining. This is on property and not going into the right-of-way.
- They assure through their building plans and with the building inspector before beneficial occupancy permit is issued that there will be 8-feet, 6-1/2 inches of clear space at the point of greatest constrictor on the sidewalk. And the sidewalk starts at 10-feet and comes out a little bit to that, widens and then goes back to 15-feet or 20-feet down towards the end.
- Outdoor Patio/Dining
    - Practical difficulties would be encountered without the partial setback variance because the popularity of outside dining has proven itself at other restaurants along Pale San Vitores as well as other venues throughout Guam. The structural three-story front façade of TSP does not allow such a feature. This outdoor feature is a condition of Red Lobster for establishing the restaurant at TSP.
    - Outdoor can be achieved without moving into the setback. But in order to do this they would have to open up the entire building through the roof-line.
    - The reason for exceptional circumstances is because in order to do this they have to have the front yard setback variance which is similar to those that have already been granted in Tumon by this Commission.
    - Detrimental – Mr. Swavely points out that they are still within their property line and still have at least 8-1/2 feet of sidewalk at the point of greatest constrictor.
    - Contrary to the objectives of the Tumon Master Plan – Mr. Swavely states out that the Tumon Master Plan does not address this request as a problem.

Second Variance request:

- The sign variance. Mr. Swavely agrees with Legal Counsel's opinion about this. The law states 10-percent and the applicant is requesting for twenty-percent because of the additional types of activities that are going to be in Tumon Sands Plaza.
- Mr. Swavely shows a rendition of the existing façade and a close representation of the twenty-percent and where the signs will be.
- By granting this variance, this is what will be seen as far as coverage of the façade; that is exactly twenty-percent and no more than twenty-percent is being requested.
- No flashing and/or moving signs.

Signage

- Summarized that the practical difficulties would be the current and outdated sign law did not anticipate the nature of commercial enterprise such as TSP in which dozens of stores are operating under one roof. TSP would incur an unnecessary hardship in trying to adequately advertise all of its stores and restaurants and the new center with only ten-percent coverage of the façade.
- Exceptional circumstance that this is typical of the resort commercial that this Commission has granted a variance of up to thirty-percent to Duty Free Shoppers, and 25-percent of the common building.
- No impact for public welfare impact with twenty-percent coverage and does not conflict with Tumon Master Plan.

Third Variance request:

- Asking for a height variance, no longer a side yard setback for the virtual entertainment center. What is needed 12-feet, 6-inches, but requesting for 17-feet, 6-inches as an abundance of caution because of the parapet wall that goes around.
  - Height variance the practical difficulties here are that this type of facility that requires twenty-foot clear space inside, and there is an ordinate amount of services and utilities underneath the floor, finished floor and above the finished ceiling. And this adds up to 12 to 17 feet above the 30-feet requirement.

Dan Swavely stated for the record that the three-million-dollar threshold limit should be marked as "yes" on all three zone variance applications to be consistent with the "yes" on the tentative development plan.

Acting Chairman Oh the applicant has stated that these are non-moving, non-flashing signs. The are on premise signs for tenants within the TSP. There are additional requirements when it comes to hotel zone requirements.

Nick Toft under 21GCA 61311 that under hotel-resort zones; *intended in view of the unusual visual exposure that adverse visual influences such as excessive signs and inappropriate lighting and open storage shall be prohibited.*

Mr. Toft further stated that excessive signs would be up to the Commission and inappropriate lighting and open storage will not apply in this context.

Acting Chairman Oh will these signs be lighted.

Monte Mesa LED lights will be used to light up the names of the stores.

Dan Swavely they are including advertising inside windows which is part of a façade sign and is included in the twenty-percent. This is not in excess of twenty-percent.

Marvin Aguilar explains that excessive means when there is so much that the main intent is not achieved.

Acting Chairman Oh stated that he does not think what the applicant is proposing is excessive, and has seen worse especially in Tumon. Acting Chairman Oh commends the applicant for coming before the Commission and informing the Board of what they are planning to do.

Will the LED lighting mentioned earlier for be backlights for the signs.

Monte Mesa yes, it is backlights for energy efficiency lighting.

Acting Chairman Oh open storage does not apply to this application. There was mention about the height variance request. Based on the calculation the maximum building height is 80-feet.

[Lengthy discussion ensues on the height calculations and 30-feet high requirement. Chief Planner Aguilar explained that if all the properties were consolidated it would have not needed a variance because it would have been one lot; however, the variance request is for the specific lot with its length and depth limitation, and that lot was subjected to the equation and that is why this lot needed a height variance. If it was consolidated, they could actually go up as high as 80-feet or 80+ feet.]

Acting Chairman Oh noting no other discussion, Acting Chairman Oh opened the floor for public comments.

Public Comments [Seeing no public comments, Acting Chairman Oh closed the public comment period.]

Acting Chairman Oh there were no other comments and/or questions, Acting Chairman Oh was ready to entertain a motion for this application.

Mayor Savares made a motion to approve Applications 2018-35B, 2018-35C and 2018-35D; Zone Variance Setback and Height, for the applicant S1082 SPE LLC, dba: Tumon Sands Plaza, requesting for a Zone Variance for Height in order to construct a virtual reality entertainment center as part of the Tumon Sands Plaza Redevelopment Plan 2018 located on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R1, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning; with the following conditions:

1. The six lots subject of these applications be consolidated within one year of the recordation of the Commission's Notice of Action;
2. The applicant shall adhere to the ARC conditions and requirements as stipulated in the official position statements;
3. 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 GLUC;
4. That the setback along Pale San Vitores Road shall be at the requested 3'-8" to accommodate the outdoor dining spaces and 5'-6-3/4" for the new entryway and canopy;
5. The building height for the virtual reality entertainment center shall not exceed 42-feet, 6-inches; and,
6. The applicant shall ensure compliance to the one-year restriction that states a *grading or building permit must be obtained from the date of recordation of the Notice of Action;*

otherwise, the approval as granted by the Commission be NULL and VOID per E.O. 96-26, Section 5."

Acting Chairman Oh motion on the floor made by Mayor Savares. An amended motion is needed to include the condition for the request for sign variance.

Michael Borja (Executive Secretary) that the zone variance request is for an increase in the sign coverage to cover twenty-percent of the building façade.

Mayor Rudy Matanane so moved as stated by Executive Secretary Michael Borja.

Acting Chairman Oh there is a motion made by Mayor Matanane to amend the main motion. Is there a second.

Mayor Rudy Paco (MTM) seconded the amended motion.

Acting Chairman Oh no discussion noted on the amended motion; all in favor of the amended motion say "aye" [Acting Chairman Oh, Commissioner Bathan, Mayor Savares, Mayor Paco, Mayor Matanane, Mayor Rivera], all opposed say "nay." **[Amended motion passed unanimously; 6 ayes, 0 nay]**

On the main motion; all in favor of the motion say "aye" [Acting Chairman Oh, Commissioner Bathan, Mayor Savares, Mayor Paco, Mayor Matanane, Mayor Rivera], all opposed say "nay."

[Main motion passed unanimously; 6 ayes, 0 nay]

V. Administrative and Miscellaneous Matters

Michael Borja (Executive Secretary) stated for the record that Vice Chairman Tae Oh will serve as the Acting Chairman, interim for the Guam Land Use Commission until a new Chairman has been appointed, and that there are two vacancies currently in the GLUC.

Acting Chairman Oh if there is no other discussion, Acting Chairman Oh was ready for adjournment.

VI. Adjournment

Mayor Savares made a motion to adjourn today's meeting, seconded by Mayor Rivera; with all in favor.

The regular meeting of the Guam-Hybrid Land Use Commission for Thursday, September 27, 2018 was adjourned at 3:45 p.m.

Approved by:

Tae S. Oh, Acting Chairman
Guam-Hybrid Land Use Commission

Date approved:

12/27/2018

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
Guam Land Use Commission

GUAM–HYBRID LAND USE COMMISSION

Chairman [Vacant]
Vice Chairman Tae S. Oh
Commissioner Conchita D. Bathan

Commissioner Hardy T.I. Vy
Commissioner [Vacant]

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

AGENDA - REVISED

Regular Meeting

Thursday, September 27, 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 September 20th and September 25th, 2018]
[MCoG DLM 2018-07]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, August 23, 2018

III. Old or Unfinished Business [None]

IV. New Business

Tentative Development Plan

A. **Application No. 2018-35A**, Tumon Sands Plaza represented by Daniel Swavely; request to amend its previously approved Tentative Development Plan on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. [MCoG DLM 2018-07] Case Planners: Celine Cruz/Frank Taitano

Zone Variance

B. **Application No. 2018-35B**, Tumon Sands Plaza represented by Daniel Swavely; request for an existing front yard setback of 10-ft, 3'8-inch setback, short 5-ft, 7-inches from the required 15-ft front setback, on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning.
Case Planners: Celine Cruz/Frank Taitano

C. **Application No. 2018-35C**, Tumon Sands Plaza represented by Daniel Swavely; request for a Zone Variance for Sign, for front façade signage in order to accommodate the new, modern décor for Tumon Sands Plaza, on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning.
Case Planners: Celine Cruz/Frank Taitano

D. **Application No. 2018-35D**, Tumon Sands Plaza represented by Daniel Swavely; request for Height Zone Variance to accommodate the new virtual reality entertainment center on the second-floor level of Tumon Sands Plaza, on Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 and 5092-7, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. Case Planners: Celine Cruz/Frank Taitano

V. Administrative & Miscellaneous Matters

VI. Adjournment

ATTACHMENT A

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:
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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

September 24, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-35 A
Tentative Development Plan

1. **PURPOSE:**

a. **Application Summary:** The applicant, S1082 SPE LLC, dba: Tumon Sands Plaza (TSP), request an amendment to a previously-approved tentative development plan for their TUMON SANDS PLAZA REDEVELOPMENT PLAN - 2018, located on Lot 5093-R1-R2-1NEW-NEW-NEW-R1NEW-R1, Lot 5093—R1-2-R2, Lot 5095-2-R4-5, Lot 5092-5NEW, Lot 5092-6, Lot 5092-7, Tumon, Municipality of Tamuning, Guam.

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

2. **FACTS:**

a. **Location:** The subject area abuts Pale San Vitores Road on the east side, approximately 500 feet from the Fujita Road intersection, and approximately 450 feet from the Hyatt Hotel. It is approximately a quarter of a mile inland from Tumon Bay.

b. **Lot Area:** The subject area is a collection of abutting lots to which the request is based on:

Legal Description	Lot Size
Lot 5093-R1-R2-1NEW-NEW-NEW-R1NEW-R1	12,274 square meters
Lot 5093—R1-2-R2	6,010 sq.m
Lot 5095-2-R4-5	606 square meters
Lot 5092-5NEW	3,207 square meters
Lot 5092-6	687 square meters
Lot 5092-7	449 square meters
Total area	**5.74 acres or 23,233 Square Meters or 250,078 Square Feet.**

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

d. **Field Description:** The Tumon Sands Plaza shopping complex and parking lot is located on the subject lots.

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

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

g. **Previous Commission Action:**
1) on October 2, 1990, the Territorial Planning Commission (TPC) approved with conditions a conditional use to construct a 2-storey addition for storage space in order to accommodate the existing shops.
2) On April 9, 1992 the TPC approved with conditions a Conditional to construct a 3-storey extension to Join-Us Hotel, to relocate existing restaurants, kitchen, toilets and lounge; to convert vacated areas of existing building to shops and storage areas and to provide additional parking.
3) On September 28, 2006 the Guam Land Use Commission (GLUC) approved with conditions a Zone Variance for signage; the variance was for height and area of the standard commercial sign.

3. **APPLICATION CHRONOLOGICAL FACTS:**

a. **Date Application Accepted:** May 7, 2018

b. **Date Heard By ARC:** June 7, 2018

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

4. **DISCUSSION and STAFF ANALYSIS:**

The 2018 Tumon Sands Plaza Redevelopment Plan proposes to enhance the atmosphere of the San Vitores Drive by adapting to recent market trends from both local customers as well as Asian visitors. Because global demand is shifting away from the exclusive shopping for luxury items to more affordable shopping, dining and entertainment demands, Tumon Sands Plaza (TSP) proposes to add three new restaurants and a virtual reality entertainment center. TSP hopes that these new attractions will appeal to the more modern, upscale market on Guam and will simultaneously create synergy with TSP's existing retail shopping opportunities. Along with this application for and amended Tentative Development Plan, TSP is requesting of the Guam Land Use Commission three variances in order to in order to accommodate the redevelopment plan which include:

- An extension to the existing structure for a new, one-story Virtual Reality Entertainment Center built over a portion of TSP's existing parking lot on the north side.
- A new seafood restaurant located inside the TSP structure, *except for a patio on the ground level.*
- A new "to be determined" restaurant located inside the TSP structure, *except for a patio on the second floor level.*
- A new two-storey parking structure built over a portion of TSP's existing parking lot.

The impact to the previously approved Tentative Development Plan of Tumon Plaza includes the addition of the Virtual Reality Entertainment Center which encompasses a 19,960 sq. ft. addition that will offer family entertainment activities where everyone can experience virtual reality games and activities. Also, a parking structure to accommodate an additional 173 stalls to be located within the existing western parking area. And finally, the outdoor dining spaces to be added adjacent to the new restaurants fronting San Vitores Road.

The request to update the existing Master Plan in consistent with current uses and reasonably foreseeable developments in the area. In fact, the lot adjacent and to the east of the property was recently approved for construction of a new 300 room hotel. The request also addresses the need for additional parking by creating a new parking structure on the west portion of the TSP Shopping Complex.

Based on the above discussion and analysis, we find that the applicant has demonstrated such request to be in line, consistent and compatible with the Interim "H" Hotel-Resort Zone Rules and Regulations and that the activity is reasonably compatible with existing or reasonably foreseeable development in the surrounding area. Therefore, we find it proper that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Recommend **APPROVAL WITH CONDITIONS** as follows:

1. The six Lots subject of this application be consolidated within one (1) year of recordation of the Commission's Notice of Action; and
2. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
3. 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
4. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within 4 years from date of Commission approval; and
5. That the Applicant shall also ensure compliance to the 1-year time restriction that states a ***"grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".***
6. 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: Celine Cruz

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

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671-649-LAND (5263)

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671-649-5383

September 24, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-35 B, C, &D, Zone Variance for Front Yard Setback & Height

1. PURPOSE:

a. **Application Summary:** The applicant, S1082 SPE LLC, DBA: Tumon Sands Plaza, is requesting a Zone Variance for Height in order to construct a Virtual Reality Entertainment Center as part of the TUMON SANDS PLAZA REDEVELOPMENT PLAN - 2018, located on Lot 5093-R1-R2-1NEW-NEW-NEW-R1NEW-R1, Lot 5093—R1-2-R2, Lot 5095-2-R4-5, Lot 5092-5NEW, Lot 5092-6, Lot 5092-7, Tumon, Municipality of Tamuning, Guam.

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

2. FACTS:

a. **Location:** The subject area abuts Pale San Vitores Road on the east side, approximately 500 feet from the Fujita Road intersection, and approximately 450 feet from the Hyatt Hotel. It is approximately a quarter of a mile inland from Tumon Bay.

b. **Lot Area:** The subject area is a collection of abutting lots to which the request is based on:

Legal Description	Lot Size
Lot 5093-R1-R2-1NEW-NEW-NEW-R1NEW-R1	12,274 square meters
Lot 5093—R1-2-R2	6,010 sq.m
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Lot 5092-5NEW	3,207 square meters
Lot 5092-6	687 square meters
Lot 5092-7	449 square meters
Total area	**5.74 acres or 23,233 Square Meters or 250,078 Square Feet.**

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

d. **Field Description:** The Tumon Sands Plaza shopping complex and parking lot is located on the subject lots.

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

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

g. **Previous Commission Action:**

i. On October 2, 1990, the Territorial Planning Commission (TPC) approved with conditions a conditional use to construct a 2-story addition for storage space in order to accommodate the existing shops.
ii. On April 9, 1992 the TPC approved with conditions a Conditional to construct a 3-storey extension to Join-Us Hotel, to relocate existing restaurants, kitchen, toilets and lounge; to convert vacated areas of existing building to shops and storage areas and to provide additional parking.
iii. On September 28, 2006 the Guam Land Use Commission (GLUC) approved with conditions a Zone Variance for signage; the variance was for height and area of the standard commercial sign.

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** May 7, 2018

b. **Heard By ARC:** June 7, 2018

c. **Public Hearing Results:** A public hearing was held on September 18, 2018 at 6:00 PM at the Tamuning Senior Center.

See full public hearing results – **Attachment A**

4. DISCUSSION and STAFF ANALYSIS:

The Tumon Sands Plaza Redevelopment Plan of 2018 proposes to enhance the atmosphere of the Pale San Vitores Road by adapting to recent market trends from both local customers and visitors. As global demands shift from the exclusive shopping for luxury items to more affordable shopping, dining and entertainment, Tumon Sands Plaza (TSP) proposes to add three new restaurants and a virtual reality entertainment center as part of its marking draw. TSP hopes these new attractions will appeal to the more modern, upscale market on Guam and will simultaneously create synergy with TSP's existing retail facilities.

TSP is requesting of the Guam Hybrid Land Use Commission three variances to accommodate the desired redevelopment plan:

1	An extension to the existing structure for a new, one-story Virtual Reality Entertainment Center built over a portion of TSP's existing parking lot on the north side *and exceeding the height regulation by 12-6 for a total height of 42 feet -6 inches".*
2	To accommodate a new seafood restaurant located with the TSP structure, the restaurant intends to expand to an outdoor patio on the ground level *at 3-feet and 8 inches from its front yard boundary. The minimum front yard requirement in a Hotel zone is 10 feet.*
3	A new "restaurant located inside the TSP structure. The restaurant intends to expand to an outdoor patio on the 2nd level *at 3-feet and 8 inches from its front yard boundary. The minimum front yard requirement in a Hotel zone is 10 feet.*

Thus, this report is separated into three discussions relative to the request to deviate from height and yard setback requirements within a Hotel-Resort zone:

Application 2018-35 B:

This variance request is for a variable front yard setback at that portion of the complex fronting Pale San Vitores Road. setbacks ranging from 3'-8" to 5'6 ¾" from the TSP property line in order to accommodate a ground floor level and second floor level outdoor dining space as well as upgrade the entryway and canopy.

Justification criteria as indicated in the application provides that practical difficulties exist since the redevelopment plan is to meet global demands which include affordable family shopping, dining and entertainment. Further, the outdoor dining experience is a condition of the tenant for establishing a restaurant within TSP. The special circumstance that exists is that two of the new restaurants inside TSP, one at ground level and one directly above, will be located along the popular Pale San Vitores Road, offering a unique opportunity for outdoor dining.

The applicant submits that the granting of a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in which the property is located since neither the proposed patios nor the extended from entry will encroach into the existing public sidewalk. Further, both proposed features will only affect 26% of TSP's frontage. In addition, the requested variance is not contrary to any master plans as the noted master plans designate this area as Hotel-Resort zone and the intended commercial activities within TSP are in line consistent with permitted uses in such a zone.

Application 2018-35 C:

The zone variance request is for an increase in sign coverage to cover 20% of the building face. Based on a letter dated May 10, 2017 from the Guam Attorney General to the Chairman of the Guam Land Use Commission, the AG states it is not within the Commission's authority to grant a variance from existing sign requirements for commercial activities. **See Attachment B.**

NOTE: The applicant has submitted information to supplement the application and has eliminated the request for zero side yard setback. Below discussions are based on supplemental information.

Application 2018-35 D:

The zone variance request is for height in order to construct a Virtual Reality Entertainment Center (VREC). Specifications for VRECs require below floor slab structures and service up to four feet, twenty feet internal clearance for the equipment and rides, an additional four feet below roof slab structure for services. The addition to the existing shopping complex will be located such that access to the VREC will be from within TSP and situated so no loss of parking occurs by being raised fourteen feet six inches to allow clearance below for vehicles and shipping container rigs.

Justification criteria as indicated in the application provides that practical difficulties exist since the redevelopment plan is to meet global demands which include affordable family shopping, dining and entertainment. The size and interior heights for such a VREC are prerequisites for a quality development that fits Guam's needs. TSP can accommodate such a structure at only one location on its property: along the northern portion of the property where it can be built above the parking lot and served via the interior escalator leading from the lobby to the second floor. The necessity for locating this entertainment center over an existing parking lot, coupled with the interior height requirement of 20', plus service corridors both above and below the activity area, unavoidable necessitate a height of 12'-6" above the height limit for this zone. There are exceptional circumstances in the need to locate the structure on the northern side of the property within TSP's layout to accommodate the natural patron flow among shops and restaurants in a convenient and non-disjointed manner. The location criteria necessarily place the VREC structure along the northern portion of the property which is already occupied with parking and back of the house utilities. The structural feature of locating the addition over existing parking by raising the floor level by using supporting columns to not displace parking raising the structure to a roof height of 42'-6".

The applicant submits that the granting of a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in which the property is located inasmuch as the abutting public easement precludes development along that portion of TSP's northern property line, granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in which the property is located. In addition, the requested variance is not contrary to any master plans as the noted master plans designate this area as Hotel/ Resort zone and the intended commercial activities within TSP are in line consistent with permitted uses in such a zone.

It has been our advice to the applicant's representative that Application D may not necessarily require a variance, however, in an abundance of caution, the application has been presented for this body to make final determination. This guidance provided is our analysis of the application of the "Interim Hotel Resort Rules and Regulation Yard Area and Height Regulations" Table (**Attachment C**) which aligns the proposed development with Resort Commercial Use allowance of 3 stories and the Maximum Building Height is calculated by dividing the sum of the lot length plus lot width by 10. In this instance, a condition of approval for the Amended Tentative Development Plan is the consolidation of the 7 lots identified as the TSP Shopping Complex; this would create a lot length greater than 400' and a lot width greater than 400'. Applying the formula in

the Yard Area and Height Regulations would accommodate a structure which is 3 stories with a building height up to 80'.

5. CONCLUSION:

Based on the above discussion and analysis, we find that the applicant has demonstrated justification to the criteria for the granting of a variance for **Applications B and D** and the request is in line, consistent and compatible with the Interim "H" Hotel-Resort Zone Rules and Regulations. Therefore, we find it proper that it be considered favorably by the Guam Land Use Commission.

6. RECOMMENDATION: Recommend **APPROVAL WITH CONDITIONS** as follows:

1. The six Lots subject of these applications be consolidated within one (1) year of recordation of the Commission's Notice of Action; and
2. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
3. 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
4. That setback along Pale San Vitores Road shall be at the requested three feet eight inches (3'-8") to accommodate the outdoor dining spaces and five feet six and three quarter inches (5'-6 ¾") for the new entryway and canopy.
5. The building height for the Virtual Reality Entertainment Center shall not exceed forty two feet six inches (42'-6").
6. That the Applicant shall also ensure compliance to the 1-year time restriction that states a ***"grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".***

Marvin Q Aguilar

Case Planner: Celine Cruz

NOTHING FOLLOWS

Daniel D. Swavely Consulting Services, Inc.

Mr. Tae Oh, Acting Chairman
Guam Land Use Commission
c/o Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96910

September 18, 2018

Subject: Tumon Sands Plaza Redevelopment Plan – 2018
Tentative Development Plan Application
Variance Applications #1, #2, and #3
PARCEL ONE – Lot 5093-R1-R2-1NEW-NEW-R1NEW-R1 (the TSP building and eastern parking)
PARCEL TWO – Lot 5093-R1-2-R2 (southwest parking and ponding basin)
PARCEL THREE – Lot 5095-2-R4-5 (southernmost parking)
PARCEL FOUR – Lot 5092-5NEW (southeast parking)
PARCEL FIVE – Lot 5092-6 (portion of southern parking)
PARCEL SIX – Lot 5092-7 (portion of southern parking)

Re: Supplemental Application #1

Hafa Adai Mr. Chairman and Commissioners,

In response to our meeting with the Tamuning Municipal Planning Council, we submit the following change and clarification to the Subject applications.

1. Delete the side yard setback variance along a portion of the northern property line in order to accommodate the Virtual Reality Entertainment Center. Instead, we will accommodate the VREC without a setback encroachment.
2. Clarification that the front sidewalk width between the proposed outdoor dining patio and the nearest point of landscaping exceeds 8'. At its most narrow point, that sidewalk will be 8' – 6 ½ ".

Respectfully,

Dan

Daniel D Swavely
Authorized Representative for these GLUC Matters

301 Frank H Cushing Way #1201
Tumon, Guam 96913
Direct Phone: (671) 649-2227
Cell: (671) 688-8029
Email: dds@guam.net

RECEIVED
Planning
9/19/18

ATTACHMENT A
Public hearing Application 2018-35
September 18, 2018 6:00 PM
Tamuning Senior Center
Applicant: Tumon Sands Plaza

Ms. Celine Cruz introduced herself as a representative of the Department of Land Management and initiated the public hearing for application 2018-35 at 6pm. She stated that the application is made up of four components. Application A concerns a Tentative Development Plan and Applications B, C, and D are Zone Variances concerning Height, Signage, and Setback. She then detailed the information about the developers and subject lots. She also introduced the applicants representative Mr. Dan Swavely, and granted him the floor to speak about and answer any questions pertaining to the proposed development.

Mr. Dan Swavely introduced himself as the representative for Tumon Sands Plaza and proceeded to explain an overview of the proposed development. He reiterated the four (4) components mentioned by Ms. Cruz, stating that the crux of the application are variances for front yard setback, signage on the façade, and for height on additions to the existing building.

Mr. Dan Swavely then proceeded to explain the footprint and overview of the project in general. He used various graphics he brought with him to showcase and explain the aspects of the variances to members of the public that attended the hearing.

Mr. Swavely first addressed the variance for setback, stating that the applicants are requesting to utilize between three (3) to five (5) feet into the designated ten (10) foot setback requirement on the side of the building that runs parallel to Route 14, in order to create outdoor dining space for proposed restaurant businesses in the first and second floors.

Mr. Morihiro Arasaki then asked a question regarding who owns the property that this setback variance will utilize?

To which **Mr.Swavely** responded that Tumon Sands Plaza owns the property. Stating that when the building was built, the developers did provide the required ten (10) foot set back from the property line. He added that this is a request for a variance into that ten (10) foot setback.

Mr. Swavely then proceeded to address the second variance which concerned signage on the same side of the building. He stated that Guam law only allows for ten percent of signage coverage on a wall of a building. He and the applicant are requesting a variance to increase the allowable signage to twenty percent.

Mr. Morihiro Arasaki then raised a point concerning disproportion of signage space to a large number of tenants in a building.

To which **Mr. Swavely** concurred, is the exact issue, having four different restaurants with multiple retail outlets, ten percent of allowable signage would be insufficient to adequately fit each business' signs.

Mr. Atalig Then asked, if the government only allows ten percent, then why are you asking for twenty percent?

To which **Mr. Swavely** said, that based on justification, the government may grant a variance for an increase in signage space.

Mr. Swavely then proceeded to explain the third and final variance concerning height for the proposed virtual reality entertainment center, and how it would be integrated into the existing businesses located in the Tumon Sands Plaza.

At this time **Mr. Swavely** also makes note the he and the applicant have decided to redesign the proposed area to conform to the established boundary thus not requiring another setback variance for this area. He then explained that the height requirement for resort commercial buildings is thirty (30) feet and that they are over this requirement by twelve (12) feet . He noted various reasons as to why the variance is warranted, such as accommodation for 40ft containers, systems and utility space, and customer space for the virtual reality portion of the building.

Mr. Morihiro Arasaki then asked how high the building will be?

Mr. Swavely responded forty seven (47) feet six (6) inches, referring to one of his graphics.

Mr. Morihiro Arasaki then asked for some clarification on the total roof height, which Mr. Swavely corrected as a height of forty two (42) feet for the roof and forty seven (47) feet six (6) inches including the parapet.

Mr.Morihiro Arasaki then reiterated his question, as trying to imagine how may stories the building will be.

To which **Mr. Swavely** responded four and a half stories.

Then **Mr. Atalig** asks a question concerning the electrical infrastructure of Tumon and how this proposed virtual reality business will affect Guam's power situation through its operation.

Mr. Swavely then explained that through the application process, there is an Application Review Committee (ARC) that is comprised of all the utility agencies and in charge of screening such infrastructure and utility concerns. He also adds that GPA's position is positive but reserves final judgment on the electrical design of the project.

Mr. John Camacho then mentions that he recalls the GPA response letter stated no objection but that if there was not enough power for operation the responsibility would then fall upon the owners of the operation.

Which **Mr. Swavely** remarks is standard feedback from GPA concerning issues similar to this.

Mr. Morihiro Arasaki then ask whether would be any mechanical objects on top of the building like AC etc.?

Which **Mr. Swavely** explained dis the purposed of the parapet, to protect those utilities from the elements.

Mr. Atalig then asks how high the parapet is again, and Mr. Swavely responds five (5) feet.

Mr. Swavely then took the opportunity to clarify that the reason for the height variance of twelve (12) feet is because the height variance only applies to the roof, which was initially thirty (30) feet but will now be increased to forty two (42) feet excluding the five (5) foot parapet.

Mr. Morihiro Arasaki then asked if the parking building would be two stories?

Which **Mr. Swavely** responded yes.

Mr.Morihiro Arasaki further asked if it was a steel structure, and how tall it would be?

Mr. Swavely responded that it was a steel structure and be approximately thirty (30) feet.

Mr. Swavely then closed out his presentation, by mentioning that the proposed project is fairly clear with the ARC and fairly clear with the Tamuning Municipal Planning Council. He also mentioned the next public hearing at the Department of Land Management conference room next Thursday at 1:30pm and handed the floor back over to Ms. Cruz.

Ms. Celine Cruz then proceeded to close the public hearing mentioning to those that attended that if they would like, they could write a letter of their comments, concerns, or even support for the project and submit them to Land Management prior to the next public hearing tentatively scheduled for September 27th.

Office of the Attorney General of Guam

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May 10, 2017

Mr. John Z. Arroyo
Chairman
Guam Land Use Commission
ITC Building
590 South Marine Corps Dr.
Tamuning, Guam 96913

Re: GLUC Approval of Variances in Application No. 2016-01 and Application No. 2016-03 (Ref. No.: AG 17-0063)

Dear Chairman Arroyo:

The Guam Land Use Commission ("Commission") recently approved applications for a zone variance that would allow electronic billboard advertising contrary to the restrictions imposed by 21 GCA § 61541 ("Sign Regulations"). The Commission was advised that the proposed electronic billboards would violate the Sign Regulations and that the restrictions in the Sign Regulations could not be overcome through granting a variance under 21 Chapter 61 ("Zoning Law"). The Commission acknowledged the advice regarding the application of the Sign Regulations but approved the application anyway. The Commission exceeded its authority by approving the applications.

Guam law prohibits the "structure of any kind or character erected or maintained for outdoor advertising" and the placement and maintenance of signs adjacent to roadways except as expressly permitted. In Commercial zones, signs are limited to "non-flashing and non-moving" signs of specified size that indicate the name of a person or the type of business occupying the premises or the name of the building. 21 GCA §61541. Exceptions are made for political signs and for charitable, religious, or civic entities for a limited duration. 21 GCA §61541(d). No exceptions are made for Hotel-Resort zones, however, "It is intended in view of the unusual visual exposure that adverse visual influences such as excessive signs, inappropriate lighting and open-storage shall be prohibited." 21 GCA § 61311.

At a meeting on February 9, 2017, the Commission considered Application No. 2016-01 for a variance for an "electronic variable message sign" in a Hotel-Resort zone and Application No. 2016-03 for a variance for freestanding billboard canvas signs in a Commercial zone. The applicants sought permission from the Commission to erect and maintain advertising that is not permitted under 21 GCA §61541.

The Commission has authority to grant variances from 21 GCA Chapter 61 "as may be in harmony with its general purpose and intent, so that the spirit of the law shall be observed, public safety secured, and substantial justice done." 21 GCA § 61616. Variances are permitted when "practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of [21 GCA Chapter 61] would occur from its strict literal interpretation of enforcement." 21 GCA §61616. The Commission may not grant a variance unless it finds:

a. That the strict application of the provisions of [21 GCA Chapter 61] would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law.
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;
c. That the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and
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...

21 GCA § 61617.

Rather than observing the spirit of the law and keeping in harmony with its general purpose and intent, the requested variances go beyond that which is permitted under the Sign Regulations. The applicants attempted to justify the need for a variance by advancing the argument that the sign law is outdated because it does not allow the type of advertising sought. An outdated statute is not, in our opinion, a valid basis to determine that "practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of [the Sign Regulations] would occur from its strict literal interpretation or enforcement." 21 GCA §61616. A variance may not be granted under the circumstance of an outdated law. The solution is to advance a change in the law.

The Commission does not have the authority to grant a variance based on a policy disagreement with the Legislature. It only has authority to grant a variance in accordance with 21 GCA § 61616, and after making the findings specified in 21 GCA § 61617. In this instance, the Commission exceeded its authority, ignoring the advice of its Assistant Attorney General at hearing on the applications. Its actions in approving Application No. 2016-01 and Application No. 2016-03 are *ultra vires* and, therefore, void.

Sincerely,

E. Barrett-Anderson

ELIZABETH BARRETT-ANDERSON
Attorney General

cc: Commissioners, Guam Land Use Commission
The Honorable Tom C. Ada, 34th Guam Legislature
Michael Borja, DLM Director
Glenn Leon Guerrero, DPW Director

YARD AREA AND HEIGHT REGULATIONS

Use	Gross Density	Minimum Lot Size	YARD (3)			Lot Area per Dwelling	(5) Maximum Building Height
			Front	Side	Rear		
Single	4 d.u./acre	5,000 W/Sewer 10,000 W/O Sewer (929 M^2)	(4) 15 ft. (5m)	(4) 8 ft. (3m)	10 ft. (3m)	5,000 W/ Sewer 10,000 W/O Sewer (929 M^2)	2 Stories
Zero Lot Line	5 d.u./acre	4000 sq.ft. (371.5 m^2)	(4) 15 ft. (5m)	(4) 16 ft. (5m)	10 ft. (5m)	4,000 W/ Sewer 8,000 W/O Sewer 8,005 (744 m^2)	3 Stories
Zero Lot Line semi Attached	6 d.u./acre	3000 sq.ft. (279 m^2)	(4) 5 ft. (5m)	(4) 16 ft. (5m)	10 ft. (5m)	3,000 W/ Sewer 6,000 W/O Sewer 6,666 (620 m^2)	3 Stories
Row Four to eight	10 d.u./acre	2,500 sq.ft. (232.5 m^2)	(4) 20 ft. (5m)	(4) 16 ft. (5m)	16 ft. (5m)	2,000 W/ Sewer 4,000 W/O Sewer (372 m^2)	2 Stories
Multi-Family	16 d.u./acre	10,880 sq.ft. (1012 m^2)	10 ft. (3m)	10 ft. (3m)	13 ft. (4m)	1012 W/Sewer 2722 W/O Sewer (253 m^2)	3 Stories
Multi-Family	20 d.u./acre	29,999 sq.ft. (2,788 m^2)	13 ft. (4m)	10 ft. (3m)	20 ft. (6m)	2217 sq.ft. (206 m^2)	(Lot Length + Lot Width) ÷ 10 m.
Multi-Family	22 d.u./acre	50,002 sq.ft. (4,647 m^2)	23 ft. (7m)	23 ft. (7m)	33 ft. (10m)	2001 sq.ft. (185 m^2)	"
Multi-Family	26 d.u./acre	70,005 sq.ft. (6,506 m^2)	33 ft. (10m)	Total Combined Side Yards equals (30%) Lot Width, or 33ft (10m)	49 ft. (15m)	1,688 sq.ft. (155m^2)	"
Hotel Small	32 d.u./acre	90,000 sq.ft. (8365 m^2)	33 ft. (10m)	Total combined side yards equals 40% lot width, or 33ft. (10m)	75 ft. (23m)	1,361 sq.ft. (126.5m^2)	"
Hotel Large	38 d.u./acre	200,00 sq.ft. (18,588 m^2)	33 ft. (10m)	Total combined side yards equals 50% lot width, one side min. 33 ft. (16m)	75 ft. (25m)	1141 sq.ft. (106m^2)	"
Resort Commercial	NA	9,996 sq.ft. (929 m^2)	10 ft. (3m)	(5) 10 ft. (3m)	10 ft. (3m)	NA	3 Stories

FOOTNOTES:

(1) Landspace/Areas include all setbacks, no parking permitted.

(2) Two (2) parking spaces permitted on paved driveway within the sixteen foot (16') setback.

(3) When yard abuts shoreline, building setbacks are increased by thirty-five feet (35') for one story and seventy-five feet (75') for two story and ETC.

(4) Zero lot line may be permitted with adjacent owner approval and provision of additional open space.

(5) Maximum Building Height (MBH) is calculated by dividing the sum of lot length plus lot width by 10.

$$MBH = \frac{(LL + LW)}{10}$$

Doc 449-35GL-19-0084.

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

September 12, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Variance Application – 2018-35 A/B/C/D

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
Planning staff recommends **APPROVAL WITH CONDITIONS** as follows:
The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement.

GUAM WATER WORKS AUTHORITY (GWA):
This memorandum shall serve as GWA's position statement to the above zone variance requests related to availability of water and sewer infrastructures to serve the 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 the basis for GWA's position to conditionally support the referenced applications.

1. The front yard setback must provide a minimum five-foot separation distance from all GWA assets including, but not limited to, water meters, fire hydrants, and valves fronting the Tumon Sands Plaza.

2. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate any new connection locations to the public water and sewer systems and is subject to GWA inspection and approval. Submittals shall include water (domestic and fire flow demand) and sewer design calculations and complete drawings and specifications.

3. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. During the Application Review Committee meeting, the applicant's representative indicated that a new restaurant is anticipated to open before the end of the calendar year. Coordinate discussions about the proposed development, including any plans for phased construction. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.

   Given current growth in Tumon, it is likely that future development will be required to increase the public water and/or sanitary sewer systems' capacities through offsite utility improvements.

4. 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 utility 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.

5. Sewer discharges to the public sewer system might be limited to certain times of day and 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 sufficiently large lift station to meet this requirement,

6. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments and must be preapproved by GWA. Onsite activities are subject to periodic inspections and audits.

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

8. If new water meters are proposed, then the meter(s) shall be located in the public right of way or easement.

9. Backflow prevention devices are required for non-residential activities and for water tanks. No backflow prevention devices were observed outside of the Tumon Sands Plaza. New building permit applications will require backflow preventer installation.

10. Privately-owned water tanks must be equipped with an air gap and might be limited to a maximum fill rate and/or fill schedule in order to avoid adverse impacts to the public water system.

11. New development is subject to water and sewer system development charges.

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. Onsite activities are subject to periodic inspections and audits.

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.

GUAM POWER AUTHORITY (GPA):

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

A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
   - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
   - Maintain minimum clearances as defined by the current• edition of the National Electrical Safety Code and National Electrical Code.
   - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
   - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
   - Provide scheduling and magnitude of project power demand requirements for new loads. • All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
   - GPA reserves its easement rights established under Document No. 38835, 39987, 41416, 796722, 556521,325012, 234311(GPA), 460919(GPA), 707100(GPA), and 780640(GPA).

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 Applicant is requesting for three (3) variance application of which lots are composed of six parcels. The property encompasses approximately 132,084 square feet. The existing parking is approximately 336 stalls with an additional of 174 proposed stalls. The three variances will reflect the proposed changes to TSP's current footprint and appearance.

The Tentative Development Plan application reflects the following specific changes to TSP's current lay out.

a) Variance Application No. I - Front yard setback to accommodate outdoor patio dining and new front TSP's entry.

b) Variance Application No.2 - Front facade signage; the existing law requires not to cover the area in excess of ten (10%) of the surface of the wall to which they are attached. However, the above applicant is requesting an additional 10% for a total of 20% to accommodate the new vendors.

c) Variance Application No.3* Partial side yard, zero setback @ the northern lot line and to include the height variance for new Virtual Reality Entertainment Center.

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:

- Traffic Generations Provide - a traffic impact analysis report must be coordinated with DPW Division of Highways (traffic control management section).
- Parking Requirements - Parking layout and parking stalls (compact, standard accessible stalls), must meet the American Disability Act (ADA) requirements.
- Access Road – Entrance/exit and sidewalks shall be wide enough for public access and must be in conformance with Guam Highway Master Plan to be coordinated with DPW, Division of Highway (rights of way section).
- Solid Waste- The existing enclosed area for trash must be able to accommodate the bulk of trash generated by the three (3) new restaurant. Must segregate (collection, disposal and recycle).
- Restroom - The existing (male/ female) and new restrooms must meet the American Disability Act (ADA) requirements.

NOTE:

a) Under 21 GCA Real Property Source: GC S31102; S 66104, Application to Existing Buildings.

b) Addition, Alterations and Repairs: More than fifty percent to which additions, alterations or repairs within any 12-month period exceed 50% of the value of an existing building or structure, such building or structure shall be made to conform to the requirements for new buildings or structures.

b) Under 21 GCA Real Property: Chapter 61 Zoning Law

(ii) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building and shall project no further than eighteen (18) inches from the wall to which they are attached, (iii) Individual signs shall not cover an area in excess of ten (10%) of the surface of the wall to which they are attached.

DPW recommends approval, subject to the comments above by the Application Review Committee (ARC) with conditions that for building permit requirements, 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 engineer or architect.

BUREAU OF STATISTICS AND PLANS:

The applicant, Tumon Sands Plaza (TSP), represented by Mr. Dan D. Swavely, request a tentative development plan for the construction of a Virtual Reality Entertainment Center (VREC) and additional 2-story parking structure. The applicant also requests for sign and minor setback variances to accommodate the new modern décor for TSP upscale renovation and new vendor mix. In addition, the application requests for a height variance of 17' - 6" in order to accommodate the multi-level activity area required for the reality experiences of the entertainment center and partial encroachment to TSP's front yard setback.

Project Overview

The property can be easily access via Pale San Vitores Road with the surrounding property area consisting of restaurants, retail/commercial businesses, apartments and condominiums, the Sand Castle, DFS Galleria and hotels. The property now encompasses approximately 132,084 gross sq. ft.TSP proposes to construct a Virtual Reality Entertainment Center, a new one-story elevated structure built over TSP's existing northeastern parking lot. The 19,960 sq. ft. addition will have access from the second floor of TSP and offer family entertainment activities where everyone can experience virtual reality games and activities.

Also included in the TSP application is a request to construct a new two-story parking structure built at TSP's western parking lot. Fulfilling this requirement will allow for the addition of three new restaurants specifically Red Lobster, the Olive Garden, and an establishment yet to be determined. The steel frame structure will span a portion of TSP's existing parking lot that will include an additional 173 stalls.

Moreover, a partial setback variance is required for a portion of TSP's front yard to accommodate outdoor dining patios and for an upgraded front entry. The setback variance from the required 15-foot front yard setback to a 10 feet setback or 5 feet past the minimum requirement and as set forth in Guam's Zoning Law.

21 GCA stipulates that the maximum allowed signage is limited to 10%, however, TSP is requesting a variance of 20% signage to adequately advertise ail of its stores, restaurants, and reality entertainment center in a banner style near the roofline along most of the front facade as well as at storefronts and display windows.

Finally, a partial side yard, zero setback in the TSP northern lot line and height variance is requested for the construction of a new reality entertainment center that is set along approximately 40% of its back wall abutting an easement along TSP's northern lot line.

Standards for Review

Pursuant to E.O. 96-26 5 300, BSP has reviewed the application to assess potential immediate, near, and long-term impacts/effects with the following:

1. Comprehensive Planning: Article 2, Ch 1, 5 GCA
2. Coastal Zone Management Act Of 1972 as amended through U.S. P.L. 104-150 (The Coastal Zone Protection Act of 1996)
3. GCMP's Development and Resources policies as established by Executive Order 78-37

The Bureau of Statistics and Plans (Bureau) has completed its review of the attached application and provides the following comments and conditions. Should the Commission approve the tentative development plan and variance requests, the applicant must address the following concerns and adhere to conditions prior to approval.

Tentative Development Plan Application (items 1-5)

Development Policy

This project is generally staying within its original footprint and is compatible to Guam's Urban Development Policy, Land Use Plan, and Zoning. The application is consistent and does not conflict with this policy.

Resources Policy

Pursuant to 5GCA Chapter I, Article 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Water Quality

a. Employ erosion and sediment controls during the construction of the parking structure to control erosion on site and avoid effects to surrounding neighbors. BMP 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.

c. Consult with GEPA for an aquifer protection review pursuant to the "Federal Safe Drinking Water Act," S1424 and Guam Safe Drinking Water Act, 10 GCA Chapter 53,
d. Integrate Low Impact Development and Stormwater Management practices in the design of buildings, driveways, parking lots, roads and other surfaces as a method of controlling stormwater.

Fragile Areas

a. Coordinate 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.
b. Consult with the Department of Agriculture divisions of Forestry and Soil Resources and Agricultural Services on using native plants to avoid and/or minimize the spread of invasive species as a result oflandscaping designs.

Variance Application #1

Development PQlicy

The variance needed to accommodate patio and outdoor dining features is not only consistent with Guam's Development Policy, it has smart growth features which improves connectivity through creating free-flowing access to commercial services.

Resources Policy

Pursuant to 5GCA Chapter IArticle 2 Section 1200 (c), (d) and Section 1201(a) (5) the
Bureau requires the applicant to comply with the following conditions
Water Quality

- See conditions above under Tentative Development Plan Application (items 1 - 5)

Fragile Areas

- Consult with the Department of Agriculture divisions of Forestry and Soil Resources and Agricultural Services on using native plants to avoid and/or minimize the spread of invasive species as a result of landscaping designs

Public Access

- Ensure that construction does not obstruct or impeded sidewalk access nor put pedestrians in any form of danger who are walking near the construction site along this part of San Vitores road.

Variance Application #2

Development Policy

The application is consistent and does not conflict with this policy

Resources Policy

Pursuant to 5GCA Chapter IArticle 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Visual Quality

- Signs will neither contain flashing, moving or video elements.
- Provide assurance to the Government that no future applications and or permits will be sought to cut trees outside or in the view plane of TSP's signage will be sought in the future.

Variance Application # 3

Development Policy
The application is consistent and does not conflict with this policy

Resources policy

Pursuant to 5GCA Chapter IArticle 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Visual Quality

Guam's visual quality policy states that the preservation and enhancement of, and respect for the island's scenic resources shall be encouraged though increased enforcement and compliance with sign, litter, zoning, subdivision, building, and other related laws. Based on Guam law, the proposed activity would be non-conforming according to 21 GCA Chapter 61 section 61616 for both height and setback.

Therefore, the structure proposed under this variance will be required to incorporate green building designs consistent with North and Central Guam Land Use Plan Policy LU-5. Examples could include, but are not limited to installing a green roof to increase open space and those listed in Stormwater Management in Pacific and Caribbean Islands: A Practitioner's Gide to Implanting LID.

The Bureau recommends approval based on the applicant meeting the aforementioned conditions.

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.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

The staff of this Agency reviewed the application and determined that this Agency do not have objection provided the owner will address the following concern during the permit processing as follows:

1. The Sewage Lift Station Holding Tank shall be design to accommodate sewage flow that will allow the operation of the lift station to schedule discharging to the main sewer system during non-peak flow period. Such condition requires GWA concurrence.
2. The design engineer must take into consideration the potential water stagnation and calcification due to water storage required for fir flow suppression.
3. The design of storm drainage system must verify the location of existing storm gutter preventing the possibility of cross connection with the sewage system.

4. Must comply with the US EPA Construction Genera! Permit Requirements and to obtain NOI prior to commencement of the construction.
5. Must provide Post and Pre-construction trust bin for the entire facility.

DEPARTMENT OF AGRICULTURE (DoAg):
Agriculture has reviewed the subject lots for the "Tentative Development Plan and Three Variance requests" and has no opposition to the proposed request. Our agency will recommend approval of the current request with the following statement conditions and requirements set forth in 21 GCA Chapter 61 Section 61637.

Our preliminary inspection of the site found no adverse impact to Agricultural activity however there are concerns regarding the coastal zone that is located west of these lots. Agricultures main concern is any erosion and pollution construction and any "clearing and grading" of any of the lots may have if there are no mitigation and Best Management Practices in place to prevent them from occurring. Additionally, any heavy equipment that will be used carries with it some potential for spillage of any fuels and other liquids that will be used for the construction of those buildings and annexes. To prevent any contamination of the coastal zone we require that construction silt screen fencing is installed around the affected areas of development and is properly maintained throughout the active cycle of construction and any earthen work that is being performed. The inclusion of spill mats should also be incorporated round those sections that lead to drainage points near rights of ways, thoroughfares as well as the ponding basin located at the rear of the lots.

Should the proposed Tentative Development and Variances 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 critical loss 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 vital tourism center to be also aesthetically attractive environmentally. Should the proposed project proceed, 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. This includes sections of the parking zones and any green zones not identified in the application. The use of native that originate in this area are highly recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and 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 coastal zones thereby 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 Tumon. The trees will also serve to provide shading for the occupants, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development plan that takes into account Guam's vital natural resources.

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 and tourism life line. It is vital that all land developers take a conscious approach in protecting our resources for future island residents so that Guam's delicate eco-system is protected and preserved for future generations. 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.

DEPARTMENT OF PARKS AND RECREATION (DPR):

We reviewed the subject application and have no objection to the approval of the Sign, Height, and Setback Variance Application.

However, the project may adversely affect historic properties. We will work closely with all parties involved to address any issues during the permitting process.

Marvin Q. Aguilar

Case Planner: Celine Cruz

— Nothing follows —

GUAM ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN
1973
EDDIE BAZA CALVO
GOVERNOR OF GUAM
RAY TENORIO
LT. GOVERNOR OF GUAM
17-3304 MARINER AVENUE TIYAN, BARRIGADA, GUAM 96913-1617
FIND US ONLINE AT EPA.GUAM.GOV

AUG 16 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
AUG 21 2018
CLTC/GALC/GLUC

Mr. John Z. Arroyo, Chairman
Guam Land Use Commission
c/o Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96910

Ref: Application Nos. 2018-35A – Setback Variance, 2018-35B – Variance for Sign, 2018-35C – Side Setback and Height Variance, and 2018-35D – amend previously approved Tentative Development Plan.

The staff of this Agency reviewed the application and determined that this Agency do not have objection provided the owner will address the following concern during the permit processing as follows:

1. The Sewage Lift Station Holding Tank shall be design to accommodate sewage flow that will allow the operation of the lift station to schedule discharging to the main sewer system during non-peak flow period. Such condition requires GWA concurrence.
2. The design engineer must take into consideration the potential water stagnation and calcification due to water storage required for fir flow suppression.
3. The design of storm drainage system must verify the location of existing storm gutter preventing the possibility of cross connection with the sewage system.
4. Must comply with the US EPA Construction General Permit Requirements and to obtain NOI prior to commencement of the construction.
5. Must provide Post and Pre-construction trust bin for the entire facility.

Should you have questions please contact Mr. Johnny Abedania, Acting Chief Engineer at 300-4786 or Mr. Angel Marquez, GEPA representative to ARC at 300-4796.

Sincerely,

For WALTER S. LEON GUERRERO
Administrator

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
Fax: (671) 477-4822

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
AUG 31 2018
CLTC/GALC/GLUC
AUG 1 2018

MEMORANDUM

TO: Director, Department of Land Management

ATTN: Division of Planning

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **Application No. 2018-35A/B/C/D**
Location: Parcel 1 – Lot 5093-R1-R2-1NEW-NEW-R1NEW-R1
Parcel 2 – Lot 5093-R1-2-R2
Parcel 3 – Lot 5095-2-R4-5
Parcel 4 – Lot 5092-5NEW
Parcel 5 – Lot 5092-6
Parcel 6 – Lot 5092-7
Applicant: Tumon Sands Plaza (TSP), Municipality of Tamuning
Proposed Use: Tentative Development Plan for the construction of a Virtual Reality Entertainment Center, Additional Parking Structure, and Zone Variance for Height and Setback

Håfa Adai! The applicant, Tumon Sands Plaza (TSP), represented by Mr. Dan D. Swavely, request a tentative development plan for the construction of a Virtual Reality Entertainment Center (VREC) and additional 2-story parking structure. The applicant also requests for sign and minor setback variances to accommodate the new modern décor for TSP upscale renovation and new vendor mix. In addition, the application requests for a height variance of 17' – 6" in order to accommodate the multi-level activity area required for the reality experiences of the entertainment center and partial encroachment to TSP's front yard setback.

Project Overview

The property can be easily access via Pale San Vitores Road with the surrounding property area consisting of restaurants, retail/commercial businesses, apartments and condominiums, the Sand Castle, DFS Galleria and hotels. The property now encompasses approximately 132,084 gross sq. ft.

TSP proposes to construct a Virtual Reality Entertainment Center, a new one-story elevated structure built over TSP's existing northeastern parking lot. The 19,960 sq. ft. addition will have access from the second floor of TSP and offer family entertainment activities where everyone can experience virtual reality games and activities.

Also included in the TSP application is a request to construct a new two-story parking structure built at TSP's western parking lot. Fulfilling this requirement will allow for the addition of three new restaurants specifically Red Lobster, the Olive Garden, and an establishment yet to be determined. The steel frame structure will span a portion of TSP's existing parking lot that will include an additional 173 stalls.

Moreover, a partial setback variance is required for a portion of TSP's front yard to accommodate outdoor dining patios and for an upgraded front entry. The setback variance from the required 15 foot front yard setback to a 10 feet setback or 5 feet past the minimum requirement and as set forth in Guam's Zoning Law.

21 GCA stipulates that the maximum allowed signage is limited to 10%, however, TSP is requesting a variance of 20% signage to adequately advertise all of its stores, restaurants, and reality entertainment center in a banner style near the roofline along most of the front façade as well as at storefronts and display windows.

Finally, a partial side yard, zero setback in the TSP northern lot line and height variance is requested for the construction of a new reality entertainment center that is set along approximately 40% of its back wall abutting an easement along TSP's northern lot line.

Standards for Review

Pursuant to E.O. 96-26 § 300, BSP has reviewed the application to assess potential immediate, near, and long-term impacts/effects with the following:

1. Comprehensive Planning: Article 2, Ch 1, 5 GCA
2. Coastal Zone Management Act Of 1972 as amended through U.S. P.L. 104-150 (The Coastal Zone Protection Act of 1996)
3. GCMP's Development and Resources policies as established by Executive Order 78-37

The Bureau of Statistics and Plans (Bureau) has completed its review of the attached application and provides the following comments and conditions. Should the Commission approve the tentative development plan and variance requests, the applicant must address the following concerns and adhere to conditions prior to approval.

Tentative Development Plan Application (items 1 – 5)

Development Policy
This project is generally staying within its original footprint and is compatible to Guam's Urban Development Policy, Land Use Plan, and Zoning. The application is consistent and does not conflict with this policy.

Resources Policy
Pursuant to 5GCA Chapter 1Article 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Water Quality

a. Employ erosion and sediment controls during the construction of the parking structure to control erosion on site and avoid effects to surrounding neighbors. BMP 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.
c. Consult with GEPA for an aquifer protection review pursuant to the "Federal Safe Drinking Water Act," S1424 and Guam Safe Drinking Water Act, 10 GCA Chapter 53.
d. Integrate Low Impact Development and Stormwater Management practices in the design of buildings, driveways, parking lots, roads and other surfaces as a method of controlling stormwater.

Fragile Areas

a. Coordinate 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.
b. Consult with the Department of Agriculture divisions of Forestry and Soil Resources and Agricultural Services on using native plants to avoid and/or minimize the spread of invasive species as a result of landscaping designs.

Variance Application #1

Development Policy
The variance needed to accommodate patio and outdoor dining features is not only consistent with Guam's Development Policy, it has smart growth features which improves connectivity through creating free-flowing access to commercial services.

Resources Policy
Pursuant to 5GCA Chapter 1Article 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Water Quality

- See conditions above under Tentative Development Plan Application (items 1 – 5)

Fragile Areas

- Consult with the Department of Agriculture divisions of Forestry and Soil Resources and Agricultural Services on using native plants to avoid and/or minimize the spread of invasive species as a result of landscaping designs

Public Access

- Ensure that construction does not obstruct or impeded sidewalk access nor put pedestrians in any form of danger who are walking near the construction site along this part of San Vitores road.

Variance Application #2

Development Policy
The application is consistent and does not conflict with this policy

Resources Policy
Pursuant to 5GCA Chapter 1Article 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Visual Quality

- Signs will neither contain flashing, moving or video elements.
- Provide assurance to the Government that no future applications and or permits will be sought to cut trees outside or in the view plane of TSP's signage will be sought in the future.

Variance Application # 3

Development Policy
The application is consistent and does not conflict with this policy

Resources Policy
Pursuant to 5GCA Chapter 1Article 2 Section 1200 (c), (d) and Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions

Visual Quality

- Guam's visual quality policy states that the preservation and enhancement of, and respect for the island's scenic resources shall be encouraged though increased enforcement and compliance with sign, litter, zoning, subdivision, building, and other related laws. Based on Guam law, the proposed activity would be non-conforming according to 21 GCA Chapter 61 section 61616 for both height and setback.

Therefore, the structure proposed under this variance will be required to incorporate green building designs consistent with North and Central Guam Land Use Plan Policy LU-5. Examples could include, but are not limited to installing a green roof to increase open space and those listed in Stormwater Management in Pacific and Caribbean Islands: A Practitioner's Gide to Implanting LID.

The Bureau recommends approval based on the applicant meeting the aforementioned conditions.

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'.***

CARL V. DOMINGUEZ
Director

Cc: GEPA
DPW
GWA
DPR
GPA

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:
RC2018-0675

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
AUG 24 2018
CLTC/GALC/GLUC

August 17, 2018

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DLM Application No.: 2018-35A/B/C/D
Sign, Height, Setback Variance/TDP
Lot(s) 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6, and 5092-7, Municipality of Tamuning
Applicant: S1082 SPE LLC, Rep. by: Daniel D. Swavely, Consultant

We reviewed the subject application and have no objection to the approval of the Sign, Height, and Setback Variance Application.

However, the project may adversely affect historic properties. We will work closely with all parties involved to address any issues during the permitting process.

Please do not hesitate to contact our office should you have any questions.

William N. Reyes

GUAM POWER AUTHORITY

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

May 15, 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 23 2018
CLTC/GALC/GLUC

MEMORANDUM

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

From: General Manager

Subject: Lots 5093-R1-R2-1NEW-NEW-R!NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6, and 5092-7, Municipality of Tamuning, (S1082 SPE LLC); Tentative Development Plan Application to construct a two-story parking, a one-story entertainment structure and three new restaurants located inside the plaza. **Application No. 2018-35 A/B/C/D**

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. 38835, 39987, 41416, 796722, 556521,325012, 234311(GPA), 460919(GPA), 707100(GPA), and 780640(GPA).**

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: S1082 SPE LLC
Location: Lots 5093-R1-R2-1NEW-NEW-R1NEW-R1/-R1-2-R2, 5095-2-R$-5, 5092-5NEW/-6 /-7
Type of Application: Tentative Development Plan
GLUC/GSPC Application No. 2018-35 A/B/C/D
Brief Project Description:
To construct a two-story parking, a one-story entertainment structure, and three new restaurants inside.

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

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

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

   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

5/18/18
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

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. Sabla
Director

Jessie B. Palican
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
AUG 16 2018
CLTC/GLUC

August 15, 2018
Memorandum

To: Director, Department of Land Management

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

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for application 2018-35 A/B/C/D for a "Tentative Development Plan and Three Variance requests " on lots 5093-R1-R2-1NEW-NEW-R1NEW-R1, 5093-R1-2-R2, 5095-2-R4-5, 5092-5NEW, 5092-6 & 5092-7 Located in Tumon. (Tumon Sands Plaza).**

Agriculture has reviewed the subject lots for the "Tentative Development Plan and Three Variance requests" and has no opposition to the proposed request. Our agency will recommend approval of the current request with the following statements, conditions and requirements set forth in *21 GCA Chapter 61 Section 61637.*

Our preliminary inspection of the site found no adverse impact to **Agricultural** activity however there are concerns regarding the coastal zone that is located west of these lots. Agricultures main concern is any erosion and pollution affects construction and any **"clearing and grading"** of any of the lots may have if there are no mitigation and **Best Management Practices** in place to prevent them from occurring. Additionally any heavy equipment that will be used carries with it some potential for spillage of any fuels and other liquids that will be used for the construction of those buildings and annexes. To prevent any contamination of the coastal zone we require that **construction silt screen fencing** is installed around the affected areas of development and is properly maintained throughout the active cycle of construction and any earthen work that is being performed. The inclusion of **spill mats** should also be incorporated round those sections that lead to drainage points near rights of ways, thoroughfares as well as the ponding basin located at the rear of the lots.

Should the proposed Tentative Development and Variances 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 critical loss 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 vital tourism center to be also aesthetically attractive environmentally. Should the proposed project proceed, **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. This includes sections of the parking zones and any green zones not identified in the application. The use of native trees that originate in this area are highly recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and 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 coastal zones thereby 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 Tumon. The trees will also serve to provide shading for the occupants, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development plan that takes into account Guam's vital natural resources

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 and its tourism life line. It is vital that all land developers take a conscious approach in protecting our resources for future island residents so that Guam's delicate eco-system is protected and preserved for future generations. 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

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

public works
DIPATTAMENTON CHECHO' PUPBLEKO
GLENN LEON GUERRERO
Director
ANDREW S. LEON GUERRERO
Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUL 25 2018
CLTC/GALC/GLUC

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

APPLICATION: 2018-35 A/B/C/D

APPLICANT: Tumon Sands Plaza (TSP) Redevelopment Plan

POSITION STATEMENT: H-Resort Zone Tentative Development Plan Application and Three Variance Application (Sign, Yard Setback and Parking Area), Tumon

Parcel 1- Lot 5093-R1-R2-1NEW-NEW-R1NEW-R1(TSP Building and Estern Parking)
Parcel 2 - Lot 5093-R1-2-R2 (Southwest Parking and Ponding Basin)
Parcel 3- Lot 5095-2-R4-5 (Southern Most Parking)
Parcel 4 - Lot 5092-5NEW (Southeast Parking)
Parcel 5- Lot 5092-6 (Portion of Southern Parking)
Parcel 6 – Lot 5092-7 (Portion of Southern Parking).

Buenas yan Hafa Adai!

The Applicant is requesting for three (3) variance application of which lots are composed of six parcels.The property encompasses approximately 132,084 square feet. The existing parking is approximately 336 stalls with an additional of 174 proposed stalls.The three variances will reflect the proposed changes to TSP's current footprint and appearance.

The Tentative Development Plan application reflects the following specific changes to TSP's current lay out.

a) Variance Application No.1 - Front yard setback to accommopdate outdoor patio dining and new front TSP's entry.
b) Variance Application No.2 - Front façade signage; the existing law requires not to cover the area in excess of ten (10%) of the surface of the wall to which they are attached. However, the above applicant is requesting an additional 10% for a total of 20% to accommodate the new vendors.
c) Variance Application No.3- Partial side yard, zero setback @ the northern lot line and to include the height variance for new Virtual Reality Entertainment Center.

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:

1. Traffic Generations Provide - a traffic impact analysis report must be coordinated with DPW Division of Highways (traffic control management section).

2. Parking Requirements Parking layout and parking stalls (compact, standard accessible stalls), must meet the American Disability Act (ADA) requirements.

3. Access Road — Entrance/exit and sidewalks shall be wide enough for public access and must be in conformance with Guam Highway Master Plan to be coordinated with DPW, Division of Highway (rights of way section).

4. Solid Waste — The existing enclosed area for trash must be able to accommodate the bulk of trash generated by the three (3) new restaurant. Must segregate (collection, disposal and recycle).

5. Restroom — The existing (male/ female) and new restrooms must meet the American Disability Act (ADA) requirements.

NOTE:

a) Under 21 GCA Real Property Source: GC S31102; S 66104, Application to Existing Buildings.

b) Addition, Alterations and Repairs: More than fifty percent to which additions, alterations or repairs within any 12 month period exceed 50% of the value of an existing building or structure, such building or structure shall be made to conform to the requirements for new buildings or structures.

b) Under 21 GCA Real Property: Chapter 61 Zoning Law

(ii) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building and shall project no further than eighteen (18) inches from the wall to which they are attached.

(iii) Individual signs shall not cover an area in excess of ten (10%) of the surface of the wall to which they are attached.

DPW recommends approval, subject to the comments above by the Application Review Committee (ARC) with conditions that for building permit requirements, 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 engineer or architect.

Should you have any questions, please contact Mr. Max C. Manzano, P.E., Chief Engineer @ (671) 486 3095 for the Division of Capital Improvement Projects (CIP- Vertical) or Maryrose M. Wilson, Engineer III, at (671) 646-3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

GUAM WATERWORKS AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 22 2018
CLTC/GALC/GLUC

MEMORANDUM

June 20, 2018

TO: Michael Borja, Director, Department of Land Management

FROM: Paul Kemp, Acting General Manager

SUBJECT: Position Statement for the Following Tumon Sands Plaza Applications
2018-35A Front Yard Setback Variance
2018-35B Sign Variance
2018-35C Side Yard Setback and Height Zone Variance
2018-35D Tentative Development Plan

APPLICANT: S1082 SPE, LLC

This memorandum shall serve as GWA's position statement to the above zone variance requests related to availability of water and sewer infrastructures to serve the 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 the basis for GWA's position to conditionally support the referenced applications.

1. The front yard setback must provide a minimum five-foot separation distance from all GWA assets including, but not limited to, water meters, fire hydrants, and valves fronting the Tumon Sands Plaza.

2. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate any new connection locations to the public water and sewer systems and is subject to GWA inspection and approval. Submittals shall include water (domestic and fire flow demand) and sewer design calculations and complete drawings and specifications

3. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. During the Application

Review Committee meeting, the applicant's representative indicated that a new restaurant is anticipated to open before the end of the calendar year. Coordinate discussions about the proposed development, including any plans for phased construction. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.

Given current growth in Tumon, it is likely that future development will be required to increase the public water and/or sanitary sewer systems' capacities through offsite utility improvements.

4. 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 utility 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.

5. Sewer discharges to the public sewer system might be limited to certain times of day and 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 sufficiently large lift station to meet this requirement.

6. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments and must be pre-approved by GWA. Onsite activities are subject to periodic inspections and audits.

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

8. If new water meters are proposed, then the meter(s) shall be located in the public right of way or easement.

9. Backflow prevention devices are required for non-residential activities and for water tanks. No backflow prevention devices were observed outside of the Tumon Sands Plaza. New building permit applications will require backflow preventer installation.

10. Privately-owned water tanks must be equipped with an air gap and might be limited to a maximum fill rate and/or fill schedule in order to avoid adverse impacts to the public water system.

11. New development is subject to water and sewer system development charges.

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. Onsite activities are subject to periodic inspections and audits.

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.

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

File for Record is Instrument Number 930899

on the Year 20 19 Month 01 Day 28 Time 3:08

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder: Jane Yamasaki
JANE T. YAMASAKI

Above Space for Recorder's Use only

COPY
Legislature

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, December 13, 2018
1:37 p.m. to 6:25 p.m.

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning, Guam
Thursday, December 13, 2018

GLUC MEMBERS PRESENT:

Mr. Tae S. Oh, Acting Chairman
Ms. Conchita D. Bathan, Commissioner
Mr. Hardy I.T. Vy, Commissioner

HYBRID MEMBERS PRESENT:

Ms. June Blas, Mayor of Barrigada
Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon
Mr. Rudy Matanane, Mayor of Yigo
Ms. Melissa Savares, Mayor of Dededo
Mr. Rudy Paco, Mayor of Mongmong-Toto-Maite
Mr. John Cruz, Mayor of Hagatna
Mr. Allan Ungacta, Mayor of Mangilao

STAFF PRESENT:

Mr. Michael Borja, Executive Secretary
Mr. Nicolas Toft, Legal Counsel
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: Thusday, December 13, 2018

Time of Meeting:

GLUC:	1:37pm
HYBRID:	

	GLUC
X	Regular
	Special
✓	Quorum
	No-Quorum

	HLUC
X	Regular
	Special
✓	Quorum
	No-Quorum

COMMISSION MEMBERS	SIGNATURE
Acting Chairman Tae S. Oh	
Commissioner Conchita D. Bathan	
Commissioner Hardy T.I. Vy	
HYBRID COMMISSION: LF Corporation; MCoG DLM 2019-01	
Municipal Commissioner June Blas	
Municipal Commissioner Rudy Paco	
Municipal Commissioner John Cruz	ABSENT
Municipal Commissioner Allan Ungacta	
HYBRID COMMISSION: Kevin Shin; MCoG DLM 2019-02	
Municipal Commissioner Louise Rivera	
Municipal Commissioner Melissa Savares	
Municipal Commissioner Rudy Paco	EXCUSED
Municipal Commissioner Rudy Matanane	
Michael J.B. Borja, Executive Secretary	
Nicolas E. Toft, Legal Counsel (OAG)	
Marvin Q. Aguilar, Chief Planner	Present
Frank Taitano, Planner IV	Present
Penmer Gulac, Planner IV	Present
Celine Cruz, Planner IV	Present
M. Grace Vergara, Planner II	
M. Cristina Gutierrez, WPS II	

Adjournment	GLUC: 6:15pm	HLUC: 3:35pm

GUAM-HYBRID 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

☑	GLUC	X	Regular	Date:	THURSDAY, DECEMBER 13, 2018
☑	HLUC	☐	Special	Time:	1:37pm
☑	Quorum	☐	No Quorum	Adjournment:	3:25pm / 6:15pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Bryan Nokat		483-7075
Norman Taoc		649[illegible]
GILLIAN WONG		6337072
William Wolk		6337072
TONY KIM		649-5270
RICHARD [illegible]		649-5270
Borja Christina		
Daniel Bren		777-4935
Jose Untalan		
Anumita Kaur		483-0434
Ed Camacho		687-8001
STEVE MARTINEZ		483 9032
Guy Aldan		788 2269
	— nothing follows —	

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

GUAM-HYBRID 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

☑	GLUC	X	Regular	Date:	THURSDAY, DECEMBER 13, 2018
☑	HLUC	☐	Special	Time:	1:37 pm
☑	Quorum	☐	No Quorum	Adjournment:	3:25 pm (HLUC) 6:15 pm - GLUC

(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.
HARRY GUTIERREZ	2018-32 / UTB / 24	
Richard Sana	2015-26FSA	
FRANKIE DIAMZON	2018-32 Frankie Diamzon	
~~ANNETTA KAUR~~		
DANNY NATIVIDAD		
Richard Untalan	Application # 2018-21	
	— Meeting follows —	

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

GUAM–HYBRID LAND USE COMMISSION

Acting Chairman Tae S. Oh
Commissioner Conchita D. Bathan
Commissioner Hardy I.T. Vy

Commissioner [Vacant]
Commissioner [Vacant]

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

AGENDA

Regular Meeting

Thursday, December 13, 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 December 6, 2018 and December 11, 2018]
[MCoG DLM 2019-01 and MCoG DLM 2019-02]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, October 11, 2018

III. Old or Unfinished Business [None]

IV. New Business

Zone Change

A. **Application No. 2018-32**, LF Corporation; Zone Change from "C/R-2" (Commercial/Multi Family Residential) to "C" (Commercial) zone, for the proposed construction of a commercial complex, on Lot 1143-R1, in the Municipality of Barrigada. **[MCoG DLM 2019-01. Municipal Commissioners June Blas, Rudy Paco, John Cruz and Allan Ungacta]**
Case Planner: Penmer Gulac

B. **Application No. 2018-48**, The Applicant, Kevin Shin represented by RNK Architecture; requests approval for a Zone Variance for Height for the proposed construction of an eleven (11) story, 246-unit Airport Hotel, on Lot 5195-2-R-1, in an "M-1" (Light Industrial) zone, in the Municipality of Tamuning. **[MCoG DLM 2019-02; Municipal Commissioners Louise Rivera, Rudy Paco, Melissa Savares and Rudy Matanane]**
Case Planner: Frank Taitano/Celine Cruz

V. Administrative & Miscellaneous Matters

VI. Adjournment

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, December 13, 2018 • 1:39 p.m. to 3:25 p.m.
[As advertised in the Guam Daily Post on Thursday, December 6th and December 11th, 2019]

I. Notation of Attendance

Chairman Oh called to order the regular meeting of the Guam-Hybrid Land Use Commission meeting for Thursday, December 13, 2018 at 1:39 p.m., noting a quorum.

Present were: Chairman Tae Oh, Commissioner Conchita Bathan, Commissioner Hardy Vy, Municipal Commissioner June Blas, Municipal Commissioner Allan Ungacta, Municipal Commissioner Rudy Paco, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Chief Planner Marvin Aguilar, Planning Staff Penmer Gulac, Frank Taitano, Celine and Recording Secretary Cristina Gutierrez

II. Approval of Minutes

Chairman Oh noted that there was a publication error on the date for Minutes to be approved, and therefore, due to the technical error, the approval of Minutes will be rolled over for approval at the next Guam-Hybrid Commission meeting.

III. Old Business [None noted]

IV. New Business

Zone Change

A. Application No. 2018-32, LF Corporation represented by Harry D. Gutierrez; request for a Zone Change from split zone "C/R-2" (Commercial/Multi Family Dwelling) to "LC" (Limited Commercial) zone, for the proposed construction of a commercial complex, Lot 1143-R1, in the Municipality of Barrigada. **[MCoG DLM 2019-01]** Case Planner: Penmer Gulac

Penmer Gulac (Case Planner) reads staff report to include purpose, facts, staff analysis, discussion, public hearing results, and recommendations. [For full content/context, please refer to attached report]

[Attachment A – Staff Report dated December 5, 2018]

Chairman Oh notes for the record the following items:

1. Petition – the petition states that several residences who signed the petition oppose the project due to potential health concerns that will arise to include the trash receptacle and generator which will generate fumes and noise. **[For full content/context, please refer to Exhibit 1].**
2. Barrigada MPC Resolution No. 2018-14 that states they support the proposed project subject to conditions. **[For full content/context, please refer to Exhibit 2.]**

Chairman Oh questions for staff.

Commissioner Bathan inquired if conditions can be placed on zone change applications.

Marvin Aguilar (Chief Planner) responded that technically conditions cannot be placed on a zone change; however, Planning depends on the requirements under the building permit process. Those requirements will be reflections of potential impacts to the surrounding community.

[Discussion ensues]

Chairman Oh explained to the municipal commissioners that conditions and/or restrictions cannot be placed on any full zone change applications. Restrictions will be placed at each agency level during the permitting process.

[No additional questions and/or comments for staff, Chairman Oh opened the floor to the applicant's consultant.]

Harry Gutierrez [representing LF Corporation, with owner Mr. Willy Wong] Mr. Gutierrez reported that about ninety-percent of the restrictions (runoff water, generator, trash disposal, etc.) placed on the application has been met and/or addressed. The applicant will also erect an 8-foot concrete wall around the perimeter of the property; there is ongoing negotiations with Guam Power Authority to remove the power poles that are located on the subject lot. Because of the low water pressure in the area, the applicant will install a 40,000 gallon water tank.

Chairman Oh for the record, Chairman Oh notes that they have received a copy of the Notice to Rezone billboard for the project.

Questions for the applicant.

Municipal Commissioner June Blas an on-site meeting was conducted with the resident that opposed the project. The residence is about 160-feet away from the proposed subject lot and the applicant has made the effort to change the site plan in order to address the resident's complaints. Mayor Blas feels that the new plan is conducive to address the issues noted; and, supports the applicant's request for a zone change.

Chairman Oh any additional comments and/or questions.

Municipal Commissioner Rudy Paco asked Mr. Gutierrez how will the water tank be topped off.

Harry Gutierrez according to the engineer of the project the tank will be topped off after evening hours; specifically, 1:00 a.m. to 3:00 a.m. Mr. Gutierrez also noted that there is a Navy line located inside the applicant's property and GWA was informed of the discovery.

Municipal Commissioner Rudy Paco his concern was that the water pressure is low as mentioned, and if tanks will be topped off around 1:00 a.m., it may still affect the surrounding neighbors.

Harry Gutierrez explained that commercial businesses do not use as much water as a residential home. A residential home on average uses 250 to 300 gallons a day.

Municipal Commissioner Rudy Paco will the water tank be used to supply the commercial facility or will be used as a stand-by.

Harry Gutierrez it will be used for the commercial activity, and a requirement of the Guam Fire Department for fire flow requirement.

Chairman Oh looking at the vicinity map of the subject lot, what is the zoning of the surrounding neighbors.

Marvin Aguilar the commercial zone that is being referenced is a 200-foot mark from centerline on Route 8, that runs along Route 8 to a certain point with Barrigada village and ends at Benson's where it becomes M-1. Everything else behind that becomes the residential zoning which is R-2.

Chairman Oh everything fronting Route 8 (200-ft) is commercial zone and every lot behind the subject lot is R-1 or R-2.

Marvin Aguilar mix of R-1 and R-2; but, predominately R-2 in this particular area.

[Discussion ensues]

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

Public Comments [Noting none, Chairman Oh closed the public comment period]

Chairman Oh had a concern regarding the complaint made on the trash receptacle. Asked if there were current commercial activities onsite at the proposed project site, and what would be the reason for residents complaining about a trash receptacle.

Marvin Aguilar this particular property was subjected to clearing, and prepared for a cement slab foundation which can be seen at this time. The project site was inspected a few days ago, and has been cleaned. At one point before the applicant purchased the property it was an open-storage area for building materials.

[Discussion ensues]

Chairman Oh if residents are complaining about a trash receptacle close to their homes, Chairman Oh had to assume that there has to be some type of ongoing operation on the subject lot.

Michael Borja the complaint had something to do with the proposed location of the trash receptacle for the commercial building.

Chairman Oh noted that there had been a building permit that was issued and asked for an explanation.

Harry Gutierrez explained that his client wanted to start the foundation work knowing the risk involved should the application not be approved by the GLUC. The foundation permit was obtained and approved by Department of Public Works.

Chairman Oh what was the intent of the applicant by doing this.

Harry Gutierrez commented that his client wanted to be one step ahead to prepare for the project. This is not an uncommon practice in the construction business; but, there are risks involved.

Commissioner Bathan what is the zoning of the structure right next to the lot, fronting the road.

Marvin Aguilar commercial zone.

Commissioner Bathan the Municipal Planning Council does not support the full zone change to commercial; however, supports limited commercial. Commissioner Bathan asked what the applicant's thoughts were on this.

Harry Gutierrez replied that his client is amenable to the limited commercial zone. Mr. Wong agrees to the restricted used in a limited commercial zone.

Michael Borja is noted in the law.

Marvin Aguilar which has been resolved by Guam Land Use Commission.

Chairman Oh explained to the applicant that the Commission will allow certain commercial activities on the property with the exception of restricted use. Is the applicant aware of the restricted uses.

Harry Gutierrez yes, they are aware.

Marvin Aguilar explained that he attended both municipal meetings and the applicant is open to the change from zone change for full commercial to limited commercial with restricted uses.

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

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the Zone Change request from a split-zone of "R-2/C" (Multifamily dwelling/Commercial) to "LC" (Limited Commercial) zone in order to construct a commercial complex for retailing, offices, shops and services, on Lot 1143-R1, in the municipality of Barrigada. In accordance with the Barrigada MPC's Resolution, the limited commercial zone will be subject to the following:

A. That only limited commercial activities as approved by the Guam Land Use Commission will be allowed, and the applicant shall be prohibited from engaging in commercial activities that may contribute to the detriment of the surrounding community including but not limited to game rooms, any and all gambling activities, massage parlors, liquor on-sale businesses such as bars and lounges, but except restaurant, smoking and vaping lounges, strip clubs and alike, and that no laundry activity be allowed in recognition of the long-standing problem with low water pressure in the area; and,
B. The site plan must be modified to accommodate neighborhood concerns, and that LF Corporation has agreed and has submitted a modified site plan in response; including drainage system and ponding basin modifications, to relocate the generator to mitigate noise, to install a minimum 40,000 gallon water storage tank, to relocate the trash dumpster location away from adjacent residences' property line, that lighting glare must not be intrusive to neighboring residences, that an 8-ft concrete wall be constructed limiting access between the subject lot and the adjacent neighbor residences, and to submit a landscaping plan to the Guam Chief Planner, DLM.

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

Municipal Commissioner Blas seconds the motion.

Chairman Oh seconded by Mayor June Blas. Noting no discussion on the motion, Chairman Oh puts the motion to a vote.

All in favor of the motion say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy, Mayor Blas, Mayor Rudy Paco and Mayor Allan Ungacta], all opposed say "nay."

[Motion passed unanimously; 6 ayes, 0 nay] [Hybrid MCoG DLM 2019-01 dismissed]

Chairman Oh noted that in attendance for the next Hybrid Commission were Mayor Louise Rivera, Mayor Melissa Savares, and Mayor Rudy Matanane.

Zone Variance

B. Application No. 2018-48, Kevin Shin represented by RNK Architecture; requests approval of a Zone Variance for Height for the proposed construction of an eleven-story, 246-room hotel, on Lot 5195-2-R-1, in the Municipality of Tamuning, in an "M-1" (Light Industrial) zone. [MCoG DLM 2019-02] Case Planner: Frank Taitano/Celine Cruz

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

[Attachment B – Staff Report dated November 30, 2018]

Chairman Oh questions for staff.

Commissioner Bathan inquired if there was a photo of the required billboard notice.

[Case Planner Frank Taitano provided the Commission members a copy of the notice]

Chairman Oh noting no further questions and/or comments, Chairman Oh invited the applicant's representative to present the application.

Richard Reed (with Tony Kim) RNK Architecture has been in business on Guam for the last 10-1/2 years. Mr. Reed turned the floor over to Mr. Tony Kim who will do a brief presentation of the project.

Tony Kim thank you for the opportunity to present this project to the Commission today.

- The project sits on Lot 5195-2-R1; and located between Route 10A to the south and Harmon Industrial area to the north. Physically the lot is sunk approximately 40-feet below Route 10A and elevated about 70-feet above the Harmon Industrial Park.
- It is relatively flat and primarily limestone; approximately 6.07 acres.
- Photos of the project site shows that the property has been cleared, mowed and maintained for the past decade.

- The zoning designation for the lot is M-1, light industrial. And based on this designation, the maximum density allowed for the site is 615 dwelling units. This project proposes 246 hotel rooms with amenities. This is approximately 40-percent use of the maximum density allowed for the property.
- The project calls for an eleven-story, rectangular tower with the first three stories for the amenities and the remaining eight levels for hotel guest rooms.
- As noted earlier, the site is approximately 40-feet below from Route 10A; and therefore, only two-thirds of the project will be visible from Route 10A.
- The main development rational for the project is to service business and short duration clientele predominately related to airport travel.
- The main pedestrian access and vehicle entry to the site are at two separate locations; the main pedestrian access will connect the third floor of the hotel's lobby directly to the existing intersection at Route 10A which currently serves as an exit for the airport terminal's main parking lot.
- The traffic light infrastructure is currently intact at this intersection, and they are proposing that light be repurposed as a pedestrian cross-walk signal establishing a safe foot-traffic to and from the Airport. RNK is incorporating this into the design hoping that it can reduce the dependency on cars to access the airport and hotel.
- The main vehicle entry will be at the south-west corner existing Sunset Blvd. intersection which serves MHI bus company and the Triple J car rental that is currently under construction.
- The development sits parallel to the runway of the Airport. The structure sits on the east and west access to reduce the solar gain thus minimizing the load for air-conditioning and power.
- The ponding basin is located at the lowest point of the site and all stormwater generated from the development will be contained onsite.
- The main entry to the hotel will come from the right-hand side and the left-hand side will be reserved for parking.
- There are total of 307 parking stalls to be provided, with 6 dedicated ADA plus two van accessible parking stalls to be located near the entry. Area for bicycle parking plus bus waiting will be located next to the front door of the hotel.
- The main hotel lobby will have a three-story atrium that can be accessible from two levels simultaneously; first, from the ground levels from visitors coming car and from the third floor for the visitors coming by foot.
- Guam has been known for point of destination resort with its beautiful beaches and tropical environment. But unfortunately, there is a shortage of hotel rooms to accommodate the growth of the hospitality industry. To alleviate the issue, the government has set up Tourism 2020 plan to help the building of 1600 new hotel rooms by the year 2020. This project will add 246 rooms to the plan. But, more importantly the project will introduce a new hospitality niche for the island as this hotel is not intended to be another point of destination resort, but rather a commuter stay offering full amenities with contemporary style and urban aesthetics.
- The Guam International Airport symbolizes the modern mode of travel. And to compliment the airport, RNK is incorporating local icons using the flying Proa that symbolizes the old mode of travel to get to the island by sea.
- Renderings of the hotel from different views. In addition to the Proa, the Latte Stone icon will be incorporated into the design. The latte stone was more than a symbol, but had functional use as the foundation of a structure in the past. This will be incorporated using the same logic as they will introduce four oversized latte stones to support the platform

that intersects the Airport and the hotel (rendering displayed). This structure will provide cover for passenger pickup and drop-offs.

Mr. Kim explained that the project will introduce a new hospitality niche for the island. It will add 246 hotel rooms for the economy; and by placing the hotel away from the beach, they are preserving Guam's beach front to be used by the public and Guam's visitors. Rather than putting another warehouse or storage structure on the property, the hotel development will give the site its highest and best use. And by being able to offer pedestrian access to the Airport, this project is surely the first pedestrian-oriented hotel on Guam. And by going with only a 40-percent density use, Mr. Kim believes that the project is staying responsible for the community.

Mr. Kim believes that the project will help raise the profile of Guam, economically, functionally, culturally and aesthetically.

Chairman Oh opened the floor to the Commissioners.

Municipal Commissioner Rudy Matanane stated that he fully supported the project and thanked RNK for incorporating the proa and latte stone into the hotel's design. Mayor Matanane's concern is the pedestrian walk-way that crosses Route 10A then goes to an exit. Are there plans to provide sidewalks where the exit is located.

Richard Reed responded that they have met, and presented the project about ten-days ago to the Board of the Guam International Airport Authority. At the end of the presentation, the Chairman of the Board commented that they support the project; and, placing sidewalks where needed will not be an issue. He further commented that they are pleased that there is an existing traffic light system which was removed by the GIAA, and they are not objecting the re-purposing of this traffic system for a walk-way.

Michael Borja asked for an explanation of the green strip area between Route 10A and the subject lot.

Richard Reed it is part of the 300-foot right-of-way.

Michael Borja the walk-way will cross over the right-of-way.

Richard Reed that is correct. Parson's Engineering (consultants for DPW Highway) is privy to this issue, and they are in concurrence with the issue of the walk-way crossing over the R/W. The other issue is the ownership of the property which happens to be GIAA, and GIAA has some level of authority of that land and they are in support of this project.

Michael Borja Mr. Borja inquired if this planned expansion of Route 10A (in the future) will cause any disruption to the walk-way area. Mr. Reed responds that there are two local engineering firms working on the expansion of Route 10A; Duenas and Associates and TG Engineers. Both firms are in the initial phases of the expansion project. The first phase that would affect this project would be the widening of Route 10A.

[Discussion ensues on the future expansion of Route 10A.]

Commissioner Bathan what is the walking distance from the hotel to the airport.

Richard Reed overall it is approximately 800-feet from the hotel's lobby to the inside of the airport.

Chairman Oh inquired if it is a covered walk-way.

Richard Reed on the side of the property which is in the right-of-way that they are petitioning for, yes; but there is no coverage over the roadway itself. Mr. Reed further added they are not allowed to have any encumbrances on the roadway.

Chairman Oh on the property boundaries, does the subject property abuts an easement; is this a public easement.

Tony Kim yes, it is part of the right-of-way. It is part of the 300-foot right-of-way.

[Discussion ensues]

Chairman Oh comments that he is aware of the discussions with the Airport; however, Chairman Oh asked if there has been any discussion with GIAA on air traffic flight paths.

Richard Reed that issue has to be addressed by FAA rules [Federal Aviation Administration]. They have been in contact with FAA and there is a current case with them; but they will not bring any information to them of any relevance until they are in the building permit process.

[Lengthy discussion ensues on air traffic flight paths. Mr. Reed commented that the hotel is not in any flight path area. Also, the airport is lower than the existing terminal and this hotel will not be adding any encumbrances to the air flight traffic by either position and/or height of the structure.]

Chairman Oh noted that the Tamuning MPC did not provide a resolution.

Municipal Commissioner Rivera a public hearing was conducted last week and followed two days later by the MPC meeting. Mayor Rivera was pleased to announce that there were no objections from the MPC, Office of the Mayor and/or the Tamuning community.

Michael Borja is there a possible brand for this hotel.

Richard Reed no; however, GIAA has expressed that they have "proprietary" to the word "airport."

Commissioner Bathan inquired if RNK has addressed the noise that will be generated from aircrafts landing and/or taking off since the hotel is close to the airport.

Richard Reed some thought has been put into it, but has not been addressed at this time.

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

Public Comment [Noting no public comments, Chairman Oh closed the public comment period.]

Chairman Oh it was mentioned earlier that there is a 40-foot drop below Route 10A and the pedestrian walk-way will be level with the 3rd floor of the hotel. Considering that the third floor is a three story-atrium, what would be the floor height for the first three floors.

Richard Reed replies that the first three floors will be approximately 12-feet high each floor.

Tony Kim when the concept of the bridge was in the design phase, they were sensitive to the height of the airport and cognizant of not going higher than the airport. The third floor was designed to connect to the intersection and so they had to lower the overall runway of the bridge.

Chairman Oh inquired what was the reason why the first three floors were not designed to have rooms.

Tony Kim replied that they were reserving the space for possible function rooms. The design of the hotel is conceptual at this time, and not final. Mr. Kim added that GIAA has suggested restaurants for the hotel.

[Discussion ensues]

Chairman Oh is there a demand for an airport hotel.

Richard Reed in the course of the past six months he has not heard one person say that they did not like the idea of an airport hotel. Mr. Reed added that GIAA would like them to conduct research on the requirements for military housing and airlines' staff. This will be the first two things that will be addressed in terms of how the rooms will be laid out and what the amenities will be. There are already vested interest in the project.

Municipal Commissioner Savares this is a good concept. In this region, neighboring island visitors who have to catch connecting flights to the Mainland often have to stay overnight at the airport. This project is a good concept.

[Discussion ensues]

Chairman Oh are there any issues on infrastructure for this project.

Municipal Commissioner Rivera not for this area, and they are pleased that it is not being built in Tumon where it is overcrowded.

Michael Borja where is the sewer connection.

Richard Reed it will go to the left side up by the intersection at Sunset Blvd. All of the agencies have had the chance to review the project, and have said that they have no reservations about the development. If there are any off-site development costs it will be shouldered by the developer.

Chairman Oh is a demolition bond required for this project.

Marvin Aguilar the demo-bond only applies in the "H" (Hotel/Resort) zone.

Commissioner Bathan asked for clarification on the ownership of the subject lot. On the zone variance application, it notes that the applicant is Kevin Shin and the owner of the property is Kurt Moylan. Is there an authorization from Kurt Moylan allowing the development of this project.

Marvin Aguilar Mr. Aguilar replied that long before the application was submitted to DLM, he was aware that there is a long-term lease and/or mortgage agreement for the property.

Richard Reed the agreement stipulates that for a two-year period, Mr. Shin has purchased the rights to represent the property in agreement with the Moylan's as his. There is a purchase price that Mr. Shin can pay at anytime during the period. This condition has been drawn up by attorneys, for a two-year period.

Nick Toft it is noted under Section 6 of their agreement.

Chairman Oh noting no additional comments and/or questions for the applicant, Chairman Oh was ready to entertain a motion.

Municipal Commissioner Savares made a motion to approve Application No. 2018-48, Zone Variance for Height for Lot 5195-2-R1, in Tamuning.

Chairman Oh there is a motion on the floor to approve Application No. 2018-48. Is there a second.

Municipal Commissioner Matanane seconds the motion.

Commissioner Bathan Mr. Chair, I would like to amend the motion to include approval with conditions as follows:

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

Chairman Oh there is an amendment to the original motion. Is there a second.

Municipal Commissioner Savares second the amended motion.

Chairman Oh on the amended motion, all in favor of the amended motion say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy, Mayors, Savares, Rivera, Matanane], all opposed say "nay." **[Amended motion PASSED; 6 Ayes, 0 Nay]**

Chairman Oh on the original motion, all in favor say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy, Mayors, Savares, Rivera, Matanane], all opposed say "nay." **[Motion passed; 6 ayes, 0 nay]**

V. Administrative & Miscellaneous Matters [NONE]

VI. Adjournment

Mayor Savares makes a motion to adjourn, seconded by Mayor Rivera; with all in favor.

The regular meeting of the Guam-Hybrid Land Use Commission for Thursday, December 13, 2018 was adjourned at 3:25 p.m.

Approved by:

Tae S. Oh, Chairman
Guam-Hybrid Land Use Commission

Date approved: 12/27/2018

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

MICHAEL J.B. BORJA
Director

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December 5, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-32 Zone Change, Lot 1143-R1, Municipality of Barrigada; GLUC Meeting of December 13, 2018.

1. PURPOSE:

A. Application Summary: The Applicant, LF Corporation, represented by Mr. Harry D. Gutierrez, is requesting approval of a Zone Change from a split-zone of "C" (Commercial) and "R-2" (Multi-Family Dwelling) to a full "C" (Commercial) Zone in order to construct a commercial complex for retailing, offices, shops and services, on Lot 1143-R1, municipality of Barrigada.

B. Legal Authority: Title 21, Guam Code Annotated, Chapter 61 Title 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 is fronting Purple Heart Highway, also known as Route No. 8, and is approximately 1,000 feet north of Mobil/Mart and Mc Donald's fast food restaurant. It is also within 100 feet east of Shell Gas Station (lease portion on commercial zone) and is also approximately 100 feet (across GIAA) A.B. Won Pat Int'l airport (See ATTACHMENT).

B. Lot Area: 17,242 Square meters or 187,549.6 Square feet or 4.6 acres (Note: Shell Gas Station currently leased portion (3,000 square meters on the commercial zone, fronting route No. 8)

C. Present Zoning: "C" (Commercial) / "R-2"" (Multi-Family Dwelling) Zone.

D. Field Description: The lot is vacant and there exists a concrete place in recent months and now is overgrown with tall grass. The topography of the site is fairly flat all around and fronts a major highway, on the northern boundary is Shell Gas Station, on the southern border is Mobil/mart and McDonalds restaurant, and on the eastern boundary are vacant lots and residential lots and multi-family complexes as well, on

(R2) zone on the southeastern boundary. GIAA (airport operations) directly is across the highway. There are other GLUC & TPC rezoning to Commercial zone along Route No. 33 (Toto-Canada Loop Road) within 300 feet of the subject lot in 1976 and 2015.

Other land use activities within 300-1,500 feet radius are residential, apartment and condominiums commercial, hotel and industrial (M2 – GIAA) airport operations. All utility infrastructures are within 100 feet of the subject development.

E. Masterplan: Not Determined

F. Community Design Plan: Residential – Low to Medium Density; Mixed uses of residential/commercial

G. Previous Commission Action: None

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Heard By ARC: May 17, 2018

B. Public Hearing Results of: July 10, 2018 **(See Attachment – A)**

4. STAFF ANALYSIS: A Zone change must address Public **Necessity, Public Convenience and General Welfare** criteria. Our analysis is as follows:

PUBLIC NECESSITY

The requested zone change to full "Commercial" fulfills a public necessity for the area which 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. 8 Barrigada, 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;

CONVENIENCE

The proposed zone change of the subject lot will afford public convenience for much needed retail and commercial/food/restaurant outlet and other permitted accessory uses service related activities at this commercial location as it is centrally located, that is consistent with current land uses, and as an extension of the commercial zones abutting the lot, and along Route No.

The location is prime and ideal, central and conveniently near areas with a large population in this area of Barrigada, and to better provide retail, food/restaurant outlets and related accessory activities to support the community and the immediate area.

GENERAL WELFARE

The proposed rezoning and uses will protect the general public, the immediate surroundings and properties 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 and to the general public and most specially our environment and the water lens below (this area is part of the Northern Recharge Area). Development on the site will provide employment of local residents and contribute positively to improving the island's growing economy.

In general, the proposed zone change will allow for a large retail store operation providing goods and services to the general public and immediate area, with consistently well stocked items of merchandise in a clean and well-maintained retail store and other family-oriented businesses to serve the public and community. 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 supporting a 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 major improvements on site will reduce impacts of noise, lighting, and traffic to the abutting neighbors. The neighbors were assured at the public hearing that the site will be well managed and landscaped, all storm water run-offs will be contained on site, and a concrete fence will be erected on the abutting residential boundary of the lot. The outcome of the initial municipal public hearing was to address the issues concerning the construction and proposed uses and that a foundation had already been poured in place before rezoning the subject lot. A second town meeting was conducted by the MPC where all concerns, issues were discussed and clarified by the applicants and their representative (**see public hearing attachment – A; town meeting attachment - B**).

Lot 1143-R1, as split-zoned property, presents that challenge of ensuring harmonious use at the fringe of two significantly different zoning designations. Commercial use presents an opportunity to engage in less restrictive land uses as opposed to that of "R-2" (multi-family dwelling), which accommodates residential development, but at more density to that of "R-1" (single-family dwelling). In the event the split-zone condition persists, that same challenge would likewise continue to exist however contained within the subject lot. Thus, by expanding the commercial zone even further, the need to find that balance is imposed on existing "R-2" and "R-1" uses to the west of the property. Concerns of these property owners have been expressed during the project's public hearing and again during a town meeting hosted by the Mayor of Barrigada. Concerns were focused on potential adverse impacts due to operational activities that if not mitigated would otherwise impinge on their rights to full enjoyment and benefit of their private property. To date, we have been advised of the applicant's efforts to address such concerns with actions that includes re-designing the commercial building by relocating both trash receptacle and power generator areas further away (approximately 160 feet from their original location) to prevent any impacts of noise, odor, and fumes. The applicant further committed designs to include a much higher perimeter CMU wall to avert effects of noise and flashing light cause by traffic and other activities associated with any operational component of the facility.

Less concerns raised by certain property owners in the immediate area, there appears to be no anticipated impacts on the immediate surroundings as the site as mitigative and preventative measures in re-design have been initiated by the property owner. We anticipate that constituent engagement through the office of the Mayor will be one course to ensure such measure are put in place. Likewise, recommendations provided by the Application Review Committee serves caveats of approval, thus, the other course of ensuring measures are in place would be through the permitting stages for building and final occupancy.

We further anticipate comments from the Municipal Planning Council of Barrigada, endorsed by resolution, that may be asserted to guarantee harmonious co-existence between the proposed facility and its surrounding area. With this, we provide the following recommendation.

5. **RECOMMENDATION: Recommend Approval with the following conditions:**

A. To the extent possible to ensure all efforts to reduce or eliminate potential adverse impacts due to operational activities caused by the proposed commercial facility, the applicant shall adhere to ARC recommendations, conditions, and requirements.

B. The applicant shall engage in operational activities to significantly reduce and/or eliminate that would otherwise be considered objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste.

MARVIN Q. AGUILAR
Guam Chief Planner

ATTACHMENTS
Case Planner: Penmer C. Gulac

ATTACHMENT – A; PUBLIC HEARING RESULTS OF July 10, 2018

Ref: Staff Report - Application No. 2018-32 Zone Change, Lot 1143-R1, Municipality of Barrigada

The required public hearing was held at the Barrigada Mayor's Office / Community Center on July 10, 2018, at 6:05 P.M. Present were, the Case Planner, Mr. Harry Gutierrez, Applicant's Rep, Mayor June Blas and Vice Mayor Bautista, a few MPC Members, neighbors and lotowners. A total of 15 persons were in attendance.

The Case Planner presented the proposed project and Mr. Gutierrez 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:

Ms. Barbara Dungca, (Neighbor resides near Shell Gas Station and Pearl Ridge Hotel):
She wanted to let the public know that the proposed project will increase traffic in the area and some flooding as well a fence will be needed to protect the neighbors. She wants to ensure the development respects and be a good neighbor. It will serve all the neighbors and it will be very convenient to shop and is should be well maintained in good order, clean, landscaped all around, and should have a good maintenance and mitigation plan. Make sure the trash bins are away from the neighbors and provide some water reservoirs to alleviate low water pressure we are experiencing for years.

Mr. Harry Gutierrez (representative):
Mr. Gutierrez 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. Trash is picked up by commercial haulers on a daily basis. There will be to additional uses such as some restaurants, beauty/barber shops offices, other small retailers and service shops permitted in a commercial zone, he added. A fence all around will be erected to buffer noise, maintain storm run-offs within the site by a special drainage/catchment (French Drain) like Agana Shopping Center uses. GWA is checking the water lines as some Navy lines are still mixed up in this area near the site, they will be investigating with assistance of the Navy and GIAA (Tiyan airport operations) . Access to and from the site, traffic circulation, and parking plan will re-assessed for safer interior activities within the site. Lighting will be directed on the complex and not projecting to the abutting neighbors. Additionally, the owners and their staff and consultants will be working with the Mayor for any other municipal requirements, as well as Gov agencies on this application that will be complied with, that he further stated the owners have other businesses and have hundreds of local of employees. This new development will continue to create new jobs in the community.

Mr. Willy Long: (Barrigada resident)
Mr. Gutierrez why your clients started building without the approval of rezoning to commercial zone, they should follow all permitting requirements, and now they stopped and abandoned..rusted out..they have to do the right thing and follow the laws..and why there is no GWA report yet..

Mr. Harry Gutierrez (representative):
For your information Mr. long.., they have a permit for foundation only issued by DPW and no further construction is being performed now until the rezoning by GLUC is approved. GWA is still checking the water lines as some Navy lines are still mixed up in this area near the site, they will be investigating with assistance of the Navy and GIAA (Tiyan airport operations), they may be a line connected to the old airport water lines..will wait for GWA's report..

Mayor June Blas:
Yes, only the foundation was poured and no other construction is being done now.. we will further discuss other issues and concerns during our MPC hearing and will need more information from the applicants and agencies positions.. our MPC Resolution will be submitted at a later date.

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 major concerns and, however other issues like flooding, water pressure in the area needed more clarification (ARC Agencies) requested by the Mayor and other neighbors in attendance noted at the hearing.

DLM Project Planner: Informed those in attendance that the Application Review Committee (ARC) had no objections on the application. We are still waiting for other agencies to submit their position/assessment of the rezoning project. Advised the attendees, 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 7:06 p.m.

Penmer Gulac

ATTACHMENT – B; TOWN MEETING WITH MAYOR RESULTS OF October 16, 2018, 6pm.

A Town Meeting with the Municipal Planning Council members, Mayor and Vice Mayor and neighbors, attended by Chief Planner and project planner:

Presentation by the Architect (Daniel Beoyong) and Mr. Frank Wu (the owner) and his family were present;

The revised site development plan was presented to those in attendance:

Mr. Beoyong high-lighted on the following:

Safe Access to and from Route 8 and traffic circulation within the area of the complex will be smooth transition from highway and safety for all shoppers and staff and tenants, will be working with Guam Police Dept Highway Patrol to review proposed plans;

Realignment of GPA easement at the rear of lot and proposed underground power line into the subject lot was already discussed with GPA with positive outcome;

Emergency Power Generation will be on site and will have an enclosure and very quiet power generation operation;

Storm Runoff /Drainage will be contained on site with French Drain catchment similar to K-Mart and Agana Shopping center;

Lighting will be soft and maintained within the confines of the parking area/perimeter of the lot;

A high concrete fence will be erected on the on the southern and eastern boundary of residential lots (provide security and privacy and to buffer noise of trucks from loading area on the rear of commercial complex);

Solid Waste Disposal Bins will located away from residential areas and will be cleaned and sanitized daily and picked up by the private hauler daily;

A Landscaping scheme will make the site beautiful and green areas will be maintained;

Mr. Frank Wu (Owner) , informed the public that the businesses and tenants will be family oriented, no adult massage, club or game rooms..and will be hiring more local residents..

Mayor June Blas expressed her appreciation for the presentation to better understand the proposed rezoning and commercial development of the site; and advised those in

attendance that the MPC will continue to review and discuss this in the next MPC meeting and provide a Resolution.

No major concerns or objections were noted at the town meeting; the presentation addressed all the concerns from the last public hearing of July 10, 2018.

Meeting was adjourned.

Penmer Gulac
Project Planner

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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

November 28, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Change Application No. 2018-32

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.

BUREAU OF STATISTICS AND PLANS (BSP):
The applicant, LF Corporation, represented by Mr. Harry D. Gutierrez, is requesting for a zone change from "C" Commercial and "R-2" Multi-Dwelling Zone to a full "C" Commercial Zone for the construction of a 2-story commercial building consisting of retail, office, and storage spaces complete with parking and rear loading dock. The subject lot is 17,424 square meters or 187,549 square feet. Lot 1143-R1 is located along Vietnam Veteran's Highway, one of Guam's major thoroughfare. The adjacent surrounding properties include the Palmridge Hotel, Shell and Mobil Service Stations, McDonald's, convenience stores, Harvest Christian Academy, Guam International Airport Authority, churches, single family dwellings, apartment complexes, condominiums, and a GHURA housing development.

The Bureau of Statistics and Plans (Bureau) has completed its review of the zone change requests and finds the use compatible with the surrounding area and is consistent with the Kabales Planu Para Guahan and North and Central Guam Land Use Plan and provides the following comments and recommendations:

Stormwater Management. Managing stormwater is a key element in the protection of Guam's water resources. Surface runoff carries pollutants into Guam waters causing siltation and increasing sediment loads. The terrain of the subject property is flat and a

change from a natural environment to a hardscape environment greatly increases runoff volume created during normal rains and storms which can cause erosion and flooding.

With this in mind, the Bureau requires that the applicant take a proactive approach to stormwater retention on the property and minimize as much impacts, not only on-site, but also to neighboring properties as well. Swales and rain gardens are an example of diversified measures towards that end. For guidance on these practices, an electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available at the Bureau's, Guam Coastal Management Program's website www.bsp3.guam.gov

Erosion Control. Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to receiving water bodies within the project site. The Bureau recommends that the applicant prevent adverse impacts from construction site runoff by employing best management practices.

The applicant must refer to the CNMI and Guam Stormwater Management Manual, October 2006, the Guam Erosion & Sediment Control Field Guide available at www.bsp.guam.gov or at the Guam Environmental Protection Agency (GEPA) for detailed construction stormwater treatment criteria and standards, bio-retention areas, and rain garden specifications.

Low Impact Development (LID) Practices. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP), 40.4% of the Agana watershed is developed and 21.6% is impervious. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent. The Bureau is concerned that additional impervious surfaces may exacerbate flooding in the area and surrounding neighborhoods if practices 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 is highly encouraged 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.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicant is 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 may also seek guidance from Guam EPA regarding their Pesticide Control Program.

In light of the points presented above, the Bureau **recommends Approval** to the zone change request from "C" Commercial and "R-2" Multiple Dwelling Zone to a full "C" Commercial Zone. The Bureau finds that the proposed commercial activity is compatible with its surrounding uses. Accordingly, the applicant is encouraged to prevent contaminants

by controlling erosion during construction and managing stormwater runoff on site. Subsequently, if this application is approved, the Bureau recommends the applicant to comply with the recommendations stipulated above.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect 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 ENVIRONMENTAL PROTECTION AGENCY (GEPA):
The staff of this Agency reviewed the application and determined that this Agency do not have objection to rezone the subject property from partial "R-2" and "C" Zone to fully Commercial "C" Zone.

DEPARTMENT OF PUBLIC WORKS (DPW):
The Department of Public Works (DPW) has completed its review of the subject application and approves the request to convert the existing zoning to full commercial subject to meeting the conditions and criteria set forth:

- must not adversely affect the adjacent property or the neighboring area (provide fence or plants) as a buffer zone;
- must be compatible with the existing or allowable uses of the property;
- must demonstrate that adequate public facilities exist (entrance/exit, sidewalk, pedestrian and drainage system);
- must have a parking stalls (compact, standard and accessible stalls) that meets the American Disability Act (ADA) requirements;
- must not create undue traffic congestion (ingress/egress) and must be wide enough for public access;
- must provide all accessory building use for storage and shall be located at the rear or side yard of the property;
- to provide a solid waste composition for either private or public services and must be situated in an area that will not hinder the public rights of way.

It should be noted that in the future the applicant must comply with all the applicable rules, regulations prior to construction. For building permit application, the applicant is required to submit a complete set of design drawings with all the necessary disciplines needed and must be in conformance with the latest building code edition.

DEPARTMENT OF PARKS AND RECREATION (DPR):
We reviewed the subject request by Harry D. Gutierrez Consultant for LF Corporation for Lot 1143-R1 and have no objection to the approval of the Zone Change Application.

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

A. Comments and Recommendations Concerning GPA requirements:
   1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
      - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
      - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.

- Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
- Developer/Owner shall provide necessary 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. 401633.

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

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

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

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

GUAM WATERWORKS AUTHORITY (GWA):
The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from a combination of "C" (Commercial) and "R2" (Multi-family) zones to full "C" zone for the proposed development of a commercial complex for retail and commercial spaces.

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 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 has submitted construction plans to GWA. Initial comments were provided and revised plans are required. 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 typically requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal.

This timeframe was not met. Future discussions shall include determination if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage, as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

3. There is a GWA water line located on the reference lot. GWA requires access to the lot in order to confirm the water line location along the easement along the southern lot boundary.

4. 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 utility 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.

5. 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.

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

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

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

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

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

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

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

please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.

DEPARTMENT OF AGRICULTURE (DoAg):

Agriculture has reviewed the subject lot for the construction of a "Commercial Building" and has no opposition to the proposed usage and development. Our agency will recommend approval of the current proposal for the construction of the facility with the following statements, conditions and requirements set forth in 21 GCA Chapter 61 Section 61637.

Our preliminary inspection of the site found no adverse impact to Agricultural activity however there are concerns regarding any storm water runoff from further clearing and grading. Agriculture would like the developer implement some "Best Management Practices" designed to ensure that no debris and runoff is allowed to enter into ingress and egress points during construction, grading and clearing. As Rte. 8 is a main thoroughfare vehicles and machinery entering and exiting the site will pose a hazard should debris from the site make its way into the roadway. A wash out area that removes soil and other material from vehicles and other heavy equipment before exiting the site should be incorporated into the project. Additionally any heavy equipment that will be used carries with it some potential for spillage of fuels and other liquids that will be used for the construction of those buildings and annexes. To prevent any contamination of the "northern Aquifer Zone" we require that construction silt screen fencing is installed around the affected areas of development and is properly maintained throughout the active cycle of construction and any earthen work that is being performed. The inclusion of spill mats should also be incorporated round those sections that lead to drainage points near rights of ways, thoroughfares as well as any ponding basin or low zones adjacent to this lot.

Agriculture recommends including into the development a green zone where allowable that uses native tree species or other varieties of flora for a Green Zone landscaping plan.

The use of native trees that originate in this area are highly recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and 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 coastal zones thereby polluting it. In addition the generator and large cargo vehicles that will be entering into the rear portion of the lot when the commercial building goes into operation will be producing loud noises from the equipment. Therefore it is important to use these trees to reduce those noise levels from that will affect residents in the rear building. By plating a "Green Barrier" of trees around these areas will help reduce the noise decibels dramatically without adding to construction cost of a concrete wall or other barrier schemes. 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 and will also add to the privacy of the facility as it will house important materials used in law enforcement holdings. The trees will also serve to provide shading for the occupants, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development plan that takes into account Guam's vital natural resources.

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 form the Department of Agriculture please contact our offices at 300-7973.

DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES (DPH&SS):
No Position Statement has been received as of the date of this Memorandum of November 28, 2018.

GUAM FIRE DEPARTMENT (GFD):
No Position Statement has been received as of the date of this Memorandum of November 28, 2018.

GUAM DEPARTMENT OF EDUCATION (GDOE):
No Position Statement has been received as of the date of this Memorandum of November 28, 2018.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):
No Position Statement has been received as of the date of this Memorandum of November 28, 2018.

Marvin Q. Aguilar

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

SEP 2 1 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 24 2018
CLTC/GALC/GLUC

MEMORANDUM

To: Chairman, Guam Land Use Planning

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: **APPLICATION NO. 2018-32**
LOCATION: Lot 1143-R1, Municipality of Barrigada
APPLICANT: LF Corporation
PROPOSED USE: Rezone from "C" Commercial and "R-2" Multi Dwelling Zone to a *Full* "C" Commercial Zone

***Håfa Adai*!** The applicant, LF Corporation, represented by Mr. Harry D. Guiterrez, is requesting for a zone change from "C" Commercial and "R-2" Multi Dwelling Zone to a *full* "C" Commercial Zone for the construction of a 2-story commercial building consisting of retail, office, and storage spaces complete with parking and rear loading dock. The subject lot is 17,424 square meters or 187,549 square feet. Lot 1143-R1 is located along Vietnam Veteran's Highway, one of Guam's major thoroughfare. The adjacent surrounding properties include the Palmridge Hotel, Shell and Mobil Service Stations, McDonald's, convenience stores, Harvest Christian Academy, Guam International Airport Authority, churches, single family dwellings, apartment complexes, condominiums, and a GHURA housing development.

The Bureau of Statistics and Plans (Bureau) has completed its review of the zone change requests and finds the use compatible with the surrounding area and is consistent with the Kabales Planu Para Guahan and North and Central Guam Land Use Plan and provides the following comments and recommendations:

Stormwater Management. Managing stormwater is a key element in the protection of Guam's water resources. Surface runoff carries pollutants into Guam waters causing siltation and increasing sediment loads. The terrain of the subject property is flat and a change from a natural environment to a hardscape environment greatly increases runoff volume created during normal rains and storms which can cause erosion and flooding.

With this in mind, the Bureau requires that the applicant take a proactive approach to stormwater retention on the property and minimize as much impacts, not only on-site, but

also to neighboring properties as well. Swales and rain gardens are an example of diversified measures towards that end. For guidance on these practices, an electronic file of the guidebook *"Island Stormwater Practice Design Specifications"* is available at the Bureau's, Guam Coastal Management Program's website www.bsp3.guam.gov

Erosion Control. Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to surface receiving water bodies within the project site. The Bureau recommends that the applicant prevent adverse impacts from construction site runoff by employing best management practices.

The applicant must refer to the CNMI and Guam Stormwater Management Manual, October 2006, the Guam Erosion & Sediment Control Field Guide available at www.bsp.guam.gov or at the Guam Environmental Protection Agency (GEPA) for detailed construction stormwater treatment criteria and standards, bio-retention areas, and rain garden specifications.

Low Impact Development (LID) Practices. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP), 40.4% of the Agana watershed is developed and 21.6% is impervious. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent. The Bureau is concerned that additional impervious surfaces may exacerbate flooding in the area and surrounding neighborhoods if practices 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 is highly encouraged 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.

Native Flora. Protection from invasive species is critical to preserving Guam's native plant and animal species. Therefore, the applicant is 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 may also seek guidance from Guam EPA regarding their Pesticide Control Program.

In light of the points presented above, the Bureau **recommends Approval** to the zone change request from "C" Commercial and "R-2" Multiple Dwelling Zone to a *full* "C" Commercial Zone. The Bureau finds that the proposed commercial activity is compatible with its surrounding uses. Accordingly, the applicant is encouraged to prevent contaminants by controlling erosion during construction and managing stormwater runoff on site. Subsequently, if this application is approved, the Bureau recommends the applicant to comply with the recommendations stipulated above.

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

CARL V. DOMINGUEZ
Director

cc: GEPA
DPW
GWA
DPR
GPA

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 22 2018
CLTC/GALC/GLUC

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

MEMORANDUM

TO: Director, Department of Land Management

FROM: Director, Department of Public Works

APPLICATION: 2018-32

APPLICANT: LF Corporation

POSITION STATEMENT: From Commercial ("C") & Multi Family Dwelling ("R-2")
Convert into Full Commercial ("C") Zone Area
Lot No.: 1143-R1, Barrigada, Guam

Buenas yan Hafa Adai! Applicant, is requesting to convert an existing Commercial and "Multi Family Dwelling Zone into a Full Commercial Zone area. The proposed zone change is to accom modate commercial, retail complex, parking, loading area and landscaping. The total lot area is approximately 17,424 square meters or 187,549.6 square feet.

Under 21GCA Real Property CH. 61 Zoning Law
Split Zoned Lots: (See Attached Regulations)
Whenever a lot has two (2) separate zoning designations within its boundaries the property owner shall have the right to select one of the two (2) zones and to have it apply to the entire lot.

The Department of Public Works (DPW) has completed its review of the subject application and approves the request to convert the existing zoning to full commercial subject to meeting the conditions and criteria set forth:

- must not adversely affect the adjacent property or the neighboring area (provide fence or plants) as a buffer zone;
- must be compatible with the existing or allowable uses of the property;
- must demonstrate that adequate public facilities exist (entrance/exit, sidewalk, pedestrian and drainage system);
- must have a parking stalls (compact, standard and accessible stalls) that meets the American Disability Act (ADA) requirements;
- must not create undue traffic congestion (ingress/egress) and must be wide enough for public access;

- must provide all accessory building use for storage and shall be located at the rear or side yard of the property;

- to provide a solid waste composition for either private or public services and must be situated in an area that will not hinder the public rights of way.

It should be noted that in the future the applicant must comply with all the applicable rules, regulations prior to construction. For building permit application, the applicant is required to submit a complete set of design drawings with all the necessary disciplines needed and must be in conformance with the latest building code edition.

Should you have any questions, please contact Mr. Max C. Manzano, P.E., Chief Engineer for the Division of Capital Improvement Projects (CIP- Vertical) or Maryrose M. Wilson, Engineer III, at (671) 646- 3230 or 646-3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 19 2018
9:48 AM
CLTC/GALC/GLUC

9/19/18

August 17, 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 Lot 1143-R1 consisting of 4.6 acres Located in Barrigada off of Rte 8. (LF Corporation c/o Harry Gutierrez).**

Agriculture has reviewed the subject lot for the construction of a "Commercial Building" and has no opposition to the proposed usage and development. Our agency will recommend approval of the current proposal for the construction of the facility with the following statements, conditions and requirements set forth in *21 GCA Chapter 61 Section 61637.*

Our preliminary inspection of the site found no adverse impact to **Agricultural** activity however there are concerns regarding any storm water runoff from further clearing and grading. Agriculture would like the developer implement some **"Best Management Pracitices"** designed to ensure that no debris and runoff is allowed to enter into ingress and egress points during construction, grading and clearing. As Rte. 8 is a main thoroughfare vehicles and machinery entering and exiting the site will pose a hazard should debris from the site make its way into the roadway. A wash out area that removes soil and other material from vehicles and other heavy equipment before exiting the site should be incorporated into the project. Additionally any heavy equipment that will be used carries with it some potential for spillage of fuels and other liquids that will be used for the construction of those buildings and annexes. To prevent any contamination of the **"Northern Aquifer Zone"** we require that **construction silt screen fencing** is installed around the affected areas of development and is properly maintained throughout the active cycle of construction and any earthen work that is being performed. The inclusion of **spill mats** should also be incorporated round those sections that lead to drainage points near rights of ways, thoroughfares as well as any ponding basin or low zones adjacent to this lot.

Agriculture recommends including into the development a green zone where allowable that uses native tree species or other varieties of flora for a Green Zone landscaping plan.

The use of native trees that originate in this area are highly recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and 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 coastal zones thereby polluting it. In addition the generator and large cargo vehicles that will be entering into the rear portion of the lot when the commercial building goes into operation will be producing loud noises from the equipment. Therefore it is important to use these trees to reduce those noise levels from that will affect residents in the rear of the building. By planting a **"Green Barrier"** of trees around these areas will help reduce the noise decibels dramatically without adding to construction cost of a concrete wall or other barrier schemes. 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 and will also add to the privacy of the facility as it will house important materials used in law enforcement holdings. The trees will also serve to provide shading for the occupants, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development plan that takes into account Guam's vital natural resources

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 form the Department of Agriculture please contact our offices at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN
Director

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN

GUAM ENVIRONMENTAL PROTECTION AGENCY 1973

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

17-3304 MARINER AVENUE • TIYAN, BARRIGADA, GUAM 96913-1617

FIND US ONLINE AT EPA.GUAM.GOV

September 18, 2018.

Mr. John Z. Arroyo, Chairman
Guam Land Use Commission
c/o Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96910

9/19/18
RECEIVED

Ref: GLUC Application No. 2018-32 – Rezone Lot No. 1143-R1 from "C" (Commercial) and "R-2" (Multi-Family Dwelling) to Full "C" (Commercial) Zone.

Hafa Adai Mr. Arroyo,

The staff of this Agency reviewed the application and determined that this Agency do not have objection to rezone the subject property from partial "R-2" and "C" Zone to fully Commercial "C" Zone.

Should you have question please do not hesitate to contact me at 300-7076.

Sincerely,

for WALTER S. LEON GUERRERO
Administrator

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 08 2018
CLTC/GALC/GLUC

In reply refer to:
RC 2017-0915

May 30, 2018

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2018-32: Zone Change Application from "C" and "R2" to a full "C" on Lot 1143-R1, Municipality of Barrigada, Guam

We reviewed the subject request by Harry D. Gutierrez Consultant for LF Corporation for Lot 1143-R1 and have no objection to the approval of the Zone Change Application.

Please do not hesitate to call us should you have any questions.

Sincerely,

William N. Reyes

Rec'd 6/8/18 P. Gola Planning Div

GUAM POWER AUTHORITY

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

May 15, 2018

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 23 2018
925
CLTC/GALC/GLUC

MEMORANDUM

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

From: General Manager

Subject: Lots 1143-R1, Municipality of Barrigada, (LF Corporation); Zone Change Application from "C" (Commercial) & "R-2" (Multi-Family Dwelling) to "C" full (Commercial) to construct a commercial complex. **Application No. 2018-32**

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. 401633.**

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

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

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

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

JOHN M. BENAVENTE, P.E.

ASG/arp

Doc. No. 35GL-19-0084.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: LF Corporation
Location: Lot 1143-R1, Barrigada
Type of Application: Zone Change
GLUC/GSPC Application No. 2018-32
Brief Project Description:
"C' & "R-2" to "C" to construct a commercial complex.

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

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

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

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

5/18/18
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

GUAM WATERWORKS AUTHORITY

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



MB 10/1

MEMORANDUM

September 20, 2018

TO: Michael Borja, Director, Department of Land Management

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

CC: Mayor June U. Blas, Municipality of Barrigada (mayorbarrigada@gmail.com)

SUBJECT: Position Statement on Zone Change Application 2018-32 for Lot 1143-R1 in Barrigada

APPLICANT: LF Corporation

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from a combination of "C" (Commercial) and "R2" (Multi-family) zones to full "C" zone for the proposed development of a commercial complex for retail and commercial spaces.

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 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 has submitted construction plans to GWA. Initial comments were provided and revised plans are required. 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.

10/2

2. GWA typically requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal. This timeframe was not met. Future discussions shall include determination if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage, as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

3. There is a GWA water line located on the referenced lot. GWA requires access to the lot in order to confirm the water line location along the easement along the southern lot boundary.

4. 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 utility 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.

5. 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.

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

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

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

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

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

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

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

NOTICE TO REZONE

PUBLIC NOTICE (REF: GLUC 2018-32)

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A ZONE CHANGE

APPLICATION DESCRIPTION: To rezone the lot from "R-2" / "C" (Multi-Family Dwelling & Commercial) to Full "C" (Commercial) Zone in order to construct a commercial complex.

OWNER: LF CORPORATION (LESSEE)

DEVELOPER: LF CORPORATION; C/O Harry D. Gutierrez (Consultant)

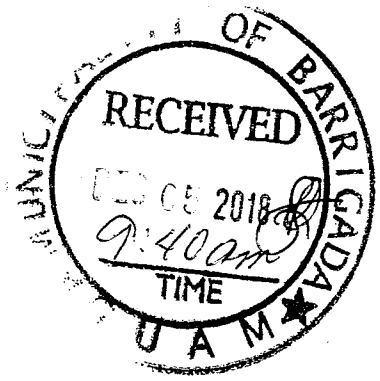
LOT, BLOCK, TRACT, MUNICIPALITY: LOT 1143-R1 BLOCK: N/A TRACT: N/A MUNICIPALITY: Barrigada, Guam

PROPOSED CHANGE OF ZONE: To rezone the lot from "R-2" / "C" (Multi-Family Dwelling & Commercial) to Full "C" (Commercial) Zone.

	DATE	TIME	PLACE
PUBLIC HEARING:	November 10, 2018	6:00 PM	BARRIGADA MAYOR'S OFFICE / COMMUNITY CTR
GLUC MEETING:	DECEMBER 13, 2018	1:30 p.m.	DLM/GLUC CONF RM 3RD FLR ITC BLDG, TAMUNING

Doc No 35GL-18-0081

UF Corp



November 28, 2018

To Whom It May Conceern:

Reference: Trash Receptacle & Generator

I am a Home Owner residing at #131 KAJA COURT Barrigada. Guam
#123 Kaja Ct. Barrigada, Guam
I am with the understanding that American Grocery Market is proposing to relocate the Trash Receptacle and Generator currently situated at off Route 8 to _____.

I, along with the following Home Owners oppose this plan due to the potential health concerns that will arise from both the Trash Receptacle and the Generator from fumes, noise and disposals of waste not properly maintained.

Acknowledged by Home Owners:

Jeanette P. Selk JEANETTE P. SELK
Jianbing Wu
Xiu Xue Tian
Ting Ting Wu
Wang guxiang
Patricia H Perez PATRICIA A. PEREZ
Mara Perez Mara Perez

Doc. No. 35GL-19-0084.

1201 B Ann Ct,

Frank M. Portuscach 2nd Floor, Pittsburgh

My Back yard Have 10'-00' Easement.

Stove. Can't use Easement

BARRIGADA

MUNICIPAL PLANNING COUNCIL
November 28, 2018

Resolution No. 2018 - 14

Introduced by: Mayor June U. Blas
Vice Mayor Jessie Bautista
Members of the Municipal Planning Council

Relative to expressing the support and endorsement by the Barrigada Municipal Planning Council on Zone Change Application No. 2018-32, for a zone change on Lot 1143-R1, Barrigada, from "R-2" (residential, multi-family dwelling) to "C" (commercial) to allow construction of a commercial complex for retail and commercial spaces.

BE IT RESOLVED BY THE BARRIGADA MUNICIPAL PLANNING COUNCIL:

WHEREAS, it is in receipt of a Zone Change Application from the Department of Land Management, No. 2018-32, submitted by LF Corporation, for a zone change from "R-2" (Multi Family Dwelling) to "C" (Commercial) for construction of a commercial complex for retail and commercial spaces on Lot 1143-R1 located in the Municipality of Barrigada; and

WHEREAS, the Municipal Planning Council understands that the subject property is split-zoned "C" and "R-2", and that LF Corporation is seeking to have a uniform zone of "C: for the entire project property; and that the property is located along Route 8 between the Mobil Gas Station and the Shell Gas Station; and

WHEREAS, on Tuesday, October 16, 2018, the Barrigada Municipal Planning Council conducted a duly noticed Municipal Planning Council meeting in order to accommodate Municipal Planning Council members to learn more about the proposed rezoning and development of the above mentioned lot; and discussed issues of concern with adjacent neighbors and landowners, as well as reviews of GovGuam agency Position Statements from DPW, BS&P, DoAg, GEPA, GWA, and DPR; and

WHEREAS, the Mayor, the Vice-Mayor and the Municipal Planning Council further express their concerns and conditions as follows:

(A) That only limited commercial activities as approved by the Commission be allowed and the Applicant shall be prohibited from engaging in commercial activities that may contribute to the detriment of the surrounding community including but not limited to game rooms, any and all gambling activities, massage parlors, liquor on-sale businesses such as bars and lounges but except restaurants, smoking and vaping lounges, strip clubs and the like and that no laundry activity be allowed in recognition of the long-standing problem of low water pressure in the area;

(B) That the Site Plan must be modified to accommodate neighborhood concerns, and that LF Corporation has agreed and has submitted a modified Site Plan in response; including drainage system and ponding basin modifications, to relocate the generator to mitigate noise, to install a minimum 40,000 gallon water storage tank, to relocate the trash dumpster location away from adjacent residences property lines, that lighting glare must not be intrusive to neighboring residences, that an eight-feet concrete wall be constructed limiting access between the subject property and the adjacent neighbor residences, and to submit a landscaping plan to the Chief Planner, Department of Land Management; and

WHEREAS, the Mayor, the Vice-Mayor and the Municipal Planning Council exercising its right finds that government services facilities and infrastructure currently servicing the area, including but not limited to: power lines, power poles and facilities; water lines, water pumps and facilities; sewerage and wastewater disposal; storm water disposal; solid waste disposal; telephone lines and facilities are adequate; and

WHEREAS, the Mayor, the Vice-Mayor and the Municipal Planning Council further finds that the zone change request to "C" cannot accommodate the requested conditions, and that a zone change to **"LC" Limited Commercial** is the proper zone and can still accommodate the intended use with conditions; now therefore, be it

RESOLVED, that the Barrigada Municipal Planning Council having reviewed **Zone Change Application No. 2018-32, for a zone change on Lot 1143-R1, Barrigada, from "R-2" to "C"** is not supported, and instead does hereby express its support and endorse a **Zone Change to "LC" Limited Commercial with the stated conditions**; 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 LF Corporation, to the Executive Secretary of the Guam Land Use Commission; to the Executive Director of the Mayors' Council of Guam; to the Honorable Therese Terlaje, Acting Speaker, 34th Guam Legislature, and to the Honorable Edward J.B. Calvo, Governor of Guam.

DULY AND REGUARLY ADOPTED ON THE 28th DAY OF NOVEMBER 2018.

JUNE U. BLAS
Mayor and Chairperson

JESSIE P. BAUTISTA
Vice Mayor

THERESE B. MAZZEI
MPC Member and Council Secretary

ATTACHMENT B

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

November 30, 2018

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2018-48, Zone Variance (Height) for Lot No. 5195–2–R1, Municipality of Tamuning.

1. PURPOSE:

a. **Application Summary:** The applicant, Kevin Shin represented by Architecture RNK is requesting for a Zone Variance approval for height to construct an eleven storey (eight stories above the allowed three stories), one hundred and twenty-one feet (ninety-one feet above the allowed thirty feet) high, 246-room hotel (Guam International Airport Hotel) on Lot 5195-2-R1, Municipality of Tamuning.

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

2. FACTS:

a. **Location:** The subject site is located along Route 10A directly across from the Guam International Airport Main Terminal.

b. **Lot Area:** 24,555 SM or 264,307 Square Feet.

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

d. **Field Description:** The lot is presently vacant and fairly flat with a maintained ground cover (grass) as dominant vegetation.

e. **Masterplan:** Light Industrial as per Official Zoning Map F3- 67S38

f. **Community Design Plan:** Light Industrial

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** August 23, 2018

b. **Date Heard By ARC:** September 20, 2018

c. **Public Hearing Results:** December 4, 2018 **(See Attachment "A")**

4. DISCUSSION and STAFF ANALYSIS:

This zone variance request is for height to allow the construction of an eleven (11) storey, one hundred-twenty-one (121) feet high hotel building. The hotel boasts a two hundred and forty-six (246) room facility, dubbing it the Guam International Airport Hotel. The request if granted will deviate from the typical height limitation of three stories or thirty feet height by an additional eight (8) stories and ninety-one (91) feet.

Lot 5195–2–R1 is located in the municipality of Tamuning and is fronted by Route 10A (Airport Road). However, the 300-foot wide easement (**see Exhibit A**) collectively identified as Lot 5195-2-1G and Tract 1427-R/W contains the known 80-foot wide fully improved "Airport Road" with its remaining width northward occurring at extreme slopes. Lot 5195–2–R1 occurs forty (40) feet below Airport Road. Thus, the design strategy reflects access to the building via the extension of Sunset Road as depicted on Exhibit A. Design strategy will have the first three floors accommodate public amenities up to Airport Road grade and will include operational facilities such as a front desk-lobby, retail vendors and tourist lounge, and administrative offices. The remaining top eight (8) floors will contain the proposed 246 hotel rooms. With the 3rd floor occurring at grade level to Route 10A, designs will further include pedestrian access and connectivity from the existing public parking/departure exit area of the airport.

The development is required a total of 292 parking stalls. Hotel design boasts 307 parking stalls. Eight (8) ADA parking stalls and Sixteen (16) bicycle stalls are also required, to which has been incorporated in the design.

The project proposes to apply appropriate landscaping efforts as may be guided by government agencies. That is, to incorporate a landscaping program focusing on three major areas, a band of vegetation on the property perimeter defining the boundaries, an entry garden at the lobby entrance. Likewise, the pool and patio garden will emphasize a green-scape foreground framing the ocean and city views to the north of the main building.

As with other development requirements, the project will provide an approved storm water retention system to address the onsite storm water runoff. In this respect, the Bureau of Statistic & Plans suggests certain Best Management Practices to encourage desired surface water runoff management as well as other activities as may be incorporated into the final design to support water resource re-use and percolation.

Variances may be granted by the Commission, provided the applicant can justify the following:

1. That practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law;
2. 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;
3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood;
4. That the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan; and
5. 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 its natural beauty.

The applicant provides the following:

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

   The applicant provides that "the application of the Chapter provisions for density on this site allows a total of 615 hotel rooms. (264,307sq ft /400) Maintaining the 30-foot building height provision for this number of units, with parking, would result in a concrete maze, blanketing 100%+ of the 6.4-acre property, boundary to boundary, three stories high.
   Trying to fit the allowable density within the constricted height results in a "practical difficulty," or "an unnecessary hardship, inconsistent with the general purpose of the law"

   The proposed alternative is to develop a more realistic 40% density of 246 hotel rooms, with a variance for stories and height. The hotel program footprint, within an 11-storey structure, could be reduced to approximately 10%+ of the property area, maintaining 90%- open space for parking and landscaping. (27,232sq ft/264,307)

   The height & storey variance application is for a 121-foot, 11 storey structure. By way of comparison, based on the property dimensions, the H Zone provisions (which calculate allowable hotel height), would be 130 feet. (504' + 802') = 1306710 = 130.6' allowable height for a H Zone hotel".

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

   The applicant provides that "the proposed development sits on the border between two large but distinct zones, the light industry zone of the Harmon Industrial Park to the north and the Airport zone of the Guam International Airport Authority (GIAA) to the south.

   Topography is the first relevant circumstance separating this site from its shared M-1 Harmon Industrial zone designation. The property sits on a limestone bluff, elevated 70 feet above the industrial park zone. This effectively isolates the site from access, uses and the general conditions of the industrial zone below.

   The second physical circumstance is that the property shares its Route 10a border with the Airport zone, directly across the street from the Main Terminal. This location offers a

unique opportunity for a covered pedestrian walkway connecting the hotel lobby to the Route 10a intersection currently serving as the main exit for the GIAA parking lot.

Isolation from the M-1 industrial Zone, and direct access via a shared boundary with the Airport zone creates the potential to walk directly from a hotel lobby to the airport arrival and departure areas. These are the exceptional circumstances recommending this property for its proposed use".

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

The applicant provides that, "issues addressing public welfare in a light industrial zone might focus on safety concerns such as noise, pollution or EPA infractions. By comparison, the opportunity of a hotel, generating stronger commercial activity with safer environmental standards would not be materially detrimental, but rather define the "highest and best use", of the zoning as it relates to public welfare.

The program proposes to operate at 40% of the allowable density, fitting it within the capacity of the existing utility infrastructure.

The proposed use will extend the Route 10A commercial corridor, running from Marine Corps Drive, thru the Home Depot and west towards Barrigada.
Route 10A is scheduled for expansion with the Phase 1 Design currently at 60%. The scope includes rerouting Sunset Drive, from its current intersection at the east end of the Airport main parking lot down to the Home Depot intersection, mitigating any impact from additional hotel traffic".

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

The applicant provides that, "the proposed development of this property as a hotel is in conformance with Section 61309(a)(1), 21 GCA. The North & Central Guam Land Use Plan 2009 designates this property within the Harmon Industrial Zone allowing transportation facilities such as the adjacent MH I & Hertz complex.

The more significant land use description for this property derives from its shared 600-foot road frontage with the GIAA, designated in the Land Use Plan as the "Airport" category. The Plan's specific description for the category is, "the Guam International Airport and adjacent industrial uses". The uses promoted in this category are those showing "compatibility with aviation facilities" further described as, "compatible industrial, commercial, and accessory uses that can benefit from close proximity to the airport".

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

The applicant provides that, "this requirement is a paraphrase of sub Section 61617(a)(5), 21 GCA. This subsection, in turn, references the originating intent of this requirement under Section 61504: "Building & Building Height Restrictions in Beach Areas".

The purpose stated in Section 61504(a) is to remedy the "indiscriminate building of structures on the beaches of the Territory (which) deprives the people of Guam of their right to untrammeled use of beach areas".

This proposal for a business-oriented hotel, offering both a marketing and geographic alternative to the beachside resorts of Guam, can be seen as directly supporting the intent and goals of the laws above.

In closing, this project promotes the "best and highest use" of the site, the preservation of Guam's beachfront, and the introduction of a new marketing niche for our island".

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

In addition, the submitted ARC position statements are with no objection and therefore conclude that their request is in proper form and context to be considered favorably by the Guam Land Use Commission.

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

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

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

MARVIN Q. AGUILAR

CASE PLANNER: FPTaitano

Attachments: ARC Memo to GLUC Members

Minutes of Public Hearing

Application No. 2018-48, Zone Variance for Height to construct an eleven story (eight stories above the allowed three stories), one hundred and twenty-one feet (ninety-one feet above the allowed thirty feet) high, 246 room hotel (Guam International Airport Hotel) on Lot 5195-2-R1, Municipality of Tamuning.

The meeting was called to order at 6:04pm by Planning Division staff. There was an introduction from Ms. Celine Cruz, Department of Land Management Planning Division Co-Planner on the application.
After the Introduction the floor was turned over to the Owner's Representatives from Architecture RNK, Mr. Richard Reed and Mr. Tony Kim. Mr. Reed presented on the site background, ownership of the property and intent of the Hotel. Next Mr. Kim presented a PowerPoint presentation with details of the hotel and the Variance application.
The floor was open for discussion and questions as noted below;

Q. Mr. Antonio Charfauros (MCG)- How many people are included in the 500 ft radius of the Project Site?
A. Ms Celine Cruz- Only 30 certified mail letters were sent out, not very many neighbors to the site
A. Mr. Richard Reed-The Airport is the big neighbor of the property, The Hotel will mainly interface with route 10a and the airport.

Q. Mr. Joe Roberto- Is there any issues with make contact with roads below the hotel site in the Harmon Industrial Area?
A. Mr. Richard Reed-There are no plans yet to connect to roads in the Harmon Industrial Area

Q. Mr. Joe Roberto-Can I borrow the PowerPoint Presentation? I would like to propose a connection to Pangelinan Blas Street in Harmon Industrial to relieve traffic on Marine Corps Drive.
A. Ms. Celine Cruz- That is more of a Government issue regarding easements and roads and does not pertain to this Site Application.

Next Mr Frank Taitano Planning Division Co-Planner for this application speaks and Introduces Mayor Louise Rivera and ask if she has any questions.
Mayor Rivera has no questions at this time.

Q. Mr Antonio Charfauros- What is the next step in the process of this variance application?
A. Ms. Celine Cruz- This application has met all of the statutory requirements. Next the report will be presented to the Land Use Commission for a decision. The meeting announcement will be posted in the Guam Daily Post and any other comments or concerns will be accepted at the Planning Division Office in the ITC building. Address the comments to Director of DLM 3rd Floor ITC building.

Q. Mr. Joe Roberto- Do you know how many people will be employed by the hotel? And what is the estimated cost of construction?
A. Mr Richard Reed- The estimated cost is about $50 Million. Based on the parking calculations and requirements and estimated 100-125 people will be employed at the hotel.

Q. Mr. Joe Roberto- Do you already have a design for each room? Does it meet the requirements/standards for the military?
A. Mr Richard Reed- There is no design yet for the room, we are still coordinating with the military when it comes to this matter.

Minutes of Public Hearing
Application No. 2018-48 (Zone Variance)
Lot No. 5195-2-R1
Municipality of Tamuning
Page No. 2

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

There being no further questions or concerns the case planner adjourned the meeting at 6:33 P.M.

Celine Cruz
Case Planners

Frank P. Taitano


PUBLIC NOTICE
AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISION (GLUC) FOR A ZONE VARIANCE
APPLICATION DESCRIPTION: DEVELOPMENT OF A 246 UNIT HOTEL
OWNER: KEVIN SHIN
DEVELOPER: KEVIN & STEVE CORPORATION
LOT, BLOCK, TRACT, MUNICIPALITY: 5195-2-R1 TAMUNING
PROPOSED ZONE VARIANCE: HEIGHT AND STORY APP# 2018-48
DATE:
TIME:
PLACE:
PUBLIC HEARING: DEC. 4, 2018 6:00 PM Tamuning Senior Center
GLUC MEETING: DEC. 13, 2018 1:30 pm DLM Conference Room, 3rd Floor ITC Bldg.
Doc. No. 35GL19-0084

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

December 5, 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. 2018-48 (Zone Variance)

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
DLM recommends approval with the following conditions:

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

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

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

GUAM WATERWORKS AUTHORITY (GWA):
The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for an 11-story hotel with 246 rooms.

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 GWA rules and regulations. Any required extension to the existing facilities to serve the subject properties shall be at the applicant's expense.

GWA has no objection to the height variance request. The following comments are provided for the proposed development:

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.

   (a) The GLUC application references a Guam International Airport Authority water line. Only the airport and its tenants may be served by the airport's water system. Therefore, the proposed hotel must connect to the GWA water system.

   (b) GWA has approved the construction permit application for neighboring Lot 5195-1NEW-R1. The applicant may need to coordinate offsite infrastructure construction with the owner of Lot 5195-1NEW-R1.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage, as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

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.

   If GWA requires the developer to hire a construction manager to oversee water and sewer infrastructure, then a quality control document containing construction records and pictures shall be provided to GWA, to document construction practices and installed materials. GWA shall be provided with construction schedules, so that inspections may be conducted during construction

   GWA's approval of the occupancy permit application will be contingent upon the completion of offsite utility 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. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.

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

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

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

GUAM POWER AUTHORITY (GPA):

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

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

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

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

B. General Comments:

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submits the following position:

We have reviewed the subject request by Kevin Shin for a Zone Variance Application of subject Lot and have no objection to the approval of the Zone Variance Applicant.

Our research show that the Zone Variance would not adversely affect historical properties. However, if there are any inadvertent discoveries to historical property during construction, the project must stop and our office contacted.

DEPARTMENT OF AGRICULTURE (DoAg):
Agriculture has reviewed the subject lot for the construction of a" Hotel (Guam International Airport Hotel)" and has no opposition to the proposed usage and development. Our agency will recommend approval of the current proposal for the construction of the facility with the following statements, conditions and requirements set forth in *21 GCA Chapter 61 Section 61637.*

Preliminary inspection of the site found no adverse impact to **Agriculture** as the site has no recent history of cultivation and animal husbandry occurring. However, upon review of the application and based on site survey our agency recommends the developer implement **"Best Management Practices"** that addresses both environmental and ecological issues. The application designates the completed phase showing only a limited aspect of a landscaping plan. Agriculture encourages this section and the boundary edges of the property line to include native and indigenous trees and other foliage to be used as part of the overall design of the structure.

The continued development of the island creates challenges in trying to achieve a proper balance as the removal of Guam's vegetation will continue to affect the islands environmental make up. Replanting these trees will allow and prevent the destruction of our **"Northern Aquifer"** and avoid unchecked and reckless development that does not take into account preservation and continuation of native habitat that has protected our natural resources and island lifestyle. Planting these trees back into the environment will not only achieve that but also add to the development's aesthetic appeal. In addition, these planted trees will help provide shading, windbreak capabilities and a greener appeal to the proposed development.

The use of native trees that originate in this area is recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and 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 coastal zones thereby 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. In addition, our **Agricultural Development Services Division** maintains an **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 for assistance contact **John Borja, Rick Lizama and Pete Terlaje** at the ADS division at 300-7976 where our agricultural agents can assist you.

The guidelines as listed in this Impact Assessment should be used as a template to ensure continuation of Guam's habitat. 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. For other earth friendly techniques and guidance form the Department of Agriculture please contact our offices at 300-7973.

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 are in place:

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

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

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

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

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

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

7. **SOLID WASTE**
   Provide solid waste compositions.

8. **OTHERS**
Comply with all the Geotechnical requirements related to site preparations.
Ecological planning is needed to ensure the conservation of its resources.

NOTE:

a) Incorporate ADA Hotel Room features and inventory requirements in the drawings.
b) Provide a company who is certified and qualified to install an elevator that meets the standard of the American Society of Mechanical Engineers and must be licensed to do business in Guam

DPW recommends approval, subject to the comments provided by the Application Review Committee (ARC) with conditions that for building permit requirements 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 engineer or architect

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

The staff of this Agency has reviewed the application and determined that the proposed project will meet the requirements of our regulations provided the owner/developer and contractor comply with all relevant laws and regulations administered by GEPA and if they address the following concerns during the preparation of design documentation, permit application and construction as follows:

A. Stormwater Management Plan

1. All applicable requirements of the *Guam Soil Erosion Sediment Control Regulations* (GSESCR) and *CNMI and Guam Stormwater Management Manual* (CNMI-Guam Manual) must be followed, to include but not be limited to the use of all appropriate construction and post-construction BMPs and appropriate paving and landscaping practices to contain storm run-off within the property and prevent flooding of downstream areas.

2. The applicant must obtain coverage under and follow all requirements of the USEPA Construction General Permit (CGP). The applicant must submit a Notice of Intent (N01) and stormwater pollution prevention plan (SWPPP) to USEPA and submit copy to Guam EPA pursuant to GSESCR. Submit an Environmental Protection Plan (EPP) and Erosion Control Plan for review and approval prior to commencement of clearing and grading activities.

B. Water System

1. A water storage tank and a booster pump are necessary provide the minimum water pressure at the highest fixtures in the building and fire flow suppression requirements, pursuant to Safe Drinking Water Regulations. However, if other water treatment or a water softener is to be used to enhance the water quality or remove the hardness in water, the applicant is advised that this may trigger additional considerations and requirements under the Lead and Copper Rule.
2. Any water storage tank or other component that comes into contact with potable water must be an NSF certified product.
3. The design, location and elevation of the proposed water storage tank must address the water pressure and water supply concern within the service area. Coordinate with GWA in the design and construction of the water storage tank and appurtenances.

C. Wastewater System

1. A hydraulic analysis must be conducted to insure the receiving sewer main is adequate to receive all discharges from your facility especially during peak hours of sewer used. Coordinate with GWA regarding the location of the sewage discharge at point of connection to minimize overloading the existing sewer collection system and pumping station serving the area.

2. A transition Sewer Manhole at the point of connection to the existing sewer line is recommended to facilitate maintenance and minimize impedance to upstream flows.

D. Others:

1. Provide adequate trash bin to accommodate a full capacity of the hotel complex.
2. Must comply with the Guam EPA Air Pollution Control Act arid Guam Pesticide Act and other regulations that applies to the project.
3. Must comply with the Guam Solid Waste and Hazardous Waste Regulations.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (Bureau) has completed its review of the above-mentioned application pursuant to its authorities under 5GCA Ch.1 Article 2 Centralized Planning and the Guam Coastal Zone Management Program (GCMP) Enforceable Policies pursuant to Executive Order 78-37. Moreover, in accordance with Executive Order 96-26, the Bureau herby submits its position statement and conditions based on its professional and technical analysis of effects to statutory authorities under the Bureau's purview.

Project Overview

The applicant, Mr. Kevin Shin, represented by RNK Architecture, request a Zone Variance for Story and Height to construct the Guam International Airport Hotel located on Lot 5195-2R1 along Route 10A directly across from the Guam International Airport Authority Main Terminal. The applicant proposes to construct an 11-story hotel consisting of 246 rooms that will cater to business clientele staying for short periods of time while offering full amenities with a contemporary style and an urban aesthetic.

In an effort to promote the Guam Visitor's Bureau Meetings, Incentives, Conventions, and Exhibitions (MICE) mantra, the construction of the airport hotel is a welcome addition to Guam's list of business and meeting attractions and is generally supported by the economic and visitor industry on Guam.

The property encompasses 6.07 acres or 24,555 square meters and will feature public amenities including a lobby, front desk, retail vendors, and a large tourist lounge for the business traveler in the first three building levels along with 299 parking spaces that will be easily accessible from the west end of the main building at the ground floor level. The remaining top eight floors will house the hotel units in a standard double loaded corridor configuration.

A unique feature of the hotel will be a pedestrian access which will connect the third floor of the hotel lobby directly to an existing intersection at Route 10A which currently serves as the exit for the GIAA Main Terminal parking lot.

Landscape Assessment

The property sits on the border between two large but distinct zones, the light industry zone of the Harmon Industrial Park to the north and the airport zone of the Guam International Airport Authority to the south. Adjacent properties consist of industrial, light commercial and commercial uses. This property is located on the Northern Watershed. Having an accurate picture of an area's landscape and understanding how that landscape is changing is important information for any planning effort. Land cover data can help provide that big-picture view. According to NOAA's C Change Analysis Program (CCAP) land cover data from 2011, shows this watershed has changed 9.39% which is primarily due to increased impervious surfaces.

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

Effects Test Review and Analysis and Conditions

Executive Order 78-37, (B), (2) Urban Development 2. Urban Development state that "Uses permitted only within Commercial, Multi-Family, Industrial, and Resort-Hotel zones; and uses requiring high levels of support facilities shall be concentrated within urban districts as outlined on the Land-Use Districting Map."

Public Law 30-224 NCGLUP Ch. 2.2 (g) - state that "Industrial lands are those lands designed fora variety of industrial uses and agriculture, commercial and agricultural, commercial and non-residential uses compatible with industrial uses.

Typical uses include manufacturing and processing, wholesaling, large storage and transportation facilities, light industrial and industrial-commercial uses. The Industrial area also includes the Guam International Airport, which serves as the international transportation hub for both passenger and freight service. A separate Airport Plan ensures compatibility with aviation facilities, for the protection of runway safety and clear zones, and the protection of public safety. Mineral extraction is also permitted in the industrial designation. Prior to development, mineral resources use must demonstrate the quality, type, available quantity, development and environmental constraints, and other quantitative assessment considerations. Residential development is limited to uses such as caretaker facilities and accessory dwelling units".

This project is consistent with the North and Central Guam Land Use Plan's future land use map, as well as Ch. 7.2 Goal I-1. Policy 1-1, *Recognize that new development must occur in conjunction with adequate infrastructure to provide the services required by the development* Moreover, the project is consistent with Ch. 7.2 Goal 12, Policy I-11 *to minimize installation and ongoing maintenance and replacement costs, encourage development near existing infrastructure prior to new development in unserved areas. In new development, encourage compact development patterns to minimize capital investments and operating costs.*

Executive Order 78-37, (C) Resource Policy, (6) Visual Quality states, "Preservation and enhancement of, and respect for the island's scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use; visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significantly the views from scenic overlooks, highways, and trails." Based on GIS view corridor 3-D modeling (attached), the Bureau has determined that there will be adverse effects to this policy in areas along Route 10-A.

While the Bureau acknowledges the incorporation of a cultural icon (galaide sail) into the architecture of the building as a feature that promotes culture, it is, by itself insufficient mitigation for the loss of view from the highway vintage point. Therefore, the Bureau recommends that the GLUC require the following conditions.

1. Require the project design be altered to minimize the loss of view; and/or

2. Require the project to incorporate more cultural icons to the face of the building fronting Route 10A; and/or
3. Require any other mitigation requirements it determines necessary to properly account for the loss of this visual resource of the people of Guam.

Public Law 30-224 NCGLUP Ch. 5.2 outlines the following policy:
Policy NS-12 Protect and re-establish native species through active management of established conservation areas, continued partnership with military land owners on refuge overlay lands, and provide guidance to private property owners on best management and "green" and sustainable development standards.

Incorporate development practices called for under local conservation plans and guidance through the Department of Agriculture Division of Aquatic and Wildlife Resources. Moreover, an action stated in Goal NS S. is to "Partner with the Military and private property owners to protect and re-establish native species." Therefore, the Bureau recommends that the GLUC require the following conditions.

4. The applicant to consult with the Department of Agriculture, Divisions of Forestry and Soil Resources and Agricultural Services. to plant native trees to the maximum extent practicable for landscaping purposes.

Executive Order 78-37, (C) Resource Policy, (3) Water Quality states that "Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas." The Guam Territorial Seashore Protection Act (21 GCA Ch 63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas while the Water Pollution Act (10 GCA Ch 47) is in place to protect the Northern Guam Lens Aquifer (NGLA). The property is located on the boundary of Guam's aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island's population. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply or nearshore area.

While the Bureau recognizes the need for economic growth, it must always be concerned with impacts of unbridled growth. However, there are development principles that work toward minimizing cumulative and secondary impacts as growth reaches its tipping point. The Low Impact Development (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. Incorporating a green approach in its landscaping design by implementing island bioretention, permeable parking and walkways, grassed swales and/or rain gardens is a way to reduce runoff from their property. These approaches will benefit the property with respect to low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration and pride.

As mentioned earlier, 15.05% of this watershed is impervious, in which any additional development will add to the hydrologic and hydraulic dynamics within the Yigo-Tumon basement drainage basin. The alteration of vegetated areas to buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground greatly increases the runoff volume created during storms.

Therefore, the Bureau recommends the GLUC require the following conditions:

1. **Comply with the CNMI Guam Stormwater Management Manual standards**
2. **Implement Island BMP Specification #2: Island Bioretention***
3. **Implement Island BMP Specification #3 Permeable Parking and Walkways***
4. **Implement Island BMP Specification #4 Rainwater Harvesting***

*Concepts, design and performance standards can be found in the following two GCMP publications 1) Island Stormwater Practice Design Specifications manual and 2) Stormwater Management in Pacific and Caribbean Islands: A Practitioner's Guide to Implementing LID. Pursuant to SGCA Ch.1 Article 2 Section 1204, the Bureau recommends that the GLUC require the following condition pertinent to other Agency permitting requirements.

1. Comply with 22 GAR - GEPA Division **II** - Water Control Chapter 10, Guam Soil Erosion and Sediment Control Regulations
2. Comply with Guam Safe Drinking Water Act, 10 GCA Chapter 53.
3. Comply with **21** GCA, Chapter 76 Historical and Archaeological Resources
4. Comply with EPA pesticide control program

Recommendation and Decision
Pursuant to Appendix A § 700 (g), the Bureau hereby recommends approval with the above/ mentioned conditions. If any of the Bureau's conditions are not met, then this position statement is to be interpreted as a recommendation for disapproval.

As government officials, it is our primary responsibility to ensure that the growth and development are done in a manner that does not harm public health or safety, but works to promote the public welfare and convenience in a manner that is within balance with the environment in order to preserve and sustain the unique culture, traditions and beauty of the island for future generations.

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

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

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

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

Marvin Q. Aguilar

Attachments: ARC Position statements
CC: Executive Secretary, GLUC

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

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

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

NOV 0 8 2018

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

MEMORANDUM

TO: Director, Department of Land Management

ATTN: Division of Planning

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **Application No. 2018-48**
Location: 5195-2-R1, Municipality of Tamuning
Applicant: Mr. Kevin Shin
Proposed Use: Zone Variance for Story and Height to Construct an 11-Storey, 246 Room Guam International Airport Hotel in an "M-1" Light Industrial Zone

Håfa Adai!

The Bureau of Statistics and Plans (Bureau) has completed its review of the above mentioned application pursuant to its authorities under 5GCA Ch.1 Article 2 Centralized Planning and the Guam Coastal Zone Management Program (GCMP) Enforceable Policies pursuant to Executive Order 78-37. Moreover, in accordance with Executive Order 96-26, the Bureau herby submits its position statement and conditions based on its professional and technical analysis of effects to statutory authorities under the Bureau's purview.

Project Overview

The applicant, Mr. Kevin Shin, represented by RNK Architecture, request a Zone Variance for Story and Height to construct the Guam International Airport Hotel located on Lot 5195-2-R1 along Route 10A directly across from the Guam International Airport Authority Main Terminal. The applicant proposes to construct an 11-story hotel consisting of 246 rooms that will cater to business clientele staying for short periods of time while offering full amenities with a contemporary style and an urban aesthetic. In an effort to promote the Guam Visitor's Bureau Meetings, Incentives, Conventions, and Exhibitions (MICE) mantra, the construction of the airport hotel is a welcome addition to Guam's list of business and meeting attractions and is generally supported by the economic and visitor industry on Guam.

The property encompasses 6.07 acres or 24,555 square meters and will feature public amenities including a lobby, front desk, retail vendors, and a large tourist lounge for the business traveler in the first three building levels along with 299 parking spaces that will be easily accessible from the west end of the main building at the ground floor level. The remaining top eight floors will house the hotel units in a standard double loaded corridor configuration.

A unique feature of the hotel will be a pedestrian access which will connect the third floor of the hotel lobby directly to an existing intersection at Route 10A which currently serves as the exit for the GIAA Main Terminal parking lot.

Landscape Assessment

The property sits on the border between two large but distinct zones, the light industry zone of the Harmon Industrial Park to the north and the airport zone of the Guam International Airport Authority to the south. Adjacent properties consist of industrial, light commercial and commercial uses. This property is located on the Northern Watershed. Having an accurate picture of an area's landscape and understanding how that landscape is changing is important information for any planning effort. Land cover data can help provide that big-picture view. According to NOAA's C Change Analysis Program (CCAP) land cover data from 2011, shows this watershed has changed 9.39% which is primarily due to increased impervious surfaces.

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Effects Test Review and Analysis and Conditions

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protection of runway safety and clear zones, and the protection of public safety. Mineral extraction is also permitted in the industrial designation. Prior to development, mineral resources uses must demonstrate the quality, type, available quantity, development and environmental constraints, and other quantitative assessment considerations. Residential development is limited to uses such as caretaker facilities and accessory dwelling units".

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- Require the project to incorporate more cultural icons to the face of the building fronting Route 10A, and or
- Require any other mitigation requirements it determines necessary to properly account for the loss of this visual resource of the people of Guam.

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- The applicant to consult with the Department of Agriculture, Divisions of Forestry

and Soil Resources and Agricultural Services. to plant native trees to the maximum extent practicable for landscaping purposes.

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a. Comply with the CNMI Guam Stormwater Management Manual standards
b. Implement Island BMP Specification #2: Island Bioretention*
c. Implement Island BMP Specification #3 Permeable Parking and Walkways*
d. Implement Island BMP Specification #4 Rainwater Harvesting*

*Concepts, design and performance standards can be found in the following two GCMP publications 1) Island Stormwater Practice Design Specifications manual and 2) Stormwater Management in Pacific and Caribbean Islands: A Practitioner's Guide to Implementing LID. Pursuant to 5GCA Ch.1 Article 2 Section 1204, the Bureau recommends that the GLUC require the following condition pertinent to other Agency permitting requirements:

a. Comply with 22 GAR – GEPA Division II – Water Control Chapter 10, Guam Soil Erosion and Sediment Control Regulations
b. Comply with Guam Safe Drinking Water Act, 10 GCA Chapter 53.
c. Comply with 21 GCA, Chapter 76 Historical and Archaeological Resources
d. Comply with EPA pesticide control program

Recommendation and Decision

Pursuant to Appendix A § 700 (g), the Bureau hereby recommends approval with the above mentioned conditions. If any of the Bureau's conditions are not met, then this position statement is to be interpreted as a recommendation for disapproval.

As government officials, it is our primary responsibility to ensure that the growth and development are done in a manner that does not harm public health or safety, but works to promote the public welfare and convenience in a manner that is within balance with the environment in order to preserve and sustain the unique culture, traditions and beauty of the island for future generations. ***Si Yu'os Ma'ase'.***

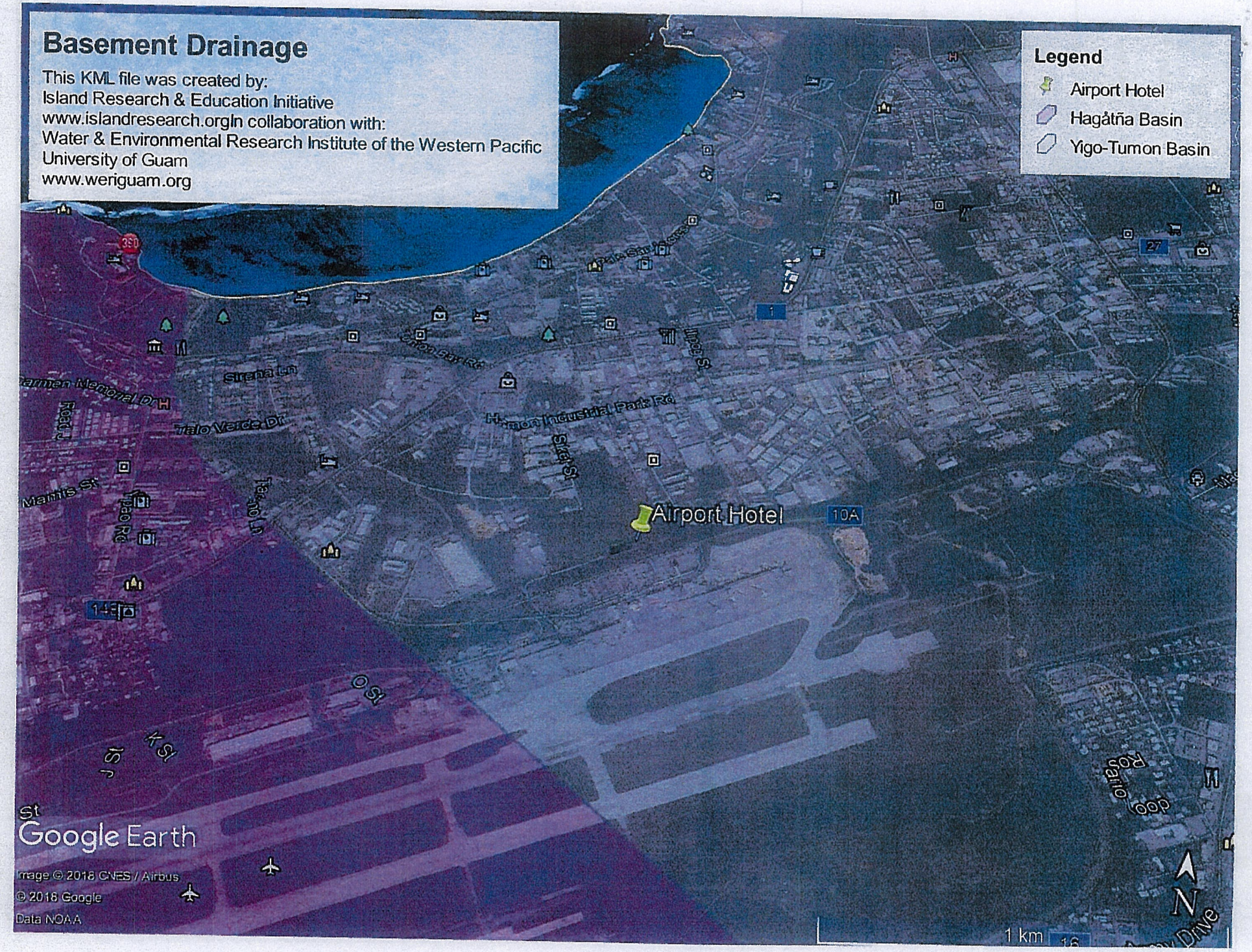
CARL V. DOMINGUEZ
Director

Visual Quality Assessment

Disclaimer: The Bureau assumes no responsibility for any inaccuracies in any maps, data, or similar products provided. Though efforts are made to obtain accurate maps and data the intended use is for planning purposes only and not for use in any litigation. These environmental data and related items of information have not been formally disseminated by NOAA and do not represent and should not be construed to represent any agency determination, view, or policy.



Doc. No. 35GL-19-0084.



Doc. No. 35GL-19-0084.

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

Eddie B. Calvo
Governor
Ray Tenorio
Lt. Governor

William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to:
RC 2018-0772

MB 10/5

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 12 2018
CLTC/GALC/GLUC

October 4, 2018

Memorandum

To: Director, Department of Land Management

From: Director, Department of Parks and Recreation

Subject: Application No. 2018-48: Zone Variance Application for Story and Height Variance on Lot Number 5195-2-R1, Tyan, Municipality of Tamuning, Guam

We reviewed the subject request by Kevin Shin for a Zone Variance Application of subject Lot and have no objection to the approval of the Zone Variance Application.

Our research show that the Zone Variance would not adversely affect historic properties. However if there are any inadvertent discoveries to historic property during construction, the project must stop and our office contacted.

Please do not hesitate to call us should you have any questions.

Sincerely,

William N. Reyes 04 Oct 18

CR 10/15

GUAM POWER AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 25 2018
9:11
CLTC/GALC/GLUC

September 19, 2018

MEMORANDUM

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

From: General Manager

Subject: Lot 5195-2-R1, Municipality of Tamuning, (Kevin Shin); Zone Variance Application for a Height Variance to construct a Guam International Airport Hotel. **Application No. 2018-48**

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

3. A system impact assessment may be required to determine the effect of this development 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: Kevin Shin
Location: Lot 5195-2-R1, Tamuning
Type of Application: Zone Variance for a Height Variance
GLUC/GSPC Application No. 2018-48
Brief Project Description:
To construct a Guam International Airport Hotel.

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

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

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

   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

9/24/18
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 development on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.

ASG/arp

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 24 2018
CLTC/GALC/GLUC

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

Received 10.24.18

MEMORANDUM

TO: Director, Department of Land Management

FROM: Acting Director

APPLICANT: Guam International Airport Hotel

Application No.: 2018-48

SUBJECT: Zone Variance (Height and Density), Tumon, Guam

Buenas yan Hafa Adai!

The above applicant, is requesting a zone variance approval of an eleven (11) story rectangular tower building, housing 246 guest rooms. The purpose of this development is to service business and short duration clientele, predominantly to airport travellers. The first three (3) levels are for public amenities, lobby, front desk, retail vendors, a large tourist lounge area, administrative offices and operations. The top eight floors will house 246 hotel units in a standard double loaded corridor configuration. The total lot area is approximately 6.07 acres or 24,555 square meters located in Tumon.

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 are in place:

(See 2nd page for the attached conditions and notations).

DPW recommends approval, subject to the comments provided by the Application Review Committee (ARC) with conditions that for building permit requirements 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 engineer or architect.

Should you have any questions, please contact Mr. Max C. Manzano, P.E., CIP- Chief of Engineer @ (671) 486-3095 or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CIP) at 646-3225 or 646-3224.

Dangkulu na Si Yu'os Ma'ase!

10/23/18

ANDREW S. LEON GUERRERO

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

Application No.: 2018-48

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

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

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

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

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

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

7. SOLID WASTE
   Provide solid waste compositions.

8. OTHERS
   Comply with all the Geotechnical requirements related to site preparations.
   Ecological planning is needed to ensure the conservation of its resources.

NOTE:

a) Incorporate ADA Hotel Room features and inventory requirements in the drawings.
b) Provide a company who is certified and qualified to install an elevator that meets the standard of the American Society of Mechanical Engineers and must be licensed to do business in Guam

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

MB 10/19

DEPARTMENT OF LAND MANAGEMENT RECEIVED OCT 18 2018 CLTC/GALC/GLUC

ORIGINAL

October 17, 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 application 2018-48 for a zone variance on Lot 5195-2-R1 consisting of 6.07 acres Located off of Airport Road Rte. 10A. in the municipality of Tamuning (Kevin Shin, Kurt S. and Judith B. Moylan).**

Agriculture has reviewed the subject lot for the construction of a" Hotel (Guam International Airport Hotel)" and has no opposition to the proposed usage and development. Our agency will recommend approval of the current proposal for the construction of the facility with the following statements, conditions and requirements set forth in ***21 GCA Chapter 61 Section 61637.***

Our preliminary inspection of the site found no adverse impact to **Agriculture** as the site has no recent history of cultivation and animal husbandry occurring. However upon review of the application and based on site survey our agency recommends the developer implement **"Best Management Practices"** that addresses both environmental and ecological issues. The application designates the completed phase showing only a limited aspect of a landscaping plan. Agriculture encourages this section and the boundary edges of the property line to include native and indigenous trees and other foliage to be used as part of the overall design of the structure.

The continued development of the island creates challenges in trying to achieve a proper balance as the removal of Guam's vegetation will continue to affect the islands environmental make up. Replanting these trees will allow and prevent the destruction of our "**Northern Aquifer**" and avoid unchecked and reckless development that does not take into account preservation and continuation of native habitat that has protected our natural resources and island lifestyle. Planting these trees back into the environment will not only achieve that but also add to the developments aesthetic appeal. In addition these planted trees will help provide shading, windbreak capabilities and a greener appeal to the proposed development.

The use of native trees that originate in this area is recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and 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 coastal zones thereby 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. In addition our **Agricultural Development Services division** maintains an **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 for assistance contact **John Borja, Rick Lizama and Pete Terlaje** at the ADS division at 300-7976 where our agricultural agents can assist you.

The guidelines as listed in this Impact Assessment should be used as a template to ensure continuation of Guam's habitat. 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. For other earth friendly techniques and guidance form the Department of Agriculture please contact our offices at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN
Director

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

17-3304 MARINER AVENUE TIYAN, BARRIGADA, GUAM 96913-1617 FIND US ONLINE AT EPA.GUAM.GOV

OCT 3 1 2018

DEPARTMENT OF LAND MANAGEMENT
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OCT 31 2018
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Mr. Tao Oh, Acting Chairman
Guam Land Use Commission
c/o Department of Land Management
590S. Marine Corps Drive
ITC Building, Ste. 733
Tamuning, Guam 96913

Ref: Application No. GLUC-~~2017~~ 2018-48, "Height Variance" for the proposed construction of a eleven story (eight story above the allowed three stories), one hundred and twenty one feet high (ninety one feet above the allowed thirty feet) high, 246 room Guam International Airport Hotel located on Lot 5195-2-R1, along Route 10A directly across from Guam International Airport Main Terminal, Municipality of Tamuning. Guam

The staff of this Agency has reviewed the application and determined that the proposed project will meet the requirements of our regulations provided the owner/developer and contractor comply with all relevant laws and regulations administered by GEPA and if they address the following concerns during the preparation of design documentation, permit application and construction as follows:

A. Stormwater Management Plan

1. All applicable requirements of the *Guam Soil Erosion Sediment Control Regulations* (GSESCR) and *CNMI and Guam Stormwater Management Manual* (CNMI-Guam Manual) must be followed, to include but not be limited to the use of all appropriate construction and post-construction BMPs and appropriate paving and landscaping practices to contain storm run-off within the property and prevent flooding of downstream areas.
2. The applicant must obtain coverage under and follow all requirements of the USEPA Construction General Permit (CGP). The applicant must submit a Notice of Intent (NOI) and stormwater pollution prevention plan (SWPPP) to USEPA and submit copy to Guam EPA pursuant to GSESCR. Submit an Environmental Protection Plan (EPP) and Erosion Control Plan for review and approval prior to commencement of clearing and grading activities.

B. Water System

1. A water storage tank and a booster pump is necessary provide the minimum water pressure at the highest fixtures in the building and fire flow suppression requirements, pursuant to Safe Drinking Water Regulations. However, if other water treatment or a water softener is to be used to enhance the water quality or remove the hardness in water, the applicant is advised that this may trigger additional considerations and requirements under the Lead and Copper Rule.
2. Any water storage tank or other component that comes into contact with potable water must be a NSF

certified product.
3. The design, location and elevation of the proposed water storage tank must address the water pressure and water supply concern within the service area. Coordinate with GWA in the design and construction of the water storage tank and appurtenances.

C. Wastewater System

1. A hydraulic analysis must be conducted to insure that the receiving sewer main is adequate to receive all discharges from your facility especially during peak hours of sewer used. Coordinate with GWA regarding the location of the sewage discharge at point of connection to minimize overloading the existing sewer collection system and pumping station serving the area.
2. A transition Sewer Manhole at the point of connection to the existing sewer line is recommended to facilitate maintenance and minimize impedance to upstream flows.

D. Others:

1. Provide adequate trash bin to accommodate a full capacity of the hotel complex.
2. Must comply with the Guam EPA Air Pollution Control Act and Guam Pesticide Act and other regulations that applies to the project.
3. Must comply with the Guam Solid Waste and Hazardous Waste Regulations.

Should you have questions please contact CDR Brian Bearden, P.E., BCEE, Chief Engineer at 300-4779.

WALTER S. LEON GUERRERO
Administrator

GUAM WATERWORKS AUTHORITY

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



MEMORANDUM

September 26, 2018

TO: Michael Borja, Director, Department of Land Management

CC: Mayor Louise C. Rivera, Municipality of Tamuning-Tumon-Harmon (mayorlcrivera.tatuha@gmail.com)

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

SUBJECT: Position Statement on Zone Variance Application 2018-48 on Lot 5195-2-R1 in Tamuning

APPLICANT: Kevin Shin

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for an 11-story hotel with 246 rooms.

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 GWA rules and regulations. Any required extension to the existing facilities to serve the subject properties shall be at the applicant's expense.

GWA has no objection to the height variance request. The following comments are provided for the proposed development:

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.

   (a) The GLUC application references a Guam International Airport Authority water line. Only the airport and its tenants may be served by the airport's water system. Therefore, the proposed hotel must connect to the GWA water system.

(b) GWA has approved the construction permit application for neighboring Lot 5195-1NEW-R1. The applicant may need to coordinate offsite infrastructure construction with the owner of Lot 5195-1NEW-R1.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage, as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

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.

   If GWA requires the developer to hire a construction manager to oversee water and sewer infrastructure, then a quality control document containing construction records and pictures shall be provided to GWA, to document construction practices and installed materials. GWA shall be provided with construction schedules, so that inspections may be conducted during construction

   GWA's approval of the occupancy permit application will be contingent upon the completion of offsite utility 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. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.

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

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

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