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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

JOSEPH M. BORJA
Director

35GL-19-1234
Speaker Tina Rose Muña Barnes

NOV 19 2019
Time: 1:48 (X)AM ( )PM
Received By: Matt

2019 NOV 19 PM 12:35

November 13, 2019

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

From: Planning Division
Department of Land Management

Hafa Adai,

Pursuant to 5 GCA Chapter 8, Section 8113.1, submitted herewith for your perusal are the Minutes from the last GLUC hearings of

1. Guam Land Use Commission; Thursday, August 8, 2019

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

Thank you.

Cristina

1234

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

File for Record is Instrument Number 941393

on the Year 20 19 Month 10 Day 30 Time 941

Recording Fee DE-OFFICIO Receipt No. DE-OFFICIO

Deputy Recorder: Joel Cruz

JOEL ANTENORCRUZ

Above Space for Recorder's Use only

COPY

GUAM LAND USE COMMISSION MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, August 8, 2019
3:10 p.m. to 5:06 p.m.

GUAM LAND USE COMMISSION SPECIAL MEETING
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning
Thursday, August 8, 2019

MEMBERS PRESENT:

Mr. Tae S. Oh, Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Hardy I.T. Vy, Commissioner

PLANNING STAFF PRESENT:

Mr. Joseph Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

Ms. Celine Cruz, Acting Guam Chief Planner

Mr. Frank Taitano, Case Planner

Ms. Grace Vergara, Case Planner

GLUC-HYBRID LAND USE COMMISSION

Attendance Sheet

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

Date of Meeting: Thursday, August 8, 2019

Time of Meeting:

GLUC:	3:10 pm
HYBRID:	1:29 pm

	GLUC
X	Regular
	Special
✓	Quorum
	No-Quorum

	HLUC
X	Regular
	Special
✓	Quorum
	No-Quorum

COMMISSION MEMBERS	SIGNATURE
Chairman Tae S. Oh	
Commissioner Conchita D. Bathan	
Commissioner Hardy T.I. Vy	

HYBRID COMMISSION: App No. 2017-29C, Blue Ocean Investment LLC [MCoG DLM 2018-04]

Municipal Commissioner Louise Rivera	See below
Municipal Commissioner Melissa Savares	
Municipal Commissioner June Blas	
Municipal Commissioner John Cruz	Absent

HYBRID COMMISSION: App No. 2017-30B, NPLJ, LLC [MCoG DLM 2018-03]

Municipal Commissioner Louise Rivera	
Municipal Commissioner Melissa Savares	per above
Municipal Commissioner Rudy Paco	absent
Municipal Commissioner Rudy Matanane	absent
Joseph M. Borja, Executive Secretary	Present
Nicolas E. Toft, Legal Counsel (OAG)	
Celine L. Cruz, Acting Chief Planner	
Frank Taitano, Planner IV	
Penmer Gulac, Planner IV	
M. Grace Vergara, Planner II	
M. Cristina Gutierrez, WPS II	excused

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

[X]	GLUC	[X]	Regular	Date:	Thursday, August 8, 2019
[X]	HLUC	[ ]	Special	Time:	1:49 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:06 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.
Felix Benavente	Haw'n Rock	988-7911
HARRY Gutierrez	Guam Jewelry	482-3615
MICHAEL MAKO	BLUE OCEAN DEVELOPMENT	475-8772
WILLY FLORES	MAFA-MS	646-1714
WILLY T. FLORES	"	"
SWAVELY	M-1 RESOLUTION	688-8029

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

[X]	GLUC	[X]	Regular	Date:	Thursday, August 8, 2019
[X]	HLUC	[ ]	Special	Time:	1:49pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	5:02 pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Blas, Daniel		489-1067

GUAM LAND USE COMMISSION

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

Commissioner [Vacant]
Commissioner [Vacant]

Joseph M. Borja, Executive Secretary
Nicolas E. Toft, Legal Counsel (OAG)

AGENDA

Regular Meeting

Thursday, August 8, 2019 @ 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 August 1st, 2019 and August 6th, 2019]

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

II. Approval of Minutes

- GLUC Regular Meeting of Thursday, April 25, 2019

III. Old or Unfinished Business [None]

IV. New Business

Zone Change

A. **Application No. 2018-31**, the Applicant, Wan Yuan Jewelry represented by Harry D. Gutierrez; request for a Zone Change from "R-2" (Multi-Family Dwelling) to "LC" (Limited Commercial) zone, for the proposed construction of a commercial building, on Lot 5172-3-9, in the Municipality of Tamuning. Case Planner: Grace Vergara

Tentative Subdivision

B. **Application No. 2019-01**, the Applicant, MS Investment, Inc. represented by W.B. Flores & Associates; request for a Tentative Subdivision for the proposed development of a total of 62 lots, 58 for single family residential lots, 4 public lots consisting of recreational space, ponding basin, Right-of-Way access road, and a non-access utility easement, on Lot 22-2NEW-1-2, in the Municipality of Talofofo, in an "R-1" (Single Family Dwelling) zone. Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

C. **Application No. 95-46D**, the Applicant, Hawaiian Rock Products represented by FC Benavente, Planners; requests renewal of a previously approved Conditional Use permit for its quarrying operations, on Lot 7092-3, Yigo, in an "A" (Rural/Agricultural) zone. Case Planner: Frank Taitano

D. **Daniel D. Swavely**; requests a GLUC Resolution to add recycling of engine oil as a permitted use in an "M-1" (Light Industrial) zone. Case Planner: Frank Taitano

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
DLM Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, August 8, 2019 • 3:10 p.m. to 5:06 p.m.

I. Attendance

Chairman Oh called to order, the regular meeting of the Guam Land Use Commission for Thursday, August 8, 2019 at 3:10 p.m., noting a quorum.

Present were: Chairman Tae Oh, Commissioner Conchita Bathan, Commissioner Hardy Vy, Executive Secretary Joseph Borja, Legal Counsel Nick Toft, Acting Chief Planner Celine Cruz, and Planning Staff Frank Taitano. [Sitting in for the Recording Secretary is Stephanie Duenas]

II. Approval of Minutes

Chairman Oh before the members today is the Minutes from the last GLUC meeting of Thursday, April 25, 2019. Commissioners have had the opportunity to review the Minutes, Chairman Oh was ready to entertain a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the GLUC regular meeting Minutes of Thursday, April 25, 2019.

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

Commissioner Vy second.

Chairman Oh seconded by Commissioner Vy. [No discussion noted] All in favor of the motion to approve the Minutes of Thursday, April 25, 2019 say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy], all opposed say "nay."

[Motion passed; 3 ayes, 0 nay]

III. Old or Unfinished Business [None]

Chairman Oh there are four items on the agenda and there has been a request to move the order of the agenda. The Commission will hear the first item under the Administrative and Miscellaneous Matters.

V. Administrative and Miscellaneous Matters

D. Daniel D. Swavely, requests a GLUC Resolution to add recycling of engine oil as a permitted use in an "M-1" (Light Industrial" zone). Case Planner: Frank Taitano

Commissioner Vy comments that he is currently involved with an RFP with the Guam Power Authority that has to do with used engine oil. Commissioner Vy stated for the record that he is required by law to recuse himself due to a conflict of interest.

Chairman Oh Commissioner Vy is conflicted and has a valid reason for the recusal because he is involved in the industry that is before the Commission today.

Commissioner Bathan since Commissioner Vy has recused himself, this request cannot be heard today due to lack of quorum.

Chairman Oh confirmed Commissioner Bathan's comment; and, invited the applicant to come forward.

Dan Swavely is before the Commission today on behalf of the applicant. Mr. Swavely thanks Commissioner Vy for the disclosure and understands the situation. He further added that a little more homework has to be done in Barrigada to address some of Mayor Blas' concerns before proceeding with this application; and, he will use this time to accomplish this.

Chairman Oh Chairman Oh apologized for the inconvenience; and, expressed the frustration of having only three members at this time. Chairman Oh also states that the process of finding new members has taken a bit longer than expected. He thanked Mr. Swavely for his time today.

Moving onto the next item on the agenda –

IV. New Business

Zone Change

A. Application No. 2018-31, the Applicant, Wan Yuan Jewelry represented by Harry D. Gutierrez; request for a Zone Change from an "R-2" (Multi Family Dwelling) to "LC" (Limited Commercial) zone, for the continued use of an existing commercial building, on Lot 5172-3-9, in the Municipality of Tamuning. Case Planner: Grace Vergara

Grace Vergara (Case Planner) reads the Staff Report to include the purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions for limited commercial activities. [For full content/context, refer to attached report]

[Attachment A – Staff Report dated July 29, 2019]

Chairman Oh [there were no questions noted for staff] Chairman Oh comments that he did not see an MPC Resolution from the Tamuning Mayor's Office, and since Mayor Rivera is in attendance today, Chairman Oh invited Mayor Rivera to provide her comments for this application.

Mayor Louise Rivera thanks the Commission for the opportunity to provide comments today. There was a public hearing for this application and Mr. Gutierrez presented the application before the community. There were questions that was asked of Mr. Gutierrez at the public hearing; however, he was not able to provide the answers that were posed to him. Since there was no additional public hearing for this application, Mr. Gutierrez along with another representative of the applicant was invited to the MPC meeting to present the application before the Council; but still the questions the members had were still unanswered. Mayor Rivera reaffirms that the plan

for use of the building is for a retail store on the first floor with a residential unit and/or office on the second floor. Mayor Rivera states it is still not clear exactly what the building will be used for. The building housed the Salvation Army and there have been many incidences that have occurred at this property. The owner is off-island for medical issues; if it is the owner's intention is to sell the property, let the property be sold as is and then let the new owner answer to the Tamuning MPC on what the plans are for use of the building. Areas are zoned for a reason and there is a reason why we go through this application process to change that. For all of us in the community, it is best that we know for sure, from the owner, what their intentions are. [SIC]

Chairman Oh has there been discussion within the MPC regarding this application.

Mayor Rivera they heard what the applicant and Mr. Gutierrez had to say. The last thing that Ms. Campus told the Council was that the owner has the right to do whatever they want with their property. The applicant is requesting for a rezone of the property and the MPC wants to know what the plans are. Mayor Rivera comments that often times when the property is sold, the new owner has a different agenda from what was presented during the application process. If the proposed use is for retail, the traffic coming in and out of that area is bad because the building is located at a dangerous curve and there is a concern.

Chairman Oh thank you Mayor Rivera for the comments. [Notes no additional questions for staff] Chairman Oh invited the applicant to come forward, and to state their name for the record.

Harry Gutierrez there has been ongoing discussion with the Tamuning MPC for this application. The applicant has agreed to abide by the Council's proposal that there will be no strip bars, gambling, no sale of alcohol, and no massage parlors. This is the reason for the limited commercial zone so that the activities are limited or conditioned to have only what is stated. The building exists. The owner left the island due to medical issues. He allowed the Salvation Army to use the building without charge as a donation. The previous approval expired and there was no chance to renew it because he was off-island for medical reasons. The owner then hired Remax Realty to manage the building, and because the Salvation Army was not upkeeping the property, they were asked to move out. The applicant has agreed to the conditions as stated in the staff's report; no liquor sales, no massage parlors, night clubs, bars, etc. At this time, no decision has been made by the owner to sell the property; however, if it is sold, the new owner will have to abide by the conditions as noted on the limited commercial approval. Mr. Gutierrez adds that there will be more of an impact to the area if the proposed use would be a six-unit apartment building which will create more traffic issues in the area. Adequate parking will be provided based on the square footage of the property.

Chairman Oh asked staff if there was photo copy of the billboard sign on file.

Grace Vergara replied that there was one provided by Mr. Gutierrez. [Ms. Vergara provided a copy for the members perusal.]

Chairman Oh although Chairman Oh saw the sign at the property, he notes that a copy of the sign is needed for documentation purposes.

Harry Gutierrez there have been many incidences were people have dropped off used appliances and/or clothing at the building thinking that the Salvation Army is still at this site; but, many people were not aware that the store had relocated. Remax Realty has had to have the items removed to maintain the cleanliness of the property.

Commissioner Bathan how long has the property been vacant.

Harry Gutierrez it's been about a year and half.

Commissioner Bathan inquired if vandalism has occurred on the property since it is vacant.

Harry Gutierrez there has been no vandalism and the property is being maintained. The doors have been sealed and locked to ward off homeless people and illegal activities.

Chairman Oh the property is in a prominent area and has been an eyesore for quite some time. It was mentioned that the property owner intends to either manage it themselves, and if the daughter is not willing to manage the store, they will proceed with the sale of the property.

Harry Gutierrez Remax, if agreed by the owner, will continue to manage the property.

Chairman Oh from the minutes of the public hearing there were concerns brought up by citizens of Tamuning that the property is an eyesore; it is not managed properly because of the trash accumulating on the property; and what is the intended use of the property. Chairman Oh asked Mr. Gutierrez if he has an idea what the owner's intentions are other than just to lease it out.

Harry Gutierrez his client has expressed that he would like to lease the property out as commercial, and whoever leases the building has to meet the requirements of licensing and parking requirements. Based on their calculations, half of the second floor will have to be converted to storage space or a two-bedroom apartment which will still meet the parking requirements.

Chairman Oh was a parking layout provided in the application.

Harry Gutierrez it was included in the application. The building existed before the road improvements was done; and when the improvements were made to the road, the curbs and gutters were ten-inches high. Department of Public Works had to cut off one of the entrances to the property because they felt that the road 30-feet down could be used as an access to the other side of the parking. The building currently has two accesses to the property.

Chairman Oh notes that there is a parking layout in the application but this was from the original construction of the building.

Celine Cruz comments that the new parking layout will not be found in the application.

Chairman Oh based on what was recorded, there is one accessible parking stall and ten regular parking stalls (this is what was previously recorded).

Chairman Oh asked whether or not the applicant is aware that a request for limited commercial means there will be restrictions on the activities allowed on the property. He noted that there is quite an extensive list of restrictions.

Harry Gutierrez they are aware of the conditions and has accepted them.

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

Public Comments before closing the public comment period, Chairman Oh again invited Mayor Louise to provide her comments.

Chairman Oh the current restrictions are quite extensive; activities not allowed on the property are massage parlors, night clubs, etc. Chairman Oh asked Mayor Rivera if there were any additional concerns from the community.

Mayor Louise Rivera comments that it was nice that this was all brought up, but the restrictions did not come from her office or from the MPC. Their main concern is wanting to know what the property will be used for. They want to ensure safety in the area, traffic impact to the area, pedestrian crossing, etc. They need to know what kind of store will be there. Mayor Rivera added that the restricted activities noted on the staff report did not come from the Mayor's Office.

Chairman Oh [Chairman Oh closed the public comment period. No additional comments noted from the Commission members].

It was Chairman Oh's opinion that the current state that the property is in will only get worse; the property is vacant, there are no tenants. And on top of there being no tenants and some type of revenue or management to oversee the property, it will remain abandoned and will continue to be an eyesore. It will also attract types of illegal activities. The concern from the Tamuning Mayor's Office is valid on what the intentions are of the owners. But the owner's argument is also valid. As Commissioners, at least for Chairman Oh, he is grateful that the request is for a limited commercial zone and the Commission can place restrictions. If this was a full commercial zone application, restrictions and/or conditions cannot be controlled and limited. Because of the community's concerns on the use of that property, Chairman Oh is more comfortable with a limited commercial zone knowing that certain activities will not be allowed.

Chairman Oh was ready to entertain a motion if there were no further comments and/or questions from the Commissioners.

Commissioner Bathan is an MPC resolution needed before the application is put to a vote.

Celine Cruz they are required to submit an MPC resolution within 40-days of the date of public hearing, and we are well beyond that 40-days. The Case Planner had asked the Tamuning MPC; but, from the Chief Planner's understanding, the Council did not want to write a resolution until their questions were answered. At the public hearing, Mr. Gutierrez did not answer many of the questions that were posed, but he tried to, but was unsure of what the owner's exact intentions were. When the staff report was being prepared, part of the conditions was based on the public

hearing comments and the issues brought up was incorporated in as a condition of approval before the Commission. There will be a limit on what can be done at the property; it does say retail store and there many variations to a retail store, but they excluded some of the less desirable neighborhood retail activities by specifically stating that in the conditions. In closing, Ms. Cruz stated that the resolution can still come through because it is part of the requirements that needs to be submitted to the Governor, should the Commission approve this request. There is still a few more steps in this process; with the additional information provided to the Governor, the application can still be disapproved. But, it can move forward without an MPC resolution.

Chairman Oh the restrictions placed on this request was a result of public comments at the public hearing. [No additional comments noted from the members].

Addressing Mr. Gutierrez, Chairman Oh comments that the MPC is not comfortable with the application because they are not fully aware of what the owner's intentions are. It was mentioned that the property may be leased, and the concern of the public is really what type of activity will be conducted at the site.

Harry Gutierrez responds that the MPC is not fully aware that conditions will be placed on the type of activities. At least two or three members of the MPC was not keen on any type of activity in the area including the application for Dr. Shieh's clinic (which is allowable in an R-2 zone). It was Mr. Gutierrez's opinion that Mayor Rivera has a difficult time convincing the MPC to support projects in Tamuning [Mr. Gutierrez apologizes to the Mayor that he had to make this comment]. Conditions have placed on the request; the building will be renovated and will still need to go through the permitting process.

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

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request under Application No. 2018-31 for a zone change from "R-2" to "LC" (Limited Commercial), on Lot Number 5172-3-9, in the municipality of Tamuning, subject to the following conditions:

1. Only use allowed on the first floor is a retail and an accessory storage for a gift shop, and professional office and residential unit on the second floor. No retail activity shall include the sale of alcoholic beverages;
2. There shall be no drinking establishments such as night clubs or bars, pubs and taverns where sale and consumption of alcoholic beverages is allowed;
3. There shall be no massage parlor, pachinko machines, adult gaming, videos, and no sales of adult related gift items within the premises;
4. Applicant is responsible for maintaining the property in a clean and good condition, free from trash and other types of debris at all times; no outside restroom, and further that the perimeter of the property be fenced;
5. Applicant shall ensure that a sign will be posted on the premises to avoid tenants and customers parking on adjacent properties;
6. Applicant shall designate a "loading/unloading" area within the property in such a manner that it does not obstruct traffic view nor becomes a safety hazard because of its location;
7. Current location of ADA parking be relocated;

8. Applicant ensure that on-site or adjacent parking requirements are met for new tenants prior to assignment of lease and that the applicant shall submit a copy of the new parking layout plan to the Guam Chief Planner;
9. Applicant also ensures that the site will be landscaped and the existing two-building will be painted; and,
10. Applicant strictly comply with all ARC conditions as noted in the official position statements.

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

Commissioner Vy seconds the motion.

Chairman Oh one of the conditions noted is the painting of the building. Limited Commercial basically limits the type of activity on the property, but to place a condition saying that the building has to be painted, questions where is the enforcement in that.

Celine Cruz it will be in the permitting process; a scope of work from a contractor will have to note the work that was done to that affect. Ms. Cruz understands that it will be difficult to enforce, but it was the neighbor that was most impacted by this development that has seen all the activities that have gone on in that building over the years; and she mentioned that from day-one, that building has always had a problem with maintenance.

Chairman Oh comments that he is concerned when it comes to the spirit of the law for limited commercial; limited commercial's intention is to limit the use of the property. Chairman Oh asked for clarification from Legal Counsel on limited commercial, spirit of the law, to limit use/conditions on the property. His concern is putting restrictions and/or conditions when it comes to painting of the property.

Nick Toft (Legal Counsel) legally the Commission has the ability to put that sort of restriction, but the applicant can bring up legal action and have that condition declared void.

Celine Cruz even if the applicant had interior painting done, this would satisfy this condition.

Commissioner Bathan it would be to their advantage to do exterior painting for aesthetic purposes.

Commissioner Vy assumed that this condition was placed because of graffiti.

Commissioner Bathan they want the property to be maintained and not rundown.

Harry Gutierrez the neighbor that complained about the building is a friend of Mr. Gutierrez, and she had mentioned to him that since the building was built, she was not fond of the brown tiles that they put on the exterior of the building and now that the tiles are falling it is not appealing. The tiles will have to be removed because they are falling off.

[Discussion ensues. It was noted that Chairman Oh was comfortable with moving forward after Legal Counsel's clarification.]

Chairman Oh motion is seconded by Commissioner Vy. Noting no discussion, the motion was put to a vote. All in favor of the motion say "aye" [Chairman Oh, Commissioner Bathan and Commissioner Vy], all opposed say "nay." **[Motion passed; 3 ayes, 0 nay]**

Next item on the agenda –

Tentative Subdivision

B. Application No. 2019-01, the Applicant, MS Investment, Inc. represented by W.B. Flores & Associates; request for a Tentative Subdivision for the proposed development of 62 lots, 58 for single family residential lots, 4 public lots consisting of recreational space, ponding basin, Right-of-Way access road, and a non-access utility easement, on Lot 22-2NEW-1-2, in the Municipality of Talofofo, in an "R-1" (Single Family Dwelling) zone.
Case Planner: Frank Taitano

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

[Attachment B – Staff Report dated July 17, 2019]

Chairman Oh [no questions noted from the Commissioners] Chairman Oh notes that there was previous action on this property.

Frank Taitano explained to Chairman Oh that the proposed subdivision that was previously approved by the Commission has expired and no longer valid.

Chairman Oh that proposed subdivision was for 31-lots and this request is for 62 lots. [Mr. Taitano responds "yes" to both queries of Chairman Oh] Noting no questions for staff, Chairman Oh invited the applicant's representative to present the application, and to state their name(s) for the record.

Willie Flores [from W.B. Flores and Associates representing the applicant]

Chairman Oh asked Mr. Flores to expand a bit more on the project and what, if any, differences from the previous approved project versus today's application.

Willie Flores everything reported by Mr. Taitano is correct. When MS Investments was looking at this project, they wanted it to be as low cost as possible, in terms of development costs for potential buyers. There were 30 sum odd lots in the initial application and if you look at record, they came in and asked for some severe waivers to include exemption of sidewalks, etc. The new owners did not want any infrastructure issues for this development, so they put together a new, better and affordable subdivision plan to include all the amenities. The original intent remains the same and that is to keep Talofofo a very family-oriented community and to provide families who want to move to the south.

Chairman Oh there are 62 lots for the subdivision.

Willie Flores two of the 62-lots are right-of-way easements; one is a ponding basin and it may go down to 61 because there may be a need to add another ponding basin and the larger lot is for the recreational area.

Chairman Oh under the subdivision concept plan there is a green-shaded portion that surrounds the property. Chairman Oh asked if this was just a green area.

Willie Flores it is a green area (which is not part of the property) and part of the existing easement that is already there.

Chairman Oh is that an existing bus stop on Chalan Mata.

Willie Flores yes, and in discussion with Department of Public Works it will be, more than likely, relocated.

Chairman Oh there is another bus stop by the ponding basin. Is this proposed or existing.

Willie Flores that will remain where it is.

Chairman Oh will this be a gated community.

Willie Flores yes, it is being proposed for having security, gated community.

Chairman Oh there is access to the north (Chalan Mata) which is public access; there is no intent to utilize that public access.

Willie Flores there will only be one primary egress/ingress into the subdivision.

Chairman Oh asked Mr. Flores to explain the nature of Lot 62, non-access easement.

Willie Flores that will be used for utilities such as cables, telephone lines, etc. At the bottom of the panhandle there are Lots 31 thru 35 that cable/phone companies have in terms of accessibility and that is why they brought that job down there to ensure that all the way down to Lot 35 can be serviced. Because of the topography, Lots 31 thru 38 are actually about 15-feet deeper in elevation or lower in elevation and the rest of the property there was an issue that was discussed with phone and cable companies and they have existing facilities down the right side of the property and wanted to use that. However, because the owners want a secured community, they decided to put the easement there for phone/cable companies use.

Commissioner Bathan will the right-of-way be dedicated to the government.

Willie Flores yes, it will be.

Commissioner Bathan who will be responsible for the maintenance of the recreational area.

Willie Flores the Mayor of Talofofo will maintain the area. The developer is also considering giving Lot 27 to the Talofofo MPC (but it has not been set in stone), but the Mayor will be taking

over Lot 58 for maintaining of the recreational area and potentially Lot 27 that will be developed into an "exercise area" and will be open to the entire village.

Chairman Oh this will be a gated community; normally gated communities are not comfortable with the public coming into their subdivision and utilizing public facilities such as the recreational area. The question is will access be restricted.

Willie Flores he did not believe so because there are several gated communities that exist in Talofofo (one to the north of Talofofo Golf Course and Rancho Camacho). Ranch Camacho removed their gate because of accessibility for the utility companies and one other which he could not recall. In this discussion with the owners of MS Investments this will be accessible and open to the village.

Commissioner Bathan with the ongoing budget cuts that the Mayors are facing, what is the alternative if the Mayor's Office cannot maintain the recreation area.

Willie Flores the developer will retain the maintenance responsibility of the recreational area; it will either be the homeowners' association and/or the developer who will maintain the area.

Chairman Oh the original action made by the GLUC was almost 10 years ago. It was supposed to be affordable housing and is that still the intention of the owners.

Willie Flores yes, it is. The developer is looking at both conventional construction and also looking into alternative building systems to make this subdivision as affordable as possible. The bottom line is the cost of the infrastructure will be added which equates to about $20K to $30K per lot.

Chairman Oh is it the developer's intent to subdivide the lots and unload the lots or do they plan to do full construction of the housing.

Willie Flores it is their intent to do full construction of the housing similar to Paradise Estates. Mr. Flores pointed out that they have already been cleared for archeological survey, but since it has been sometime since the bio-survey was done they will have to redo the bio-survey.

[Discussion ensues on findings of endangered species]

Chairman Oh asked Mr. Flores to elaborate on the concerns on the sidewalks in the previous approval.

Willie Flores sidewalks will be included in the improvement of the tentative subdivision.

Chairman Oh any traffic concerns.

Willie Flores there will be an increase in traffic at the intersection with the addition of 57 to 58 homes for this subdivision. As with traffic patterns half of the homeowners will be going to work during rush hour that will be adding approximately 30 cars between the hours of 6:30 a.m. to 7:00 a.m. and that is probably about a car a minute. They do not need to meet traffic requirements

because of the traffic loading; they will not need signalized intersections, but they will be required to put up signage and other controls for traffic.

Chairman Oh any requirements for turnout lanes.

Willie Flores it only makes sense to put a turnout lane.

[Discussion ensues. Mr. Flores adds that GPA has plans to install significant power poles in the area of the proposed subdivision roadway in order to have the solar power that is produced from Dan-Dan down to their Agat sub-station. They have discussed with GPA to avoid the subdivision area so that there are no visual impacts.]

Chairman Oh are there concerns on water, sewer, etc.

Willie Flores there was a concern on sewer but it is being taken care of; GWA has a contract with Giant Construction who is installing wet wells and pumps and so all of the lines in Talofofo will be activated including this project. Guam Waterworks is aware of this project and has calculated the sewer load into their sewage flow. There are pipes but no connection at this time.

[Discussion ensues. Mr. Flores notes that there are no issues with water and power capacity.]

Chairman Oh were you able to engage the community members and neighbors regarding this project.

Willie Flores at the public hearing back in 2010, the neighbor across the street from where the existing bus stop is located; the issue that was brought up that a portion of the roadway still floods. That was the only negative comment received and the traffic impact to the area.

Chairman Oh a public hearing is not a requirement for tentative subdivisions.

Frank Taitano no it is not; there was a public hearing for the previous Commission because they were requesting for a subdivision variance and with a variance a public hearing is required; there is no variance for this application.

Chairman Oh there will be a final subdivision application for this project.

Frank Taitano yes, there will be a final. The timeframe noted in E.O. 96-26 plus the requirement of the Subdivision Law which is the one-year timeframe to install the infrastructure will also be applicable. The developer, as an alternative, can chose to obtain an infrastructure bond, submit the bond and request for a final which will automatically eliminate the one-year timeframe for the infrastructure.

Chairman Oh has there been a change in ownership.

Willie Flores no, same owners. Mr. Flores has been working closely with the owners on how to make this a good development.

Chairman Oh the Commission commends the developer for a great project for the south. It seems like a well-planned out project and will be beneficial for the people down south.

There were no additional comments and/questions noted from the Commissioners, Chairman Oh opened the floor for public comment.

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

Chairman Oh there was no further comments for the applicant, Chairman Oh was ready to entertain a motion.

Commissioner Vy Mr. Chair, I would like to make a motion for Application No. 2019-01, for MS Investment, Inc., a request for a tentative subdivision for the proposed development of 62 lots, 58 for single residential lots, 4 public lots consisting of recreational space, ponding basins, right-of-way access road and a non-access utility easement, on Lot 22-2NEW-1-2, Talofofo, in an "R-1" zone, subject to the following conditions:

1. That the applicant adheres to the ARC conditions and requirements as stipulated on the official position statements.

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

Commissioner Bathan second.

Chairman Oh seconded by Commissioner Bathan. Noting no discussion, the motion was put to a vote. All in favor of the motion say "aye" [Chairman Oh, Commissioner Vy, Commissioner Bathan], all opposed say "nay." **[Motion passed; 3 ayes, 0 nay]**

Next item on the agenda –

V. Administrative and Miscellaneous Matters

Conditional Use Permit Renewal

C. Application No. 95-46D, the Applicant, Hawaiian Rock Products represented by FC Benavente, Planners; requests renewal of a previously approved Conditional Use permit for its quarrying operation, on Lot 7092-3, in the Municipality of Yigo, in an "A" (Agricultural/Rural) zone. Case Planner: Frank Taitano

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

[Commission Brief – dated July 16, 2019]

Commission Bathan there are no ARC conditions that have to be met.

Frank Taitano the former Chief Planner subjected the request to be reviewed by the ARC members. Normally, a request for renewal does not require input from the ARC members.

Chairman Oh there was previous action on March 13, 2014 for the request, for five years. The request for renewal was submitted when.

Frank Taitano it was accepted on March 7, 2019, prior to the five-year expiration date.

Chairman Oh there were no additional questions for staff, Chairman Oh invited the applicant's representative to provide a presentation. For the record, please introduce yourself.

Felix Benavente [representing Hawaiian Rock Products] Mr. Benavente states that he has reviewed and gone over the Case Planner's report and had no objections to the comments made in the report. If you note, the application number is for 95-46D and the applicant has been coming back every five years since the initial approval.

The past five years HRP has been inactive at this site for their quarry operations, and there has been no change in its approved site plan nor its approved plan of operations. Any resumption of quarrying operations in the future will require that they stay within the approved site plan and operations plan. Hawaiian Rock Products is continually grateful for the GLUC's previous approvals, and humbly requests for a favorable vote on the request for the continuation and extension of HRP's operation.

Since the record has shown that HRP has been renewing its permit every five years and has been in good standings, Mr. Benavente asked the Commission to consider renewing this permit for a period of ten years.

Chairman Oh questions for the applicant.

Commissioner Bathan you have read all the conditions as noted on the ARC position statements and the applicant will comply.

Felix Benavente yes, they will.

Chairman Oh why has there been no activity at this site.

Jerry Johnson (President of HRP) the simple answer is the economy. Although things are starting to build up now, the past ten years have been the worse years that they have had in the history of their company as far as business opportunities for concrete, asphalt, etc. It is now picking up quickly and they see the need to resume operations at the Yigo quarry as well as continue at their Mangilao facility.

Commissioner Bathan since Mr. Johnson mentioned that they are in the concrete business, Commissioner Bathan disclosed that the company that she works with also has a concrete business; but, this application is for quarrying activities which they do not have. Commissioner Bathan feels that she does not have any conflicts with the application that is before the Commission and wanted to disclose this for the record.

Chairman Oh in terms of this application you are not conflicted?

Commissioner Bathan I am not conflicted and comfortable in making a decision on the request.

Chairman Oh there is activity at the site but no quarrying operation.

Jerry Johnson activity at the site is for pre-cast operations which has been ongoing for the last 12-years. Rocky Mountain is a customer and tenant on the site to do pre-cast work and it will continue.

Chairman Oh what are future plans in terms of quarrying.

Jerry Johnson in the closure plan it is noted that the site will be turned into an industrial site; it will go a rezoning process and back filling of the site to bring it back to grade.

Commissioner Bathan how many more years for the continuation of the quarry.

Jerry Johnson possibly for the ten years that is being requested and then serve the closure of the property.

Felix Benavente in the closure reuse plan that was required by the Commission ten to fifteen years ago, a timeline was included. Based on market conditions which will cause the quarry to be inactive, the time line is stretched into the future in phases of five years but was contingent on being open and running. Because there has been gaps in the timeline, the timeline also expands.

[Discussion ensues on the activity at the project site. It was noted for the record there has been no quarrying activity in the last five years, but was an active quarry prior to the five years.]

Chairman Oh any further questions [none noted]. Chairman Oh opened the floor for public comment.

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

Chairman Oh any questions and/or comments.

Commissioner Bathan commends the applicant for submitting their request prior to the expiration of their NOA.

Chairman Oh wanted to discuss the applicant's request for a ten-year renewal, and asked the Commissioners for their thoughts on this.

Commissioner Bathan are there any restriction on the number of years for this type of conditional use.

Frank Taitano no, the timeframe of five years was originally set by the previous Commission, and it just followed suit for the extensions. There is no provision in the law that restricts the timeframe.

Commissioner Bathan in the history of HRP renewing the permit, has been any non-compliance of conditions noted in the NOA.

Frank Taitano at the last Commission meeting, the Commission did recognize the existing Rocky Mountain operation, and the only condition for that operation is that if Rocky Mountain is to expand or if the pre-cast activity is turned over to a new owner they would have to go before the Commission for approval.

Commissioner Bathan the conditional use permit is for quarrying operation. Commissioner Bathan asked whether pre-cast production can occur at this site.

Frank Taitano this was a subject that was discussed at the last approval; and, the Commission recognized that and allowed it to exist with the condition that, *the Commission also acknowledges an existing non-conforming use for this conditional use permit, to include the pre-casting facility that is currently operated by Rocky Mountain Pre-Cast. The pre-cast facility cannot be expanded, not be transferred unless it returns back to the Commission.*

Chairman Oh in the Notice of Action that was issued there is a condition, under Condition 2; *conditional use permit shall expire every five (5) years unless renewed by this Commission.* Chairman Oh questioned whether this Commission has the authority to renew this request.

Nick Toft you have the authority to do so.

Commissioner Bathan are there any foreseen problems if this Commission extends the expiration from five years to ten years.

Frank Taitano "no." Hawaiian Rock Products has been a good neighbor and they have been very prompt to ensure that they do have a public hearing with the Mayor and the surrounding neighbors to make sure that whatever activity that they are going to conduct will be aware of what is being done.

Chairman Oh commends HRP as a very responsible company on island and for staying on top of expiration dates of their Notices of Action. Chairman Oh notes that there are conditions in the original NOA that he is uncomfortable with especially with the non-conforming use and the granting of a ten-year extension. The second reason is that the applicant did mention that there are plans to change the use of the property within the next ten years; and every five years, within the next ten years, the Commission can monitor the activities that will be occurring at this site, every five years. It is of his opinion that the granting of five years will suffice.

Commissioner Vy echoed Chairman Oh's comments.

Commissioner Bathan believes that ten years is too long as well.

Chairman Oh noting no further comments, Chairman Oh was open to entertain a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for renewal of the conditional use permit for Hawaiian Rock Products quarrying operation, on Lot 7092-3, in the municipality of Yigo; subject to the following conditions:

1) That the applicant adheres to the ARC conditions and requirements as stipulated in their official position statements;
2) That the applicant adheres to the conditions listed on the March 13, 2014 Commission approval, Notice of Action under Document No. 864294; and,
3) That this approval is valid for a period of five (5) years beginning date of the Recordation of the new Notion of Action.

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

Commissioner Vy second.

Chairman Oh seconded by Commissioner Vy. Noting no discussion, the motion was put to a vote. All in favor say "aye" [Chairman Oh, Commissioner Bathan and Commissioner Vy], all opposed say "nay." **[Motion passed 3 ayes, 0 nay]**

Noting no further business before the Commission today, Chairman Oh was ready to entertain a motion for adjournment.

VI. Adjournment

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

The regular meeting of the Guam Land Use Commission for Thursday, August 8, 2019 was adjourned at 5:06 p.m.

Approved by:

Tae S. Oh, Chairman
Guam Land Use Commission

Date approved:

10/24/2019

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
Planning Division, DLM

ATTACHMENT A

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

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

JOSEPH M. BORJA
Acting Director

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July 29, 2019

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Acting Guam Chief Planner

SUBJECT: Staff Report - Application No. 2018-31, Zone Change from "R-2" (Multi-Family Dwelling) to "LC" (Limited Commercial) Zone, on Lot 5172-3-9, in the Municipality of Tamuning.

1. PURPOSE:

A. Application Summary: The applicant, Wan Yuan Jewelry Inc., represented by Harry Gutierrez, requests for a zone change from "R-2" (Multi-Family Dwelling) Zone to "LC" (Limited Commercial) Zone, for the proposed use of an existing two-story structure with retail space and an accessory storage on the 1st floor, professional office space and residential unit on the 2nd floor, on Lot 5172-3-9, Municipality of Tamuning.

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

2. FACTS:

A. Location: The subject lot abuts Governor Camacho Street (formerly Camp Watkins Road) and across Onward Beach Resort.

B. Lot Area: The total lot area is 750 square meters, 8,073 square feet; or approximately 0.2 acres.

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

D. Field Description: Subject lot is fairly flat. The property is developed with an existing two-story building that is currently vacant.

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

F. Community Design Plan: Urban Residential - Medium High Density

G. Previous Commission Action:

1) On October 10, 1991 the Territorial Land Use Commission (TLUC) approved with conditions a Zone Variance in Use to construct a

two-story commercial building to accommodate a jewelry shop, a small office and security storage. The variance granted was limited to seven (7) years only.

2) On September 14, 2006 the Guam Land Use Commission approved with conditions a Zone Variance in Use to allow for other commercial uses in the existing two-story structure. The variance granted was good for seven (7) years only.

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Application Accepted: April 11, 2018

B. Date Heard By ARC: June 21, 2018

C. Public Hearing Results: A public hearing was held on December 11, 2018 at 6:00 P.M. at the Tamuning Senior Center. Present were planning staff, the applicant's representative, Mr. Harry Gutierrez, and two concerned citizens.

Mr. Guttierez explained the proposed development or proposed uses should the zone change be approved. He responded to some questions and concerns of those present at the public hearing. After responding to all the questions and concerns, the attendees were informed that if they have any other concerns or questions or if they know of anyone who will like to submit their position or inquire further information on the application they can visit Planning Division, Department of Land Management of they may contact Planning Division at any of the Department's phone numbers and the meeting was adjourned at 6:29 P.M. (See attachment for full public hearing results)

4. DISCUSSION and STAFF ANALYSIS:

This request is to rezone Lot 5172-3-9 from "R-2" (Multi-Family Dwelling) zone to "LC" (Limited Commercial) zone in order to use the existing two-story structure with retail space and an accessory storage on the first floor and professional office space and residential unit on the second floor.

Pursuant to Section 61630 (Requirements for Changes) of Chapter 61 (Zoning Law) 21 GCA, where it states "The Commission may, with approval of the Governor, change the zones established under this Chapter whenever it finds that the public necessity, convenience and general welfare justify such action".

The applicant in response for the Zone Change submits the following justification:

Public Necessity and Convenience is addressed by providing retail of goods, and provide the convenience of professional office and related services to the immediate area and for the general public as well. The retail and professional office operations may be small but the proximal location of the site to high intensity activities and its location along Governor Carlos G. Camacho Road will add to the area's opportunities and become a convenience for locals and tourists. Tourism and military installation primarily support the economy of Guam; and since tourism is vital for Guam, other areas such as Camp Watkins may benefit from the saturated overflow of Tumon. Extending tourism beyond Tumon, the island can maximize economic and

employment opportunities that could benefit the government and all the island residents.

General Welfare. The general welfare of the public is protected by the requested zone change. The Limited Commercial (LC) zone change was determined to be the best approach embracing public concerns received from the prior Territorial and Guam Land Use Commission use variances approved in 1991 and 2006. It has been twelve (12) years since the 2006 approval consequent to the owner's medical relocation. Its expiration resulted in a commercially useable building to remain vacant and become prone to vandalism. Opportunities that could be derived from a sustainable commercial activity that complements the welfare of the area's land use remain unavailable.

The "Guam Tourism 2020 Plan" attempts to revitalize efforts encouraging the private sector to reinvest and upgrade the quality of Guam's tourism product. The zone change request is consistent with that plan and Guam can achieve its full potential as a tourism destination only with the support of the entire community.

Should the zone change be approved, the applicant intends to modify the site and structure in order to accommodate the proposed limited commercial activities. The applicant will ensure that there is adequate parking for tenants and patrons, safe access in and out of the site and a sign will be posted on the premises in order to avoid customers parking on the adjacent properties. The site will be landscaped and the existing two-story structure will be painted to aesthetically enhance the area.

The requested zone change will not reduce any zoning standards in the immediate vicinity; thus, will create a more stable environment providing for orderly development scheme. The proposed project is compatible with the existing nature of adjacent and neighborhood uses. The property adjacent to the north is Onward Beach Resort while the surrounding properties on the east, west and south are predominantly high density multi-family apartments and/or condominiums. There are commercial establishments within the 1,000 feet radius such as Payless Supermarket, clinics, pharmacies and other retail stores that complement each other, help improve the economy of Guam and provide employment to the residents. With respect to zoning and land use compatibility, the property is identified for "Mixed Use" under the 2009 North and Central Guam Land Use Plan. Under this category, mixed use developments primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites which includes but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed Use developments incorporating a variety of types and densities of residential units are also appropriate in this designation which qualifies the proposed zone change to be compatible with the proposed mixed use designation.

Conditions of approval are identified to safeguard existing permitted uses are not adversely impacted and the surrounding neighborhood concerns are addressed. Based on our review and analysis of the form and context of this application in reference to the Zoning Law and the response of the ARC members who have responded with no objections with conditions, we find the criteria for the grant of zone change is justified and that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Planning staff recommends **APPROVAL WITH CONDITIONS** as follows:

A. That the only use allowed on the first floor is a retail and an accessory storage for a gift shop, while the second floor will be a professional office and a residential unit. No retail activity shall include the sale of alcoholic beverages; and

B. That there shall be no drinking establishment such as nightclub or bar, pub and tavern where the sale and consumption of alcoholic beverages is allowed; and

C. That there shall be no massage parlor, pachinko machines, adult gaming, videos, and no sales of adult related gift items within the premises; and

D. That Applicant is responsible for maintaining the property in a clean and good condition free from trash and other types of debris at all times; no outside restroom; and further that the perimeter of the property be fenced; and

E. That Applicant ensure that a sign will be posted on the premises to avoid tenants and customers parking on the adjacent properties; and

F. That the Applicant designates a "loading/unloading" area within the property in such a manner that it does not obstruct traffic view nor becomes a safety hazard because of its location; and

G. That the current location of the ADA parking be relocated; and

H. That Applicant ensure that on-site or adjacent parking requirements are met for new tenants prior to assignment of lease and that Applicant shall submit a copy of the new parking layout plan to the Guam Chief Planner; and

I. That the Applicant also ensure the site will be landscaped and the existing two-story building will be painted; and

J. That the Applicant strictly comply with all ARC conditions as stated in their official position statement.

Celine L. Cruz
Acting Guam Chief Planner

Attachments: ARC Position Statements Summary & Public Hearing Minutes

Case Planner: Grace Vergara

PUBLIC HEARING MINUTES – December 11, 2018
Tamuning Senior Center
Wan Yuan Jewelry, Inc.
Application No. 2018-31
Lot 5172-3-9

The meeting was called to order at 6:07 PM by Planning Division staff. After a brief explanation by Planning Division staff of the public hearing process, the floor was turned over to the applicant's representative, Mr. Harry Gutierrez. Mr. Gutierrez did not discuss the project nor provided the attendees a detailed description of the application, but answered questions:

Mr. Harry Gutierrez: Sorry I forgot about this meeting. The owner built this way back in 2007, right? If I remember correctly.
Grace Vergara: 1991
Mr. Harry Gutierrez: 1991? That's when he renewed it.
Grace Vergara: It was 2006 when he renewed it.
Mr. Harry Gutierrez: Yes and he didn't renew it because he had to leave the island in 2013 for medical reason. He turned around and he donated or cut half of the rent and gave it to Salvation Army. He was thinking he will be back in 2 or 3 years but he stucked out there and can't go back to Guam, so now he's trying to get a legal non-conforming so he could rent it out again or just sell it, one or the other.
Ms. Rosario Flores: The building was built for a jewelry store and it was never a jewelry store.
Mr. Harry Gutierrez: That's right to see if he could expand from the store in East Hagatna near the Mobil Gas Station, so he wanna expand it out from there but he cancelled it out. But anyway, he just want to make it legal now. The building is there and based on the past records the main objection from all the property owners is that they don't want to have a liquor to be sold in there or alcohol. They don't want a store selling beer.
Ms. Rosario Flores: When was this?
Mr. Harry Gutierrez: Back in 2012 and I don't have my book with me and I'm sorry I forgot all about this hearing. But that was the main objection for a full commercial, selling liquor.
Ms. Rosario Flores: I live there and I don't remember that. I don't remember anybody discussing about liquor, never heard about it, this is the first time I heard it.
Mr. Harry Gutierrez: That's what I gathered from the records of the public hearing. When we review the records, the main concern of the neighbors was selling liquors but we put it in a condition that we won't allow liquor. How was it when the Salvation Army was there before?
Ms. Rosario Flores: I was the number one complainant to the Mayor's office.
Mr. Harry Gutierrez: What was the complain?
Ms. Rosario Flores: Their trash, outside restroom, parking space, blocking the exit when you have to get out because you come to the approaching car because customers just park right infront of the door (of the building). If you're trying to pull out where I live and you're trying to look left there's a curb there and you cannot see the curb or any car coming because they always park right infront of the building. They unload the stuff right infront and it blocks our way.
Celine Cruz: Harry, I understand what she's saying. It is not physically labeled as parking area but the Salvation Army staff utilize it and drive vehicles out, to unload/offload and that obstructively affects the traffic.
Mr. Harry Gutierrez: Now, I understand. That was Salvation Army that's why the owner kicked them out. They don't even care. Is that your only concern, the parking?
Ms. Rosario Flores: No, not only that. What's gonna be the use?
Mr. Harry Gutierrez: A store.
Ms. Rosario Flores: What kind of store?

Doc. No. 35GL-19-1234.

Mr. Harry Gutierrez: A clothing store, a jewelry store, or whatever will be the renter would do, they will just lease it.
Ms. Rosario Flores: How many parking stalls are there?
Mr. Harry Gutierrez: There are 10.
Ms. Rosario Flores: I don't think there's 10 parking stalls, can you provide us a clear and new parking lay out?
Mr. Harry Gutierrez: I'll try to get that.
Mayor Louise Rivera: Mr. Harry, you know you're representing the company and so we need to hear the answers. Even with the Municipal Planning Council I need to bring back information because you know we have to vote on this. The President wants to know what is gonna happen? Are they gonna have a facelift, is it gonna be a jewelry store, is it gonna be another Salvation Army type store or storage. You know you're not giving the exact information. The application says "retail" and I'm glad you indicated there won't be a game room or a massage parlor on the premises, wonderful! But you need to tell us what kind of retail store it is. If you cannot give us the answer then we need to owners to be here to say what they're going to do.

Mr. Harry Gutierrez: The owner will just lease it out and see whatever will be approved so he could restrictions to the renters. But basically, it's going to be a commercial use. A Clothing store or whatever they could lease it out for.

Celine Cruz: Actually Mayor and Harry if I may, the request is for "Limited Commercial" and in Limited Commercial uses, on the conditions we can indicate to what extent the uses are gonna be and based on the letter submitted it says a gift shop and accessory storage on the first floor and professional office and residential unit on the second floor. So, the kind of zone change that's being requested here basically on the notice of action and so in the building permit we need to look out that notice of action and any other build out and any other type of use or even a business license application we're gonna hold them to these uses that they say that's what they're requesting for a Limited Commercial. It's different from just an outright commercial use where anything we can't put conditions in a regular commercial zone change, but the request is just for a Limited Commercial.

Mayor Louise Rivera: Even if it says a "Gift Shop" what kind of gift shop, there are different kinds of gift shop like that Adult gift shop in Tumon. We want more home stuff and we want to more the red district away from the children. We also want to know what are the owners plan on the structure, are they gonna do some renovation, fixed it up to make it look pleasant? The building is so old, are they going to repaint it or leave it like that? We just did a clean up this past weekend and it looks like a dumpsite and so you know how come the owner are applying for a zone change but are not taking care of the property and didn't take care of their mess? they haven't met with the community like I said we have staff who can help and other organizations who can help do the clean up. I'm glad to meet with the owner to see and get the answers we are looking. I'm sorry they had you represent them but I don't think you can answer the questions we're asking. When is the next GLUC hearing and will this be included?

Celine Cruz: The next GLUC meeting might be around January but I don't think we're ready to put this in the agenda for the next GLUC meeting based on the issues that you're bringing up.

Mayor Louise Rivera: Harry, will you be able to contact the owners and get the answers for us?
Mr. Harry Gutierrez: My apology I wasn't prepared for this meeting like what I said I forgot about this Public Hearing but I will try contact owner. The owners are in L.A. and their contact here is the realtor (Gina Campos). Honestly, the owners just want to lease it out but let me know what kind of business you want on the property and I'll get the answers for you.

Mayor Louise Rivera: I don't want to be hard on you, just give us the answers on the questions that we ask.

Mr. Harry Gutierrez: I'll give you a letter next week after I contacted the owner, a letter regarding the answers to your questions and regarding the exact kind of establishment. They just really want to lease it out so I need to talk to them.

No further discussions. Attendees were informed that when there's already a schedule for GLUC it will be posted on the on-site sign. Meeting adjourned at 6:29 PM.

ATTACHMENT

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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'LÅHI • LIEUTENANT GOVERNOR

JOSEPH M. BORJA
Acting Director

July 29, 2019

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. 2018-31

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 only use allowed on the first floor is a retail and an accessory storage for a gift shop, while the second floor will be a professional office and a residential unit. No retail activity shall include the sale of alcoholic beverages; and

B. That there shall be no drinking establishment such as nightclub or bar, pub and tavern where the sale and consumption of alcoholic beverages is allowed; and

C. That there shall be no massage parlor, pachinko machines, adult gaming, videos, and no sales of adult related gift items within the premises; and

D. That Applicant is responsible for maintaining the property in a clean and good condition free from trash and other types of debris at all times; no outside restroom; and further that the perimeter of the property be fenced; and

E. That Applicant ensure that a sign will be posted on the premises to avoid tenants and customers parking on the adjacent properties; and

F. That the Applicant designates a "loading/unloading" area within the property in such a manner that it does not obstruct traffic view nor becomes a safety hazard because of its location; and

G. That the current location of the ADA parking be relocated; and

H. That Applicant ensure that on-site or adjacent parking requirements are met for new tenants prior to assignment of lease and that Applicant shall submit a copy of the new parking layout plan to the Guam Chief Planner; and

I. That the Applicant also ensure the site will be landscaped and the existing two-story building will be painted; and

J. That the Applicant strictly comply with all ARC conditions as stated in their official position statement.

DEPARTMENT OF AGRICULTURE (DoAg):
Agriculture has reviewed the subject lot for the rezoning of this lot to a "Limited Commercial" zone. Our agency will recommend approval of the current proposal for zone change 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 and has been mainly used for dwelling and commercial service. Because the site is adjacent to the Alupang Bay our will require the developer implement "Best Management Practices" that addresses both environmental and ecological issues. The Alupang coast has been subject to frequent tests that show high levels of pollution in the water due to both man made and natural occurrences. To further prevent and compound pollution in this area we will require that should any demolition and or clearing and grading work is to occur, a proper silt screen barrier and berm system must be in place to prevent any contaminants and material generated by the activity is contained on the property and not allowed to erode and make its way into or near adjacent properties and coastal waters. Agriculture encourages planting a tree or bush line that will help limit and prevent such erosion and runoff from occurring.

The continued development of the island creates challenges in trying to achieve a proper balance as the removal of Guam's vegetation without having an adequate landscaping plan as part of any development will have devastating effects on the environmental make up of our land mass and coastal waters.

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.

GUAM POWER AUTHORITY (GPA):

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

A. Comments and Recommendations Concerning GPA requirements:
   1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
      - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
      - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
      - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
      - Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
      - Provide scheduling and magnitude of project power demand requirements for new loads.
      - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
      - GPA reserves its easement rights established under Document No. 87751.

   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.

DEPARTMENT OF PARKS AND RECREATION (DPR):

We reviewed the subject application submitted by Harry D. Gutierrez, Consultant, authorized representative, on behalf of Wan Yuan Jewelry, the applicant and owner of subject lot. The applicant is requesting approval of subject application to use the existing 2-story for retail activity on the first floor and office and residential unit on the second floor.

The application package did not provide any adequate construction plan for us to review other than indicating that all parking, loading, and accesses are adequate for the proposed uses. We will determine if there are archaeological concerns once we obtain and review the complete construction plan, if any, associated with the subject application. Therefore, we have no objection to the approval of subject application.

However, all future development on the property must go through the proper DPW permitting process for reviews by the different agencies, including the Department of Parks and Recreation, and may be subject to other development requirements.

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

1. Traffic Generations – Provide a traffic impact analysis report to be coordinated with DPW Division of Highways (traffic management control section);
2. Access Road – Entrance/Exit must be wide enough for public access and must be in conformance with Guam Highway Master Plan to be coordinated with DPW, Division of Highways (rights of way section); and
3. Parking requirements – Parking stalls and lay-out (compact, standard accessible stalls) must meet the American Disability Act (ADA) requirements.

NOTE: Must submit previous copy of the as-built drawings and occupancy permit signed by DPW building official.

BUREAU OF STATISTICS AND PLANS (BSP):
The applicant, Wan Yuan Jewelry, Inc., represented by Mr. Harry D. Gutierrez is requesting for a zone change from "R-2" Multiple Dwelling Zone to a "LC" Limited Commercial Zone for the proposed use of a 2-storey structure. The subject lot is 750 square meters or 8073 square feet. Lot 5172-3-9 is located along Camp Watkins Road, a major thoroughfare in the Municipality of Tamuning, and will feature a retail gift shop and accessory storage on the first floor with a professional office and residential unit on the second floor. The adjacent surrounding properties include grocery stores, apartment and condominiums, medical clinics, hotels, retail stores and water outlets, churches, schools, and single family homes.

The Bureau of Statistics and Plans (Bureau) has completed its review of the zone change request and finds the use compatible with the surrounding area and is consistent with the Kabales Planu Para Guahan and the North and Central 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 downward sloping and the change from a natural environment to a hardscape environment greatly increases runoff volume created during normal rains and storms, as well as waterway velocities, 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 to manage stormwater. 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 requires that the applicant prevent adverse impacts from construction site runoff by employing best management practices. These practices include the following, but are not limited to:

1. Installing perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves a construction site.

2. Where feasible, schedule construction during dry season.

3. Stabilize construction entrances to reduce the tracking of sediment/mud from the construction site onto paved roads and parking lots.

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 Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP), 50.6% of the Agana watershed is developed and 30.9% 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 and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product.

Considering the growing concerns of flooding due to increased impervious surface, the applicant must implement LID practices such as permeable parking and walkways, grassed swales, island bio-retentions, 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 with conditions** to the zone change request from "R-2" Multiple Dwelling Zone to the "LC" Limited 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 WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "R2" (Multi-family) to "LC" (Limited Commercial) zone.

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructure 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.

The existing structure is connected to GWA's water and sewer systems. GWA supports the zone change, so long as applicant meets the conditions listed below.

1. Prior to renovation or occupancy by a new tenant, the account holder shall inform 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.

2. Prior to renovation or occupancy by a new tenant, the applicant is required to install a reduced pressure backflow preventer. Contact the GWA Permits Office for details at permits@guamwaterworks.org.

3. Prior to renovation or occupancy by a new tenant, the applicant shall meet applicable sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities. Contact the GWA Permits Office for details at permits@guamwaterworks.org.

4. Sewer cleanouts were not visible on the public right of way fronting the subject lot. If the applicant requests that GWA service the portion of sewer lateral located on the public right of way, then the applicant will be responsible for identifying the location of any existing cleanouts of the public right of way or installing sewer cleanouts on the public right of way.

General construction conditions are listed below.

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.

Doc. No. 35GL-19-1234.

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 sue by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

3. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

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

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

7. 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.

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 ENVIRONMENTAL PROTECTION AGENCY (GEPA):
The staff of this Agency reviewed the application and determined that this Agency does not have objection to rezone Lot No. 5172-3-9 from R-2 to LC that contains an area of +/-750 square meters. However, the owner and/or contractor must comply with all GEPA laws and regulations when obtaining permit to construct and/or occupy any structure or establishments under the approved zoning.

GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA):
No Position Statement has been received as of the date of this Memorandum of July 29, 2019.

DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES (DPH&SS):
No Position Statement has been received as of the date of this Memorandum of July 29, 2019.

Doc. No. 35GL-19-1234.

GUAM FIRE DEPARTMENT (GFD):
No Position Statement has been received as of the date of this Memorandum of July 29, 2019.

GUAM DEPARTMENT OF EDUCATION (GDOE):
No Position Statement has been received as of the date of this Memorandum of July 29, 2019.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):
No Position Statement has been received as of the date of this Memorandum of July 19, 2019.

CHAMORRO LANGUAGE COMMISSION:
No Position Statement has been received as of the date of this Memorandum of July 19, 2019.

JOINT REGION MARIANAS (JRM):
No Position Statement has been received as of the date of this Memorandum of July 19, 2019.

Celine L. Cruz

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

Doc. No. 35GL-19-1234.

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
OCT 29 2018
CLTC/GALC/GLUC

ORIGINAL

October 29, 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 2018-31 for a zone change request from an "R2" to a "LC" on Lot 5172-3-9 consisting of 0.1853 of an acre Located off of Rte. 30 Farenholt Ave. and across the Onwaard Beach Resort parking lot in the municipality of Tamuning (Wan Yuan Jewelry Inc./Man Wing Cheung Principle c/o Harry Gutierrez).**

Agriculture has reviewed the subject lot for the rezoning of this lot to a "Limited Commercial" zone. Our agency will recommend approval of the current proposal for zone change 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 and has been mainly used for dwelling and commercial service. Because the site is adjacent to the **Alupang Ba**y our will require the developer implement **"Best Management Practices"** that addresses both environmental and ecological issues. The **Alupang** coast has been subject to frequent tests that show high levels of pollution in the water due to both man made and natural occurrences. To further prevent and compound pollution in this area we will require that should any demolition and or clearing and grading work is to occur, a proper silt screen barrier and berm system must be in place to prevent any contaminants and material generated by the activity is contained on the property and not allowed to erode and make its way into or near adjacent properties and coastal waters. Agriculture encourages planting a tree or brush line that will help limit and prevent such erosion and runoff from occurring.

The continued development of the island creates challenges in trying to achieve a proper balance as the removal of Guam's vegetation without having an adequate landscaping plan as part of any development will have devastating effects on the environmental make up of our land mass and coastal waters.

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

MB 10/25

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

OCT 25 2018

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

Ref: Application No. GLUC 2018-31 – "Zone Change from Multi Family (R-2) to Limited Commercial (LC) on Lot No. 5172-3-9 Tamuning, Guam.

The staff of this Agency reviewed the application and determined that this Agency does not have objection to rezone Lot No. 5172-3-9 from R-2 to LC that contains an area of +/-750 square meters. However, the owner and/or contractor must comply with all GEPA laws and regulations when obtaining permit to construct and/or occupy any structure or establishments under the approved zoning.

Should you have question please contact CDR Brian Bearden, P.E., BCEE, Chief Engineer at 300-4779.

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

In reply refer to:
RC2018-0697

MB 7/25

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

July 19, 2018

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DPR Position Statement on GLUC Application No. 2018-31: Zone Change from "R-2" (Multi-Family Dwelling) to "LC" (Limited Commercial), Lot Number 5172-3-9, Municipality of Tamuning

We reviewed the subject application submitted by Harry D. Gutierrez, Consultant, authorized representative, on behalf of Wan Yuan Jewelry, the applicant and owner of subject lot. The applicant is requesting approval of subject application to use the existing 2-story for retail activity on the first floor and office and residential unit on the second floor.

The application package did not provide any adequate construction plan for us to review other than indicating that all parking, loading, and accesses are adequate for the proposed uses. We will determine if there are archaeological concerns once we obtain and review the complete construction plan, if any, associated with the subject application. Therefore, we have no objection to the approval of subject application.

However, all future development on the property must go through the proper DPW permitting process for reviews by the different agencies, including the Department of Parks and Recreation, and may be subject to other development requirements.

If you have any questions with regards to our position, please contact our office.

Sincerely,

William N. Reyes

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

GUAM POWER AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 25 2018
9:11
CLTC/GALC/GLUC

MB 9/25

September 19, 2018

MEMORANDUM

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

From: General Manager

Subject: Lot 5172-3-9, Municipality of Tamuning, (Wan Yuan Jewelry, Inc./Man Wing Cheung, Principle); Zone Change Application from "R-2" (Multi-Family Dwelling) to "LC" (Limited Commercial) for the existing building to be used for retail, office space and residential **Application No. 2018-31**

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. 87751.**

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.

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

ASG/arp

Doc. No. 35GL-19-1234.

9/18

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: Wan Yuan Jewelry, Inc./Man Wing Cheung, Principle
Location: Lot 5172-3-9, Tamuning
Type of Application: Zone Change
GLUC/GSPC Application No. 2018-31
Brief Project Description:
"R-2" to "LC" for the existing building to be used for retail, office space and residential.

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

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

MEMORANDUM

SEP 26 2018
MB 9/27

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 27 2018
CLTC/GALC/GLUC

To: Chairman, Guam Land Use Planning

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: **APPLICATION NO. 2018-31**
LOCATION: Lot 5172-3-9, Municipality of Tamuning
APPLICANT: Wan Yuan Jewelry, Inc.
PROPOSED: Zone Change Request from "R-2" Multiple Dwelling Zone to "LC" Limited Commercial Zone

Håfa Adai! The applicant, Wan Yuan Jewelry, Inc., represented by Mr. Harry D. Gutierrez is requesting for a zone change from "R-2" Multiple Dwelling Zone to a "LC" Limited Commercial Zone for the proposed use of a 2-storey structure. The subject lot is 750 square meters or 8073 square feet. Lot 5172-3-9 is located along Camp Watkins Road, a major thoroughfare in the Municipality of Tamuning, and will feature a retail gift shop and accessory storage on the first floor with a professional office and residential unit on the second floor. The adjacent surrounding properties include grocery stores, apartment and condominiums, medical clinics, hotels, retail stores and water outlets, churches, schools, and single family homes.

The Bureau of Statistics and Plans (Bureau) has completed its review of the zone change request and finds the use compatible with the surrounding area and is consistent with the Kabales Planu Para Guahan and the North and Central 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 downward sloping and the change from a natural environment to a hardscape environment greatly increases runoff volume created during normal rains and storms, as well as waterway velocities, 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 to manage stormwater. 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 requires that the applicant prevent adverse impacts from construction site runoff by employing best management practices. These practices include the following, but are not limited to:

1. Installing perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the construction site.

2. Where feasible, schedule construction during dry season.

3. Stabilize construction entrances to reduce the tracking of sediment/mud from the construction site onto paved roads and parking lots.

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), 50.6% of the Agana watershed is developed and 30.9% 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 must 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 with conditions** ✓ to the zone change request from "R-2" Multiple Dwelling Zone to the "LC" Limited 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

public works
DIPATTAMENTON CHECHO' PUBBLIKO
GLENN LEON GUERRERO
Director
ANDREW S. LEON GUERRERO
Deputy 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: 2018-31

APPLICANT: Wa Yuan Jewelry, Inc.

POSITION STATEMENT: "R-2" (Multi-Family Dwelling) to Limited Commercial, Tamuning

Buenas yan Hafa Adai! The Applicant is requesting to convert an existing two storey structure, zoned ("R-2") into a limited commercial zone area. The proposed zone change is to accommodate a retail activity gift shop, accessory storage at the 1st floor and an office and residential area at the 2nd floor. The total lot area is approximately 750 square meters or 8,073.6 square feet.

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

1. Traffic Generations - Provide a traffic impact analysis report to be coordinated with DPW Division of Highways (traffic management control section);
2. Access Road - Entrance/ Exit must be wide enough for public access and must be in conformance with Guam Highway Master Plan to be coordinated with DPW, Division of Highways (rights of way section); and
3. Parking requirements - Parking stalls and lay-out (compact, standard accessible stalls) must meet the American Disability Act (ADA) requirements.

NOTE:

Must submit previous copy of the as-built drawings and occupancy permit signed by DPW building official.

Attached herewith are copies (pages 2 & 3) under 21 GCA, Real Property, Chapter 66, Building Law. SOURCE: GC S31002. S66104. Application to Existing Buildings.

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

GLENN LEON GUERRERO

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

The purpose of this Chapter is to secure and promote the safety, health and general welfare of the people of the Territory of Guam by providing standards for the location, design, material, construction, alteration, repair, building service equipment, maintenance, use, occupancy, moving, removal and demolition of buildings, structures and appurtenances thereto in the Territory of Guam.

SOURCE: GC §31001.

§ 66103. Compliance.

All buildings and structures, appurtenances connected and attached thereto, or equipment thereof, which are erected, constructed, installed or moved within the Territory of Guam after the effective date of this Chapter shall comply with all provisions of this Chapter; provided, however, that as to structures designed as single family dwellings such structures shall comply with the provisions of this Chapter only if they are located or are to be located within an organized village having public utilities. The location and boundaries of such organized villages for the purposes of this Law shall from time to time be designated and redesignated and defined and redefined by Executive Order of the Governor of Guam.

SOURCE: GC §31002.

§ 66104. Application to Existing Buildings.

(a) General. Buildings or structures to which additions, alterations or repairs are made shall comply with all the requirements for new buildings or structures except as specifically provided in this Section.

(b) Addition, Alterations and Repairs: More than Fifty Percent (50%). When additions, alterations or repairs within any 12-month period exceed fifty percent (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.

(c) Additions, Alterations and Repairs: Twenty-Five Percent (25%) to Fifty Percent (50%). Additions, alterations and repairs exceeding twenty-five percent (25%) but not exceeding fifty percent (50%) of the value of an existing building or structure and complying with the requirements for new buildings or structures may be made to such building or structure within any 12-month period without making the entire building or structure comply. The new construction shall conform to the requirements of this Chapter for a new building of like area, height and occupancy. Such building or

structure, including new additions, shall not exceed the areas and heights specified in this Chapter.

(d) Additions, Alterations and Repairs: Twenty-Five Percent (25%) or Less. Structural additions, alterations and repairs to any portion of an existing building or structure, within any 12-month period, not exceeding twenty-five percent (25%) of the value of the building or structure, shall comply with all of the requirements for new buildings or structures, except that minor structural additions, alterations, or repairs, which are made by the building owner, lessee, or their full-time employees, families or friends, and not made by a hired contractor, which do not affect structural design or integrity of the house such as, but not limited to, painting, dry wall repair, finishing, siding, plumbing, interior wall construction or electrical repairs, may be made with the same material of which the building or structure is constructed, and may be made without application or notice to the building official. Such building or structure, including new additions, shall not exceed the areas in height specified in this Chapter.

(e) Nonstructural Alterations and Repairs: Twenty-Five Percent (25%) or Less. Alterations or repairs, not exceeding twenty-five percent (25%) of the value of an existing building or structure which are nonstructural and do not affect any member or part of the building or structure having required fire resistance, and which are made by the building owner, lessee, employee, family or friends and not made by a hired contractor, may be made with the same materials of which the building or structure is constructed, and may be made without a building permit, application or notice, to the building official when made within any twelve-month period.

(f) Repairs: Roof Covering. Not more than twenty-five percent (25%) of the roof covering of any building or structure shall be replaced in any 12-month period unless the new roof covering is made to conform to the requirement of this Chapter for new buildings or structures. Roof coverings which are twenty-five percent (25%) or less, and are replaced within a 12-month period, when replaced by the building owner, and are not replaced by a hired contractor, may be made without building permit, application or notice to the building official.

(g) Existing Occupancy. Buildings in existence at the time of the passage of this Chapter may have their existing use or occupancy continued if such use or occupancy was legal at the time of the passage of this Chapter, provided such continued use is not dangerous to life.

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 31 2018
CLTC/GALC/GLUC

MEMORANDUM

October 22, 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 Change Application No. 2018-31 for Lot 5172-3-9 in the Municipality of Tamuning-Tumon-Harmon

APPLICANT: Wan Yuan Jewelry, Inc.

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "R2" (Multi-family) to "LC" (Limited Commercial) zone.

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructure 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.

The existing structure is connected to GWA's water and sewer systems. GWA supports the zone change, so long as applicant meets the conditions listed below.

1. Prior to renovation or occupancy by a new tenant, the account holder shall inform 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.

2. Prior to renovation or occupancy by a new tenant, the applicant is required to install a reduced pressure backflow preventer. Contact the GWA Permits Office for details at permits@guamwaterworks.org.

3. Prior to renovation or occupancy by a new tenant, the applicant shall meet applicable sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities. Contact the GWA Permits Office for details at permits@guamwaterworks.org.

4. Sewer cleanouts were not visible on the public right of way fronting the subject lot. If the applicant requests that GWA service the portion of sewer lateral located on the public right of way, then the applicant will be responsible for identifying the location of any existing cleanouts of the public right of way or installing sewer cleanouts on the public right of way.

General construction conditions are listed below.

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to 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. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

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

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

7. 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.

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

ATTACHMENT B

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

LOURDES A. LEON GUERRERO
MAGA'HÁGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

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671-649-5383

July 17, 2019

MEMORANDUM

To: Acting Chairman, Guam Land Use Commission

From: Acting Guam Chief Planner

Subject: Staff Report - Application No. 2019-01

1. PURPOSE:

a. **Application Summary:** The applicant, MS Investment represented by W.B. Flores & Associates is requesting approval of a Tentative Subdivision to create a subdivision consisting of sixty-two (62) lots, fifty-eight (58) Single Family residential lots and four (4) public lots for a recreational space, a ponding basin, a public access and utility right of way and a non-access utility easement on Lot 22-2NEW-R2, Municipality of Talofofo.

b. **Legal Authority:** Title 21, GCA, Chapter 62, Article 2, Section 62201 thru 62204; Article 4, Section 62401; Article 5, Section 62501 thru 62504, Subdivision Law.

2. FACTS:

a. **Location:** The subject site is located along Route 4A on the southern side of the junction of Chalan Mata and Route 4A, approximately 2,000 feet south from the junction of San Miguel Street, Sabana Drive and Route 4A.

b. **Lot Area:** 35,440 Square Meters or 381,472.98 Square Feet

c. **Present Zoning:** "R1" (Single Family Dwelling) Zone

d. **Field Description:** The proposed site is presently overgrown with various types of ground cover, bushes and small to medium size trees. The remains of an abandoned house and household appliances are visible within the western portion of the site and ground slope is gradual from the western (Rt.4A) portion towards the eastern portion of the site.

e. **Masterplan:** Agricultural

f. **Community Design Plan:** Rural Residential

g. **Previous Commission Action:** June 9, 2011 (**Subdivision Variance** for waiver of subdivision improvements and a **Tentative Subdivision** for a 31 lot single family subdivision)

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** February 26, 2019

b. **Date Heard By ARC:** March 21, 2019

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

4. STAFF ANALYSIS:

As requested by the applicant, the intent is for the subdivision of Lot 22-2NEW-R2 into a sixty-two (62) lot subdivision, consisting of fifty-eight (58) 5,000 plus square feet average size single family residential lots, a 6,264 square feet lot to accommodate a ponding basin, a thirteen thousand, seven hundred and thirteen point thirteen square feet lot to accommodate a park/recreational area, a five thousand nine hundred fifty-five point zero two (5,955.02) square feet lot to accommodate a five (5) feet wide non-access easement and a fifty two thousand seventeen point two five (52,017.25) square feet lot to accommodate a forty (40) feet wide public access and utilities easement.

The applicant/developer in its efforts to address the health, safety and general welfare issues of the proposed development and the public in general has been coordinating with the various government entities to ensure that their requirements are adhered to in order to develop the 40 feet wide access and utility easement complete with paved lanes, sidewalks, planting/utility strips.

The applicant's coordination will also provide adequate connection to the public sewer system, provide adequate connection to the public water system and required number of fire hydrants, provide adequate street lights and an approved storm water runoff drainage system and in addition, the development of the proposed park/recreational area.

5. RECOMMENDATION:

Based on the submitted application and supporting information, the applicants continuing efforts to work with the various government entities and the positive response from members of the ARC. We recommend **APPROVAL** with the following condition:

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

Celine L. Cruz

Case Planner: F.P.TAITANO

Attachments: ARC Memo to GLUC Member

Guam Land Use Commission Regular Meeting Minutes
Department of Land Management Conference Room
Thursday, June 9, 2011 •1:35 p.m. to 3:50 p.m.

I. Notation of Attendance

Chairman Lather called the regular meeting of the Guam Land Use Commission of Thursday, June 9, 2011 to order at 1:35 p.m., noting a quorum.

Present were: Chairman Jay Lather, Vice Chairman Lawrence Rivera, Commissioners Conchita Bathan, Roland Certeza, Andrew Park and Tricee Limtiaco, Acting Executive Secretary/Chief Planner Carlos Untalan, DLM Planners Frank Taitano, Penmer Gulac and Marvin Aguilar.

Chairman Lather we'd like to welcome our new Commissioner Tricee Limtiaco to our meeting and congratulations on your confirmation. She not only is a very professional woman, but she also has a law background and a law degree which is going to be very relevant to what we do and we appreciate those credentials, and you'll be a very welcomed part to our Commission.

II. Approval of Minutes

Chairman Lather the second item on the Agenda is our Minutes; Commissioners you've had a chance to look at those. I have a few minor edits, I don't see anything major.

Vice Chair Rivera made a motion to approve the Minutes of May 26, 2011 subject to minor typographical corrections, moved and seconded by **Commissioner Park** with all in favor **(Chairman Lather, Vice Chair Rivera, Commissioners Park and Limtiaco)**

III. Old or Unfinished Business

Sub-division Variance

A. The Applicant, MS Investment, Inc. represented by Felix Benavente, request for a Subdivision Variance for a waiver of sub-division improvements for a proposed sub-division of thirty-one (31) single family lots on Lot 22-2NEW-R2, in the Municipality of Talofofo, under Application No. 2008-86A. (Continuance from GLUC Meeting April 28, 2011)
Case Planner: Frank Taitano

Tentative Sub-division

B. The Applicant, MS Investment, Inc, represented by Felix Benavente, request for a Tentative Subdivision to create a subdivision consisting of thirty-one (31) single family lots on Lot 22-2-NEW-R2, in the Municipality of Talofofo, under Application No. 2008-86B. (Tabled from GLUC Meeting of April 28, 2011, pending approval of Sub-division Variance)

Chairman Lather we'll start with the variance application. This was heard at our last meeting and this is a continuation hearing today. We've gone through the general part of the hearing,

Chairman Lather (cont'd) we've completed that, we had public comment; and we're back here today to consider a few small minor technical matters on this project that involve the walkways, the easements, questions about power and drainage. Is there anything else Staff that we have to look at today?

Carlos Untalan the issues of the CC&Rs.

Chairman Lather we discussed all these things last time. Frank, is there anything you want to tell me that I forgot and we can start ---

(Chairman Lather acknowledges the arrival of Commissioner Certeza to the meeting)

Frank Taitano (CP) not really sir, I think you covered it all.

(Attachments A & B – Staff Reports dated April 20, 2011)

Chairman Lather welcome gentlemen, introduce yourselves for the record please.

Felix Benavente I am presenting MSI Inc. and with me is Mr. Willie Flores, Project Engineer.

Chairman Lather let me just set where we're at again. This is a continuation hearing, the Commissioners have received this new submittal today which is a revised map, and we're going to be talking about that. As I recall at our last meeting Felix, one of our major concerns was the area between the paved road and your property line. And what was brought out during the meeting was that, there was this area which is essentially undeveloped, sort of just like boonie area between the paved road that went up to your property line, and we were concerned about how that was going to be developed and maintained. And then we were very concerned about the fact that you wanted a variance for the sidewalk improvements, and we felt that we still needed to maintain an area to walk on for the people in Talofofo village. We expressed our interest in alternatives to that which I know you're going to address today. So, we have the issue of the sidewalk or the walkway area, how we're going to handle the water and power utilities to the property, and then the drainage easements. Any questions we have on CC&Rs, we'll address.

Felix Benavente what we have is the Master Plan for the Talofofo Subdivision (referring to the drawing displayed). Over here is Mata Street; this is Chalan Ladera ... the area that Mr. Chairman is talking is this strip along Mata Street. We prepared a chart ... right here where it's green, is the location of the pedestrian walkways, we're not calling them sidewalks. The pedestrian walkways will be within the 20 foot (20') swale that is parallel to the existing 60 foot (60') right-of-way. We have, as we addressed it last time, we have located where these pedestrian walkways are going to be; immediately outside of the property line ... 6 feet (6'). We have here graphics C-9, #4, a profile of where this 6 foot ... where this pedestrian walkway sits within the 20 foot swale. Over on this side is the profile of how this grassy, pedestrian walkway will be constructed.

Chairman Lather what are the materials?

Willie Flores sand bedding and sodding. Sand bedding for the drainage to allow the drainage and right now that's pretty good coral in the area. You've got a small layer of topsoil, and most silt actually, and so it would be a mixture of sodding over sand bed.

Chairman Lather on the walkway?

Willie Flores yes.

Chairman Lather I thought the walkway was going to be the grass block, cement block with holes in it. Did I see that wrong?

Willie Flores it was all grass.

Felix Benavente that was the response for the question on the walkways.

Chairman Lather any questions on the sidewalk... Commissioners? **(No questions at this time)**

Felix Benavente the next item of concern was the drainage easements.

Willie Flores if you notice here, we have Lot 18 and Lot 33 set aside as ponding basins; so those will be set aside including the panhandles to those lots. One of the concerns what that what would happen if someone blocked the drain way. What I would like to bring up here ... the way the subdivision is designed ... the grading design is that no blockage of the drainage can occur without damaging your own property. If you are a Block 10 owner here and you decide to block off the wall against what the agreements are on your CC&R or subdivision restrictions or whatever you call them; the only person you would be flooding would be yourself. Because the way the drainage is designed is supposed to come down the back side here, supposed to come down the front way here. You can see that the orange is the highlighted grass walkway; then you can see the drainage swales here (referring to the drawing), main drainage is fronting the roadway. Those would be graded so that it all flows...for instance this ponding basin here, those would be graded so that it would flow .... the other ponding basin that you can see here, ponding basin 18, it's graded so that it all flows down here, through here and into the ponding basin. For ponding basin on Lot 13 here, we flow down this way and through here. Now the question that was brought up earlier from the Commission is, can we guarantee this drainage easement so nobody would obstruct the drainage easements; Mr. Benavente addressed that, but the way the subdivision is now designed and graded is that all of drainage will flow alongside and not through the lots, but alongside the lots and behind the lots to the ponding basins. For your reference, this is Route 4A. If you're looking at this you're going up to Notre Dame, if you are looking here, you're going up towards the SDA Church and to the village. This direction, when you turn off of Route4A, this direction turns up. You see where it says Chalan Mata on that side? That is currently a paved road and then between Chalan Mata and the green area which is the lot, is where we are proposing to put the grass walkway and the drainage. Then you can see from the location of the .... just on the scale of the project, you can see between the boundary of the property and Chalan Mata is almost 60 feet of grass and stuff like that, and that's why we were concerned on the placement of the sidewalks. That's it on the drainage. I think what we need to re-clarify today is to work on how do we guarantee that the drainage is not blocked. As it is graded right now, it will work this way.

Felix Benavente we will recognize the existence of the storm water drainage easements in the final subdivision map. It will be determined by the Engineer on where the location will be more appropriate and they will be drawn in on the final map, and then there will be a notation on the property map of a note that will have the restrictions on the property. The storm water management system, we will recognize these easements and note them on the map and then insert them as deed restrictions on the Deed of Sale. The two ponding basins and the

Felix Benavente (cont'd) easements comprise of storm water management system. The ponding basins will be dedicated to GovGuam, DPW; the drainage easements will run with the land per map and deed. Deed restrictions will require owners to prevent obstructions to water flow within the drainage easements. GovGuam DPW has the responsibility and will respond to individual problem areas in maintaining drainage easements. We want to note Mr. Chairman that we did consider the CC&Rs as an alternative that was brought up before. But, historically CC&Rs even in the high-end subdivisions of Guam have not been very successful. And I point out Barrigada Heights, Jonestown and other subdivisions that have CC&Rs or covenants have largely been ignored. The most successful CC&Rs or places that have restrictions on them are probably Talo Verde, a brand new subdivision in Tamuning, Summer Palace which is a gated community at Harmon Loop and Pago Estates has CC&Rs; but these are your higher-end subdivisions and it has controlled entrances and exits and a lot of things that are shared expenses. We also think that in a small community, the more appropriate thing is to dedicate the easement to Public Works; it's part of their storm water management plan. It's more of a judgment call, it's probably more simple if there is an obstruction noted, they would typically call the Mayor, the Mayor will call Public Works or the Mayor may clean it up as opposed to a neighbor bringing it up to the homeowners' association and homeowners' association will call a meeting together and announce penalty or inform the alleged perpetrator to correct the violation. That's our response to the easement, the CC&Rs, how to enforce the easements; we think that the notation on the map and notation on the Deed that this is the restriction on the use of property. For power connections, we did have a discussion with the GPA ARC representative; typically ... I think the issue here is more with the panhandle lot. Typically how it works now is, the individual homeowner will build a meter pedestal at the edge of the property line and GPA connects the pedestal. After the pedestal is private property, so the homeowner can have his house within 20 feet (20') of the pedestal to 60 feet (60') of the pedestal or more. And that pedestal is built by the homeowner, when it is time for the homeowner to build the house.

Vice Chair Rivera is that the homeowner's responsibility to provide that pedestal or is it part of the ....

Felix Benavente typically yes, it's the homeowners. We're not building houses in this subdivision; this is a straight lot subdivision. Same thing for water, the meters are usually located almost at the inside edge of your property line, and Guam Waterworks connects you to their public water. That's the jest of our presentation Mr. Chairman.

Chairman Lather questions for the applicant? **(Acknowledged the presence of Commissioner Bathan to the meeting)**

Vice Chair Rivera I know that the sidewalk was Commissioner Bathan's concern; can you just go back and summarize that for her and what type of sidewalks are we talking about. I know that Willie mentioned that it will be compacted coral and ....

Willie Flores it will be compacted and then with sand bed and sodding, the grassing over.

Commissioner Bathan so it will be safe for the pedestrians to ....

Willie Flores yes; it's designed because ... this has nothing to do with this subject; but for the record, because the government didn't listen to us in Phase I of Tumon, that's why you had those block problems because we're very familiar with the amount of rain that you get here. So, this would be the type of sodding that you would ... the foundation for the grass is almost the same as you would see on a golf course fairway; so it drains quickly, but holds together. Unless

Willie Flores (cont'd) you have a GPA truck or garbage truck going in there to mess it up, it should hold together very, very well.

Chairman Lather who is going to cut the grass?

Willie Flores the Mayor's Office right now cuts all the grass; they do a very good job in Talofofo, they cut all of the grass in the easements.

Chairman Lather anything further Larry?

Vice Chair Rivera they've responded to the questions that we had.

Chairman Lather Commissioners, any other questions? (None noted) Felix in your presentation you indicate that you're going to deed the ponding basins over to Public Works. Do you have any indications that they will accept such a deed?

Felix Benavente Willie you want to address that?

Willie Flores it's their standard operating procedure, and in our discussions with them, they had no objections and they said that was fine. They actually said that they were going to ask the Mayor to maintain it; but, it would have to be by law ... I'm not sure, to deed it over to DPW. If they want us to deed it over to the Mayor, that's fine and I'm sure the Mayor will be glad to accept it and he wouldn't have any objections. We've discussed this with the Mayor and the Mayor's Council. For the record, I think their concern is that even if you deeded it over to DPW and it belonged to DPW, the Mayor's Council is going to end up maintaining it anyway and that's why that statement came forth from the Mayor's Council's representative.

Chairman Lather well, I think that this is sort of a departure from what we've historically been doing here for subdivisions because Public Works has not wanted to maintain these drainage ponding basins; they've sort of pushed us to have the homeowners' association take responsibility and ownership because they didn't want these problems, they didn't want to deal with them; and they weren't in fact, maintaining them. So, this is a new direction, and I guess I'm happy to hear that government officials do want to take these on. I'm a little more concerned if they're telling you the truth.

Willie Flores well, in Talofofo, I can tell you that they're telling the truth ... they do a good job. If I was a landowner going to buy the property adjacent to the ponding basin, and this is a personal opinion of mine; is that I would make a deal or some kind of an agreement with the one selling the property and agree to maintain the ponding basin in perpetuity for preference, but I'm not speaking for the owners.

Chairman Lather I tend to agree with your comments regarding homeowners' associations. Historically, we've found that in lower end subdivisions they are not effective because they're not enforced. Once you've failed to enforce them in the beginning, you're doomed to failure because you can't go back and start them up. And so, I kind of agree with what you're saying for this one, that an HOA may not be appropriate which is why I think we need to emphasize more on the actual easement side of it as a protection to the property buyers since HOA is probably not the right answer. You've addressed the walkway easement, and in your final map we would add in easements for drainage as you've indicated. Now, we still have the issue along the frontage on Mata. As I recall, the utilities are on the wrong side of the roads.

Willie Flores that is correct.

Chairman Lather you need to provide water and power to the lots, how are you going to do that?

Willie Flores Mr. Chair, I will be frank with you. We've discussed this with Waterworks folks, and what they said is that depending on how quickly the applications come in; there are actually water valve connections on this side of Mata, even though the main line runs along the other side. I think every 100 feet or 200 feet, they actually have water valves for future connections. I believe if you look at the maps that we gave, we actually show those. If you look at the topo map, you'll actually see the location where those water valves are located. My understanding is that GWA would run off of those valves; but unfortunately, some of them are sitting in the pavements. You will get pavement cuts no matter what you do. You'll see the notation there "WV", that's for service for the other side.

Chairman Lather who's going to pay for it?

Willie Flores for the connection? It would be the individual owner as they apply.

Chairman Lather who's going to pay for water to the lots? Will GWA do that?

Willie Flores under their current SDC (Systems Development Charge) fee rates, they would connect ... the owner would pay the SDC connections, the fees ... as we all painfully know, they've adjudicated those new system development charges; the owner would pay that, Waterworks would provide the connection from Mata Street to where the meter is. And as Felix mentioned earlier, the meter is normally located fronting the easement, right there on the corner of your property. They do offer service; Waterworks, if you want to expedite, they do offer service, if you want it expedited they will do it for a few .... based on their schedule, they will do it; but if the homeowner can't wait, then they'll give them the option of hiring a contractor to do it. That's the way we've seen them work with our other projects.

Chairman Lather I'm a little confused. So, you're saying that the SDC will be assessed to the property owner?

Willie Flores yes.

Chairman Lather I guess my thinking is that the developer has to handle the SDC because the Subdivision Law requires you to provide the water to the property line which wouldn't involve an SDC? If the water is at the property line, you wouldn't need an SDC, am I wrong on that?

Willie Flores no ... actually just to clarify, the SDC kicks in whenever they install a meter. So even if the owner installed the waterlines, the SDC would still be charged to the individual homeowner because the SDC is charged based on a meter installation.

Chairman Lather I see. So, now I'm going to ask the Chief Planner, and I'm sorry to catch you off guard on this Carl. When we look at our Subdivision improvement laws which clearly states water to the lot line, how do we handle this as a Commission, can you give us some guidance.

Carlos Untalan typically in the regular subdivisions, unlike this type of subdivision, all of the water lines is piped into the lots. In all cases that I recall, I think even the meters are put in place as well and it was shouldered by the developers that was the typical subdivisions that we

Carlos Untalan (cont'd) see. Now if you apply that concept, then the water meters then would be the responsibility of the developers.

Chairman Lather what should we do here?

Willie Flores Mr. Chairman may I real quick? Again, I agree with Carl; but that was prior to the implementation of the SDCs. What they're doing now is that the SDC gets charged when you apply for a meter. So in this case, if there was a developer and he was going to install ... even if he installed all of the water and brought in all of the lines, the SDC would still not be charged until the homeowner who actually bought or investing in it, went and applied for a meter, that's when the SDC is charged. That kind of confuses a lot of people too when it first kicked in. I know that's the way it is because we've been working with them on meter issues and when you apply for water connection and a meter connection is when the SDC is applied. I think in this case, if the developers were going to bring a large waterline and meter the whole subdivision off of that waterline, let's say a six inch waterline; then the developer would be assessed that six inch meter fee. But since these are going to be individually connected as the buyers are able to build their homes, then that fee would be assessed as those applications are made. Does that make sense? Because that's how they're doing that now.

Chairman Lather you're the professional, and I'll have to trust you.

Felix Benavente when you sell lots, there's always in the deed or the transfer that the seller guarantees that there is water and power within 100 feet (100') of the lot. Is that correct Carl?

Carlos Untalan that is correct.

Felix Benavente the utilities are way closer than 100 feet (100').

Chairman Lather yes, but you're mixing apples and oranges here, with all due respect Felix. We're not selling lots here, we're building a subdivision. It's totally different; when you build a subdivision you're obligated to follow a different set of rules and one of those rules is providing water to the lot. How do we interface with GWA given the SDC structure is a different animal which we haven't experienced. We just want to make sure that ... we're trying to give you some latitude here to build an affordable subdivision in Talofofo village; that's what everybody wants and we're trying to make that happen. At the same time, we don't want to see the property owners get stuck with exuberant expenses which turn it into an expensive lot and flies in the face on what we're trying to achieve here. We're trying to get some balance.

Willie Flores may I provide just one more comment. Based on the SDC charges that GWA charges, if you were to have the lot owner to pay the SDC charges for the water line to size that; they would be paying between, believe it or not ... they would be paying between $30,000 and $40,000 extra per lot if the developer, the sub-divider, were to be the one to install a large meter. If the individual homeowners are allowed to hook-up and they're only using a three-quarter inch line, then that charge, the SDC is only $1,400.00 or something like that.

Chairman Lather nobody is suggesting that you provide a six-inch master meter to this subdivision, that's not what we're talking about here. We're talking about individual meters. Again, the Subdivision Law says that you'll provide water to the lots. We contemplate that to be individual meters, not a six inch, $140K meter.

Willie Flores okay, I understand your point.

Chairman Lather Commissioners, what do you think? Share some of your opinions on this. I think we're heading in the right direction. As I see, the discussion is focusing in now is that, we won't do CC&Rs, we're going to do easements which will be a condition of your tentative map when we get to that. As far as the variance goes here, you're coming in to apply for a variance for some of the subdivision improvements; typically what we're talking about here is curbs, sidewalk and gutter and we're going to replace that with the grass walkways and swales which seem to be appropriate for this particular subdivision. Not to create precedent, it's very unique to this one only. And then when we get into the map itself, we'll look at easements for drainage throughout the subdivision and the deeding of the ponding basins over to Public Works. That's how I see the general scheme of things. What do you think Commissioners, is that where we're heading on this? Are we all pretty much in agreement that's how we want to proceed? We'll leave the water problem as not really a "to be decided factor", but subject to GWA's Rules and Regulations. If GWA says that you have to put the meters in, then you'll have to put them in, that's a connection problem. If they'll put the water lines in, and if the SDC is a standard charge that gets assessed to homeowner and that includes running the lines from whatever meter valve that they can find or crossing the street, that's included already in the SDC, I guess that makes sense. I'm just not smart enough about that to know the difference. If anybody else is, please speak up...I'll welcome your guidance on this.

Willie Flores I believe Mr. Chair that it's in the Administrative Rules, and when Felix mentioned the 100 feet (100'), I am pretty confident that it says that it'll be ... at least within a 100 feet (100'). I believe it's already been published on line on the Guam Administrative Rules.

Vice Chair Rivera going back to the water. The existing water system there, the piping across the street; is that sufficient to accommodate these lots? Will the people that buy these properties, will they be able to have the water that supposed to be there? Is the system that is presently there now, is it sufficient? Will it work?

Willie Flores that area is served by two lines; one is from Ugam and one is backing up all the way up from Yigo and Dededo coming along Route 4 all the way, then it goes to the brigade water tanks in Windward Hills, and then the water tank above the golf course ... so, as long as those tanks are not stressed, if the water supply is sufficient, then this is more than enough. If your question is, are those line size large enough to carry ... then the answer is yes.

Vice Chair Rivera you know I tend to agree with the Chairman ... we just want to protect our local people that buys these properties. That they don't get surprised when they buy it that they have to spend thousands and thousands of dollars to hook up to water and things like this. Just remember that a lot of these people that will be buying these properties are young kids that are not aware of procedures and how the government operates. We just don't want them to be faced with this predicament when the time comes, and it's like you bought and you're stuck with it. We want to make sure that's addressed. It could be one of our relatives or our kids that buy this property and we want to make sure that they're taken care of as far as the utilities are concerned.

Chairman Lather anything else you would like to add?

Felix Benavente Mr. Chairman, I just wanted to add that I was at the affordable housing symposium that was held last week, and it was amazing to me personally that .... a lot of it was on financing and the creation of subdivisions that are high-end subdivisions, curb, sidewalks, streets and gutters the whole works. And these are things that have been proven not to be responding to affordable housing needs on the island. They can say they have 10,000 people

Felix Benavente (cont'd) applying, but only so many can be approved. We think that the housing solutions on Guam start with having available land, and people can build when they're ready to. This affordable housing project that is our theme to provide affordable land and then the buyer can build five or ten years from now. But, at least they will have land in their basket.

Commissioner Bathan I don't know if that will give the homeowners or whoever is the prospective buyer the informative information they need so they can make a good decision; if it's possible to disclose how much would be the additional cost to them to hook up to utilities once they buy the land. For example, you have this panhandle and so the lot has a longer distance from where they're going to hookup the water line; I think the cost to do this ....

Chairman Lather I'm not sure we can put that as a condition, but we can put a condition that the applicant inform every potential buyer that utilities are at the road which would be an adequate warning that they would have additional costs...I think that's a good point, and that will be under the subdivision map.

Let me try to structure this motion because it is very complex. We'll proceed first under 2008-86A.

I make the motion that the Land Use Commission approves the variance under existing statutes to allow a replacement of curb, gutter and sidewalk with drainage swale and grass walkway pursuant to the discussion that we've had today on the design parameters and as shown on the drawings for the subdivision that is proposed in Application No. 2008-86A; subject to the ARC conditions and that no other subdivision variances shall be granted and subject to specific easements which will be delineated on the subdivision map.

Anything further to add to that motion?

Commissioner Limtiaco (due to low audibility, unable to decipher Commissioner Limtiaco's comments)

(Chairman Lather responded to Commissioner Limtiaco's comment that this will be done on the subdivision map)

Chairman Lather moved and seconded by Commissioner Limtiaco. And I want to point out for the record that we did spend two hours with Commissioner Limtiaco yesterday, and she is capable of proceeding on our vote and discussion today, we've briefed her fully on this since she wasn't present at our previous meeting.

On the discussion for this is, what I think you've got going for you here is the support of the Mayor of Talofofo and some of the people there, and that's very important to us. Without that, I don't think that the Commission would be interested in entertaining such a variance. You're on the right track, and I think we have to give you our support to the extent that we can, and you've provided those alternatives. Commissioner Limtiaco discussion?

Commissioner Limtiaco my main concern is that the Mayor is burdened with the maintenance of some of the easements/ponding basins. Recently, we've had a lot of discussion with how to (word was undecipherable) resources are especially for the Mayors. So, whatever a developer can do to make sure that the ponding basin (unable to decipher) to make the Mayor's job a little easier.

Vice Chair Rivera of course I support any affordable home projects especially around that area. You came back and you addressed what we asked from the last time; the walkways and the ponding basins. Other than the infrastructure, I hope that when you start selling these, kind of give them a heads up on whatever is there and be honest with them. That way they'll know and get a clear picture of what's there and what's available. Other than that, it's a good project and I support affordable housing.

Commissioner Park only one thing, the water line. I'm still not comfortable with the long distance from the actual lot. I don't know whether my seller for my house lot was so generous or so nice comparing to other developer; but he subdivided it and he connected the waterline inside of my property when I bought it. I'm still not comfortable with that water issue because they will have to pay few to several thousand dollars for connection.

Chairman Lather I agree. The testimony of the applicant is that's a standard charge that is assessed to everybody now. Without evidence otherwise, I think we have to follow what they're saying. But, we will have staff check this out as we move forward and it might change, we'll put that on the map condition.

Commissioner Certeza (no comments)

Commissioner Bathan I think the applicant has tried a lot of ways to minimize the cost of the lot that will be charged to the proposed homebuyer. But, for me, I think it is very important that you disclose the range of the cost that they will incur in addition to the cost of the property so that they can make a proper decision. Other than that, this is a good project for affordable housing.

Chairman Lather all in favor of the motion to approve the variance say "aye" **(Chairman Lather, Vice Chair Rivera, Commissioners Bathan, Certeza, Limtiaco and Park)** and those oppose say "nay." **(The motion passes unanimously; 6 – ayes, 0 – nay)**

Chairman Lather let's move on to the tentative subdivision map; this will be 2008-86B which is the same project, and we've discussed all of these. The motion is to approve a tentative subdivision map for the same subdivision with the same lots known as Application 2008-86B; subject to the ARC conditions and requirements as proposed, subject to a condition that improvements for this tentative subdivision shall be completed within one (1) year which is our standard condition; and further, Commissioners, you can jump in on this motion as we craft the conditions. Number one is that the revised tentative map be submitted that clearly indicates legal drainage easements on the map as maybe required by the Engineer. And you can see what those are already, but you need to flow those drainages back. That the ponding basins be dedicated to the Government of Guam, Department of Public Works and maintained by the Department of Public works or its assignee; that the Applicant shall notify all purchasers of property that utilities are available only at the roadside entrance to their property or property line; and .... What am I missing Commissioners? Is that all of it?

And that the connection, the SDC (Systems Development Charge) charges; the applicant and the Chief Planner shall coordinate to ensure that the SDCs are assessed to the appropriate individuals pursuant to GWA's Rules and Regulations. If it turns out that you decide that it's your problem, then it's going to be your problem; that's what that condition says because we're just not informed enough to know that today. We believe what you say, but whatever happens, happens, and if that's the rule that's the rule, we understand.

Anything further on the motion Commissioners that you would like to add as conditions?

Chairman Lather moved and seconded by **Vice Chair Rivera.** I think we've pretty much gone through this. I just want to reiterate that we're looking to you, the applicant/gentlemen to make this a real affordable project and that is what our goal is here, and we trust you on this. I would also like to make it clear that the waivers and variances that we are allowing today should not be construed as precedence by the Land Use Commission. These are very unique to this project, and they won't be applied to other projects as we move forward.

Vice Chair Rivera I agree with you; this is a unique project. They have addressed our concerns; they came up with sidewalks, they have ponding basins, they addressed the storm drainage problem and we should give them an opportunity to sell this plan.

Chairman Lather further comments? **(No further comments noted from Commissioners Bathan, Park, Certeza and Limtiaco)**

All in favor of the motion to approve the tentative subdivision map say "aye" **(Chairman Lather, Vice Chair Rivera, Commissioners Bathan, Limtiaco, Certeza and Park**) and those oppose say "nay." Motion passes unanimously (6 ayes, 0 – nay).

We're looking forward to good results.

IV. New Business

Conditional Use

C. The Applicant, Fargo Pacific Inc. represented by Ignacio F. Santos, request for Conditional Use approval to construct a Housing Facility for Temporary Workers on Lot 5161-1-3, Tract 260, in the Municipality of Tamuning, in an "M-1" (Light Industrial) zone, under Application No. 2011-09.
Case Planner: Frank Taitano

Chairman Lather while Frank is preparing; you all know that our Chief Planner went to this affordable housing program last week, and he was one of the key note speakers. I wasn't able to attend because I was tied down with some litigation, but we really need to acknowledge Carl. He wasn't paid to do that and he did a bang up job and he made us all look good and I just want to give him a round of applause.

Carlos Untalan I didn't realize that I did a bang up job Mr. Chairman. I had to prepare for a couple days before the symposium, and in fact, my presentation slides which was being coordinated and organized by a different agency went out of whack on me and I had to rely on my notes. I had a couple of tables that I really wanted to show because these were tables that tracked out the zone changes, the summary zone change side of the house and what I had said was that we need to get away from the north and start looking at central/south because I had data to prove that we're over saturated in the northern side. Before I even talked, that was one of the things that were being mentioned by Craig Nolte from Federal Reserve Bank out of San Francisco, and I reaffirmed it by my findings.

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JOSEPH M. BORJA
Acting Director

July 17, 2019

Memorandum

To: Guam Land Use Commission (GLUC) Members

From: Chairman, Application Review Committee (ARC)

Subject: Summary of Positions Submitted by ARC

Re: Application No. 2019-01 (Tentative Subdivision)

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
DLM recommends approval with the following conditions:

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

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

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

A. Comments and Recommendation Concerning GPA requirements:

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

a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;
c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
e. Provide scheduling and magnitude of project power demand requirements for new loads;
f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
g. **GPA reserves its easement rights established under Document No. 351878.**

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.

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR reviewed the subject application for MS Investment, Inc. on subject lot and have no objection to the approval of the application. This project will be subject to inadvertent discoveries of historic properties during construction phase, which is based on Vic April's 2012 archaeological report.

GUAM WATERWORKS AUTHORITY (GWA):
This memorandum shall serve as GWA's position statement for the referenced application related to the availability of water and sewer infrastructure 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. 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 and current capital improvement projects can accommodate the proposed development. If the utility systems cannot accommodate the proposed development, then off-site infrastructure improvements will 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.

2. 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. Drawings will include the locations of all utilities, including power and telecommunications.

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

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. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

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

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

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

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.

This memorandum shall remain valid for 365 calendar days from the date of this response. Contact Mauryn McDonald, P.E., GWA Permits and New Area Development Supervisor (#300-6054 or maurynm@guamwaterwork.org) for water and sewer system standards or additional information.

DEPARTMENT OF PUBLIC WORKS (DPW):
In accordance with, Title 21 GCA, Chapter 61 Zoning Law, Chapter 62 Subdivision Law; section 62103, section 62108, and section 62112; reference Public Law 21-118 Rights of Way & Obligations, the subject application must meet the following:

- Coordinate ingress and egress -of-way) with DPW- Division of Highways, Highway Encroachment Section, Bus Operations, and Fire Department.
- Coordinate streetlights with DPW- Division of Highways, Traffic Management Section.

- Submit a Storm Water control plan, shown in the detail final drawings and to be supported with calculations.
- Consult with EPA for the propose ponding basin lot area, and erosion control calculations.
- Obtain concurrence from the Department of Parks and Recreation that the development does not affect the historic properties.

The building permit application submission must have a complete set of design drawings with all engineering disciplines required and must conform to the latest building code edition, signed and stamped by a registered engineer or architect.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

The staff of the Guam Environmental Protection Agency (GEPA) has reviewed the application and has the following comments on the proposed Tentative Subdivision plan that would need to be addressed before GEPA will approve:

A. Water Supply
   1. The applicant must ensure that any improvements required to connect to public water supply, and to accommodate the proposed water demand, including fire fighting flow requirements, are completed before occupancy of the proposed development.

B. Wastewater Treatment and Disposal
   1. According to the documents submitted by the applicant, and their testimony, the project site is located in an area of shallow limestone overlying impervious volcanic formations at about 4 feet below grade. As such, on-site disposal of wastewater is likely not feasible, regardless of the proposed use of advanced on-site treatment systems, because such systems still require the ability of on-site soils to absorb all treated wastewater, both as a physical constraint and as required by the Guam Individual Wastewater Disposal System Regulations at 22 GAR §12105. The very small lot sizes proposed further reduce the feasibility of on-site wastewater disposal. GEPA therefore requires that the subdivision be provided with sewer service prior to the development of individual dwellings.

C. Stormwater and Erosion Control
   1. The proposed site development plan provided in the application documents does not appear to meet the requirements of the 2006 CNMI & Guam Stormwater Management Manual, which has been implemented for all projects on private property per Executive Order 2012-02. Due to the site soils and subsurface conditions, infiltration is likely to not be a feasible best management practice (BMP) for stormwater disposal.

Other BMPs will likely be required such as stormwater ponds, wetlands, and on-site practices located at individual residences such as bioretention to help reduce the overall size of the final stormwater BMPs. Based on the site soil and subsurface constraints, it is very likely that additional space will need to be reserved within the subdivision to accommodate the required stormwater BMPs.

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. I 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 hereby 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, MS Investment, Inc., represented by WB Flores & Associates, is requesting a Tentative Subdivision for the proposed construction of 58 single family dwellings and four public lots consisting of a recreational space, ponding basin, Right-of-way access road and a non-access utility access road on Lot 22-2NEW-R2 in the Municipality of Talofofo.
The subject lot is 35,440 square meters or 381,472 square feet and can be accessed through Route 4 and Route 4A. The adjacent surrounding properties include single family homes, religious centers, government agency, government subsidized housing, private businesses, and schools. Basic infrastructure such as water and power including sewer are available and located 50 feet from the location.

Landscape Assessment

The property is located on the Talofofo 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 Coastal Change Analysis Program (CCAP) land cover data from 2011, this watershed has changed 8.51% which is primarily due to increased impervious surfaces.

In terms of development impacts, 5.43% of the Talofofo Watershed is developed and 2.27% 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

Land Use. According to 5 GCA, Article 2, Chapter 1, the Kabales na Planu Para Guahan is approved as an element of the Guam Comprehensive Development Plan (GCDP). The Land Use Plan assigns land in Guam to one of four districts: Urban, Rural, Agricultural, and Conservation. The property is identified as "Rural District" designation in the Land Use Plan.

The Bureau finds that the proposed project is in line with the Kabales na Planu Para Guahan Land Use Plan which states that rural areas are meant for single family residence uses.

Development Policy

Executive Order 78-37, (B) Development Policy, (3) Rural Development states "Rural districts shall be designated in which only low density residential and agricultural uses will be acceptable. Minimum lot size for these uses should be one-half acre until adequate infrastructure, including functional sewer is provided.

This project is consistent with Guam's Development Policy and the Talofofo community design plan.

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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. 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, 2.27% of the Talofofo Watershed is impervious, in which any additional development will add to the hydrologic and hydraulic dynamics within the Talofofo 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 to our landscape greatly increases the runoff volume created during storms. Therefore, the Bureau recommends that the GLUC require the following conditions:

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*
e. Increase green space through LID and green infrastructure to eliminate the need for a ponding basin

*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 Executive Order 96-26, 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.

GUAM FIRE DEPARTMENT (GFD):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF AGRICULTURE (DoAg):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):
Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):
Has not submitted Position Statement as of Staff Report date.

Celine L. Cruz
Acting Guam Chief Planner

Attachments: ARC Position statements

Department of Parks and Recreation
Dipattamenton Plaset yan Dibuetsion
Government of Guam
Director's Office, Parks & Recreation Divisions:
#1 Paseo de Susana, Hagåtña, Guam 96910
P.O. Box 2950, Hagåtña, Guam 96932
(671) 475-6288 – Facsimile: (671) 477-0997
Guam Historic Resources Division:
490 Chalan Palasyo, Agana Heights, Guam 96910
(671) 475-6294/6355; Facsimile (671) 477-2822

Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lt. Governor

Richard Y. Ybanez
Acting Director
Victor R. Villagomez
Acting Deputy Director

In reply refer to:
RC 2009-5532



April 8, 2019

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2019-01: Application For Tentative Subdivision For Lot 22-2NEW-R2 Mata, Municipality of Talofofo, Guam

We reviewed the subject application for MS Investment, Inc. on subject lot and have no objection to the approval of the application. This project will be subject to inadvertent discoveries of historic properties during construction phase, which is based on Vic April's 2012 archaeological report.

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

Sincerely,

R. Yb

Richard Y. Ybanez
Acting

The Honorable
LOURDES A. LEON GUERRERO
Maga' Håga • Governor

The Honorable
JOSHUA F. TENORIO
Sigundo Maga' Låhi • Lieutenant Governor

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 21 2019
CLTC/GALC/GLUC

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
VINCENT P. ARRIOLA
Acting Director
JESSE G. GARCIA
Deputy Director

5-21-19
RECEIVED
Planning Div.

MEMORANDUM

TO: Chairman, Guam Land Use Commission
Department of Land Management

VIA: Executive Secretary, Department of Land Management

FROM: Acting Director of Public Works

SUBJECT: Tentative Subdivision, Lot 22-2NEW-R2, Mata, Talafofo Guam
Application No.: 2019-01

Hafa Adai!

The applicant, MS Investment, Inc., cited above is seeking the review and approval to build a Subdivision, single family residential subdivision within an "R-1" Zone in the Municipality of Talofofo. The 62 lots is approximately 35,440 square meters or 8.75 acres. There will be 58 single family residential lots, one (1) ponding basin, recreational space, Right- of- Way access road and a non - access utility easement.

In accordance with, Title 21 GCA, Chapter 61 Zoning Law, Chapter 62 Subdivision Law; section 62103, section 62108, and section 62112; reference Public Law 21-118 Rights of Way & Obligations, the subject application must meet the following:

- Coordinate ingress and egress (right-of-way) with DPW- Division of Highways, Highway Encroachment Section, Bus Operations, and Fire Department.
- Coordinate streetlights with DPW- Division of Highways, Traffic Management Section.
- Submit a Storm Water control plan, shown in the detail final drawings and to be supported with calculations.
- Consult with EPA for the propose ponding basin lot area, and erosion control calculations.
- Obtain concurrence from the Department of Parks and Recreation that the development does not affect the historic properties.

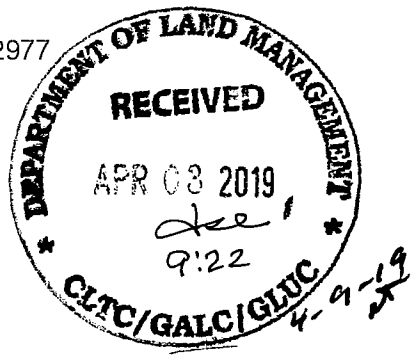
The building permit application submission must have a complete set of design drawings with all engineering disciplines required and must conform to the latest building code edition, signed and stamped by a registered engineer or architect.

If you may have questions, please contact Ms. Maryrose M. Wilson Engineer III at (671) 646-3225.

VINCENT P. ARRIOLA

GUAM POWER AUTHORITY

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



March 26, 2019

MEMORANDUM

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

From: General Manager

Subject: Lots 22-2NEW-R2, Municipality of Talofofo, (MS Investment, Inc.); Tentative Subdivision Application for a proposed development of 62 lots consisting of residential and recreational. **Application No. 2019-01**

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. 351878.**

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: MS Investment, Inc.
Location: Lot 22-2NEW-R2, Talofofo
Type of Application: Tentative Subdivision
GLUC/GSPC Application No. 2019-01
Brief Project Description:
A proposed development of 62 lots consisting of residential and recreational.

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

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

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

   Yes ☐ No ☒

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

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

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

for _____ 3/29/19
JOHN M. BENAVENTE, P.E. Date
General Manager

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

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

APR 26 20
DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 26 2019
3:30
CLTC/GALC/GLUC
4/29/19

Mr. Tae Oh,
Chairman, Guam Land Use Commission
c/o Department of Land Management
590 S. Marine Corps Drive
ITC Bldg, Ste. 733
Tamuning, Guam 96913

Ref: Application No. 2019-01, MS Investment, Inc. represented by W.B. Flores & Associates; a request for a Tentative Subdivision plan for the proposed development of 62 lots, 58 lots for single family dwelling residential lots and 4 public lots consisting of recreational space, ponding basin, Right-of-Way access road and a non-access utility easement, on Tract 28334 (formerly Lot 22-2NEW-R2), in the Municipality of Talofofo, in an "R-2" (Multi Family Dwelling) zone.

The staff of the Guam Environmental Protection Agency (GEPA) has reviewed the application and has the following comments on the proposed Tentative Subdivision plan that would need to be addressed before GEPA will approve:

A. Water Supply
    1. The applicant must ensure that any improvements required to connect to public water supply, and to accommodate the proposed water demand, including fire fighting flow requirements, are completed before occupancy of the proposed development.

B. Wastewater Treatment and Disposal
    1. According to the documents submitted by the applicant, and their testimony, the project site is located in an area of shallow limestone overlying impervious volcanic formations at about 4 feet below grade. As such, on-site disposal of wastewater is likely not feasible, regardless of the proposed use of advanced on-site treatment systems, because such systems still require the ability of on-site soils to absorb all treated wastewater, both as a physical constraint and as required by the Guam Individual Wastewater Disposal System Regulations at 22 GAR §12105. The very small lot sizes proposed further reduce the feasibility of on-site wastewater disposal. GEPA therefore requires that the subdivision be provided with sewer service prior to the development of individual dwellings.

C. Stormwater and Erosion Control

1. The proposed site development plan provided in the application documents does not appear to meet the requirements of the 2006 CNMI & Guam Stormwater Management Manual, which has been implemented for all projects on private property per Executive Order 2012-02. Due to the site soils and subsurface conditions, infiltration is likely to not be a feasible best management practice (BMP) for stormwater disposal. Other BMPs will likely be required such as stormwater ponds, wetlands, and on-site practices located at individual residences such as bioretention to help reduce the overall size of the final stormwater BMPs. Based on the site soil and subsurface constraints, it is very likely that additional space will need to be reserved within the subdivision to accommodate the required stormwater BMPs.

Should you have any 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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 16 2019
CLTC/GALC/GLUC 5/2019

MEMORANDUM

April 18, 2019

TO: Paul Santos, Acting Director, Department of Land Management

CC: Mayor Vicente S. Taitague, Municipality of Talofofo (talofofomayor@gmail.com)

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

SUBJECT: Position Statement on Tentative Subdivision Application 2019-01 for Lot 22-2NEW-R2 in the Municipality of Talofofo (Mata Subdivision)

APPLICANT: MS Investment, Inc.

This memorandum shall serve as GWA's position statement for the referenced application related to the availability of water and sewer infrastructure 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. 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 and current capital improvement projects can accommodate the proposed development. If the utility systems cannot accommodate the proposed development, then off-site infrastructure improvements will 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.

2. 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. Drawings will include the locations of all utilities, including power and telecommunications.

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

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. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

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

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

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

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.

This memorandum shall remain valid for 365 calendar days from the date of this response. Contact Mauryn McDonald, P.E., GWA Permits and New Area Development Supervisor (#300-6054 or maurynm@guamwaterwork.org) for water and sewer system standards or additional information.

Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. 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

Tyrone J. Taitano
Director
Matthew Santos
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 11 2019
2:40
CLTC/GALC/GLUC

JUN 1 1 2019

MEMORANDUM

To: Chairman, Guam Land Use Planning

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: **APPLICATION NO.** 2019-01
LOCATION: 22-2NEW-R2, Municipality of Talofofo
APPLICANT: MS Investments, Inc., c/o WB Flores & Associates
PROPOSED USE: Tentative Subdivision for the Construction of 58 Single Family House Lots in a "R-1" One-Family Dwelling Zone

Buenas yan 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 hereby 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, MS Investment, Inc., represented by WB Flores & Associates, is requesting a Tentative Subdivision for the proposed construction of 58 single family dwellings and four public lots consisting of a recreational space, ponding basin, Right-of-way access road and a non-access utility access road on Lot 22-2NEW-R2 in the Municipality of Talofofo.

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The Bureau finds that the proposed project is in line with the Kabales na Planu Para Guahan Land Use Plan which states that rural areas are meant for single family residence uses.

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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:

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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 Executive Order 96-26, 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 improve and promote public welfare in a manner that is in balance with the environment in order to sustain the unique culture, traditions and beauty of our island for future generations.

Si Yu'os Ma'ase',

TYRONE J. TAITANO
Director

ATTACHMENT C

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

LOURDES A. LEON GUERRERO
MAGA'HÁGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

JOSEPH M. BORJA
Acting 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

July 16, 2019

MEMORANDUM

TO: Acting Chairman, Guam Land Use Commission

FROM: Acting Guam Chief Planner

SUBJECT: Commission Brief – Request for Renewal - Application No. 95-046D

1. **PURPOSE:** The applicant, Hawaiian Rock Products (HRP) represented by Felix Benavente is requesting for a Conditional Use Approval for the renewal of GLUC's prior approval of a Conditional Use for its quarry operations on Lot No. 7092-3, Municipality of Yigo.

2. **LEGAL AUTHORITY:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Section 61303 (Conditional Use); Section 61309(c)(i) and Condition No. 2 on its Notice of Action, recorded under Document No. 864294.

3. **Date Heard By ARC:** March 21, 2019

4. **Discussion:**
On March 13, 2014 the Guam Land Use Commission approved the applicants' request to resume extractive and quarrying activities on an "A" zone property using drilling and blasting techniques and also ancillary activities including rock breaking via track mounted rock crusher and excavating, primary crushing via track mounted rock crusher; sizing and screening activities via track mounted screening machines and loading and hauling of extracted material via front end loaders and dump trucks, subject to the conditions listed on its' Notice of Action, recorded under Document No. 864294 and included in its' application package.

The applicant, pursuant to Condition No. 2 where it states "Conditional Use Permit shall expire every five (5) years unless renewed by this Commission." Submits its request with notation that, although quarrying operations on the site has been relatively dormant since March 13, 2014 the site continues to stand as a vital component in HRP's island-wide business operations.

In addition, the applicant included in its request package, a Consultant's Compliance Report responding to the conditions of the Commissions' March 13, 2014 approval. An Environmental Baseline Report conducted in December 2018, addressing the status of any rare, threatened or endangered flora and/or fauna resources within the site. An Environmental Impact Assessment (EIA, short form) and the still effective Closure and Re-Use Plan originally submitted in May of the year 2000.

5. STAFF ANALYSIS:

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

SITE PLAN, DISPOSAL OF SEWAGE, ACCESS, PARKING, & STRUCTURAL LOCATIONS and DIMENSIONS OF BUILDINGS

Existing accessory use and activities, support facilities and infrastructure to remain unchanged as out lined in the Commissions' March 13, 2014 approval.

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

The continued use for quarrying activities does not require any deviation from the law; however, because the present zoning of the property is "A" (Rural) zone and the use is a permitted conditional use of the land, it is required to be subjected before this Commission.

Planning staff is aware of the residents of the surrounding properties, concerns for the use of dynamite, health related issues due to the dust and noise, traffic and other related road issues.

In the past, when the quarrying activities were active, these concerns were appropriately responded to by the applicant in line with the conditions imposed at the initial approval of the Conditional Use Permit to mitigate such issues and concerns. Said conditions are still intact pursuant to the succeeding approvals of the Commission and the applicant continues and will continue, as noted on this request, to commit to adhering to said conditions for the continued use and development of the quarrying activities on Lot 7092-3.

Should the commission grant the extension of the conditional use permit, the conditions of approval from the original application continue to be relevant and therefore, should remain in effect. If approved, and with the conditions recommended, the publics' health, safety and welfare will have been adequately addressed.

It should be noted that of the ARC position statements submitted, none of the agencies objected to the continuation of the quarrying activities; submitted to the Commission for their consideration are the agencies' concerns and conditions of approval.

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

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

2. That the applicant, adhere to the conditions listed on the March 13, 2014 Commission approval, Notice of Action recorded under Document No. 864294.

Celine L. Cruz

Attachment: Request Package

Case Planner: Frank Taitano

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)

LOURDES A. LEON GUERRERO
MAGA'HÁGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

JOSEPH M. BORJA
Acting Director

July 16, 2019

Memorandum

To: Guam Land Use Commission (GLUC) Members

From: Chairman, Application Review Committee (ARC)

Subject: Summary of Positions Submitted by ARC

Re: Application No. 95-046D (Conditional Use)

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

DEPARTMENT OF LAND MANAGEMENT (DLM):
DLM recommends approval with the following conditions:

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

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

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

A. Comments and Recommendation Concerning GPA requirements:

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

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

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.

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR reviewed the subject application for Hawaiian Rock Products on Lot 7092-3, Yigo, and have no objection to the approval of the application. However, be aware that the project location is part of the Mount Santa Rosa Battlefield (GHPI # 66-04-1045), and if there are any inadvertent discoveries stop all work in the area and contact our office.

GUAM WATERWORKS AUTHORITY (GWA):
The Guam Waterworks Authority (GWA) has reviewed the applicant's request for renewal of conditional use for quarrying activities and accessory uses on Lot 7092-3.

This memorandum shall serve as GWA's position statement for the referenced application related to the availability of water and sewer infrastructure 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 renewal of conditional use:

1. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

2. A backflow preventer was not observed near the water meter. Backflow prevention devices are required for non-residential activities, swimming pools, or when a development will be served by a master meter. Installation of backflow preventer is required.

3. 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 memorandum shall remain valid for 365 calendar days from the date of this response. Contact Mauryn McDonald, P.E., GWA Permits and New Area Development Supervisor (#300-6054 or maurynm@guamwaterwork.org) for water and sewer system standards or additional information.

DEPARTMENT OF PUBLIC WORKS (DPW):
Department of Public Works has reviewed the application described above and submits the following position statement: *In accordance with 21GCA, Real Property, Chapter 61 Zoning Law, Article 3, section 61301, 61303, 61304.*

a. Comments and Recommendations Concerning DPW Requirements:

1. Applicant is required to comply with the following:
   - ingress/ egress be wide enough for public access;
   - ensure that site drainage and sedimentation structures remains stable and functional;
   - must guarantee resource is extracted and that the site rehabilitate in a manner that will ensure the quality of surface runoff at all times;

- produce a landform that is geotechnically stable that blends aesthetically into the surrounding landforms;

b. DPW has no objection to the request subject to the conditions cited above.

NOTE: Minimize the visual and environmental impact of the operation during the development and operational phases and for the protection of water quality and erosion control works are key priorities to ensure progressive rehabilitation is completed.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
The staff of this Agency has reviewed the application and does not have any objection to the proposed renewal of the Conditional Use permit for quarrying activities provided the owner/developer and contractor complies with all relevant laws and regulations administered by CEPA, and addresses the following concerns specific to this site:

A. Stormwater and Erosion Control

1. The applicant must maintain a valid clearing, grading, and stockpiling permit under the Guam Soil Erosion and Sediment Control Regulations (22 GAR Chapter 10), at all times.

2. The applicant is required to obtain coverage under the U.S. Environmental Protection Agency's (USEPA's) Multi-Sector General Permit (MSGP) for stormwater discharges. The applicant must provide GEPA with a copy of their Notice of Intent (NOT) form and Stormwater Pollution Prevention Plan (SWPPP) required for coverage under the MSGP as a condition to receiving a renewal of the existing clearing and grading permit for the quarry. Information on the MSGP including instructions for submitting an NOI and preparing a SWPPP can be found at https://www.epa.govinpdesistormwater-discharges-industrial activities

3. On-going industrial activities within the quarry area related to the applicant's tenant (Rocky Mountain Pre-Cast) must be prevented from causing adverse impacts to groundwater through pollution prevention best practices implemented through the SWPPP in addition to the provision of dedicated structural stormwater best management practices (BMPs) designed and constructed in accordance with the requirements of the 2006 CNMI and Guam Stormwater Management Manual, as implemented by Executive Order No. 201202.

The implementation of pollution prevention best practices and provision of structural stormwater BMPs for the tenant's activities must be completed within one year of receiving the renewal to the Conditional Use permit for quarrying activities

B. Air Quality

1. The developer is responsible for securing a permit and for compliance with all relevant GEPA regulations associated with air emissions from quarrying and rock product processing.

Should you have any questions please contact CDR Brian Bearden, P.E., BCEE, Chief Engineer at 300-4779.

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

DEPARTMENT OF AGRICULTURE (DoAg):
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 CHAMORRO AFFAIRS (DoCA):
Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):
Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):
Has not submitted Position Statement as of Staff Report date.

Celine L. Cruz
Acting Guam Chief Planner

Attachments: ARC Position statements

Department of Parks and Recreation
Dipattamenton Plaset yan Dibuetsion
Government of Guam
Director's Office, Parks & Recreation Divisions:
#1 Paseo de Susana, Hagåtña, Guam 96910
P.O. Box 2950, Hagåtña, Guam 96932
(671) 475-6288 – Facsimile: (671) 477-0997
Guam Historic Resources Division:
490 Chalan Palasyo, Agana Heights, Guam 96910
(671) 475-6294/6355; Facsimile (671) 477-2822

Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lt. Governor

Richard Y. Ybanez
Acting Director
Victor R. Villagomez
Acting Deputy Director

In reply refer to:
RC 2019-0117
CR: 2009-0419

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 26 2019
dee
3pm
CLTC/GALC/GLUC
4.25.19

April 5, 2019

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 95-46D: Renewal of Conditional Use For Continuation of Quarrying Activities With Accessory Uses, Located Within An "A" Zone.

We reviewed the subject application for Hawaiian Rock Products on Lot 7092-3, Yigo, and have no objection to the approval of the application. However, be aware that the project location is part of the Mount Santa Rosa Battlefield (GHPI # 66-04-1045), and if there are any inadvertent discoveries stop all work in the area and contact our office.

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

Sincerely,

R. Yb

Richard Y. Ybanez
Acting

GUAM POWER AUTHORITY

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

March 26, 2019

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 08 2019
dse
9:22
CLTC/GALC/GLUC
4-9-19

MEMORANDUM

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

From: General Manager

Subject: Lot 7092-3, Municipality of Yigo, (Hawaiian Rock Products.); Conditional Use/Renewal Application for a renewal of its quarrying operations permit. **Application No. 95-048D**

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: Hawaiian Rock Products
Location: Lot 7092-3, Yigo
Type of Application: Conditional Use/Renewal
GLUC/GSPC Application No. 95-048D
Brief Project Description:
A renewal of its quarrying operations permit.

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

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

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

   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

3/29/19
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

GUAM ENVIRONMENTAL PROTECTION AGENCY
1973
AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 03 2019
11:02
GLTC/GALC/GLUC

MAY 0 2 2019

Mr. Tae Oh,
Chairman, Guam Land Use Commission
c/o Department of Land Management
590 S. Marine Corps Drive
ITC Bldg, Ste. 733
Tamuning, Guam 96913

Ref: Application No. 85-048D, Hawaiian Rock Products represented by FC Benavente, Planners; requests renewal of a previously approved Conditional Use permit for its quarrying operations, on Lot 7092-3, in the Municipality of Yigo, in an "A" (Rural/Agricultural) zone.

The staff of this Agency has reviewed the application and does not have any objection to the **proposed renewal of the Conditional Use permit for quarrying activities** provided the owner/developer and contractor complies with all relevant laws and regulations administered by GEPA, and addresses the following concerns specific to this site:

A. Stormwater and Erosion Control
   1. The applicant must maintain a valid clearing, grading, and stockpiling permit under the Guam Soil Erosion and Sediment Control Regulations (22 GAR Chapter 10), at all times.

   2. The applicant is required to obtain coverage under the U.S. Environmental Protection Agency's (USEPA's) Multi-Sector General Permit (MSGP) for stormwater discharges. The applicant must provide GEPA with a copy of their Notice of Intent (NOI) form and Stormwater Pollution Prevention Plan (SWPPP) required for coverage under the MSGP as a condition to receiving a renewal of the existing clearing and grading permit for the quarry. Information on the MSGP including instructions for submitting an NOI and preparing a SWPPP can be found at https://www.epa.gov/npdes/stormwater-discharges-industrial-activities

   3. On-going industrial activities within the quarry area related to the applicant's tenant (Rocky Mountain Pre-Cast) must be prevented from causing adverse impacts to groundwater through pollution prevention best practices implemented through the SWPPP in addition to the provision of dedicated

structural stormwater best management practices (BMPs) designed and constructed in accordance with the requirements of the 2006 CNMI and Guam Stormwater Management Manual, as implemented by Executive Order No. 2012-02. The implementation of pollution prevention best practices and provision of structural stormwater BMPs for the tenant's activities must be completed within one year of receiving the renewal to the Conditional Use permit for quarrying activities.

B. Air Quality
    1. The developer is responsible for securing a permit and for compliance with all relevant GEPA regulations associated with air emissions from quarrying and rock product processing.

Should you have any 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

4-30-19
RECEIVED

MEMORANDUM

April 26, 2019

TO: Joseph M. Borja, Director, Department of Land Management

CC: Mayor Rudy M. Matanane, Municipality of Yigo
(yigomayorsoffice2@gmail.com)
Paul J. Kemp, Assistant General Manager – Compliance & Safety

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

SUBJECT: Position Statement on Renewal of Conditional Use Application No. 95-046D for Lot 7092-3 in the Municipality of Yigo

APPLICANT: Hawaiian Rock Products

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for renewal of conditional use for quarrying activities and accessory uses on Lot 7092-3.

This memorandum shall serve as GWA's position statement for the referenced application related to the availability of water and sewer infrastructure 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 renewal of conditional use:

1. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

2. A backflow preventer was not observed near the water meter. Backflow prevention devices are required for non-residential activities, swimming pools, or when a development will be served by a master meter. Installation of backflow preventer is required.

3. 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 memorandum shall remain valid for 365 calendar days from the date of this response. Contact Mauryn McDonald, P.E., GWA Permits and New Area Development Supervisor (#300-6054 or maurynm@guamwaterwork.org) for water and sewer system standards or additional information.

The Honorable
LOURDES A. LEON GUERRERO
Maga' Hâga · Governor

The Honorable
JOSHUA F. TENORIO
Sigundo Maga' Lâhi · Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
VINCENT P. ARRIOLA
Acting Director
JESSE G. GARCIA
Deputy Director

- 9 MAY 2019

RECEIVED
5-9-19

MEMORANDUM

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

FROM: Acting Director of Public Works

APPLICATION: Conditional Use Application No. 85-0480

APPLICANT: Hawaiian Rock Products

SUBJECT: Conditional Use Renewal to the Existing Quarrying Activities in an "A" Rural Zone, in the Municipality of Yigo

The Applicant, Hawaiian Rock Products is requesting renewal to an existing conditional use for its quarrying operations on Lot 7092-3 located in the Municipality of Yigo. Subject Lot has remained dormant for 5 (five) years. The lot area is approximately 139,429.29 square meters and/or 34 Acres.

Attached herewith were seven (7) conditions required to renew from National Oceanic and Atmosphere (NOA) including the responses of each condition of approval for the required compliance report which was recorded at Department of Land Management on April 24, 2014.

Department of Public Works has reviewed the application described above and submits the following position statement: ***In accordance with 21GCA, Real Property, Chapter 61 Zoning Law, Article 3, section 61301, 61303, 61304.***

a. Comments and Recommendations Concerning DPW Requirements:

1. Applicant is required to comply with the following:

- ingress/ egress be wide enough for public access;
- ensure that site drainage and sedimentation structures remains stable and functional;
- must guarantee resource is extracted and that the site rehabilitate in a manner that will ensure the quality of surface runoff at all times;
- produce a landform that is geotechnically stable that blends aesthetically into the surrounding landforms;

b. DPW has no objection to the request subject to the conditions cited above.

NOTE: Minimize the visual and environmental impact of the operation during the development and operational phases and for the protection of water quality and erosion control works are key priorities to ensure progressive rehabilitation is completed.

Should you have any questions, please contact Ms. Maryrose M. Wilson, Engineer III, at (671) 646-3224.

VINCENT P. ARRIOLA

5/8/19

Attachments:

III. LOCATION.

The HRP quarry is located on Lot 7092-3 in northern Guam in the Municipality of Yigo (See Map Figure 1 and Figure 2). The property encompasses a land area of 139,429.29 SM. Zoning is "A" Rural (See Map Figure 3). The surrounding neighborhood is predominantly vacant and undeveloped but is interspersed with single family homes and subsistence animal farming and gardening activities (See Map Figure 4).

MAP OF GUAM

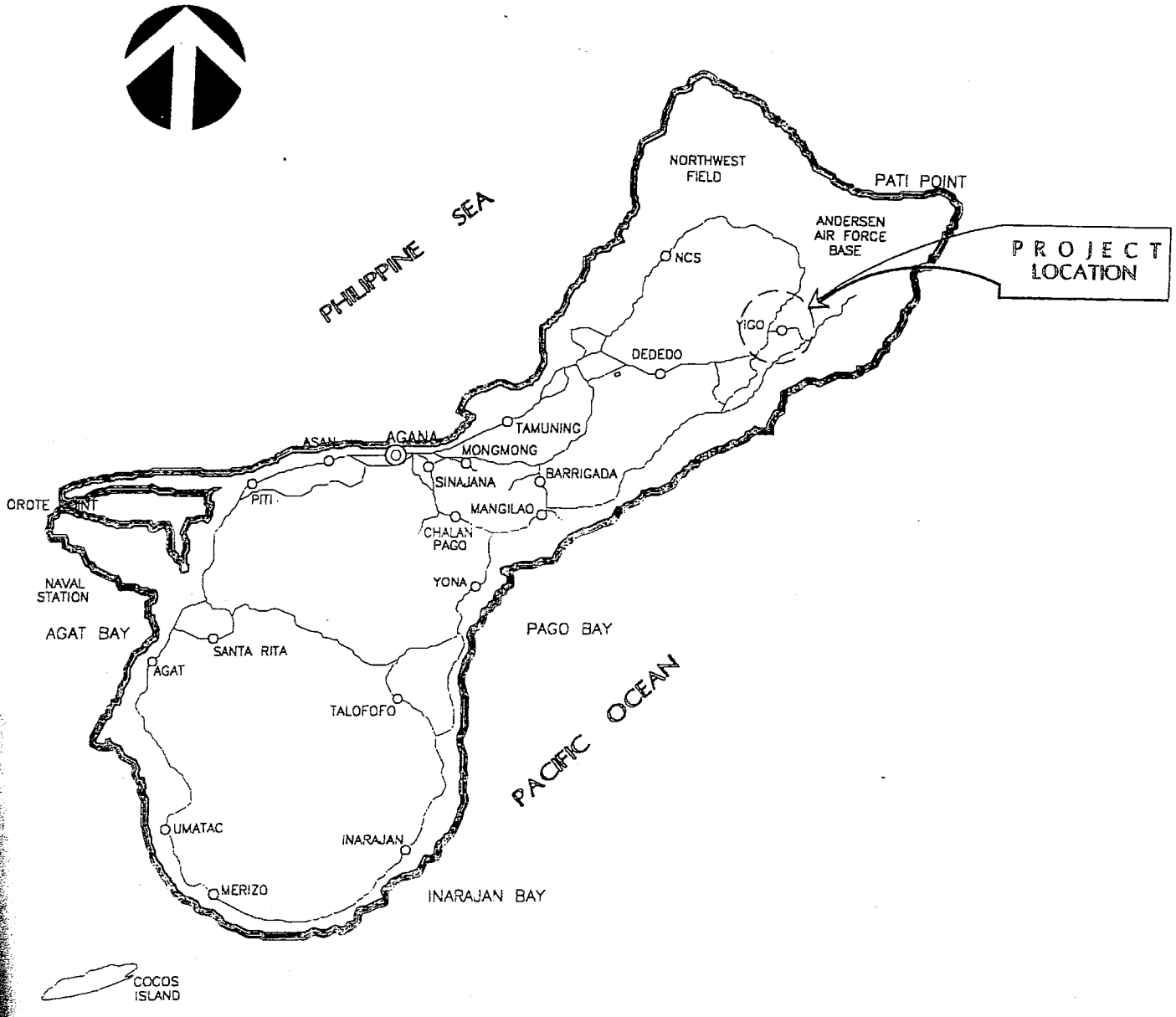


FIGURE 1

COMPLIANCE REPORT TO CONDITIONAL USE PERMIT NO. GLUC 95-046C

PURPOSE:

The purpose of this report is to document compliance by Hawaiian Rock Products with it Conditional Use Permit No. 95-046C for quarrying and related activities at Lot 7092-3 Yigo, Guam. The format directly responds to the seven (7) general conditions of approval as listed in Notice of Action recorded at DLM under Document Number 864294 (Copy attached).

SUMMARY:

Hawaiian Rock Products has not conducted quarrying operations since approval of the Conditional Use by the Guam Land Use Commission over five years ago on Lot 7092-3. This report satisfies; in part, Condition of Approval No. 7 of the Notice of Action recorded on April 24, 2014. As will be shown in the following narrative, it is determined that Hawaiian Rock Products is in compliance with the Conditions of Approval imposed by the Guam Land Use Commission in 2014.

Information for this report was acquired by the Consultant from HRP and DLM responsible personnel interviews, document and file research, and personal observations.

NARRATIVE:

1. Compliance with Condition No. 1.

   "1. Commission also acknowledges an existing non-conforming use for this conditional use permit to include the pre-casting facility that is currently operated by Rocky Mountain Pre-Cast; the pre-cast facility cannot be expanded, not be transferred unless it returns back to the Commission;"

   Response: The existing Rocky Mountain Pre-Cast has not expanded its operations, nor has it been transferred.

2. Compliance with Condition No. 2.

   "2. Conditional Use Permit shall expire every five (5) years unless renewed by this commission;"

   Response: Hawaiian Rock Products is submitting the application to renew the Conditional Use Permit; concurrent with this report.

Doc. No. 35GL-19-1234.

3. Compliance with Condition No. 3.

"3. Applicant to continue to use current best technology (within reason);"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site. This condition is moot.

4. Compliance with Condition No. 4.

"4. Applicant will adhere to permitting requirements which includes Guam EPA, Federal EPA (which includes the ATF);"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site. Because the site was dormant to quarrying activities, no quarrying permits were acquired.

5. Compliance with Condition No. 5.

"5. Adhere to recent recommendations by the ARC official position statements which includes the Bureau of Statistics and Plans concerning landscaping; concerning working with the Guam Fire Department regarding accessibility; concerning with working the Guam EPA regarding ground water; concerning Department of Agriculture's Division of Forestry and Soil Resources regarding native plants and animal species;"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site.

A. BS&P landscaping recommendations moot, as there are no quarrying activities on-going.

B. The present access road to and from the property; and within the property are already well developed. Road improvements are continuing on an as needed basis; as they must necessarily provide for the continued safe and efficient movement of non-quarry products, equipment, and personnel.

C. Ground water containment features, required by previous quarrying activities are compliant and remain in place.

D. A Biological Survey Report conducted in December 2018, to be included as part of the Conditional Use Permit application, concluded that there were no protected plant species on site. The only animal, the common native "kakkak", a resident bird on Guam was observed flying over the site; and is listed as a migratory bird, and is afforded federal protection under the Migratory Bird Treaty Act of 1918.

Doc. No. 35GL-19-1234.

6. Compliance with Condition No. 6.

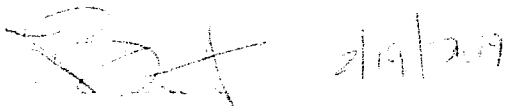
"6. Applicant to coordinate with the Yigo Mayor's Office to have a village meeting prior to commencement to resume blasting and quarrying operations, and thereafter on an as needed basis. This meeting shall be open to all parties to express any concerns; and applicant to provide a copy of the results of the as needed basis meeting including the initial meeting prior to resuming quarrying operations to the Chief Planner; and,"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site. No meetings addressing quarrying concerns were held with the Yigo Mayor.

7. Compliance with condition No. 7.

"7. The Applicant submit an independent consultant report with its request to renew the conditional use permit which shall be no later than five (5) years from date of NOA.

Response: This report attests to compliance. The NOA was recorded on April 24, 2014.



fkquben@gmail.com

Doc. No. 35GL-19-1234.

III. LOCATION.

The HRP quarry is located on Lot 7092-3 in northern Guam in the Municipality of Yigo (See Map Figure 1 and Figure 2). The property encompasses a land area of 139,429.29 SM. Zoning is "A" Rural (See Map Figure 3). The surrounding neighborhood is predominantly vacant and undeveloped but is interspersed with single family homes and subsistence animal farming and gardening activities (See Map Figure 4).

MAP OF GUAM

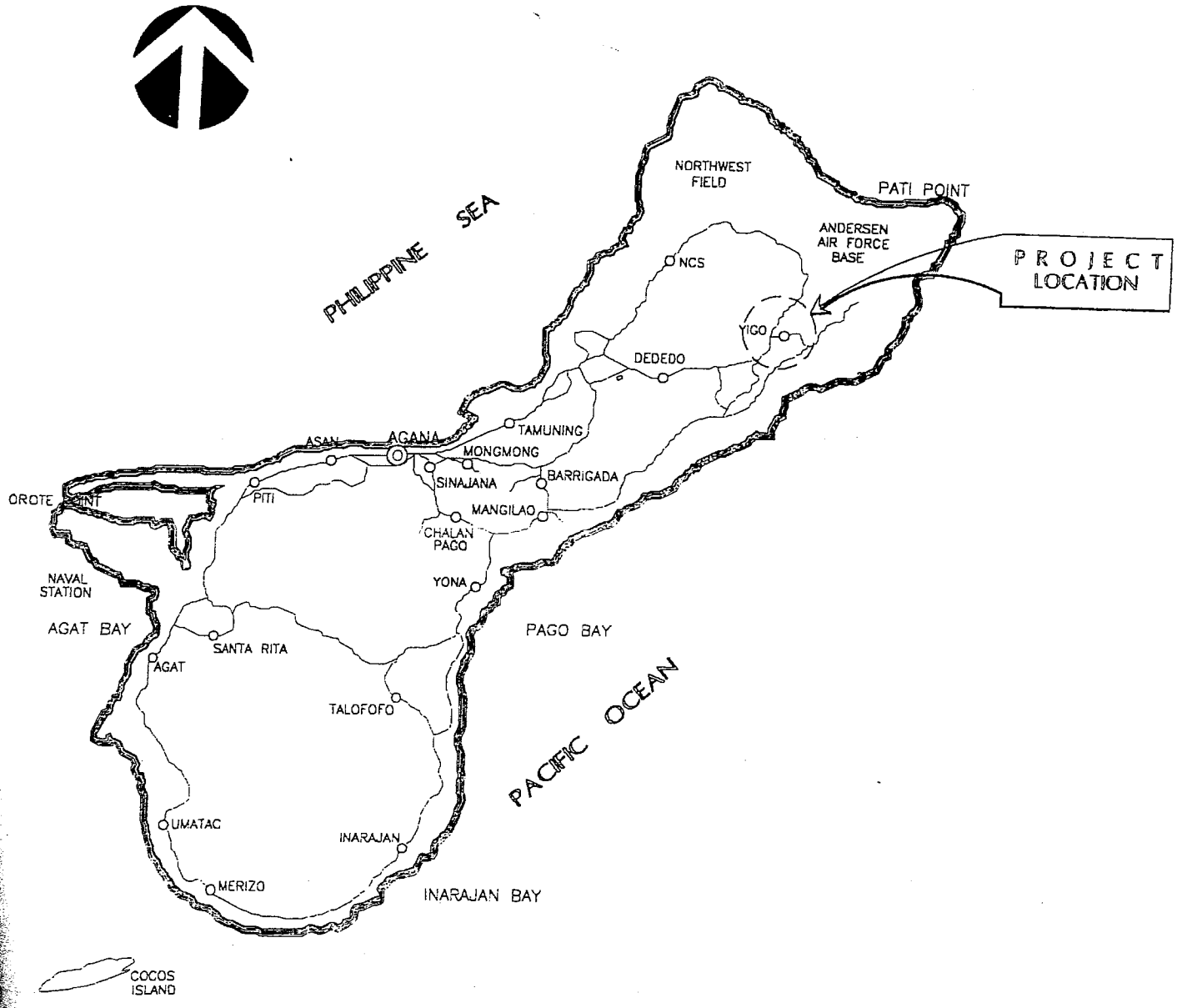


FIGURE 1

The Honorable
LOURDES A. LEON GUERRERO
Maga' Håga · Governor

The Honorable
JOSHUA F. TENORIO
Sigundo Maga' Låhi · Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
VINCENT P. ARRIOLA
Acting Director
JESSE G. GARCIA
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 09 2019
CLTC/GALC/GLUC

RECEIVED
5-9-19

- 9 MAY 2019

MEMORANDUM

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

FROM: Acting Director of Public Works

APPLICATION: Conditional Use Application No. 85-0480

APPLICANT: Hawaiian Rock Products

SUBJECT: Conditional Use Renewal to the Existing Quarrying Activities in an "A" Rural Zone, in the Municipality of Yigo

The Applicant, Hawaiian Rock Products is requesting renewal to an existing conditional use for its quarrying operations on Lot 7092-3 located in the Municipality of Yigo. Subject Lot has remained dormant for 5 (five) years. The lot area is approximately 139,429.29 square meters and/or 34 Acres.

Attached herewith were seven (7) conditions required to renew from National Oceanic and Atmosphere (NOA) including the responses of each condition of approval for the required compliance report which was recorded at Department of Land Management on April 24, 2014.

Department of Public Works has reviewed the application described above and submits the following position statement: ***In accordance with 21GCA, Real Property, Chapter 61 Zoning Law, Article 3, section 61301, 61303, 61304.***

a. Comments and Recommendations Concerning DPW Requirements:

1. Applicant is required to comply with the following:

- ingress/ egress be wide enough for public access;
- ensure that site drainage and sedimentation structures remains stable and functional;
- must guarantee resource is extracted and that the site rehabilitate in a manner that will ensure the quality of surface runoff at all times;
- produce a landform that is geotechnically stable that blends aesthetically into the surrounding landforms;

b. DPW has no objection to the request subject to the conditions cited above.

NOTE: Minimize the visual and environmental impact of the operation during the development and operational phases and for the protection of water quality and erosion control works are key priorities to ensure progressive rehabilitation is completed.

Should you have any questions, please contact Ms. Maryrose M. Wilson, Engineer III, at (671) 646-3224.

VINCENT P. ARRIOLA

5/8/19

Attachments:

III. LOCATION.

The HRP quarry is located on Lot 7092-3 in northern Guam in the Municipality of Yigo (See Map Figure 1 and Figure 2). The property encompasses a land area of 139,429.29 SM. Zoning is "A" Rural (See Map Figure 3). The surrounding neighborhood is predominantly vacant and undeveloped but is interspersed with single family homes and subsistence animal farming and gardening activities (See Map Figure 4).

MAP OF GUAM

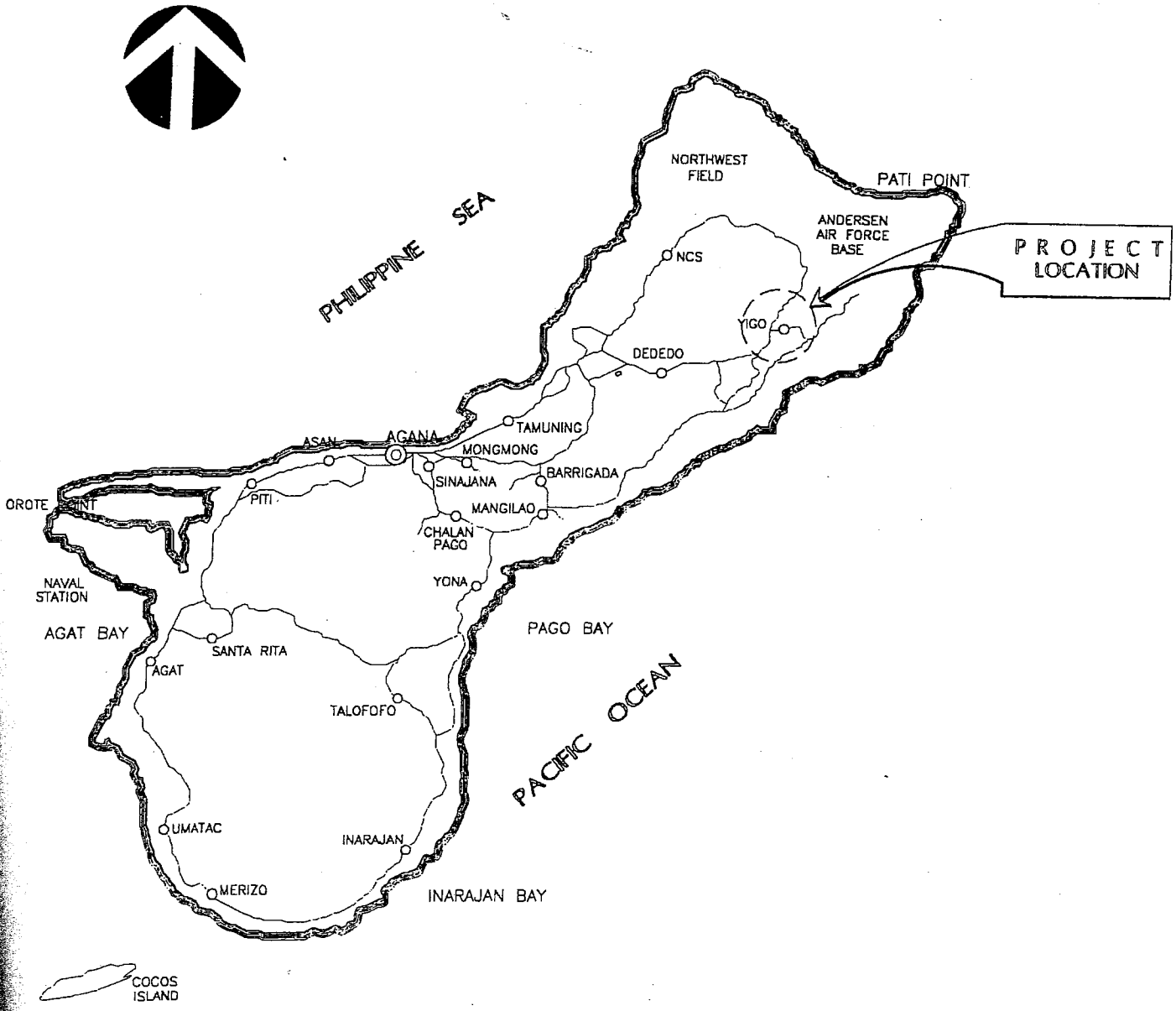


FIGURE 1

COMPLIANCE REPORT TO CONDITIONAL USE PERMIT NO. GLUC 95-046C

PURPOSE:

The purpose of this report is to document compliance by Hawaiian Rock Products with it Conditional Use Permit No. 95-046C for quarrying and related activities at Lot 7092-3 Yigo, Guam. The format directly responds to the seven (7) general conditions of approval as listed in Notice of Action recorded at DLM under Document Number 864294 (Copy attached).

SUMMARY:

Hawaiian Rock Products has not conducted quarrying operations since approval of the Conditional Use by the Guam Land Use Commission over five years ago on Lot 7092-3. This report satisfies; in part, Condition of Approval No. 7 of the Notice of Action recorded on April 24, 2014. As will be shown in the following narrative, it is determined that Hawaiian Rock Products is in compliance with the Conditions of Approval imposed by the Guam Land Use Commission in 2014.

Information for this report was acquired by the Consultant from HRP and DLM responsible personnel interviews, document and file research, and personal observations.

NARRATIVE:

1. Compliance with Condition No. 1.

   "1. Commission also acknowledges an existing non-conforming use for this conditional use permit to include the pre-casting facility that is currently operated by Rocky Mountain Pre-Cast; the pre-cast facility cannot be expanded, not be transferred unless it returns back to the Commission;"

   Response: The existing Rocky Mountain Pre-Cast has not expanded its operations, nor has it been transferred.

2. Compliance with Condition No. 2.

   "2. Conditional Use Permit shall expire every five (5) years unless renewed by this commission;"

   Response: Hawaiian Rock Products is submitting the application to renew the Conditional Use Permit; concurrent with this report.

Doc. No. 35GL-19-1234.

3. Compliance with Condition No. 3.

"3. Applicant to continue to use current best technology (within reason);"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site. This condition is moot.

4. Compliance with Condition No. 4.

"4. Applicant will adhere to permitting requirements which includes Guam EPA, Federal EPA (which includes the ATF);"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site. Because the site was dormant to quarrying activities, no quarrying permits were acquired.

5. Compliance with Condition No. 5.

"5. Adhere to recent recommendations by the ARC official position statements which includes the Bureau of Statistics and Plans concerning landscaping; concerning working with the Guam Fire Department regarding accessibility; concerning with working the Guam EPA regarding ground water; concerning Department of Agriculture's Division of Forestry and Soil Resources regarding native plants and animal species;"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site.

A. BS&P landscaping recommendations moot, as there are no quarrying activities on-going.

B. The present access road to and from the property; and within the property are already well developed. Road improvements are continuing on an as needed basis; as they must necessarily provide for the continued safe and efficient movement of non-quarry products, equipment, and personnel.

C. Ground water containment features, required by previous quarrying activities are compliant and remain in place.

D. A Biological Survey Report conducted in December 2018, to be included as part of the Conditional Use Permit application, concluded that there were no protected plant species on site. The only animal, the common native "kakkak", a resident bird on Guam was observed flying over the site; and is listed as a migratory bird, and is afforded federal protection under the Migratory Bird Treaty Act of 1918.

Doc. No. 35GL-19-1234.

6. Compliance with Condition No. 6.

"6. Applicant to coordinate with the Yigo Mayor's Office to have a village meeting prior to commencement to resume blasting and quarrying operations, and thereafter on an as needed basis. This meeting shall be open to all parties to express any concerns; and applicant to provide a copy of the results of the as needed basis meeting including the initial meeting prior to resuming quarrying operations to the Chief Planner; and,"

Response: There were no quarrying activities ongoing during the previous 5 years at this Yigo quarry site. No meetings addressing quarrying concerns were held with the Yigo Mayor.

7. Compliance with condition No. 7.

"7. The Applicant submit an independent consultant report with its request to renew the conditional use permit which shall be no later than five (5) years from date of NOA.

Response: This report attests to compliance. The NOA was recorded on April 24, 2014.

2/19/2019

felouben@gmail.com

Doc. No. 35GL-19-1234.

III. LOCATION.

The HRP quarry is located on Lot 7092-3 in northern Guam in the Municipality of Yigo (See Map Figure 1 and Figure 2). The property encompasses a land area of 139,429.29 SM. Zoning is "A" Rural (See Map Figure 3). The surrounding neighborhood is predominantly vacant and undeveloped but is interspersed with single family homes and subsistence animal farming and gardening activities (See Map Figure 4).

MAP OF GUAM

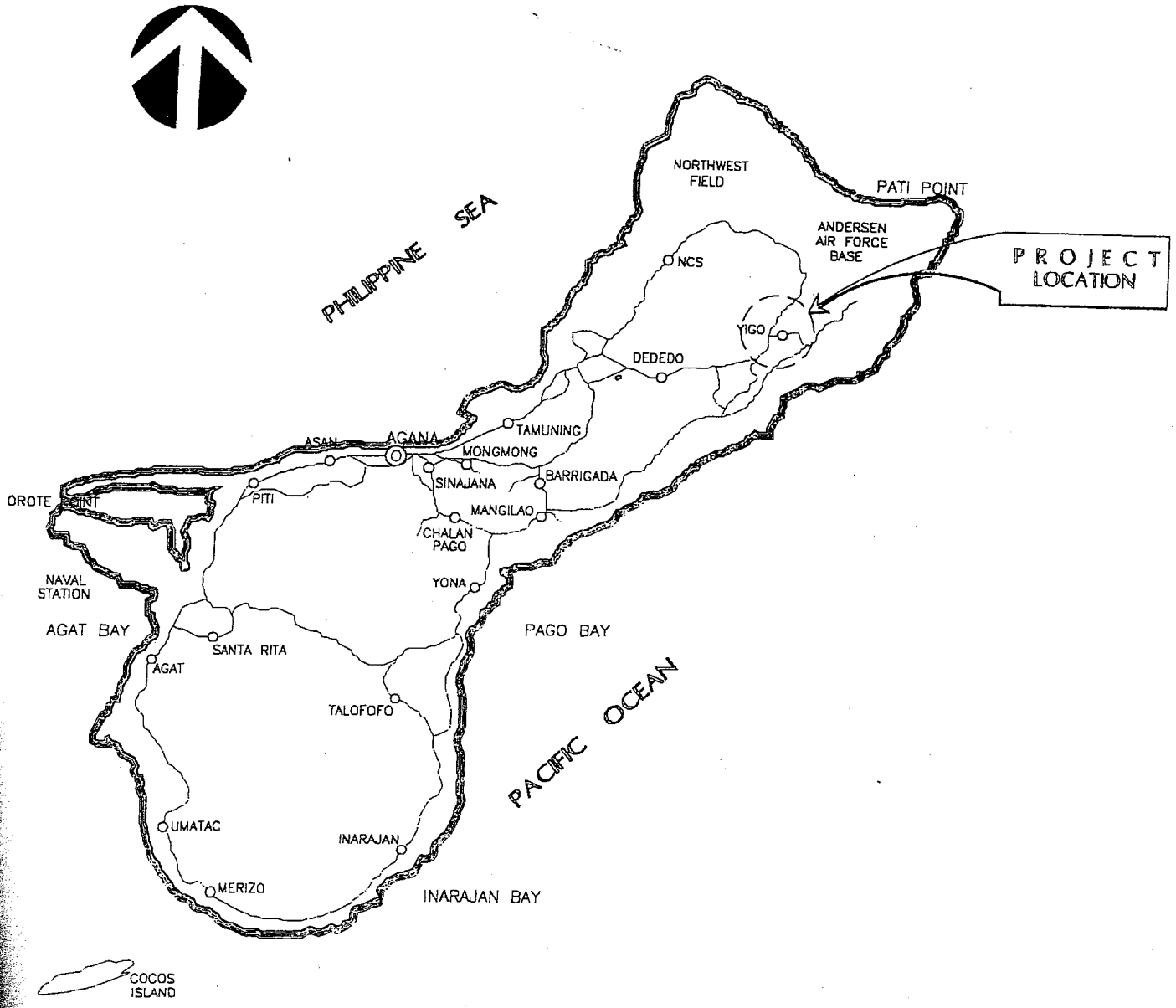


FIGURE 1

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 16 2019
CLTC/GALC/GLUC
5/20/19

MEMORANDUM

April 26, 2019

TO: Joseph M. Borja, Director, Department of Land Management

CC: Mayor Rudy M. Matanane, Municipality of Yigo (yigomayorsoffice2@gmail.com)
Paul J. Kemp, Assistant General Manager – Compliance & Safety

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

SUBJECT: Position Statement on Renewal of Conditional Use Application No. 95-046D for Lot 7092-3 in the Municipality of Yigo

APPLICANT: Hawaiian Rock Products

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for renewal of conditional use for quarrying activities and accessory uses on Lot 7092-3.

This memorandum shall serve as GWA's position statement for the referenced application related to the availability of water and sewer infrastructure 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 renewal of conditional use:

1. GWA does not guarantee that water service will meet Guam Fire Department's fire suppression requirements. The applicant is responsible for any onsite or offsite utility improvements needed to meet fire suppression requirements.

2. A backflow preventer was not observed near the water meter. Backflow prevention devices are required for non-residential activities, swimming pools, or when a development will be served by a master meter. Installation of backflow preventer is required.

3. 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 memorandum shall remain valid for 365 calendar days from the date of this response. Contact Mauryn McDonald, P.E., GWA Permits and New Area Development Supervisor (#300-6054 or maurynm@guamwaterwork.org) for water and sewer system standards or additional information.

ATTACHMENT D

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

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

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

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

LOURDES A. LEON GUERRERO
MAGA'HÁGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

JOSEPH M. BORJA
Acting Director

July 31, 2019

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Acting Guam Chief Planner

Re: Commission Brief - Consideration of Resolution for Proposed Designation of FEMD TECH Engine Waste Oil Recycling.

On May 24, 2018, Oceana Oil Refinery, In. (OORI) submitted a request to the Guam land Use Commission (GLUC) to include FEMD TECH Engine Waste Oil Recycling (FTEWOR) process as a qualified land use permitted within an "M-1" (Light-Industrial) Zone.

The applicant submitted this request in hope of the GLUC rendering its judgement to "allow such process as unobtrusive, obnoxious, or offensive by means of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste". These attributes the request claims, do not occur in the FTEWOR method of waste oil recycling. OORI requested consideration citing Title 21GCA, Chapter 61, §61309(a)(11)[1].

On May 24, 2018, the GLUC reviewed the FTEWOR' s technical profile, however, had reserved its decision pending technical assessment and concurrence by the Guam Environment Protection Agency (GEPA) on the requestor's claim. On March 26, 2019 GEPA submitted its position the matter stating that its ability to make any determination regarding the technology "must be supported by actual qualitative and quantitative data". GEPA further provided that its authority would be "applied during the technical review of the design, construction and operations of the proposed facility...". In other words, no GEPA technical review would be available unless and until the technology is put to an operation facility.

1 Within an "M-I" zone, the Commission may allow "other uses which in the judgement of the Commission, as evidence by resolution in writing, are similar to other uses permitted as provided under §61309".

Based on information provided and continuing consultation with the applicants' representative, he has crafted and refined a draft resolution to best incorporate GEPA's position and mandate, as may be applied in this and in similar cases which he will be presenting during his presentation. The proposed resolution and other supporting documents are attached in support of the applicant's request are attached.

Celine L. Cruz

Attachments:
1. Draft Resolution 2019-01
2. GEPA Letter
3. Supporting Documents

Commissioner Bathan who will maintain the park.

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

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

Jae Ji there will be a total of 42 houses.

Vice Chairman Cruz are bus shelters available.

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

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

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

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

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

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

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

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

Commissioner Oh seconds the motion.

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

V. Administrative & Miscellaneous Matters

GLUC Resolution

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

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

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

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

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

Chairman Arroyo opened the floor to Mr. Swavely.

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

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

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

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

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

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

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

[Discussion ensues]

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

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

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

Dan Swavely this is driven by EPA.

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

Dan Swavely saleable engine oil.

[Discussion ensues on process of recycling engine oil]

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

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

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

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

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

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

Dan Swavely responded that he was unsure.

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

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

[Discussion ensues]

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

[Discussion ensues]

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

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

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

[Discussion ensues]

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

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

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

Order to Show Cause

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

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

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

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

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

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

ATTACHMENT G

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

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

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Hagåtña, GU 96932

Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

May 18, 2018

MEMORANDUM

To: Chairman, Guam Hybrid Land Use Commission

From: Guam Chief Planner

Re: Consideration of GLUC Resolution No. 2018-01
(Waste Oil Recycling)

On February 12, 2018, Oceana Oil Refinery, Inc. requested my opinion on allowing the process of recovering waste engine oil in recycled and usable oil within an "M-1" (Light-Industrial) Zone. I provide the following:

1. The requestor cited sections of the zoning code that would provide interpretation to allow such activity on an "M-1" (Light-Industrial) zone. §61309 (2) allows for the manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils). Succeeding section (3) further allows for the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials.

2. However, since methodologies of recycling can be broad and as the term "recycling" or methods thereof, are not literally provided in the code, thus, subjecting such use to an even broader interpretation, I found it only prudent to present the request before the Commission to address this particular method and others similar as an appropriate use with an "M-1 (Light-Industrial) zone.

A draft resolution befitting the intent of the zoning law is provided for your review.

Marvin Q. Aguilar

Attachments:
1. Requesting letter from Oceana Oil Refinery, Inc.
2. Draft Resolution NO. 2018-01

OCEANA OIL REFINERY, INC.
P.O. Box 11316
Tamuning, GU 96931

February 12, 2018

Marvin Aguilar, Chief Planner
Department of Land Management, Planning Division
Government of Guam
P.O. Box 2950
Hagatna, Guam 96910

Subject: FEMD TECH Engine Waste Oil Recycling as a Permitted Use in an M-1 Zone
Re: Request for concurrence

Hafa Adai Mr. Aguilar,

As a result of Guam Power Authority suspending its acceptance of engine waste oil as a fuel supplement starting in 2020, Guam will no longer have an environmentally safe and economical means of disposing this ubiquitous waste product. Fortunately, modern waste oil recycling processes are now available to recycle engine waste oil into clean, re-sellable products. My company is now pursuing this business opportunity, and the purpose of this letter is to gain your concurrence that this activity is a permitted use in an M-1 zone.

Recycling of Waste Engine Oil into Re-sellable Products

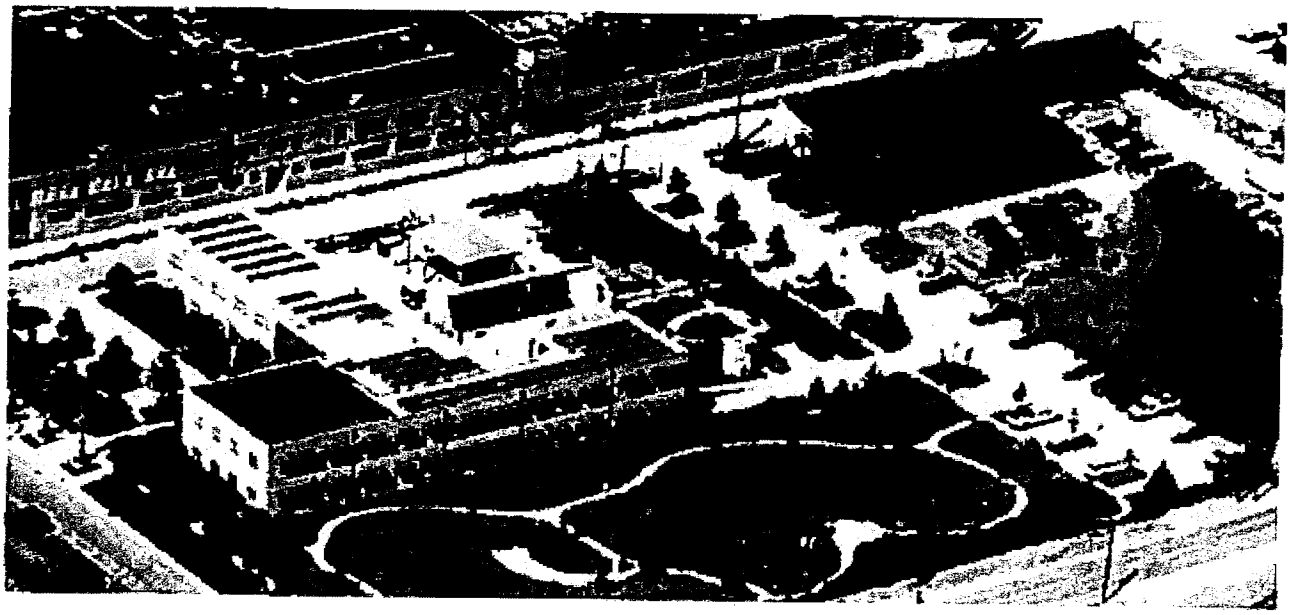
The annual volume of waste engine oil on Guam is estimated at 2 to 3 million gallons[1]. The major sources include automobiles, trucks, busses, generators and light and heavy equipment. GPA has been accepting this waste oil by-product to supplement its fuel oil for the Cabras 1 and 2 power plants; however, after decommissioning those two plants, GPA will no longer accept waste oil beginning in 2020[2]. Without a local, environmentally acceptable means of recycling engine waste oil, the only apparent options are shipment off-island (which is very expensive and will result in pass-through costs to consumers) or illegal disposal (which environmentally unacceptable).

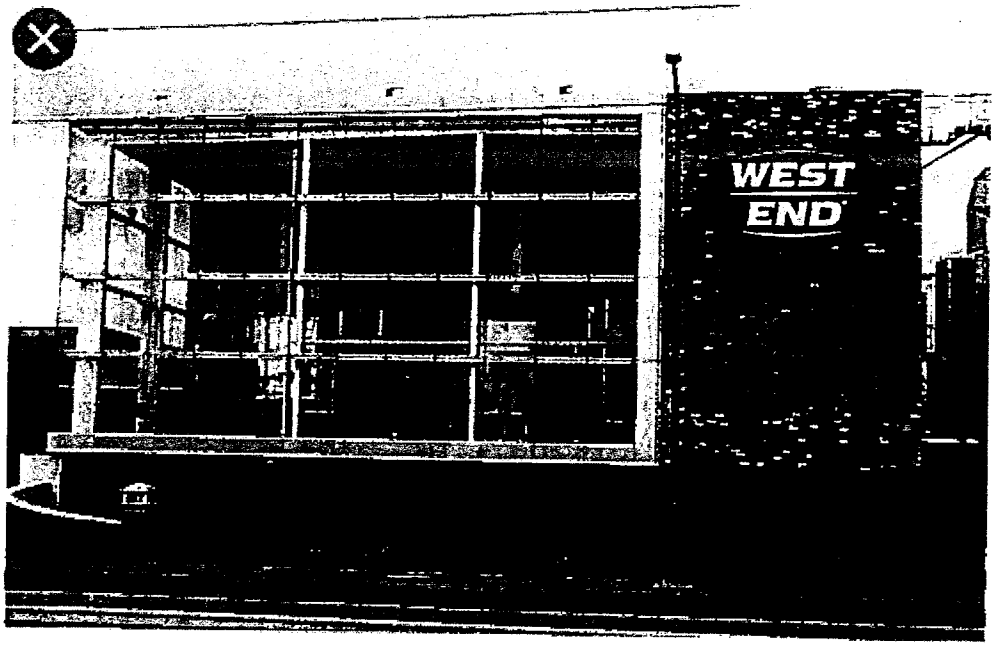
Fortunately, recent advances in waste oil recycling technology allow for an opportunity to recycle waste oil into re-sellable products. FEMD TECH (Film Evaporation and Molecular Distillation Technologies) uses multiple processes such as low-temperature heating, sedimentation, distillation, acid picking, alkali wash, and vacuum filtration to remove impurities and toxic substances from waste oil and convert it into salable by-products such as new engine oil, lubricants and sludge. These processes are regulated by US EPA under 40CFR Part 279 -

[1] "GPA studies burning waste auto oil for power". John O'Conner. The Guam Daily Post. March 26, 2017.
[2] Ibid.

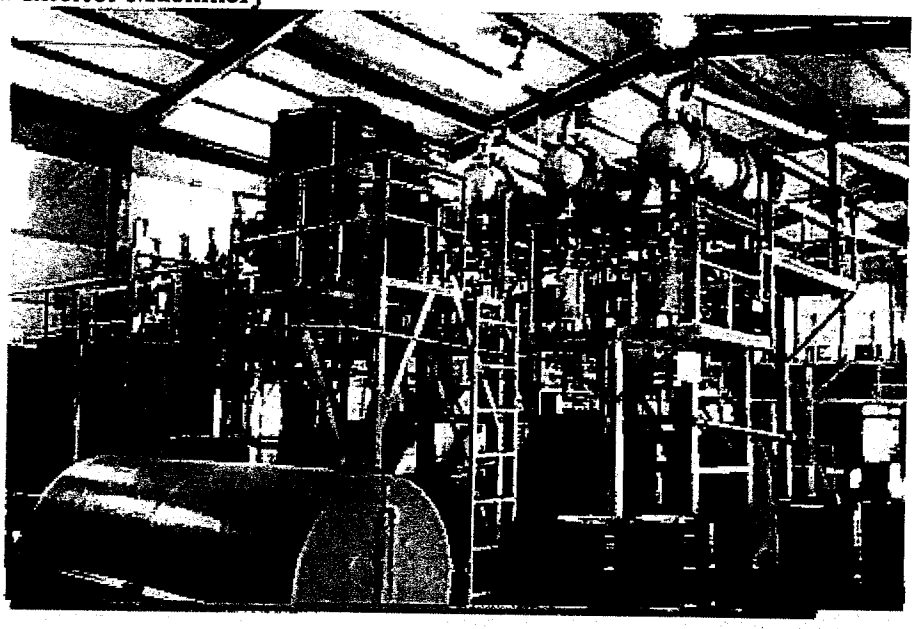
Standards for the Management of Used Oil; and ASTM has issued standards to test the raw materials, methodologies and final products.

Typical Structure for Operations in Chicago

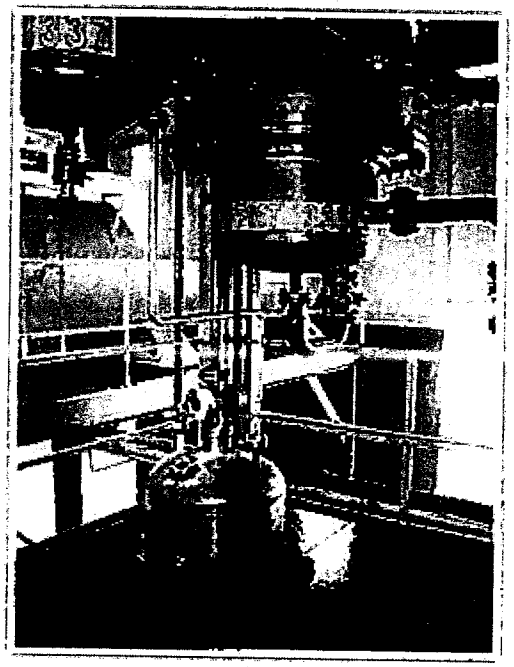




Typical Interior Machinery







This process does not produce emissions, as the working temperature ranges from only 480 to 660 degrees Fahrenheit. No additives or chemicals are employed. Additionally, the low temperatures and pressures preclude risk of explosion, and the noise level is less than 60dB (e.g., conversation in a restaurant or an air conditioning unit). The oily water waste by-product does not exceed 2% of the original raw product volume and is disposed via a 2-stage oil-water separator which eliminates free oil content in effluent down to less than 2ppm.

The final products are a high quality, neutral base oil, which can be marketed as engine oil or lubricant, and a residual oil sludge, which can be used to produce asphalt.

For further reference, I have enclosed a technical manual, "FEMD-TECH Technical Profile, Manufacturer with Emission & Chimney" from a similar company, Oceana Oil Recycling Inc., which uses this process.

Conformance of this Recycling Business Activity with the M-1 Zone

As you know, permitted uses for the M-1 (light industrial zone) as prescribed under GCA § 61309 include, in part:

> (2) The manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils).
>
> (3) The manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials.
>
> (12) Uses customarily accessory to any of the above listed uses, and accessory buildings.

Inasmuch as the bulk of our zoning code was written before "recycling", "reprocessing" and "collection of" waste materials have become necessary and preferred ways of modern life, such activities are not specifically listed as permitted uses. Nonetheless, Land Management has correctly interpreted subsections (2), (3) and (12), above, on multiple occasions to encompass recycling, reprocessing and collection activities for business licenses in an M-1 zone. Such examples include: tire shredding; metallic wastes, aluminum; cardboard; glass; copper; batteries; and plastics. Further, FEMD TECH does not create objectionable, obnoxious or offensive by-products by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste. The processing of a waste by-product into salable products (i.e. recycling) is a traditional permitted use within an M-1 zone and, therefore, FEMD TECH operations qualify.

In conclusion, we ask for your concurrence that the proposed FEMD TECH activity is a permitted use within an M-1 zoned property. If you agree, we will proceed with the design and building permit application process.

Thank you,

C.Y. Leung, President

Enclosure as stated

GUAM LAND USE COMMISSION
Department of Land Management
RESOLUTION 2018-01

A RESOLUTION TO DEEM THE PROCESS OF RECYCLING USED ENGINE OIL AS SIMILAR TO PERMITTED USES WITHN AN "M-1" (LIGHT-INDUSTRIAL) ZONE

WHEREIN, the Guam Land Use Commission ***(hereafter GLUC)*** maintains the fundamental authority over land use-related regulations, with particular interest in the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam in the execution of its authority; and

WHEREIN, such regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements; and

WHEREIN, the GLUC, through statutory support provided by the Department of Land Management, maintains authority of all matters relating to allowing certain land use activities within an "M-1" (Light-Industrial Zone); and

WHEREIN, such authority is cited under Title 21 Guam Code Annotated, Chapter 61, Zoning Law, §61309, subsection (11) where, "other uses which in the judgment of the Commission, as evidence by a resolution in writing, are similar to those listed (as permitted uses within an M-1 zone)".

NOW THEREFORE BE IT RESOLVED, that:

1. The Guam Land Use Commission accepts the process of recycling waste engine oil as similar to that as prescribed Title 21 Guam Code Annotated, Chapter 61, Zoning Law, §61309 (2) that allows "the manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils)" and §61309 (3) "the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials"; and

2. The process of recycling waste engine oil within an "M-1" (Light-Industrial) zone shall be restricted to methods that are free from effects considered to be objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste.

Doc. No. 35GL-19-1234.

SO SAYETH THE GUAM LAND USE COMMISSION AND ITS CHAIRMAN, THIS _____DAY of _____, IN THE YEAR OF OUR LORD, 2018.

_____ _____

JOHN Z. ARROYO *DATE*
CHAIRMAN, GUAM LAND USE COMMISSION

_____ _____

VICTOR CRUZ *DATE*
VICE-CHAIRMAN, GUAM LAND USE COMMISSION

Doc. No. 35GL-19-1234.

GUAM LAND USE COMMISSION
Department of Land Management
RESOLUTION 2019 –

A Resolution to approve the process of Used Engine Oil Recycling as a permitted use within an M1 Light Industrial Zone

WHEREAS, the Guam Power Authority, has opted to discontinue supplementing its power plant fuel with the Island's used engine oil as of year 2022, leaving only the alternatives of expensive shipping to off-island recycling sites or illegal dumping for disposing of between 2 and 3 million gallons of waste engine oil generated annually on Guam; and

WHEREAS, regulated, recycling of used engine oil is a proven technology and viable option in the U.S. and can be offered on Guam in order to address the impending threat to our environment; and

WHEREAS, the bulk of our zoning code was written before "recycling", "reprocessing" and "reuse" of waste materials have become necessary and preferred ways of modern life on Guam, yet such activities are not listed specifically as permitted uses in the M1, Light Industrial zone; and

WHEREAS, such recycling technologies for used engine oil do not create objectionable, obnoxious or offensive by-products by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste; and

WHEREAS, the processing of a waste by-product into salable products (i.e., recycling) is traditionally considered a permitted use within an M1 zone, and Land Management has previously interpreted 21 GCA §61309(a)(3), "the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials," on multiple occasions to encompass recycling, reprocessing and re-use activities for the purpose of business licenses in an M1 zone; inclusive of tire shredding; metallic wastes, aluminum; cardboard; glass; copper; batteries; and plastics; and

WHEREAS, the GLUC, through statutory authority under 21 GCA §61309(a)(11), maintains authority over all matters related to allowing land use activities within an M1 zone including "other uses, which in the judgment of the Commission, as evidence by a resolution in writing, are similar to those listed" (i.e., other uses are allowable if similar to those listed as permitted uses within an M1 zone); and

WHEREAS, at its regularly scheduled hearing on May 24, 2018 the GLUC reviewed a proposed Resolution to approve Used Engine Oil Recycling as an approved use in the M1 Light Industrial Zone, and GLUC directed the Guam Chief Planner to engage the Guam Environmental Protection Agency (GEPA) for technical guidance on the matter of understanding the extent of potential impact(s) that may occur by the processing of recycling used engine oil; and

WHEREAS, in a letter dated March 26, 2019 the Administrator of the Guam Environmental Protection Agency responded, noting that "for a facility to be (unobjectionable), unobnoxious or un-offensive by reason (of) odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water carried waste must be supported by actual qualitative and quantitate data" and further provided that, "this data is normally submitted during the permitting process," and that its authority "is applied during the technical review of the design, construction and operation of the proposed facility, which is part of the permitting process and prior to operations."

NOW, THEREFORE, BE IT RESOLVED that:

1. The Guam Land Use Commission accepts the process of recycling used engine oil as similar to that as prescribed in Title 21 GCA, Chapter 61, Zoning Law, §61309(a)(3) "the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials"; and

2. That this Resolution shall only apply to alternative methodologies and operational processes associated with the recycling of used engine oil within an M1 Light Industrial zone, wherein any pre- or post-operational components of such methodologies shall be consistent with current environmental protection standards as may be determined by the Guam Environmental Protection Agency during its permitting of operations; and

3. Standards for operational use of such technology shall not result in any immediate or residual effects considered objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste; and such standards shall not compromise or impede the successful operations of other allowable uses within an M1 Light Industrial zone and adjacent zones.

This Resolution was passed by Members of the Guam Land Use Commission at its regular meeting held on the _____ day of _____, 2019, as memorialized by the signature which appears below.

_____

Acting Chairman
Tae Oh

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAR 28 2019
10:55a
CLTC/GALC/GLUC
3/29/19

MAR 2 6 2019

MEMORANDUM

To: Director, Department of Land Management
Executive Secretary, Guam Land Use Commission
Guam Chief Planner, Chairman, Application Review Committee

From: Administrator

Subject: Request for GEPA Review – Proposed Designation of FEMD TECH Engine

Håfa Ådai! The Guam Environmental Protection Agency is in receipt of your *Memorandum,* dated March 18, 2019, signed by Mr. Marvin Q. Aguilar, Chief Planner, and transmitted via email by Ms. Cristina Gutierrez to Ms. Conchita SN Taitano from our office. The *Memorandum* transmits the following documents:

- Memorandum dated July 23, 2018 re. *Request for GEPA Review – Proposed Designation of FEMD TECH Engine Waste Oil Recycling*; and
- *FEMD-TECH Technical Profile, Manufacture without Emission & Chimney, Oceania Oil Recycling Inc.,* dated 02/04/2018.

According to the *Memorandum*, the Guam Land Use Commission (GLUC) is requesting this Agency's *review and concurrence* that the proposed activity meets the conditional use requirements for M-1 zoning by having *non-impactive attributes* pursuant to Title 21 GCA, Chapter 61, §61309(b)(1).

Guam EPA understands your organization's concerns. However, this Agency's determination for a facility to be *unobtrusive, unobnoxious or un-offensive by reason odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water carried waste* must be supported by actual qualitative and quantitative data. This data is normally submitted during the permitting process. Therefore, Guam EPA believes it is premature, at this stage, to render a decision on whether the proposed development would be *non-impactive*.

This Agency's authority is applied during the technical review of the design, construction and operation of the proposed facility, which is part of the permitting process and prior

to operations. Moreover, under certain circumstances, the facility may be required a *permit to construct* depending on their air pollutant emissions. Information such as the potential to emit, waste outputs, or the specific feedstock input (waste oil or used oil), which have not been provided, would normally be submitted as part of the permitting process.

For your information, prior to the technical review of any facility permit application, the owner/operator must submit a written approval or authorization from the Department of Land Management confirming that these activities conform to the zoning requirements. Furthermore, once permitted, the facility would then be subjected to administrative and operational requirements, which would be monitored through compliance inspections and reporting.

Thank you for your patience in this matter and should you have any questions, please contact Ms. Conchita SN Taitano at 300-4751 or via email at conchita.taitano@epa.guam.gov.

WALTER S. LEON GUERRERO

FEMD-TECH

Technical Profile

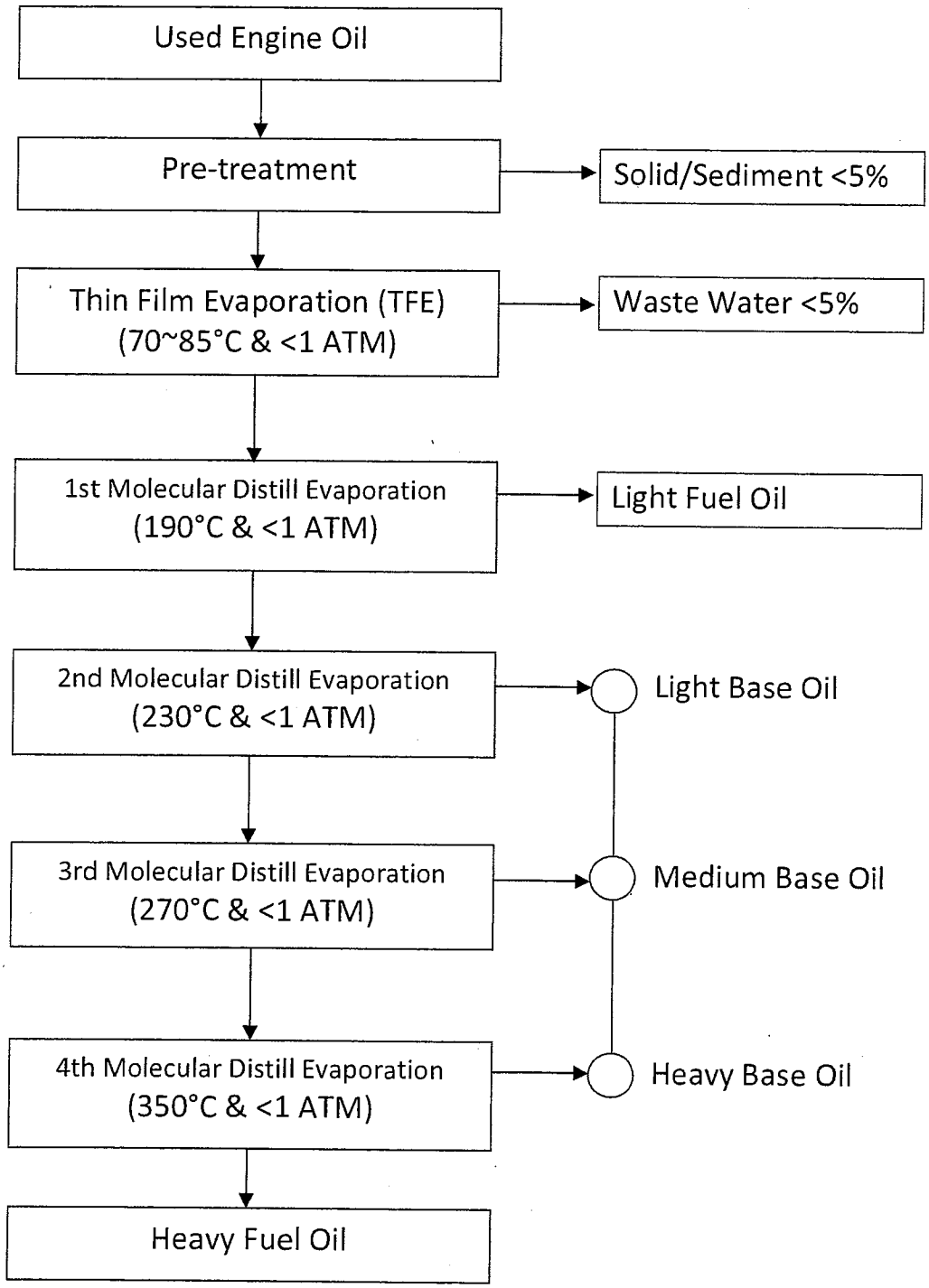
Manufacturer without Emission & Chimney

OCEANIA OIL RECYCLING INC.

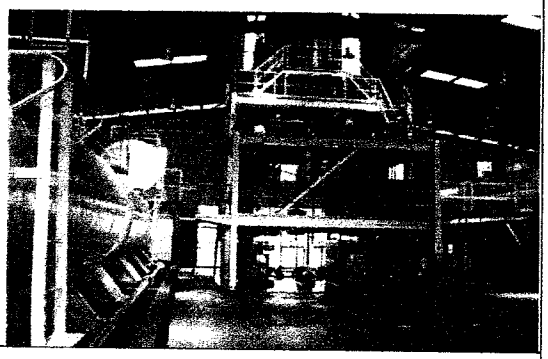
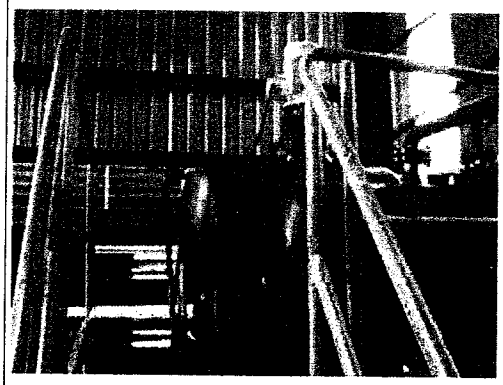
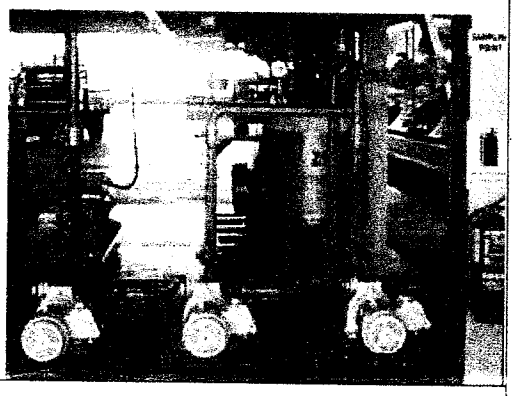
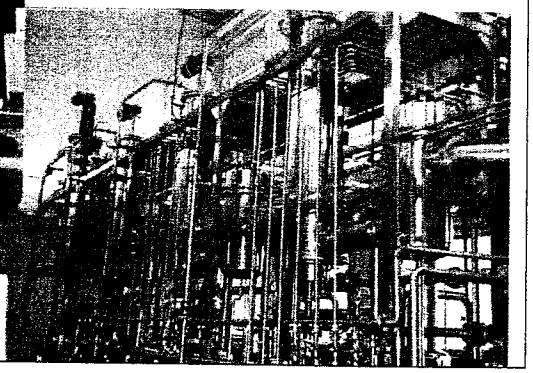
02/04/2018

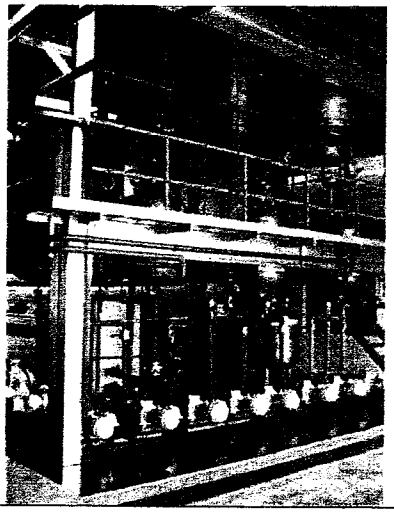
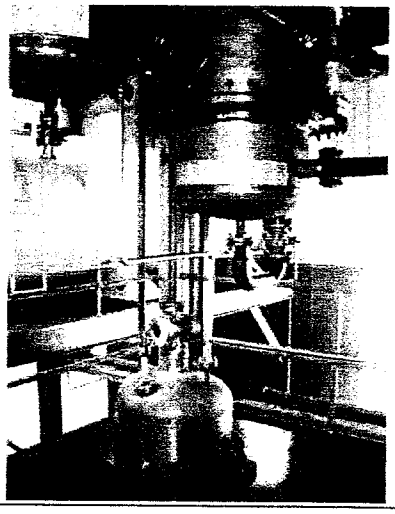
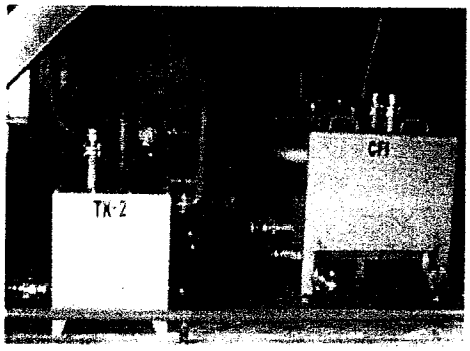
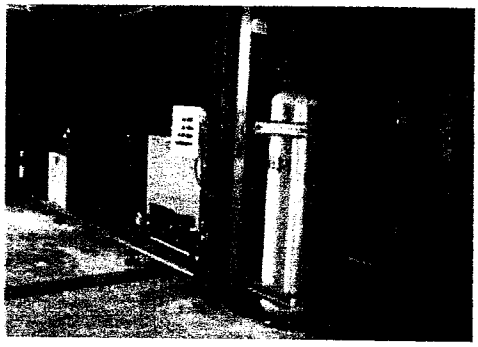
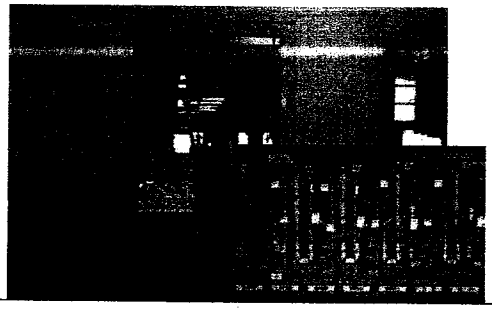
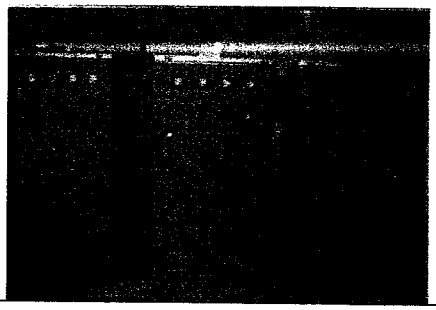
FEMD-TECH FLOW CHART

No Emission Manufacturer



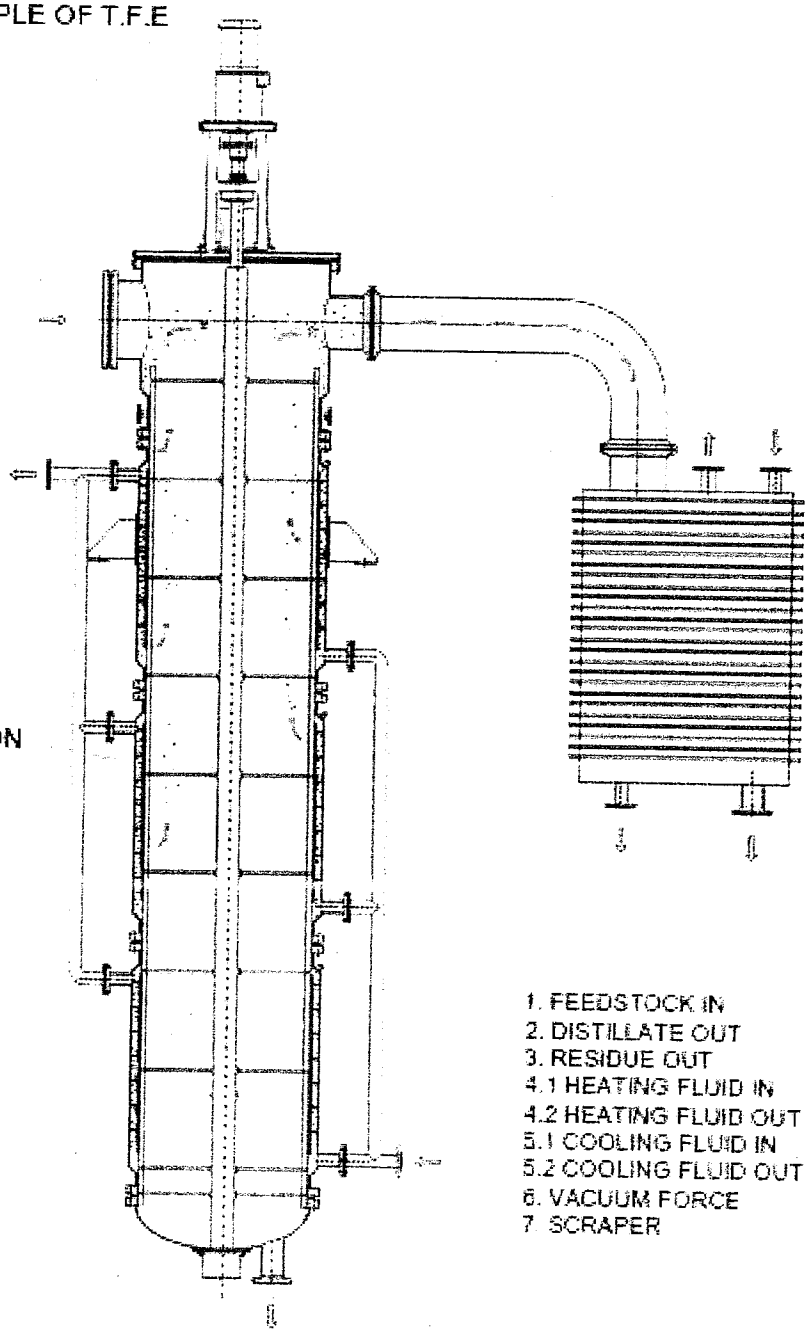
Photos of Structure and Equipment for FEMD® Technology

No.	Item	Photos of Structure & Equipment
1	FEMD Exterior & Interior Structure	
2	Pre-treatment	 
3	TFE	 

4	MDE	 
5	Water Treatment <5ppm	 
6	Computerized Control Room	 
7	Final Products	 From left to right - Used Engine Oil - Light Base Oil - Medium Base Oil - Heavy Base Oil

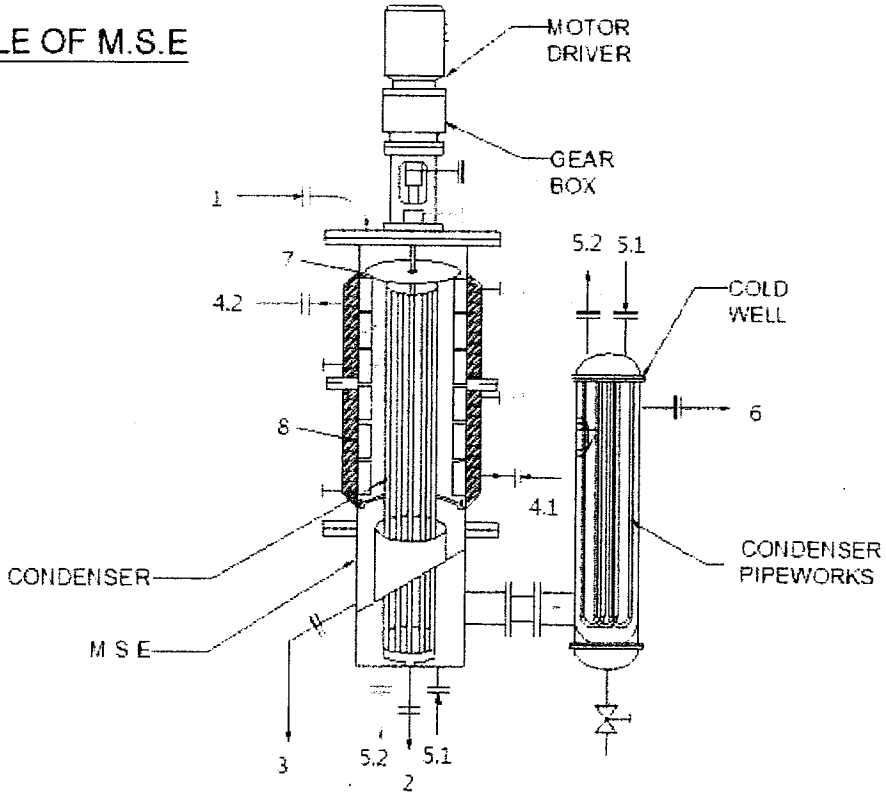
CORE PROCESS EQUIPMENT OF FEMD-TECH

1. WORKING PRINCIPLE OF T.F.E



2. WORKING PRINCIPLE OF M.S.E

1 FEEDSTOCK IN
2 DISTILLATE OUT
3 RESIDUE OUT
4 1 HEATING FLUID IN
4.2 HEATING FLUID OUT
5.1 COOLING FLUID IN
5 2 COOLING FLUID OUT
6 VACUUM FORCE
7 FEEDING PORT
8 SCRAPER



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)

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

JOSEPH M. BORJA
Acting Director

March 18, 2019

MEMORANDUM

To: Administrator, Guam Environmental Protection Agency
Attn: Conchita Taitano, Air & Land Program Administrator

Via: Executive Secretary, Guam Land Use Commission

From: Guam Chief Planner
Chairman, Application Review Committee

Subject: Re-request for GEPA review –
Proposed Designation of FEMD TECH Engine Waste Oil Recycling

Buenas Yan Hafa Adai! On May 24, 2018, Oceana Oil Refinery, Inc. submitted a request to the Guam Land Use Commission *(hereafter, GLUC)* to include FEMD TECH Engine Waste Oil Recycling (FTEWOR) process as a qualified land use with in an "M-1" (Light-Industrial) zone.

The request was to acknowledge such process as unobtrusive, un-obnoxious or un-offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water carried waste as may be provided pursuant to Title 21GCA, Chapter 61, §61309(a)(11)[1].

The GLUC reviewed the FTEWOR Technical Profile as attached, but reserved its decision pending GEPA's review and concurrence of the system's non-impactive attributes. In response, a July 23, 2018 letter was generated to your agency in hope written technical assistance from GEPA may be availed and for the GLUC to act accordingly based on such information.

We re-send this request in hope a resolution can be crafted based on GEPA's findings. Your immediate and expeditious review and recommendation on this matter will be greatly appreciated. Please forward any other inquiries to my office at 649-5263, ext. 300.

[1] Within in an "M-1" (Light-Industrial) zone, the Commission may allow "other uses which in the judgment of the Commission, as evidence by a resolution in writing, are similar to other uses permitted as provided under §61309.

Senseramente,

MARVIN Q. AGUILAR

Attachments:

1. Technical information provided by requestor.
2. 1st Memorandum sent.

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

COPY

July 23, 2018

MEMORANDUM

RECEIVED
JUL 23 2018
Guam Environmental Protection Agency

To: Administrator, Guam Environmental Protection Agency
Attn: Air & Land Administrator

From: Executive Secretary, Guam Land Use Commission

Subject: **Request for GEPA Review – Proposed Designation of FEMD TECH Engine Waste Oil Recycling**

Buenas Yan Hafa Adai! On May 24, 2018, Oceana Oil Refinery, Inc. submitted a request to the Guam Land Use Commission (GLUC) to include FEMD TECH Engine Waste Oil Recycling (FTEWOR) process as a qualified land use with in an "M-1" (Light-Industrial) zone.

The applicant submitted this request in hope of the Commission rendering its judgement to allow such process as unobtrusive, obnoxious or offensive by reason of ordor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water carried waste. These attributes the requestor claims, do not occur in the FTEWOR recycling of used motor oil. The requestor further hopes the Commission resolves to allow such use pursuant to Title 21GCA, Chapter 61, §61309(a)(11)[1].

The Guam Land Use Commission reviewed the FTEWOR Technical Profile as attached, but reserved decision pending GEPA's review and concurrence.

We are in the process of crafting a resolution for the Commission's consideration and however it very narrowly constructs the FEMD-TECH oil recycling process that could be acceptable in an M-1 zone, any draft must contain reference to GEPA's written input and position on this matter.

As regularly scheduled Commission meeting are but once a month, your kind and expeditious action on this matter will be greatly appreciated. Please forward any other inquiries to Guam Chief Planner, Marvin Aguilar at 649-5263, ext. 300.

Senseramente,

MICHAEL J.B. BORJA
Director

[1] Within in an "M-1" (Light-Industrial) zone, the Commission may allow "other uses which in the judgment of the Commission, as evidence by a resolution in writing, are similar to other uses permitted as provided under §61309.

cristina gutierrez

From:	cristina gutierrez
Sent:	Monday, March 18, 2019 1:17 PM
To:	Conchita Taitano (conchita.taitano@epa.guam.gov)
Subject:	Proposed FEMD TECH Engine Waste Oil Recycling
Attachments:	GEPA [FEMD].pdf

Hafa Adai Ms. Taitano,

Please see Memorandum from the Guam Chief Planner with regards to FEMD Tech on engine waste oil recycling.

For additional information and/or questions, please call our office at 649-5263 ext. 300 and/or 375.

Thank you,

M. Cristina Gutierrez
Planning Division
Tel: 671-649-5263 ext. 375
Cristina.gutierrez@land.guam.gov

DEPARTMENT OF
LAND MANAGEMENT

Doc. No. 35GL-19-1234.