Street Address:
590 S. Marine Corps Drive
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Tamuning, GU 96913

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P.O. Box 2950
Hagâtña, GU 96932

GLUC COMMISSIONERS

TAE S. OH
CHAIRMAN

HARDY T.I. VY
VICE CHAIRMAN

CONCHITA D. BATHAN
COMMISSIONER

LEILANI R. FLORES
COMMISSIONER

ARTHUR D. CHAN, JR.
COMMISSIONER

EXECUTIVE SECRETARY
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1606

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION

February 28, 2020

35GL-20-1606
Speaker Tina Rose Muña Barnes

FEB 2 8 2020
Time 2:20 ( )AM (/)PM
Received By: Brian

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, January 23, 2020
2. Guam-Hybrid 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

2020 FEB 28 PM 4:19

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

File for Record is Instrument Number 945304

on the Year 20 20 Month 02 Day 21 Time 3:12

Recording Fee DE-OFFICIO Receipt No. DE-OFFICIO

Deputy Recorder: L. M. Quitano

LISA M. QUITANO

Above Space for Recorder's Use only

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GUAM-HYBRID LAND USE COMMISSION MEETING MINUTES

Department of Land Management Conference Room
ITC Building, Tamuning

Thursday, August 8, 2019
1:49 p.m. to 3:05 p.m.

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

GLUC MEMBERS PRESENT:

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

HYBRID MEMBERS PRESENT [MCoG DLM 2018-04]
Mayor Louise Rivera, Tamuning-Tumon-Harmon
Mayor Melissa Savares, Dededo
Mayor June Blas, Barrigada

HYBRID MEMBERS PRESENT [MCoG DLM 2018-03]
Mayor Louise Rivera, Tamuning-Tumon-Harmon
Mayor Melissa Savares, Dededo

STAFF PRESENT:
Mr. Nicolas Toft, Legal Counsel
Ms. Celine Cruz, Acting Guam Chief Planner
Mr. Frank Taitano, Case Planner
Ms. Grace Vergara, Case Planner
Ms. Cristina Gutierrez, Recording Secretary

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

X	GLUC	X	HLUC
X	Regular	X	Regular
	Special		Special
✓	Quorum	✓	Quorum
	No-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 above
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	Haw'n Jewelry	482-3315
MICHAEL NAKAO	BLUE OCEAN DEVELOPMENT	475-8772
WILLY FLORES	NAFTA-MS	646-1714
WILLIE T. FLORES	"	"
SWNELY	M-1 RESOLUTION	688-8829

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

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

GUAM–HYBRID 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

- Guam-Hybrid Land Use Regular Meeting of Thursday, April 25, 2019

III. Old or Unfinished Business [None]

IV. New Business [None]

V. Administrative & Miscellaneous Matters

Zone Variance – Renewal Request

A. **Application No. 2017-29C**, the Applicant, Blue Ocean Investment LLC represented by TRM Architects; a request for an Extension of Time for a previously approved Zone Variance for Height and Density, for the proposed construction of a 21-story boutique hotel, on Lots 5093-R1-1-1 and 5093-R1-1-R1 (Tumon), in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone. **[MCoG DLM 2018-04; Municipal Commissioners – Louise Rivera, Melissa Savares, June Blas & John Cruz]**
Case Planner: Celine Cruz

B. **Application No. 2017-30B**, the Applicant, NPLJ, LLC represented by TRM Architects, a request for an Extension of Time for a previously approved Zone Variance for Height for the proposed Dos Amantes Residences), on Lots 5040-11 and 5040-12, in the Municipality of Dededo/Tamuning, in an "M-1" (Light Industrial) zone. **[MCoG DLM 2018-03; Municipal Commissioners – Louise Rivera, Melissa Savares, Rudy Matanane & Rudy Paco]**
Case Planner: Frank Taitano

VI. Adjournment

GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Thursday, August 8, 2019 • 1:49 p.m. to 3:05 p.m.

I. Attendance

Chairman Tae Oh called to order the regular meeting of the Guam-Hybrid Land Use Commission for Thursday, August 8, 2019 at 1:49 p.m., noting a quorum.

Present were: Chairman Tae Oh, Commissioner Conchita Bathan, Commissioner Hardy Vy, Mayor Melissa Savares, Mayor June Blas, Mayor Louise Rivera, Legal Counsel Nick Toft, Acting Chief Planner Celine Cruz, and Case Planner Frank Taitano.

II. Approval of Minutes

Chairman Oh before the Commission today is the approval of Minutes from the Guam-Hybrid Land Use regular meeting of Thursday, April 25, 2019. Commissioners have had the opportunity to review the Minutes, Chairman Oh was ready to entertain a motion.

Mayor Savares (Dededo) made a motion to approve the Guam-Hybrid Land Use Commission Minutes of Thursday, April 25, 2019.

Chairman Oh motion made by Mayor Savares, is there a second.

Mayor Blas (Barrigada) seconds the motion.

Chairman Oh motion is seconded by Mayor Blas. Noting no discussion, Chairman Oh puts the motion to a vote. All in favor of the motion to approve say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy, Mayor Savares, Mayor Blas, Mayor Rivera], all opposed say "nay". **[Motion is passed with a unanimous vote of 6 ayes, 0 nay]**

III. Old Business [None]

IV. New Business [None]

V. Administrative & Miscellaneous Matters

Zone Variance – Extension of Time

A. Application No. 2017-29C, the Applicant, Blue Ocean Investment LLC represented by TRM Architects; a request for an Extension of Time for a previously approved Zone Variance for Height and Density, for the proposed construction of a 21-story boutique hotel, on Lots 50 93-R1-1-1 and 5093-R1-1-R1 (Tumon), in the Municipality of Tamuning. [MCoG_DLM 2018-04] Case Planner: Celine Cruz

Celine Cruz (Acting Chief Planner) read the Commission Brief for the Commission. Ms. Cruz's report included summary of the application, purpose, facts, discussion and staff analysis and recommendation. [For full content/context, refer to attached report]

[Attachment A – Commission Brief dated July 29, 2019]

Chairman Oh questions for staff.

Commissioner Bathan asked for a copy of the Notice of Action to review the recording date; and, Commissioner Bathan also inquired if there was an official request received from the developer requesting for the extension of time.

Celine Cruz replies that she had received one; but, it was not included in the staff report. Planning Division received correspondence from TRMA on June 5, 2019.

Commissioner Bathan comments that it was received after the expiration date of the NOA.

Celine Cruz responds yes it was just shortly after.

Chairman Oh asked Ms. Cruz for the confirmation on the date of receipt and a copy of the letter from the developer.

Celine Cruz June 5, 2019 is the received date and the date noted on the letter is May 28, 2019. [Copies was provided for the Board]

Mayor Rivera states that this is the first time she's hearing about this. Ms. Rivera further comments that the Hybrid agenda came out requesting their attendance, and she did not feel there was enough time to notify the Tamuning MPC to inform them of the request to extend. There is a municipal planning council tonight and she would like them to be aware of this request. Mayor Rivera also added that they (MPC) sent in a letter objecting to the development.

Chairman Oh understands the situation; however, at the same time, the members have to look at the legal aspects and also what is written in the law. Chairman Oh states that at this point, input from the MPC is not needed as public comments was closed for this application. Chairman Oh asked for clarification from Legal Counsel.

Nick Toft (Legal Counsel) this was dealt with before with the Pago Bay application as far as public input and when and how it should be presented. Public comment is presented at the initial variance when it is being granted. An extension for time is at the discretion of the Commissioners. Mr. Toft understands where Commissioner Bathan is going as far as the dates are concerned; the Board has dealt with this same issue with the Pago Bay application where there was a late submission of a request for extension. The question was whether there was an automatic "void" of the variance and whether or not the applicant would have to start the application process again. After researching the issue, the end result was that the variance doesn't necessarily disappear

entirely. It is up to the Board's discretion and vote; however, that factor should not be taken into account in the vote as to the time of the request for extension.

Chairman Oh there being no additional questions for staff, Chairman Oh invited the applicant to come forward. Please state your name for the record.

Michael Makio (with TRM Architects, representing the applicant)

Commissioner Bathan asked Mr. Makio to explain why the letter requesting for the extension of the NOA was submitted beyond the expiration date of the NOA.

Michael Makio states that they have been working with the U.S. Fish and Wildlife for about 9-months. The design of the project is already completed, and in initial discussions they were told that there were three options on how to proceed.

- First option is to wait two years because it is very likely that the endangered tree snails on the site may no longer be on the endangered species list, but they do not wait that long.
- The second option that they are studying with the Fish and Wildlife was the idea of re-designing the project so that they would avoid the snail colony habitat. However, after Fish and Wildlife came back, they asked for a 500-foot radius setback. Mr. Makio added that there are about a cluster of three to four trees that are the primary habitat. They went through the entire environmental analysis to figure out if this was even viable, and what it would do is cut the property almost in half and they have to stay away from this area.
- The last option which is the most viable in this case is to do a snail population relocation. This is a complicated process because the items that they have been trying to focus on since the time they started this process.
- The Fish and Wildlife has to certify the biologist that is allowed to relocate the population and they had to search and find a biologist that is qualified to do this work. It does not appear that there are any biologists available here on Guam. The University of Guam was approached and they hadn't done it in the past and it would require them to change curriculum specifically for this process.
- The second condition that has to be met to relocate the snails was to find a viable habitat for the snails to be moved which took quite a bit of time to accomplish. An understanding has been worked out with Fish and Wildlife for sites in Hila'an, Haputo and Atantano. All three of these locations have existing snail populations intact. A Memorandum of Understanding has been drafted for these locations and to determine which is most preferred or acceptable to Fish and Wildlife.

Mr. Makio states that this type of snail is located in a lot of areas on Guam, and the irony of this is that the procedure that is set up to allow it, the procedure takes over a year. This automatically puts them out of sync with the circumstances of the variance application. To have to go through the process to get where they are, they actually passed the original renewal date of the original variance. There is no shortcut in accomplishing this; however, they were able to workout with Fish and Wildlife an intermediate agreement which is that, because there is concern about the

area being overgrown and not attractive, they have worked out with EPA and U.S. Fish and Wildlife that will allow them to obtain a different type of permit to do the initial clearing and to get the project site cleaned up, away from the habitat. The habitat radius has been drawn and they will clear in the areas around it and then start using the cleared areas as a processing area for the migration of the snails.

There were two other locations where the snail population was relocated, and in both cases a biologist was hired from off island to oversee the relocation. This maybe the same path that they will need to take and also to resolve all the issues to U.S. Fish and Wildlife's satisfaction. Mr. Makio stated that it has been a challenge.

Chairman Oh it was mentioned earlier on waiting for two-years and a suggestion that was made. Chairman Oh did not understand the exact extent of the two-year wait.

Michael Makio explained that the endangered species list is updated on a regular basis, approximately every five-years. In the next 18-months they will begin re-evaluation of all floras and species that are on that list. Mr. Makio added that they came in right at the mid-point of that 5-years. If the snails are still on that list, they will still be in the same situation they are in at this time.

Chairman Oh he has heard from several developers that this issue has come up. He asked Mr. Makio, from his experience, how widespread is the snail population on Guam.

Michael Makio there are three endangered snail populations on Guam, and one of their favorite habitats is the Lemai, the breadfruit trees. Any large, leafy plant that has the ability to remain damp and compressed under heavy rain, that is the habitat profile that the snails enjoy.

[Discussion ensues on various locations on Guam where snails are being found. Mr. Makio added that in their case, their population is between two hundred to four hundred snails.]

Mayor Savares in the event that the snails need to be migrated, move them from the site, how will this be accomplished.

Michael Makio a census population count will need to done and it will be determined an ideal number for relocation; it could 75 percent of the population or 80 percent per Fish and Wildlife. There is a need for a certified biologist that has some experience for the relocation of the snails. There was an individual at UOG about 12 to 13 years ago, but has since retired.

[Discussion ensues on the process of relocating the snails.]

Chairman Oh what will be the impact to the budget for this project.

Michael Makio at this point, it looks like they will need to fly in a certified biologist from Hawaii; it will be upwards of $50K. All conditions in relocating the snails have to be worked out and negotiated with US Fish and Wildlife.

Mayor June Blas has a biologist already been hired.

Michael Makio they are still working with the environmentalist, but have identified three biologists out of Hawaii. The other problem is hiring biologists to come to Guam for 3 to 4 weeks to move 200 to 400 snails, unfortunately there is no big rush for this type of project.

Chairman Oh asked if there was an environmental impact study conducted.

Michael Makio the snails were noted in the original EIA. In the original survey, they located four snails.

Chairman Oh the developer is committed and willing to move forward. It was expected in the beginning and not a total surprise to them.

Michael Makio it was the timing. Just the permitting process in itself; a public notice has to be sent across the United States that they will be moving the snails.

[Discussion ensues]

Chairman Oh it is unfortunate that the developer has to mitigate these issues because it is a condition; but at the same time, the Commission is trying to understand the applicant's situation. We would assume that the developer knew that this process would take longer than expected, and that the developer would have submitted the request for an extension earlier rather than later. The project goes into like a limbo state once the NOA expires, and the extension request comes in after that. There have been several cases in the past, Pago Bay being one. Considering the magnitude of the project, the Commission expects the applicant to be aware of expiration dates. Chairman Oh added that Mr. Makio needs to emphasize to his client that expiration dates are important and should be cognizant of them because this affects the Commission's decision.

Chairman Oh asked of Mr. Makio if he knew why the applicant submitted the request for an extension late.

Michael Makio part of it had to do with not having the responses that they needed. They wanted clear directions from US Fish and Wildlife before they moved forward. They had to identify the financial obligation of the project (which is now done); they want to move forward.

Chairman Oh there was a concern brought up by Mayor Rivera; and, they have an MPC meeting today. Chairman Oh left it to the discretion of Mr. Makio whether he would like to hold off on this or not, if the MPC will provide additional comments on the project. It is not necessary to have this as noted by Legal Counsel.

Michael Makio there are no program changes from the development from the time that it was originally presented to the GLUC; no adjustments needed for the project. It remains the same today as when they were before the Commission last year. If it pleases the Commission, Mr. Makio would like to resolve the request today.

Chairman Oh I'll open the floor to the Commissioners for discussion.

Mayor Rivera everything happens for a reason, thank God these snails came about. I am happy to know more about the situation; we are for new development. When this was approved last year, after that, the power went out in Tumon and it was a holiday and we even had Attorney John Brown who is an MPC member come before the Commission to testify in opposition to the project. As it stands now, hearing that this meeting is taking place today, as a Commission member for the Hybrid, they want me to oppose it. I am just asking time to really talk to them tonight. I am asking to table it because of the short notification that we got in regards to this application. We didn't have any time to discuss it and since we have the meeting tonight and I know this Board meets every second and fourth Thursday, so we if can just postpone it. That would be my vote is to deny it. Other residents in the community have been upset about the approval and the approval coming from Mayors that don't even live in the district and go through the everyday issues that we face. [SIC]

Michael Makio Mayor, your comment earlier "thank God for these snails." Do you realize that it is affecting some of the poorest people on Guam? Thank God for these snails?! There is no distinction for the snails. The snails will go attack a person with a three-bedroom, two-bathroom, house, on a ranch, the same way that will create problems for anybody else. [SIC]

Mayor Rivera when I said that it was this is part of God's nature. Just like the bumble bees, the rhino beetles, fire ants, they are all problems. This is what brought this up today to give us a better understanding. This is what is stalling the project. This is something that our MPC was opposed to not me personally. I would like to discuss it with them and make them understand that these are the issues. I did not know that this could stall a project. I am surprised to see that it's because of the snails that is stalling this project. I just want to be able to share that concern with the rest of the Council members that was opposed to this project. [SIC]

Michael Makio the legitimacy of the project was established with the first GLUC; they are doing the best that they can to roll with the issues and problems and still come out to solve the problems. It's a good precedent for future developers as they move ahead. This is not a question of, if the project is legitimate or not. It's a question of how much time is reasonable to resolve the problem that exists in a lot of locations on Guam. Mr. Makio did acknowledge that there were at least a couple of MPC members that were dead-set opposed to this project. There is a need to work together to find a solution because this problem will not go away.

Chairman Oh notes that the opinion of the Mayor, and that the applicant wishes to move forward today and it will be honored. Asked of Mayor Rivera, considering the opposition that existed in the past, is it of her opinion that the position of the MPC will change within the past year.

Mayor Rivera replies that the position of the members may change because there are new members. Mayor Rivera stated that members of her MPC had also spoken to the other Mayors who voted for the project, which came as a surprise to them that the Mayors had voted against the village that has the project.

Mayor June Blas (Barrigada) projects are based on the area where it is located. This area is an "H" zone for purposes of building hotels. Mayor Blas states that she understands the area and the traffic congestion, which also happens in her municipality; it is faced by all the villages. The project has already been voted on and did not understand what the process was for today's request, and asked for clarification. She further states that, "we are back peddling here. Are we voting again to go against this project because I thought last year the Commission had voted on this project."

Chairman Oh the situation the Commission is faced with today is that the Notice of Action has expired. The members have to either vote to extend the NOA or to deny it which is at the discretion of the Commission. Are there any additional comments and/or questions.

Commissioner Bathan as much as Ms. Bathan respects the MPC members of Tamuning village, she feels that holding back this project may be setting precedent for other projects that have already been approved. The Commission is reopening previously approved applications for reconsideration or another process that will affect a project that has already been approved. The request for the Commission today is a request for an extension of time for a previously approved NOA.

Chairman Oh any other comments.

Commissioner Vy asked Chief Planner Cruz if there were documentation submitted for correspondence confirming that some of these mitigation options are being discussed between US Fish and Wildlife and the applicant.

Celine Cruz states that there are none on record; however, Ms. Cruz is confident that Mr. Makio can provide those if the Commission wishes.

Commissioner Vy for due diligence, Mr. Vy feels that the Commission should have something concrete on file.

[Discussion ensues]

Chairman Oh Commissioner Vy's request is justified because it is an extension request. It will detail out what has happened and what the delay was caused by. In terms of supporting documents, the Commission does need to have that on record. The Commission can table the request until supporting documents are submitted or make a decision today with the condition that the applicant has to submit supporting documents for the delay to the Chief Planner within 30-days. Chairman Oh will leave that at the discretion of who will be making the motion.

Commissioner Bathan this is a recorded public hearing, and was confident that the comments made by Michael Makio are not untrue.

Chairman Oh if this is the route that the Commission wishes to take, a condition has to be added that the applicant has to submit supporting documents to be submitted to the Chief Planner within 30-days.

There being no further questions and/or comments, Chairman Oh was ready to entertain a motion.

Mayor Rivera I move to make the motion to table the request for extension of time to a previously approved Zone Variance for Height and Density for the proposed construction of a 21-story boutique hotel, on Lot 5093-R1-1-1 and 5093-R1-1-R1, Tumon, in the municipality of Tamuning, in an "H" (hotel/resort) zone.

Chairman Oh there a motion on the floor made by Mayor Louise Rivera; is there a second. **[There was no second, the motion failed]**. Any other motion for this application.

[Chairman Oh called for a five-minute recess]

Chairman Oh reconvenes the meeting. Mr. Makio, as a Commission, the Commission would like to give this request more time and thought, and for supporting documentations so that there is no need for the 30-day condition. This will also give the MPC more time to discuss the request which is not a requirement.

Michael Makio Mr. Makio asks of the audience, "everybody behind me who has had a project delayed because of the snail problem please stand up." [Noted for record there were five who supported Mr. Makio's comment]. These are homeowners, property owners on Guam. This is not something we wish away. Mr. Makio is okay with the condition, but this is a problem.

Chairman Oh this is a valid reason for delay and there isn't anyone here that disagrees with that. The members would like for the record, additional documentation and it also gives us more time to make the decision.

It was the order of Chairman Oh to continue the review/approval of Application No. 2017-29C, the applicant, Blue Ocean Investment, LLC represented by TRM Architects; a request for an extension of time for a previously approved Zone Variance for height and density for the proposed construction of a 21 story boutique hotel on Lot 5093-R1-1-1 and 5093-R1-1-R1, in an "H", in the municipality of Tamuning; to be placed on the next available Commission meeting agenda.

The next item on the agenda –

Zone Variance

B. Application No. 2017-30B, the Applicant, NPLJ, LLC represented by TRM Architects; a request for an Extension of time for a previously approved Zone Variance for Height for the proposed Dos Amantes Residences, on Lots 5040-11 and 5040-12, in the Municipality of Dededo/Tamuning, in an "M-1" (Light Industrial) zone. Case Planner: Fran Taitano

Frank Taitano (Case Planner) reads Commission Brief to include purpose, application summary, and recommendation. [For full content/context, see attached report]

[Attachment B – Commission Brief dated June 6, 2019]

Chairman Oh questions for staff.

Commissioner Bathan comments that it is the same situation as the previous application. The request for extension was submitted after the Notice of Action expired.

Frank Taitano confirms that the request was late and submitted (as dated on the correspondence), April 24, 2019; the NOA was recorded on April 10, 2018.

Chairman Oh noting no additional comments, Chairman Oh invited the applicant to present the application. Please state your name for the record.

Michael Makio (representing NPLJ, LLC) explained to the Commission that they are in the permitting process; the original permit was submitted at the end of January, and they were anticipating getting the permit back in the month of March and it didn't happen. Mr. Makio believes that it may have been because of the transition of the new Administration. The only issue that has come up is that the federal EPA requested an update of the biological survey which will not be a problem; they have engaged that and is ongoing. They have signatures from all the agencies with the exception of Guam EPA; it will just be a matter of submitted the updated biological survey to Guam EPA, and the Phase I permit will be complete and the project will be up and running.

The contractors are in place; a purchase order for the materials, flooring, windows, exterior and interior doors, window shutters, all the purchase orders are established. They are currently in the permitting process with one remaining agency to sign off.

Mayor Savares GPA has not signed off on this yet.

Michael Makio they have obtained GPA's approval with the exception of GEPA.

Commissioner Bathan are there snails at this project site.

Michael Makio confirmed that no snails have been found at this site.

Chairman Oh any further comments for the applicant? [None noted] Chairman Oh asked that Mr. Makio convey to his client to abide by the conditions stipulated on the Notice of Action especially on the one-year timeline. It places the Commission in an uncomfortable position when an NOA expires and there is a request to extend.

Noting no further comments, Chairman Oh was ready to entertain a motion.

Mayor Rivera made a motion to approve Application 2017-30B, application requesting for an extension of time for a previously approved Zone Variance for height for the proposed Dos Amantes Residences, on Lots 5040-11 and 5040-12, in the municipalities of Dededo and Tamuning, in an "M1" (Light Industrial) zone.

Chairman Oh before we second the motion, we need to place a date of expiration for the extension. Chairman Oh asked for either an amended motion to the original motion or to continue with the original motion.

Mayor Rivera I will continue my motion to add an extension of one year to expire on August 8, 2020.

Chairman Oh there is a motion on the floor made by Mayor Rivera to extend the Notice of Action one-year from today's date which will be August 8, 2020. Is there a second?

Mayor Savares I second the motion.

Chairman Oh seconded by Mayor Savares; no discussion noted. All in favor of the motion say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy, Mayor Rivera, Mayor Savares, and Mayor Blas], all opposed say "nay."

[Motion passed; 6 ayes, 0 nay]

Chairman Oh there is no additional items for discussion, Chairman Oh was ready to entertain a motion for adjournment.

VI. Adjournment

Mayor Savares I move to adjourn the Hybrid Commission.

Mayor Rivera seconds the motion.

Chairman Oh motion made by Mayor Savares, seconded by Mayor Rivera; with all in favor.

The regular meeting of the Guam-Hybrid Land Use Commission for Thursday, August 8, 2019 was adjourned at 3:05 p.m.

Approved by:

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

Date approved:

1/23/2020

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
DLM, Planning Division

Doc. No. 35GL-20-1606.

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

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 29, 2019

MEMORANDUM

TO: Chairman, Hybrid Guam Land Use Commission

FROM: Acting Guam Chief Planner

SUBJECT: Commission Brief - Application No. 2017-29C, Request for Extension of Time for Zone Variance for Height and Density on Lot 5093-R1-1-R1 and Lot 5093-R1-1-1, Tumon, Municipality of Tamuning

1. PURPOSE:

A. Application Summary: The applicant, Blue Ocean Investment LLC, represented by Taniguchi Ruth Makio Architects (TRMA), is requesting an extension of time for its approved Zone Variance for Height and Density for a proposed 264 feet, 298 room boutique hotel on Lot 5093-R1-1-R1 and Lot 5093-R1-1-1, Tumon, Municipality of Tamuning, Guam.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances) and Section 61311 ("H" (Hotel/Resort) Zone) and Section IV (Procedures for Development within an "H" Zone) of the Interim "H" (Hotel-Resort) Zone Rules and Regulations.

2. FACTS:

A. At its meeting on April 12, 2018, the Hybrid Guam Land Use Commission approved with conditions, the applicants' request for Zone Variance for Height and Density to construct a 264 feet high, 298 room boutique hotel in an "H" zone. (See attached Notice of Action recorded at the Department of Land Management under Instrument Number 921747.)

B. Location: The subject lot is located along Pale San Vitores Road, adjacent to the southern boundary of Tumon Sands Plaza and directly across the Burger King commercial building. It is approximately a quarter of a mile inland from the shoreline of Tumon Bay.

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

D. **Field Description:** The lot is presently vacant with overgrown vegetation and the remnant building floor slab of the former Tumon Gun Club on site.

4. DISCUSSION and STAFF ANALYSIS:

During the biological survey of the site, endangered tree snails were discovered and federal US Fish and Wildlife were consulted. Shortly after the project received approval from the GLUC, a tree snail survey was commissioned as recommended by the agency. Following the survey, the information and report summaries were provided to the EPA and to US Fish and Wildlife. Meetings with the various government entities, the developer and the contractor who performed the study resulted in having several mitigation options and discussions are still ongoing.

Due to the continued discussions for alternate mitigation strategies, no permits have been processed or received. The developer is seeking an extension of time to continue work with US Fish and Wildlife and EPA for permit approval. All other elements of the project are intact and the developer has presented justification for granting the requested extension.

5. RECOMMENDATION: Recommend APPROVAL of the Extension of Time WITH CONDITIONS as follows:

1. The Applicant shall adhere to all the conditions as stipulated in the Notice of Action issued and recorded under Instrument 921747.
2. That the Applicant is issued 1-year extension in order to adhere to condition number 5 of NOA 921747 which states ***"grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".***

Celine L. Cruz
Acting Guam Chief Planner

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 05 2019
CLTC/GALC/GLUC
6/1/19

TRMA
Taniguchi Ruth Makio Architects

May 28, 2019

Mr. Joe Borja, Executive Secretary
Guam Land Use Commission
Department of Land Management
590 S. Marine Corps Drive Suite 733
ITC Bldg. Tamuning, GU 96913

6-4-2019
RECEIVED
Frank Taitano
Planning Div. DLM

Subj: Request for extension for Blue Ocean Notice of Action

Hafa Adai Mr. Borja,

We are writing to request your consideration for the extension of the Notice of Action for the Blue Ocean (original application 2017-29 A&B) allowing a height and density variance at lot 5093-R1-1-R1 and 5093-R1-1-1

The project was granted a height and density variance from the Hybrid commission in 2018.

The A/E has prepared for permitting since that time and have made good progress.

However the permit process has been delayed while the project is going through the mandatory review and mitigation process for the dealing with the endangered tree snails that have been located onsite.

This is an extremely slow process.

Background

During the biological survey of the site endangered Tree snails were discovered and federal US Fish and Wildlife were consulted. Shortly after the approval for the GLUC application the TRMA+ commissioned the Tree Snail Survey as recommended by the agency.

ARC environmental was brought on-board and commenced the survey to determine the population numbers and distribution of the colonies at the property.

Following the survey the information and report summaries were provided to the EPA and to US Fish and Wildlife. ARC Environmental and TRMA+ held meetings with the Supervisory Fish and Wildlife Biologist – Marianas Island Team to review the findings. The US Fish and Wildlife representative point of contact.

Application No.:	2017-29C
ZONE VARIANCE (EOT)	
Blue Ocean Investment LLC	
Accepted Date:	5-Jul-19
Case Planner:	C. CRUZ

Guam • Northern Marianas Islands • Micronesia
P.O. Box EA, Hagåtña , Guam 96932 • 100 Cliff Business Center
671/475-8772 • Fax: 671/472-3381 • email: arch@traguam.com

The US Fish and Wildlife representative was very responsive – however the timelines discussed were quite long and frankly do not relate well to the 12-month expiration period mandated for GLUC Notice of Actions.

For reference the options with regard to the mitigation of the tree snails are summarized below:

Option 1: Revise the site design in a manner that avoids the snail colonies and provides a 10- meter buffer zone during and after construction.

Of course the problem is that on a relatively small site less than 50% of the site remained available for use. Additionally the permit review by US Fish and Wildlife for the clearing and grading may take up to one year or longer and may entail engaging off-island Federal Endangered species professionals

Option 2: Engage a certified biologist to gather and relocate the snail colonies to an approved alternate location following an approved protocol including in situ condition monitoring and post relocation populations surveys to determine the effectiveness and success of the relocation.

However Guam lacks certified biologist for this procedure and an approved procedure is not in place for the relocation of the snail colonies.

Option 3: Wait until the update of the Endangered species list is updated in the next 3 to 5 years when it is possible that the tree snails will be removed from the list if it is determined that the populations are thriving.

There may be other options or combinations of activities that could potentially allow US Fish and Wildlife to support the issuance of permitting and we are continuing to monitor this.

The current track for the property is to work with Option 2 – the relocation of the snail colonies.

Conversations will continue with ARC Environmental to determine if University of Guam Biology personnel will be perform the work – in a manner acceptable to the Federal Agency.

This request is hereby submitted for a 1-year extension to the NOA in order to complete the steps for the treatment and mitigation of the endangered tree snails and resume the permitting process.

Please let us know if you have any questions or comments regarding the request above.

Si Yu'os Ma'ase

Michael Blas Makio, AIA

TRMA
Taniguchi Ruth Makio Architects

This request is hereby submitted for a 1-year extension to the NOA in order to complete the steps for the treatment and mitigation of the endangered tree snails and resume the permitting process.

Please let us know if you have any questions or comments regarding the request above.

Si Yu'os Ma'ase

Michael Blas Makio, AIA

TRMA
Taniguchi Ruth Makio Architects

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

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

June 6, 2019

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Acting Guam Chief Planner

SUBJECT: Commission Brief – Request for Extension - Application No. 2017-30

1. **PURPOSE:** The applicant, NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects submits its request for a one (1) year extension pursuant to Section 5 of Executive Order 96-26 and pursuant to Condition "B" of its Notice of Action Recorded under Instrument No. 920391 for a Zone Variance on Lot 5040-11 and 5040-12, Municipalities of Tamuning and Dededo.

2. **LEGAL AUTHORITY:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances); Section 5 of Executive Order 96-26 and pursuant to Condition "B" of its Notice of Action Recorded under Instrument No. 920391.

3. **APPLICATION SUMMARY:**
As conditionally approved by the Guam Hybrid Land Use Commission (GHLUC) on February 22, 2018, the zone variance request for height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on the subject site. The variance requested is to construct six (6) multi-family residential structures 45 feet and 4 stories above the allowable 30 feet and 3 stories height. The proposed six (6) residential structures is to accommodate 70 dwelling units each for a total of 420 units. Two (2) parking stalls are to be provided for each dwelling unit and of the total 840 stalls, 312 stalls are to be covered parking stalls located on the ground (1st) floor of each six residential structure at 52 stalls per structure. The development also proposes to provide 10 visitor parking stalls and 3 ADA accessible parking stalls for a total of 853 parking stalls on site.

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

We have reviewed the applicants request and in line with our finding, that the elements of the proposed Dos Amantes Residences, as approved by the Commission on February 22, 2018, are still intact. We support the applicants' reason for the delay of the construction of its proposed development and submit its' extension request to the Commission for its action.

Celine L. Cruz

Attachment: Request Package

Case Planner: Frank Taitano

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

File for Record is Instrument Number 920391

On the Year 20 18 Month 04 Day 10 Time 2:54

Recording Fee DE-OFFICIO Receipt No.

Deputy Recorder Jane Yamasaki
JANET YAMASAKI

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change*."**

HYBRID GUAM LAND USE COMMISSION

Department of Land Management
Government of Guam
P.O. Box 2950
Hagåtña, Guam 96932

ORIGINAL
2nd

NOTICE OF ACTION

February 23, 2018
Date

To: **NPLJ, LLC**
c/o Taniguchi, Ruth, Makio Architects
113 Sgt. Henry Pereda Street
Barrigada, Guam 96921

Application No. 2017-30

The Hybrid Guam Land Use Commission, at its meeting on **February 22, 2018**.

____/ Approved ____/ Disapproved **XX/** Approved with Conditions

____/ Tabled

Your request on **Lot Nos. 5040-11 and 5040-12 , Municipalities of Tamuning and Dededo for a Zone Variance .**

NOTICE OF ACTION
NPLJ, LLC
RE: Lot Nos. 5040-11 and 5040-12
Municipalities of Tamuning and Dededo
HGLUC Hearing Date: February 22, 2018

Application No. 2017-30

ZONING

___/ Zone Change***

___/ Conditional Use

XX/ **Zone Variance**

[X] Height

___/ Tentative Development Plan

SUBDIVISION

___/ Tentative

___/ Final

___/ Extension of Time

___/ PL 28-126, SECTION 1(A)

NOTE ON ZONE CHANGE

***Approval by the Guam Land Use Commission of a ZONE CHANGE DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Applicant shall be notified upon action taken by the Governor. [Reference 21 GCA (Real Property), Chapter 61(Zoning Law), Section 61634 (Decision by the Commission).]

SEASHORE

___/ Wetland Permit

___/ Seashore Clearance

HORIZONTAL PROPERTY REGIME

___/ Preliminary

___/ Final

__/ Supplementary (Specify)

MISCELLANEOUS

___/ Determination of Policy and/or Definitions

___/ Other (Specify)

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

COMMISSION DECISION:

The Hybrid Guam Land Use Commission **APPROVED** the applicants request subject to the following conditions:

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

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

Frank P. Taitano 2-27-18
Marvin Q. Aguilar **Date**
Guam Chief Planner

John Z. Arroyo 5/8/18
Chairman **Date**
Hybrid Guam Land Use Commission

Case Planner: Frank Taitano
Cc: Building Permits Section, DPW

NOTICE OF ACTION
NPLJ, LLC
RE: Lot Nos. 5040-11 and 5040-12
Municipalities of Tamuning and Dededo
HGLUC Hearing Date: February 22, 2018

Application No. 2017-30

CERTIFICATION OF UNDERSTANDING

I/We_____ / Mighty MAKO
(Applicant [Please print name]) (Representative [Please print name])

Understand that pursuant to Section 5 of Executive Order 96-26, that a building or grading permit must be obtained for the approved GLUC/GSPC project within one (1) year of the date of recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire.

The Commission may grant two (2) one-year extensions of the above approval period at the time of initial approval.

This requirement shall not apply for application for a Zone Change***

I/We, further **AGREE** and **ACCEPT** the conditions above as a part of the Notice of Action and further **AGREE TO ANY AND ALL CONDITIONS** made a part of and attached to this Notice of Action as mandated by the approval from the Guam Land Use Commission or from the Guam Seashore Protection Commission.

_____ _____ 4/10/2018
Signature of Applicant Date Signature of Representative Date

ONE (1) COPY OF RECORDED NOTICE OF ACTION RECEIVED BY:

_____ _____ 4/10/2018
Applicant **Date** **Representative** **Date**

Reference No.: HGLUC 2017- 30

ACKNOWLEDGEMENT

Filed with the Department of Land Management on 21ST day of MARCH, 2018 in accordance with 21 Guam Code Annotated Section 61620.

DIRECTOR OF LAND MANAGEMENT
or Designee

ACKNOWLEDGEMENT

Filed with the Department of Public Works on 16th day of March, 2018 in accordance with 21 Guam Code Annotated Section 61620.

DIRECTOR OF PUBLIC WORKS
or Designee

A DECISION OF THE GLUC GRANTING A VARIANCE IS NOT FINAL UNTIL 15 WORKING DAYS AFTER FILING OF THE DECISION WITH DPW AND DLM. PERMITS SHALL NOT BE ISSUED TO THE APPLICANT BEFORE IT BECOMES FINAL. (21 GCA §61621)

DECISION GRANTING VARIANCE
WITH FINDINGS
[Pursuant to Title 21 GCA §61616 (a) through (h), (j) and (k)]

Hybrid Guam Land Use Commission

WHEREAS, the following decision of the Hybrid Guam Land Use Commission is made in accordance with 21 GCA, §61105, §61616, §61617, and §61620, now therefore;

BE IT RESOLVED, that on the **22nd** day of **February , 2018**, a hearing of the Hybrid Guam Land Use Commission (GLUC) was held in accordance with notices duly issued to consider the application of **NPLJ, LLC** for a **Zone Variance** (for Height) on Lot Number Nos. **5040-11 and 5040-12**, Municipalities of **Tamuning and Dededo** .

A quorum of the Commission was present. In attendance were:

1.	John Z. Arroyo	Chairman
2.	Victor F. Cruz	Vice Chairman
3.	Conchita D. Bathan	Commissioner
4.	Tae S. Oh	Commissioner
5.	Hardy T.I. Vy	Commissioner
6.	Mayor Melissa B, Savares	Commissioner
7.	Mayor Louise C. Rivera	Commissioner

Appearing for the applicant were: **Mr. Mike Makio and Mr. David Leon Guerrero with Taniguchi, Ruth, Makio Architects**

Also appearing and testifying on the above project was/were:

NONE in favor/against

After considering all the statements and testimony presented by interested parties the GLUC finds that the application for variance is granted on the following grounds: (Note: All five (5) sections should be answered.)

(a) That the application of Title 21 GCA Chapter 61 results in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law. The following facts support such a finding:

That the application as presented by the applicant and the Application Review Committee's Position Statements submitted satisfy the above section.

(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that does not apply generally to other property in the same zone. The following facts support such a finding:

That the application as presented by the applicant and the Application Review Committee's Position Statements submitted satisfy the above section.

(c) That the grant of variance would not be materially detrimental to the public welfare, or injurious to the property or improvements in the zone or neighborhood in which the property is located. The following facts support such a finding:

(d) That the variance will not be contrary to the objectives of any part of the "Master Plan." The following facts support such a finding:

That the application as presented by the applicant and the Application Review Committee's Position Statements submitted satisfy the above section.

(e) That, as to variances from the restrictions of Title 21 GCA §61504, the proposed building will substantially enhance the recreational aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the publics' right to an untrammeled use of the beach and its natural beauty. Facts, which support this conclusion, are as follows:

The above section is not applicable.

The members, after due consideration, voted to approve the application with/without the following conditions:

The vote of the members were as follows:

[7] Ayes [0] Nays [0] Abstentions

This decision was adopted this 22nd day of February , 2018, and shall be filed with the Department of Land Management, and the Department of Public Works as mandated under 21 GCA §61620.

John Z. Arroyo
Chairman, Hybrid Guam Land Use Commission

TRMA
Taniguchi Ruth Makio Architects

April 24, 2019

4-30-2019
RECEIVED
Planning Div. DLM
5/2/19

Mr. Joe Borja, Executive Secretary

Guam Land Use Commission
Department of Land Management
590 S. Marine Corps Drive Suite 733
ITC Bldg. Tamuning, GU 96913

Subj: Request for extension for Dos Amantes Residences GLUC application no. 2017-30

Hafa Adai Mr. Borja,

We are writing on behalf of the owners of the NPLJ, LLC, the owners of Lot nos. 5040-11 and 5040-12 located in Ukudu.

The landowners were granted a height variance from the Hybrid commission in 2018. A Notice of Action was delivered in April of 2018.

The owners have been diligently going through the architectural and engineering processes for the project since that time and have made significant progress.

However the permitting effort for the project has been delayed for several weeks while the Guam Environmental Protection Agency is working to catch up on a back log of permit applications from the last quarter of 2018. The exit of several prior agency directors and installation of new directors and other personnel may have slowed the permitting process for some reviewing agencies.

We had hoped that the permit would have been issued weeks ago, however that has not occurred.

The property owners have gone through the bid process three times in the last year, however there has been a lot of hesitancy for contractors to take on the project because of the lack of available laborers on Guam.

Additionally the number of available contractors has been very small as a large number of local contractors have taken on projects related to the military build-up.

Pursuant to condition "B" of the Commission's approval as noted on the Notice of Action, which states..... " That the applicant shall also ensure compliance to the 1-year restriction that states, a grading or building permit must be obtained

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671/475-8772 • Fax: 671/472-3381 • email: arch@traguam.com

from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "Null and Void" per Executive Order 96-26, Section 5". We respectfully request an extension for the project approval for 12 months which will allow us to do the clearing, grading and infrastructure, roadways construction for the project in addition to launching the construction for the residential buildings.

Please advise us of the steps necessary to get an approval to extend the GLUC approval.

Thank you for your assistance with this request.

Si Yu'os Ma'ase

Michael Blas Makio, AIA, LEED AP
Principal Architect

TRMA
Taniguchi Ruth Makio Architects

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
Government of Guam

P/C $ 70,000 -
P/C $ 458.25 - paid 2/14/19
P/F $ 705.00
$ 1163.25

RECEIVED

BUILDING SAFETY IS NO ACCIDENT

BUILDING INSPECTION & PERMITS SECTION
APPLICATION AND PERMIT FOR CLEARING AND GRADING

Guam Environmental Protection Agency

PERMIT NUMBER G1900017

LOCATION			ENG. SOLID REPORT		Est. Quantity	Permit Fee	Fee Received
District	Block	Lot	Tract	Date Filed	Excav. Cu. Y.D. 9130	$	$
Tamuning/Dededo		5040-11 NEW			Fill Cu. Y.D. 9130	$	By: Date:

Located at ROUTE 15A, UKUDAN (TAMUNING / DEDEDO)

Lot Area: 749,600 Sq. Ft.: 17.15 Acres Overall Dimensions: 842' x 888'

Description of Soil: Fill Material: 2-4 INCH MINUS BASE COURSE / STRUCTURAL FILL

Existing Ground: CORAL

Estimated Starting Date: 4/1/ 20 19 Estimated Completion Date 5/31/ 20 20

Remarks: Phase 1 & Phase 2

Owner: MANTUA DEVELOPMENT GROUP LLC Address: P.O. BOX 20009 A BARRIGADA GU 96921 Phone: 487-2592

Engineer: TRMA Address: 900 [illegible] BUSINESS CTR, GU 96910 Phone: 475-8712

Contractor: CANTON CONSTRUCTION CORP. Address: 626 PALE SAN VITORES RD TUMON, GU 96911 Phone: 686-3046

License Number: CWB16-1231

Date of Application: 2/7/ 20 19 Applicant: Bobby Yung

Application Revised By: Date: 20

TO THE APPLICANT: Permission is hereby given to the above work according to the conditions hereon and according to the approved plans and specification pertaining thereto, subject to compliance with Chapter 70 of the U.B.C. No burning allowed on site unless a burning permint has been issued by the Fire Department.

REMARKS: Not valid without the approval of the Department of Public Works

Issued By:
Mr. Joseph D. Guevara
Building Permit & Inspection Administrator

APPROVAL BY OTHER AGENCIES (Route as indicated)

AGENCY	DATE	SIGNATURE	COMMENTS
✓ Land Management, Zone	2-15-19	[signature]	
✓ Parks and Recreation	3/19/2019	[signature]	Approved as per COA
Guam Power Authority			
G.E.P.A.			
✓ Dept. of Agriculture	3/28/19	[signature]	"Approved for intended purpose only"
GGN Survey Division	2-15-19	[signature]	
✓ Contractor's License Board	3/28/19	[signature]	Lic - valid until 6/30/19
Dept. of Public Works - D/A	3/29/19	[signature]	No Right of Issuance
✓ DEALS Board	3/22/2019	[signature]	Valid Registration

The owner of this building and the undersigned agree to conform to all applicable laws of this jurisdiction.

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

945256

File for Record is Instrument Number _____

on the Year 20 20 Month 2 Day 20 Time 421

Recording Fee DE-OFFICIO Receipt No. DE-OFFICIO

Deputy Recorder: _____

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, January 23, 2020
2:56 p.m. to 5:25 p.m.

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, January 23, 2020
Time of Meeting: GLUC:	1:56 pm - 3:25PM
HYBRID:	1:40 pm - 2:55P

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

COMMISSION MEMBERS	SIGNATURE
Chairman Tae S. Oh	
Commissioner Conchita D. Bathan	
Commissioner Hardy T.I. Vy	Excused
Commissioner Leilani R. Flores	
HYBRID COMMISSION - MCoG DLM 2019-02	
Mayor Louise Rivera, Tamuning	
Mayor Melissa Savares, Dededo	
Mayor Rudy Paco, Mongmong-Toto-Maite	
Mayor Rudy Matanane, Yigo	
HYBRID COMMISSION - MCoG DLM 2017-01	
Mayor Melissa Savares (for Yona)	
Mayor Vicente Taitague, Talofofo	
Mayor Dale Alvarez, Santa Rita	Excused
Mayor Kevin Susuico, Agat	Excused
Joseph M. Borja, Executive Secretary	
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	

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, January 23, 2020
[X]	HLUC	[ ]	Special	Time:	1:40pm / 2:56 pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	2:55pm / 5:25pm

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

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
HARRY Gatewood	Consultant	
RICHARD REED	ARCHITECT	649-5270
Felix Benavente	Ayuda SV	
CARLOS R. UNTALAN	Cond. Use / ZONE CHANGE	6863554
TERRY BROOKS	ISA 16	477 6448
	— Nothing Follows —	

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

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

[X]	GLUC	[X]	Regular	Date:	Thursday, January 23, 2020
[X]	HLUC	[ ]	Special	Time:	1:40pm / 5:25pm
[✓]	Quorum	[ ]	No Quorum	Adjournment:	2:55pm / 5:25pm

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
Ray Brooks	LRA-20	—
Felix Benavente	Same	
Margaret [illegible]	"	
Teddy Brooks	ISA 16	
Jose Untalan	Purpose Court	
	— nothing follows —	

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

GUAM LAND USE COMMISSION

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

Commissioner Leilani R. Flores
Commissioner [Vacant]

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

AGENDA - REVISED

Regular Meeting
Thursday, January 23, 2020@ 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 January 16, 2020 and January 21, 2020]

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

II. Approval of Minutes

- GLUC Regular Meeting Minutes of Thursday, November 14, 2019

III. Old or Unfinished Business [None]

IV. New Business

Conditional Use

A. Application No. 2018-42, the Applicant, Sang Woo Suk represented by Harry D. Gutierrez; request for a Conditional Use permit to allow for the construction and operation of a modular food establishment, on Lot 5378-1EAST-3, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone.
Case Planner: Penmer Gulac

Zone Change

B. Application No. 2019-21, the Applicant, EMC Incorporated represented by Harry D. Gutierrez; request for a Zone Change from "R-2" (Multi Family Dwelling) to "C" (Commercial) zone, for the proposed construction of a two-story commercial complex with retail and office spaces; accessory warehouse/storage, and two (2) residential duplex units on the second floor, on Lot 1123-1-R6, in the Municipality of Mongmong-Toto-Maite.
Case Planner: Penmer Gulac

Subdivision Variance

C. Application No. 2019-26, the Applicant, as represented by Anthony Artero (Estate of Jose C. Artero) represented by FC Benavente, Planners; a request for a Subdivision Variance for lot ratioing for the purpose of lot parceling family distribution, on Lot 11, Tract 34000 (Uranao), in the Municipality of Dededo, in an "H" (Hotel/Resort) zone.
Case Planner: Frank Taitano

Horizontal Property Regime

D. Application No. 2019-10, the Applicant, Harmon Star Corporation represented by Atty. Terrence Brooks, Esq.; requests issuance of a Final Public Report for an existing two-story apartment structure (Tumon Isla 16), consisting of 15 residential units, 1 commercial unit and 32 parking stalls, on Lot 5188#1-7-3NEW, in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone, HPR No. 171.
Case Planner: Celine Cruz

V. Administrative & Miscellaneous Matters

Tentative Subdivision-Extension of Time

E. Application No. 2018-21, TRI Inc. represented by FC Benavente, Planners; request for an Extension of Time pursuant to E.O. 96-26 and Section 62504(b), Chapter 62, 21GCA, for a previously approved Tentative Subdivision Plan for 17 single family residential units, on Lot 2303-R8NEW, in the Municipality of Mangilao, in an "R-1" (Single Family Dwelling) zone.
Case Planner: Frank Taitano

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
DLM Conference Room, 3rd Floor, ITC Bldg., Tamuning, GU
Thursday, January 23, 2020 • 2:56 p.m. to 5:25 p.m.

I. Attendance

Chairman Oh called the regular meeting of the Guam Land Use Commission for Thursday, January 23, 2020 to order at 2:56 p.m., noting a quorum.

Present were: Chairman Tae S. Oh, Commissioner Conchita Bathan, Commissioner Leilani Flores, Legal Counsel Nicolas Toft, Acting Chief Planner Celine Cruz, Planning Staff Frank Taitano, Penmer Gulac and Recording Secretary Cristina Gutierrez.

[Excused: Commissioner Hardy Vy]

II. Approval of Minutes

Chairman Oh before the Commission for approval is the Minutes from the last meeting of November 14, 2019. Commissioners have had the opportunity review the Minutes, and asked for a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the Minutes of the last GLUC meeting held on Thursday, November 14, 2019.

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

Commissioner Flores I second the motion.

Chairman Oh noting no discussion, the motion was put to a vote. All in favor of the motion to approve the November 14, 2019 Minutes say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Flores], all opposed say "nay." **[Motion passed; 3 ayes, 0 nay]**

III. Old or Unfinished Business [None]

IV. New Business

Conditional Use

A. Application No. 2018-42, the Applicant, Sang Woo Suk represented by Harry D. Gutierrez; request for a Conditional Use permit to allow for the construction and operation of a modular food establishment, on Lot 5378-1EAST-3, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone. Case Planner: Penmer Gulac

Penmer Gulac (Case Planner) reads the staff report to include purpose, public hearing results, discussion/analysis, and recommendation. Mr. Gulac also reads the Supplemental Staff Report that addresses the site plan, and elements of the health, safety and general welfare of the community. [For full contents/contexts of the reports, refer to the attached.

[Attachments A & A-1; Staff Report/Supplement Staff Report dated January 17, 2020]

Chairman Oh notes for the record, receipt of the photo of the required billboard notice and acknowledges receipt of the supplemental staff report.

Noting no questions for staff, Chairman Oh invited the applicant's representative to provide a presentation.

Harry Gutierrez (with Carlos Untalan) the establishment is for the owner of Meskla Restaurant. It is a restaurant for call-in and pick-up order type of establishment; there will be no tables and/or chairs at the location. Sufficient parking will be provided to accommodate those who wish to park and eat the food there. They are catering to the schools and government agencies in the vicinity with their hours of operation being from 10:00 a.m. to 5:00 p.m. Mr. Gutierrez added that he spoke with the Mayor (off the record), and the Mayor has asked that a traffic sign be erected indicating right-turn only coming out of the establishment.

Chairman Oh questions for the applicant.

Commissioner Bathan why a modular structure.

Harry Gutierrez this is the least expensive and fastest way to construct the establishment; Mr. Gutierrez added that his client is now having second thoughts and is thinking of changing the container to a small concrete structure with tin roofing instead of a modular structure. Both modular and permanent structures are being considered. These containers are fabricated specifically for the applicant's requirements.

[Discussion ensues]

Chairman Oh comments that he has seen these types of structures. Chairman Oh asked if these are modular steel structures that are typhoon proof.

Harry Gutierrez responds "yes."

Commissioner Bathan is the structure portable.

Harry Gutierrez responds "yes."

Chairman Oh comments that he is trying to understand the relationship, and asked if Meskla is the applicant.

Harry Gutierrez explains that Meskla is renting from the owner.

Chairman Oh again asked if Meskla was the applicant.

Harry Gutierrez the applicant is both Meskla and the owner.

Chairman Oh who is Mr. Sang.

Harry Gutierrez he is the landlord.

Chairman Oh Mr. Sang is the authorized representative for Meskla.

Harry Gutierrez Meskla is leasing the parcel from the applicant.

Celine Cruz the lease agreement in the application notes that it is pending approval of the Commission.

Chairman Oh so noted. Chairman Oh comments on the neighbors who were complaining about the presence of trash that was coming from the apartment building.

Harry Gutierrez a 4-foot high cyclone fence has been erected at the subject lot. Mr. Gutierrez added that DPW repaired the drainage system which is a temporary fix to address the runoff issue.

Chairman Oh asks if the landlord is on island. [Mr. Gutierrez responds that he believes that he is.]

Chairman Oh notes the concerns voiced at the public hearing was regarding trash and oppositions with no specific reasons noted.

Nick Toft (Legal Counsel) comments that the Commission should note that the photo of the flooding that was submitted by Ms. Dydasco during tropical storm Ting-Ting a few years back.

Chairman Oh the photo is dated 2004. Chairman Oh asked Mr. Gutierrez if he knew how often it flooded in this area.

Harry Gutierrez replies that it is very rare, and according to the Mayor of Mangilao that it is rare; there is a drain system.

Chairman Oh there was discussion between the Mayor and Department of Public Works to put a culvert.

Harry Gutierrez believed that one was installed because the whole front yard was dug up.

Chairman Oh was a Resolution received from the Mayor's Office.

Penmer Gulac responded that one was not received; however, he spoke with Mayor Ungacta at the public hearing and stated that he is in support of the project.

Chairman Oh comments made by GEPA on their concerns about the flooding and the need to have a storm drainage system.

[Discussion ensues on flooding issue]

Chairman Oh asked if there were any infrastructure concerns and/or traffic impact.

Harry Gutierrez responds that there are no infrastructure issues.

Chairman Oh access in and out of the establishment. It was mentioned by Mr. Gutierrez that it will be right turn only –

Harry Gutierrez the establishment will use the same access that the apartment building is using. And if the traffic signal is not in place, the Mayor has asked that they install a right-turn only sign.

Chairman Oh noted that there were no further comments and/or questions for the applicant, Chairman Oh opened the floor for public comments.

Public Comments [Noting no public comments, Chairman Oh closed the public comment period for this application.]

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

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for a conditional use permit to allow the construction and operation of a modular food establishment on Lot 5378-1EAST-3, in the Municipality of Mangilao in an "R2" (Multi Family Dwelling) zone; subject to the applicant adhering to the ARC conditions and requirements as noted in the official position statements.

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

Commissioner Flores I second.

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

Next item on the agenda –

Zone Change

B. Application 2019-21, the Applicant, EMC Incorporated represented by Harry D. Gutierrez; request for a Zone Change from "R-2" (Multi Family Dwelling) to "C" (Commercial) zone, for the proposed construction of a two-story commercial complex with retail and office spaces; accessory warehouse/storage, and two (2) residential duplex units on the second floor, on Lot 1123-1-R6, in the Municipality of Mongmong-Toto-Maite.
Case Planner: Penmer Gulac

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

[Attachment B – Staff Report dated January 16, 2020]

Chairman Oh questions for staff.

Commissioner Bathan inquired on what was currently on the M-1 zone to the right of the subject lot.

Penmer Gulac it is currently a vacant lot; formerly the old GW High School. Across the street is the First Hawaiian Bank, Coast 360. And next to the property is the 4J Rental company that is zoned commercial. There is also a building behind them owned by Setiadi Architects that the GLUC rezoned to commercial and further down towards the traffic light is GHURA.

[Discussion ensues on establishments in the area.]

Chairman Oh notes for the record, that the Commission received additional documents pertaining to this application; signed report from the Chief Planner, property map and billboard sign. Chairman Oh comments that he did not receive a copy of the public hearing results.

[Chairman Oh called for a recess in order to give Staff a chance to make copies of the public hearing that the Commission did not receive in their staff report. Commission recessed at 3:42 p.m. and reconvened at 3:54 p.m.]

Chairman Oh Commissioners had a chance to review the public hearing results, and had no questions for staff. Chairman Oh inquired if an MPC Resolution was received.

Penmer Gulac the Mayor was present at the public hearing and supports the project.

Chairman Oh noting no questions for staff, the applicant was asked to come forward and provide a presentation.

Harry Gutierrez (with Carlos Untalan) the owners/applicants is own the Shop-4-Less stores, and he is currently renting the building in Maite. He explains that his client is having issues with insufficient parking at his current location because of the other businesses at the same building.

The site plan included in the application will be slightly changed; the design for the access will be from the old George Washington street and moving it to the bottom since it is too close to the intersection. The ponding basin is also being redesigned plus reducing the size of the building. At the public hearing, the owner of the apartment building provided testimony and was complaining about the ponding basin. The original owner of the apartment building is Attorney Joaquin Arriola who owns the entire lot. He sold the apartment and kept the lot located in the front

and had it subdivided. As a result of the subdivision, what they referred to as a ponding basin, half of it ended up on the other lot. The applicant would like to build his own ponding basin.

Chairman Oh how can a lot be subdivided with the presence of ponding basin. Chairman Oh asked if this was one lot?

Harry Gutierrez explained that it really isn't a ponding basin, but more of surface ground. It is more of a swale drain. Because of the way the apartment building is situated and to keep the parking lot from flooding, they dug up the lot; and when they subdivided the lot, the ponding basin was not taken into consideration. The owner advised the realtor that the ponding basin is not part of this.

[Discussion ensues on the ponding basin.]

Chairman Oh is there way to check if one owner wanted to subdivide his lot and the ponding basin is on the other side.

Celine Cruz looking at the FY2007 map, surveyors are required to note any of those types of features. There is nothing indicated on this map, and Ms. Cruz suspects that this is not really a ponding basin.

Chairman Oh comments that this is more of a swale than a ponding basin.

Harry Gutierrez yes, it is.

Chairman Oh in reading this letter from JPR, Inc. dated December 10, 2019 it makes mention that the ponding basin was connected to JPR's parking lot.

Harry Gutierrez replies that it is only at the edge of the parking lot based on the survey map, and that there is no connection.

[Discussion ensues on the ponding basin, flooding and storm water runoff issues]

Chairman Oh asked if there were any concerns on utilities, traffic that was brought.

Harry Gutierrez the design will be based on Public Works request; entrance will be away from the intersection.

Chairman Oh it also states in the application that there is a request for a residential duplex.

Harry Gutierrez it was an idea that the applicants originally thought of, but may not proceed with the residential units depending on their budget.

Chairman Oh is this a two-story building.

Harry Gutierrez the second floor is where the proposed duplex will be situated; however, his clients have deleted that from the plans.

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

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

Chairman Oh if there is no further discussion, Chairman Oh is ready to entertain a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve Application No. 2019-21, for EMC Incorporated, requesting for a zone change from "R-2" to "C" zone, for the proposed construction of a two story commercial complex with retail and office spaces; accessory warehouse/storage, and two residential duplex units on the second floor, on Lot 1123-1-R6, in the municipality of Mongmong Toto Maite; subject to the ARC official position statements and permitting agencies' requirements.

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

Commissioner Flores I second.

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

Next item on the agenda –

Subdivision Variance

C. Application No. 2019-26, the Applicant, Estate of Jose C. Artero in care of Anthony Artero represented by FC Benavente, Planners; is requesting approval for a lot ratioing for a proposed family subdivision, on Lot 11, Tract 34000, in the Municipality of Dededo, in an "H" (Hotel/Resort) zone. Case Planner: Frank Taitano

Celine Cruz Ms. Cruz disclosed to the Commission that she has a conflict of interest with this application, and asked that she be excused.

Chairman Oh noted Ms. Cruz's conflict and was excused.

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

[Attachment C – Staff Report dated January 15, 2020]

Chairman Oh noting no questions for staff, the applicant was invited to make their presentation.

Felix Benavente (representing Anthony Artero) explains that this is a simple and uncomplicated application. The law requires that cannot be greater than 2:1 lot area ratio. Mr. Benavente continues to explain the sketch plan. He also added that Lot 11, in the distribution of the Court, the Judge wanted to ensure fair and equity distribution for the family. Each heir will have part of the cliff as well as part of the ocean.

In summary, Exhibit B in the supplement application is the map, Exhibit C shows how Lot 9 and 10 was but up, and Exhibit D is a copy of the map where certain lots were cut up in a certain; all approved by the previous Commission.

Nick Toft (Legal Counsel) inquires if there was a reason why the right-of-way ends before Lot 10162. Mr. Toft's concern that it maybe landlocked and brings up a second concern for him because he maybe conflicted with this application and may need to recuse himself. Tract 34000 is on the ocean side (continues to describe how to access the T34000).

Felix Benavente that is a Chamorro Land Trust lot.

Nick Toft the cliff is along the east side of the property (bottom part of the map) and it extends out and then cuts to the ocean at the bottom of Lot 10162 [continues to describe location of Lot 10162]. Mr. Toft feels he maybe conflicted because he is providing advice to the GLUC and representing the CLTC. There may be a need for another attorney to avoid that conflict.

Frank Taitano the matter was brought up by one of the members of the CLTC; the request was that the family provide to the CLTC lot; and my response was that there are two laws and that is in reference to landlock parcels. It is a law that mandates that the government provide a private owner access. Then there is another law that states that if the government is to acquire property for access then the government has to compensate a landowner. Mr. Taitano's recommendation to the CLTC was to negotiate with the private landowner.

[Lengthy discussion ensues.]

Chairman Oh the CLTC property does not have any other access, it is landlocked.

Felix Benavente there is no another access at all.

[Additional lengthy discussion on property access ensues]

Nick Toft suggested that he conducts additional research on the issue, and essentially may need to bring in another Attorney, wearing two hats at the same time that might be conflicting.

Felix Benavente Mr. Chairman, may I ask if the Attorney is recusing himself or not? (SIC)

Nick Toft Mr. Toft is requesting for a continuance to determine if he needs to recuse himself or it may not even be a matter of concern; however, he would like to confirm whether this type of issue

should even be considered by the GLUC and if there is a need for separate representation for CLTC and himself.

Chairman Oh there was a court order; and make revisions to the probate, access issues may be more than the Commission itself.

Nick Toft it could be and did not know off the top of his head, and asked for a continuance.

Felix Benavente the court order had approved this map and Mr. Benavente was sure that there was consideration of this issue. The court order created Lots 7, 8, 9, 10, 11 with a cul-de-sac at the end not connected to Lot 10162. Is the Commission asking the owners of Lot 11, are we putting a burden on them; it has taken 40-years to get to this table [SIC]. Since this time, some of the people noted on the signature blocks have since passed away. They are happy to have gotten to this point and asks the Commission to consider approving this application and any concerns that Legal Counsel for both GLUC and CLTC, can be brought up at another time.

[Discussion ensues]

Frank Taitano asked of Mr. Toft if he recuses himself, can the Commission continue to make a decision on this application today.

Nick Toft responds "yes, they could."

Chairman Oh considering the situation, Chairman Oh feels more comfortable receiving the additional research on this issue. It is prudent at this time that the Commission receives feedback and clear direction on how to move forward. Mr. Chairman states that this is his personal opinion and was unsure how the rest of the members feel.

Felix Benavente Mr. Chairman, we ask for approval of this application and that it not be continued.

Commissioner Bathan what is the urgency for approval of this application today.

Felix Benavente it has taken 40-years to go before this body, and from what he understands, Mr. Artero is ill, and should another signer for this map pass, it will go through another probate case.

Chairman Oh you are asking for a conditional approval today with the exceptions of Lots 13 and 12.

Felix Benavente not with the exception of Lots 12 and 13; but to have discussion with the Chamorro Land Trust Commission. The other option is to delay the decision until a response is received from the CLTC.

Chairman Oh responds that is what he was suggesting and that this application be continued at the next GLUC meeting pending results of research conducted by Legal Counsel. Commission would feel more at ease in making a decision with further guidance from Legal Counsel.

Chairman Oh asked of Mr. Benavente if he was okay with continuing this application until February 13, 2020.

Felix Benavente responds that he would be more comfortable with an approval today; however, if this is the desire of the Commission.

Chairman Oh it is the order of this Commission that this application be continued to the next GLUC meeting of Thursday, February 13, 2020.

Next item on the agenda –

Horizontal Property Regime

D. Application No. 2019-10, the Applicant, Harmon Star Corporation represented by Atty. Terence Brooks, Esq.; requests issuance of a Final Public Report for an existing two (2), two-story apartment structure (Tumon Isla 16), consisting of 15 residential units, 1 commercial unit and 32 parking stalls, on Lot 5188#1-7-3NEW, in the municipality of Tamuning, in an "H" (Hotel/Resort) zone, HPR No. 171. Case Planner: Celine Cruz

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

[Attachment D – Staff Report dated January 15, 2020]

Chairman Oh previous Commission action was in 2008, and that was for a TDP (Tentative Development Plan) which was approved by the Commission and moved forward and completion of the project. Is there a requirement to report back to the GLUC upon completion of the TDP.

Celine Cruz responds "no."

Chairman Oh upon completion of the project, was there intention to convert to condominiums.

Celine Cruz it came in as an apartment complex. There is one commercial unit that exists. They intended all 16 units to be residential units; however, from the beginning of construction to the end of the construction, the fire protection system requirements changed and they could only obtain an occupancy permit for 15 residential units and 1 commercial unit under their existing fire suppression system. The delay in completion of the project was due to a change in their contractor.

Chairman Oh how will the one commercial unit be utilized.

Celine Cruz it can be sold; but, there are provisions in their By-Laws that it can only be used for certain activity and also specifies that no gaming rooms, etc. are allowed. There are specific uses noted in the Declaration.

Terence Brooks (representing Harmon Star Corporation) as Ms. Cruz noted this was a very unfortunate circumstance. Mr. Brooks' client obtained the building permit for the plans but it did not include fire suppression system for 16 units, and that was how the building was constructed as a 16-unit development. However, as stated, because of the change in the Code, it forced them to come up with this work around because of that requirement. With respect to the Mechanics Lien that was filed in 2016; and once a mechanic's lien is filed, a move to file a suit on that will be 90-days after the filing, and if you fail to do that then that liens may still be on record and may not be enforceable. Mr. Brooks added that his client is considering filing a suit to have that lien removed. We ask that this request be approved by the Commission.

Chairman Oh it does state that all protection for prospective buyers have been adequately considered.

Terence Brooks yes it has.

Commissioner Bathan it is revealed that there is a lien on the property.

Celine Cruz it does show, and it is a matter of disclosure to the potential buyers.

Chairman Oh is it insurable.

Terence Brooks they would ensure it, but most likely there will be an exclusion. Mr. Brooks adds that his client is strongly considering filing an action.

Chairman Oh is there a statute of limitation on a mechanic's lien after it's filed, the applicant has to move within 90-days; however, after 90-days the lien holder has to be taken to Court. Mr. Chairman adds that it is his understanding is that after 10 or 15 years you don't have to take a lien holder to Court.

Nick Toft there is a provision in the law, but will have to do research to get the exact provision.

[Discussion ensues]

Chairman Oh when was construction completed.

Celine Cruz construction was completed in 2016 and received occupancy August 2016.

Chairman Oh there were no further comments, Chairman Oh opened the floor for public comments.

Public Comments [None noted, public comment period was closed by Chairman Oh]

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

Commissioner Flores I would like to make a motion to approve the issuance of a Final Public Report for Harmon Star Corporation for two, two-story apartment structures (Tumon Isla 16), consisting of 15 residential units, 1 commercial unit and 32 parking stalls, on Lot 5188#7-3NEW, in the municipality of Tamuning, in an "H" (Hotel/Resort) zone, HPR No. 171. This approval will expire 13-months from date of recordation of the Notice of Action.

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

Commissioner Bathan I second.

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

V. Administrative and Miscellaneous Matters

Tentative Subdivision – Extension of Time

E. Application No. 2018-21, TRI Inc. represented by FC Benavente, Planners; request for an Extension of Time pursuant to E.O. 96-26 and Section 62504(b), Chapter 62, 21GCA, for a previously approved Tentative Subdivision for 17 single family residential units, on Lot 2303-R8NEW, in the municipality of Mangilao, in an "R-1" (Single Family Dwelling) zone. Case Planner: Frank Taitano

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

[Attachment E – Staff Report dated January 8, 2020]

Chairman Oh no questions for staff noted, applicant was asked to provide a presentation.

Felix Benavente it is a very simple application. The one-year time has closed on the permitting window and they are asking for an extension. A building permit application is being routed; and signatures have been obtained with the exception of Guam EPA and Parks and Recreation. There were issues with water pressure but has since been resolved, and GWA has signed off on the permit.

Chairman Oh [not questions noted from Commission] states that the original NOA was issued January 29, 2019 and the request was submitted December 10, 2010. Chairman Oh expressed their appreciation in submitting the request for an extension in a timely manner. The applicant has

also submitted an updated DPW building permit. Chairman Oh added that his concern is that the cost of improvement is at a cost of four-million dollars. The Commission approved this under the regular GLUC and not Hybrid. The application was submitted with a cost of less than 3-million.

Nick Toft it started under 3-million cost, and Attorney Toft did not find it necessary to switch to a hybrid commission and was comfortable with moving forward with the Commission granting the applicant's request.

[Discussion ensues on cost of the project]

Chairman Oh stated that he is comfortable moving forward given Legal Counsel's justification. Noting no further discussion, Chairman Oh was ready to entertain a motion.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for an extension of time pursuant to E.O. 96-26 and Section 62405(b), Chapter 62, 21GCA, for a previously approved Tentative Subdivision for 17 single family residential units, on Lot 2303-R8NEW, in the municipality of Mangilao, in an "R1" zone; subject to the condition that the applicant continues to adhere to the conditions as noted in the original Notice of Action dated December 13, 2018.

Commissioner Flores I second the motion.

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

Chairman Oh the next meeting is February 13, 2020 and we will have quorum. We do have four members in the Commission, I would like to suggest that we vote for a new Vice-Chairman. I will consider any nominations at this time.

Commissioner Bathan I recommend Commissioner Hardy Vy and close the nomination; upon Commissioner Vy's acceptance of the position.

Commissioner Flores I second.

Chairman Oh nominated for the Vice Chairperson is Commissioner Vy, and nomination is closed. Chairman Oh advised that he has spoken to Commissioner Vy who has accepted the position. Formal announcement will be made at the next meeting that Commissioner Vy is attending.

All in favor of the motion say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Flores]

Next item on the agenda – Chairman Oh asks for a motion for adjournment.

VI. Adjournment

Commissioner Bathan made a motion to adjourn today's meeting, seconded by **Commissioner Flores**; with all in favor.

Approved by:

Date approved:

2/13/2020

Tae S. Oh, Chairman
Guam Land Use Commission

Transcribed by:

M. Cristina Gutierrez, Recording Secretary
Planning Division, DLM

ATTACHMENT A

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

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

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671-649-LAND (5263)

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671-649-5383

January 17, 2020

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner, Acting

Subject: Staff Report - Application No. 2018-42; GLUC Meeting, January 23, 2020

1. PURPOSE:

a. **Application Summary:** The Applicants, Sang Woo Suk (Auth Agent), C/O Harry D. Gutierrez (Consultant), are requesting for a Conditional Use Permit to allow the construction of a modular food establishment on Lot 5378-1EAST-3, in the Municipality of Mangilao, in an "R-2" (Multi-Family Dwelling) zone

b. **Legal Authority:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61303 & 61306 (b) (Conditional Uses), in "R-2" (Multi-Family-Dwelling) Zones.

2. FACTS:

a. **Location:** The subject site is located along a 100-foot right-of-way known as Vietnam Veterans Highway, also known as Route No. 10, as the main access to, and adjacent to the Bank of Guam and Payless Supermarket and across Department of Public Health and KFC Restaurant and approximately 300 feet east of Legacy Square commercial complex in Mangilao.

b. **Lot Area:** 777 Square Meters or 8,363 Square Feet. (Leased Property)

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

d. **Field Description:** The lot is presently vacant; and, has been cleared and is being maintained. The topography is flat all around within its borders. Other land uses and activities are commercial businesses, a bank, restaurants, a supermarket, government facilities and offices, daycare, single family dwellings, duplexes, and numerous commercial activities within along Route 10, towards the north within 100-2,500 feet radius of the property.

e. **Masterplan:** Residential – Medium to High Density /Commercial

f. **Community Design Plan:** Residential – Medium to High Density, with Mix Uses of residential, commercial, public health facilities and post graduate institutions.

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** July 27, 2018

b. Date Heard By ARC: August 9, 2018

c. **Public Hearing Results:** March 19, 2019 (**See Attachment "A"**)

4. DISCUSSION and STAFF ANALYSIS:

As presented in the application, the applicants request was reviewed by Land Planning and the application review committee agencies. The proposed use is allowed under a "Conditional Use Permit". In addition, there is no required variances in order to construct and operate a modular/mobile food establishment on this site, under a Commission approved Conditional Use permit. Further, such approval is subject to conditions and permitting requirements of government entities.

In our analysis of the application in reference to the Zoning law, as well as the results the public hearing at the Mayor's office, the majority in attendance supports the application with a few objections from the neighbors. And lastly, the positive response from the Application Review Committee (ARC) Agencies (no objections with noted conditions and permitting requirements), we have concluded that the proposed use is compatible with existing mixed uses of residential and commercial activities in the proximity of the subject lot and along Vietnam Veterans Highway (Route No. 10), and that, it is our findings that this request is in line with the requirements of 21 GCA, Sections 61303 & 61306(b) Conditional Uses, of the Zoning Law and, find it proper that it be considered favorably by the Guam Land Use Commission.

5. RECOMMENDATION: Planning staff Recommends **Approval** with conditions that the applicants adhere to ARC Position Statements and the permitting agencies requirements.

CELINE L. CRUZ
Guam Chief Planner, Acting

CASE PLANNER: Penmer C. Gulac
With Attachments

Attachment – A : Public Hearing Minutes of March 19, 2019

Re: Staff Report - Application 2018-42, Condition Use Permit
Lot 5378-1EAST-3, Municipality of Mangilao
GLUC Meeting : January 23, 2020

The required public hearing was held at the Mangilao Mayor's Office/Community Center on March 19, 2019, at 6:05 P.M. Present were, the Case Planner, Penmer Gulac, Mr. Harry Gutierrez (applicant's representative), Mayor Alan Ungacta, a few neighbors, a total of 8 in attendance for the hearing.

The Case Planner presented the proposed project and purpose of the hearing, and read the positions statements from, Department of Public Works, Guam Waterworks, Guam Power Authority, Guam Environmental Protection Agency, Bureau of Statistics and Plans, Department of Parks and Recreation/Historical Preservation Office and Department of Agriculture with no objection, and with all agencies provided requirements, conditions and other permitting requirements noted for the project. Mr. Gutierrez highlighted details of the application and intentions of the owners for the conditional use. Mr. Gutierrez also presented and discussed the time frame of the application process, proposed construction, improvements, parking, and compliance of the building code, permits required for development on the site; safe access to and from the site and area of development and the daily operations of the food establishment as well as solid waste disposal and he further ensured those in attendance the mitigation projects have been identified with DPW for flooding in and near the site, that a ponding basin on site basin may help reduce the flooding issues. The applicant/owner will cooperate to be a good neighbor, as well to keeping the site clean of trash and comply to all public health requirements.

Public comments and concerns that were noted are as follows:

Christine Dydasco, a neighbor next to the apartment: Concerns of trash from the apartment, and water runoff flooding in her property.. and she opposes on the proposed project and her concerns needed to be addressed by responsible parties..

Staff Planner: Advised Ms. Dydasco that, Mr. Gutierrrez (Consultant/Rep) had met with the apartment owner on keeping the area clean and a wire cyclone fencing or some type of barrier will be erected to prevent trash from going into the adjacent neighbors ..

Jordan Megofna, Neighbor: Concern of the traffic and safety of crossing the road from Mariano Road and Payless Market have created accidents ;

Mayor Ungacta: He stated its been years the Mayors Council requesting for a culvert to collect runoffs to resolve flooding on the site. The mayor further stated he is working with DPW to mitigate flooding and traffic issues in the immediate area. A traffic light in front of Payless and Mariano Road intersection on Route 10 is being planned and have been submitted to Governor for funding approval. Mayor Ungacta also stated he supports the application and that all permits must be obtained and that the establishment is adjacent to commercial zone activities and they will employ local residents.

Mr. Gerard Macaraeg (neighbor):
He was commenting on the increased traffic flow in the area as it is near other commercial activities, but stated that this can be resolved by the Mayor and government agencies. He immigrated from the Philippines lives in Mangilao and said nothing compares to traffic in Manila, Philippines, it can be resolved for the safety of all concerned, he supports the application as it will benefit the community..

Planning Staff Summary of Public Hearing:

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

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

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

There hearing was adjourned at 7:00 p.m.

Penmer Gulac, Case Planner

Penmer Gulac

From: Penmer Gulac
Sent: Thursday, January 16, 2020 3:04 PM
To: 'tomodness@yahoo.com'
Subject: FW: Conditional Use #2018-42
Attachments: CondUse 2018-42001.pdf; CondUse 2018-42.pdf; CondUse 2018-42000.pdf

Hafa Adai Ms. Jeanette /Mr Thomas Odness Per request, on the Conditional Use; I apologize for the lateness of the information, the land use commission hearing will be on January 23, 2020, to approved/disapprove/table, etc., and you can still submit any comments via email to me on the application before January 23, 2020. This will be included on the report to the commission.

For your information, your property is located behind Payless Market and is within 500 feet of the subject lot application and you received a certified mail informing you of the proposed land use application.

Your understanding is appreciated.

Respectfully,

Penmer Gulac, Case Planner

From: Penmer Gulac
Sent: Thursday, March 14, 2019 12:06 PM
To: 'dydascos@yahoo.com'
Subject: Conditional Use #2018-42

Hafa Adai..Mathew.. I have attached the documents..info..as you were within the 500 foot radius notification (as a land owner)of a Land Use Commission application...public hearing for March 19, 2019.

The proposed is a mobile canteen on front of the apartment. You may send an email for any comments, support, objections, etc.. its for the community and will need building permits and occupancy to operate.

If you have comments,etc..send it to me and I will cc the Mayor and the land use commission.

I am the project planner and will be conducting the public hearing.

It was good to hear from you today..take care and God Bless.

Regards,

Mr Gulac

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



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

Website:
http://dlm.guam.gov

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 26, 2019

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
APR 01 2019
CLTC/GALC/GLUC

To: Acting Director,
Joseph M. Borja

From: Land Agent Supervisor

Subject: Christine Dydasco letter

- On March 26, 2019 (7:45am), contacted Christine Dydasco at 998-4471.
- Confirm with Christine Dydasco mailing address: P.O. Box 1536, Hagatna, Guam 96932.
- Christine Dydasco confirm she picked up the certified mail for Application 2018-42, Sang Woo Suk.
- Christine Dydasco opposed to Application 2018-42, Sang Woo Suk, Conditional Use Permit to allow for the construction and operation of a modular food establishment.
Her main concern is the apartment next door is constantly dumping trash along her property, the chain link fence is dire need of repair and when it rains her property gets flooded.
- Christine would be grateful for the director and the case planner, Penmer Gulac to visit her property and she will explain her opposition and concerns in reference to Sang Woo Suk application.
- There is no GLUC hearing scheduled or forthcoming for Application 2018-42, Sang Woo Suk.
- Attached is an aerial color photo and property map (436FY95) for Lot 5378-1-E-4-R2, Mangilao.

Ernest Santos

Feb 4 2019

To whom it may concern,

This is regarding the Application No 2018-42.

Thomas and Jeanette Odness oppose the Construction and operation of a modular food establishment on lot No. 5378-1 East 3, in the Municipality of Mangilao, in an R-2 (Multi family dwelling) zone. Please Email me any information regarding this project at tomodness@yahoo.com

Thank You

Jeanette Odness

Lot number L2424-2

* sent to email

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAR 15 2019
CLTC/GALC/GLUC

Application No. 2018-42

Tom Odness <tomodness@yahoo.com>

Tue 3/12/2019 4:46 AM

To: LAND MGT DIRECTOR <LANDMGTDIRECTOR@land.guam.gov>;

RECEIVED
3/12/19

To whom it may concern

I did send a certified letter opposing the project but I would like to know if there is a map to show exactly where this construction and operation of a modular food establishment would be? The Lot No.5378-1EAST-3, in the municipality of Mangilao in a multi family dwelling zone.

Thank You
Thomas Odness

To case Planner
3/12/19
Liz Duenas Project pkt

Doc. No. 35GL-20-1606.





3/20/19

To whom it may concern:

I, Chrispin Dyfan property owner L5378-1-E-4-R2-
oppose to the Application No 2018-42, Sang Woo Suk
represented by Harry D. Gutierrez on Lot No. 5378 1 East-3 in
Mangilao as you can see in the two photos that there is a
flooding issue on my brother Derick Dyfan property
L5378 1-E-4-1 run off water from L5378 1 East-3.

Chrispin Dyfan
998-4471

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAR 21 2019
CLTC/GALC/GLUC
3/25/19

RECEIVED
Grace 03/20/19
Jamie 03/25/19

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

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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

January 15, 2020

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2018-42 (Conditional Use)

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

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

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

Provide a preliminary site development plan to show the following:

a) must provide a site development plan showing the exact location of the proposed modular food establishment;

b) incorporate the schematic layout of the structure

c) entry/exit be wide enough for public access; and

d) location of the solid waste area must not hinder the public right of way

DPW recommends approval, subject to the comments provided by the Application Review Committee (ARC) with conditions that prior for building permit application requirements, a complete set of design drawings with all engineering disciplines needed must be in conformance with the latest building code edition signed by a registered engineer or architect.

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a Conditional Use Permit for the proposed construction and operations of a Modular Food Establishment in the Municipality of Mangilao.

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

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Note that the nearest public sewers are located along Carnation road approximately 800 feet away both north and south of the subject lots. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage; as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

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

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

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

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

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

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

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

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

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

GUAM POWER AUTHORITY (GPA):

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations;
3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities;

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

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

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
The staff of this Agency reviewed the application and determined that this Agency does not have any objections provided the owner and/or contractor will address the all requirements during the building permit clearance; See Attached position statement.

DEPARTMENT OF PARKS AND RECREATION (DPR):
We reviewed the subject application submitted by Harry D. Gutierrez, Consultant, on behalf of the owners/Agent San Woo Suk, across the Public Health and Social Services, noting that lot offer no likelihood of historical or cultural properties on site, and therefore has no objection to the approval of the subject application; See attached position statement.

DEPARTMENT OF AGRICULTURE (DoAg):
Agriculture has reviewed the subject lot for the "Conditional Use" for a proposed construction of a Modular Food Establishment. The Agencies has no issues with proposed request and finds no impacts to agricultural production, coastal zones, wetland habitat and endangered species. See attached position statement for other conditions and requirements of the agency.

BUREAU OF STATISTICS AND PLANS (BSP):
Has no objection (See attached Position Statement).

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

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

DEPARTMENT OF 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,
Guam Chief Planner, Acting

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN

1973

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

17-3304 MARIANAS AVENUE, HYATT BARRIGADA [illegible] FINDUS ONLINE AT EPA.GUAM.GOV

MB 10/25

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

OCT 25 2018

Tao Oh,
Acting 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. 2018-42 – Conditional Use Permit Application for a proposed Modular Food Establishment on Lot 5378-1EAST-3, in an "R-2" (Multi Family Dwelling Zone, Municipality of Mangilao, Guam; for SANG WOO SUK V.P. (Auth Agent)

The staff of this Agency reviewed the application and determined that this Agency does not have objection provided the owner and/or contractor will address the following requirements during the building permit processing and occupancy permit clearance as follows: ✓

1. The wastewater must be connected to a GWA public sewer system.
2. A storm drainage system must be provided pursuant to the requirements of Guam Soil Erosion Sediment Control Regulations (GSESCR) and CNMI and Guam Stormwater Management Manual.
3. Provide a grease trap and maintain and operate for compliance with Individual Wastewater Disposal System Regulation and Guam Clean Water Act.
4. All potable water plumbing pipe fittings and fixtures must comply with the 2011 (USEPA) Reduction of Lead in Drinking Water Act and Guam Lead Ban Act.

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

for
WALTER S. LEON GUERRERO
Administrator

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor

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

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

10/24

Received 10.24.18

MEMORANDUM

TO: Director, Department of Land Management

FROM: Acting Director

APPLICANT: Sang Woo Suk (Authorized Agent)

APPLICATION NO: 2018-42

SUBJECT: Modular Canteen Zoned "R-2", Lot 5378-1East-3, Mangilao

Buenas yan Hafa Adai! The applicant is proposing to construct a modular food establishment in an "R-2" (Multi-Family Dwelling) zone on the above subject property. The modular unit will have food service operation with a floor space of 414 square feet. The total lot area of the leased property is approx. 777 square meters or 8,363 square feet in the Municipality of Mangilao.

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:

- must provide a site development plan showing the exact location of the proposed modular food establishment;
- incorporate the schematic layout of the structure;
- entry/ exit must be wide enough for public access; and
- location of the solid waste area must not hinder the public rights of way

DPW recommends approval, subject to the comments provided by the Application Review Committee (ARC) with conditions that for building permit requirements a complete set of design drawings with all the engineering disciplines needed must be in conformance with the latest building code edition signed by a registered engineer or architect.

Should you have any questions, please contact Mr. Max Manzano, P.E., @ (671) 486-3095, Chief Engineer for the Division of Capital Improvement Projects (CIP- Vertical) or Maryrose M. Wilson, Engineer III @ (671) 646- 3235 or 646-3224. **Dangkulu na Si Yu'os Ma'ase!**

10/23/18

ANDREW S. LEON GUERRERO

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

OCT 0 1 2018

MB10/4

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

MEMORANDUM

To: Chairman, Guam Land Use Planning

Via: Executive Secretary, Department of Land Management

From: Director, Bureau of Statistics and Plans

Subject: **APPLICATION NO. 2018-42**
LOCATION: 5378-1EAST-3, Municipality of Mangilao
APPLICANT: Sang Woo Suk c/o HD Gutierrez
PROPOSED USE: Conditional Use Permit to Construct a Modular Food Establishment in a "R-2" Multiple Dwelling Zone

***Håfa Adai*!** The applicant, Sang Wook Suk, represented by Mr. Harry D. Gutierrez, is requesting a conditional use permit for the proposed construction of a modular food establishment on Lot 5378-1EAST-3 in a "R-2" Multiple Dwelling Zone in the Municipality of Mangilao.

The subject lot is 777 square meters or 8,363 square feet and is located along Route 10 (Vietnam Veteran's Highway). The applicant proposes to construct a 414 square foot full food service operation/restaurant with kitchen, outside dining area, loading area, 14 parking spaces to include two (2) ADA stalls for persons with disabilities. The adjacent surrounding properties include single family homes, apartment complexes, KFC Fast Food, Payless Supermarket, Bank of Guam, Department of Public Health and Social Services, the University of Guam, Father Duenas Memorial High School, convenience stores, and laundromat/water outlets.

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

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as "Village Center" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (e) Village Center:

"The Village Center category is intended to provide flexibility for a compatible mix of residential, commercial, public facility, medical and other service uses, and open space uses at a scale and pattern that is consistent with traditional Chamorro villages and neighborhoods (similar to the urban neighborhoods proposed the Hagatna Redevelopment Masterplan). Uses may be mixed vertically, such as retail street level, with residential above, or horizontally, with a mixed of uses next to each other in separate buildings. The designation applies to the existing Dededo and Yigo villages, on a smaller scale to Mangilao and Barrigada, along with two new areas in the northern part of the Island. Flexibility is encouraged in this category, recognizing that the exact mix and configuration of uses must be responsive to community needs and history. Future implementation may include development standards to ensure preservation of existing historic structures. Development should occur in a manner that creates a central focal point and supports bicycle and pedestrian linkages to the surrounding areas."

The Bureau finds that the proposed project is in line with the NCGLUP's Future Land Use Map designations.

Aquifer Protection. The Mangilao property lies within the boundary of the Northern Guam Lens Aquifer (NGLA). The NGLA is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island's population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA as Guam's sole source aquifer. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply. The primary goal for protecting the aquifer is to safeguard human health and the environment by maintaining water quality for continued use.

The Bureau is concerned that the proposed construction of the modular food establishment will trigger adverse effects in the aquifer if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site. Moreover, the proposed project increases impervious surfaces in the form of roads, rooftops, driveways, and parking lots. These surfaces greatly increase runoff volume accelerating erosion and carry pollutants into the aquifer.

The Bureau requires that the applicant:

1. Implement best management practices (BMP) to manage stormwater runoff on site, prevent runoff from flooding surrounding neighbors, and avoid contaminating Guam's sole source aquifer in accordance with the CNMI and Guam Stormwater Management Manual.

   The Bureau requires the applicant to incorporate bio-retention features to help management stormwater. Additional BMPs may be found in the manual in the Bureau's website www.bsp.guam.gov under the Guam Coastal Management Program.

2. Consult with Guam EPA for an aquifer protection review pursuant to the "Federal Safe Drinking Water Act," SS 1424 and Guam Safe Drinking Water Act, " 10 GCA Chapter 53.

3. Coordinate with the Guam Waterworks Authority (GWA) for water resource conservation and ensure the NGLA is protected through compliance with the "Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-97, and the Guam Water Resource Development & Operating Regulations.

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 Sang Woo Suk prevent adverse impacts from construction site runoff by employing best management practices.

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

Low Impact Development (LID) and Stormwater Management. This area has seen an increase in impervious surfaces throughout the years. Between the years 2005 and 2011, the impervious surface area increased by more than 5 (five) percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality. The Bureau is concerned that additional impervious surfaces may exacerbate flooding in the area and surrounding neighbors if BMPs are not in place to manage runoff on the property.

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

Considering the growing concerns of flooding due to increased impervious surface, the applicant is required to 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.

Historic Preservation. The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division, that the proposed development does not affect historic properties.

In conclusion, the Bureau **recommends Approval with conditions** and finds that construction activities and impervious surfaces from the proposed project can adversely affect Guam's sole source aquifer and surrounding neighbors if BMPs are not in place to manage stormwater runoff on site. Therefore, the Bureau advises the applicant, Sang Woo Suk, to comply with above listed conditions if this application is approved.

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

GUAM **WATERWORKS** AUTHORITY

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



MB 10/1

MEMORANDUM

September 20, 2018

TO: Michael Borja, Director, Department of Land Management

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

CC: Mayor Allan R.G. Ungacta, Municipality of Mangilao (mayorallan.ungacta@yahoo.com)

SUBJECT: Conditional Use Permit Application for proposed Modular Food Establishment on Lot 5378-1EAST-3, in an "R-2" (Multi-Family Dwelling) Zone, Municipality of Mangilao, Guam, App 2018-42

APPLICANT(S): SANG WOO SUK V.P. (Auth Agent)

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a Conditional Use Permit Application for proposed construction and operations of a Modular Food Establishment in the Municipality of Mangilao.

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

The application indicates that the lot is not located in a wellhead protection zone, however, a production well is located within approximately 300 feet of the subject lot.

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 Conditional Permit Application:

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and

mcg 10/2

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. 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.

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

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

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

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

8. 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.

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

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

Department of 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:
RC2018-0746

9/21

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
SEP 20 2018
11:53
CLTC/GALC/GLUC

September 17, 2018

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Position Statement on DLM Application No. 2018-42:
Conditional Use Permit to Allow Construction of a Modular Food Establishment Within a "R-2" (Multi-Family Dwelling) Zone, Lot No. 5378-1EAST-3, Municipality of Mangilao, Guam

We reviewed the subject application submitted by Harry D. Gutierrez, authorized representative, on behalf of the applicant, Authorized Agent, Sang Woo Suk. Our review of the project area, which is directly across the Department of Public Health and Social Services, indicated little to no likelihood that historic properties may be adversely affected by the project's construction requirements. Therefore, we have no objection to the approval of the application.

However, the subject development must go through the proper DPW permitting process for review by various Government of Guam agencies, including DPR, and may be subject to additional development requirements.

Please do not hesitate to contact our office if you have any question with regards to our position statement.

William N. Reyes 17SEP18

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

9/21

Conditional Use Request for Application 2018-42 on Lot 5378-1EAST-3

Department of Agriculture
Dipåttamenton Agrikottura

Lourdes A. LeonGuerrero
Governor

Joshua F. 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

Chelsa Muna-Brecht
Director

March 19, 2019
Memorandum

To: Director, Department of Land Management

Attn: Executive Secretary, Guam Land Use Commission

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for a "Conditional Use" request from in an "R2" zone for application 2018-42 on Basic Lot 5378-1 EAST-3 Located in Mangilao. (Milo Development Inc. c/o Harry D. Gutierrez).**

Agriculture has reviewed the subject lot for a "Conditional Use" request to allow for the proposed construction and operation of a Modular Food Establishment. Agriculture has no issues with the proposed request and finds no impacts to agricultural production, coastal zones, wetland habitat and endangered species. Our agency will recommend approval of the current proposal for the "Conditional Use" zoning request with the following statements, conditions and requirements as set forth in *21 GCA Chapter 61 Section 61637.*

As rapid development occurs in this region of the island the destruction and removal of native tree species increases the potential for pollution and the loss of **Guam's Northern Aquifer** the primary source of drinking water that supplies the island. As such our agency requires that the developer incorporate a landscaping plan to address this deficiency in development. Re-planting of native trees in a dedicated section of the lot is vital in maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. In addition the trees will help provide shading for diners and patrons visiting the establishment. These trees can also help reduce wind damage to the mobile structure during heavy storms and help to cool the area from direct exposure to the sun.

Conditional Use Request for Application 2018-42 on Lot 5378-1EAST-3

Please contact our **Agricultural Development Services & Forestry** divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our **Department of Agriculture Organic and Environmentally Demonstration Farm.**

For questions or concerns regarding Agriculture's position please contact our office at 300-7973. Thank you in this regard.

JOHN C. BORJA
Acting

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
CLTC/GALC/GLUC

September 19, 2018

MEMORANDUM

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

From: General Manager

Subject: Lot 5378-1 EAST-3, Municipality of Mangilao, (SangWoo Suk); Conditional Use Application for construction and operation of a modular food establishment. **Application No. 2018-42**

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: SangWoo Suk
Location: Lot 5378-1 EAST-3, Mangilao
Type of Application: Conditional Use
GLUC/GSPC Application No. 2018-42
Brief Project Description:
Construction and operation of a modular food establishment.

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.

ATTACHMENT A-1

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
DIRECTOR

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Website:
http://dlm.guam.gov

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

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

January 22, 2020

Memorandum

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner, Acting

Subject: Supplemental Staff Report - Application No. 2018-42; GLUC Meeting, January 23, 2020

PURPOSE:

a. **Application Summary:** The Applicant, Sang Woo Suk (Auth Agent), C/O Harry D. Gutierrez (Consultant), are requesting for a Conditional Use Permit to allow the construction of a modular food establishment on Lot 5378-1EAST-3, in the Municipality of Mangilao, in an "R-2" (Multi-Family Dwelling) zone

b. **Legal Authority:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61303 & 61306 (b) (Conditional Uses), in "R-2" (Multi-Family-Dwelling) Zones.

DISCUSSION AND STAFF ANALYSIS:

Pursuant to Section 61304(b),(8) of the Zoning Code as a conditional use in an "R-2" (Multi Family Dwelling) zone and as specified by Section 61303 of the Zoning Code, is a specific use permitted upon approval by the Commission of **the site plan**, including but not limited to, **disposal of sewage**, **access, parking**, **structural location** and **dimensions of buildings**, **impact of the proposed use on adjacent land uses** and **accompanying covenants that may include performance standards.** The Commission shall also consider such other elements as may be reasonably related to the **health**, **safety** and **general welfare** of the community. With this in mind, we provide the following:

SITE PLAN

Based on the Site Plan submitted by the applicant, the leased portion of Lot 5378-1EAST- 3 in Mangilao is approximately 78 feet by 98 feet or 777 square meters or 8,364 square feet. The lot is open and flat and directly abuts Route 10.

DISPOSAL OF SEWAGE

The applicant submits that public sewer is available and the structure will be connected to the sewer system. The existing sewer line is a 6 inch line.

ACCESS

Ingress and egress will be from Vietnam Veteran's Memorial Highway (Route 10), a one hundred foot (100') wide public easement. Internal traffic circulation is planned to be at 12' wide as noted in the site plan under Tab C.

PARKING

A total of 14 parking spaces is planned for customers with 2 ADA parking spaces. An additional 4 parking spaces will be for employees.

STRUCTURAL LOCATIONS and DIMENSIONS OF BUILDINGS

Structures within the leased portion of Lot 5378-1EAST-3 will be located away from the existing apartment building and from Route 10. The building is approximately 23 feet long by 18 feet wide and is a single story building.

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

The applicant submits that the proposed food service will not have a significant impact on the immediate and surrounding land uses. Existing uses in the area include numerous commercial activities, if approved, the food establishment will provide another eatery venue in the area but will offer an additional option from the existing food services/restaurants in the area.

Concerning utilities, all utility infrastructure is in place with the capacity to support the proposed food establishment. Flooding and traffic were of concern by adjacent landowners and considerations are being made to provide for drainage towards the front of the lot by the lessee. Regarding traffic, the Mangilao Mayor indicated the new traffic system that is expected to come on line in the area will help ease traffic movement and lessen safety concerns relative to pedestrian crossing, etc.

The site is compatible with adjacent land uses as it abuts Route 10, a major thoroughfare. The proposed retail / business activities are expected to draw in customers who travel through Mangilao as well as support the existing population in Mangilao.

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

5. **RECOMMENDATION:** Planning staff Recommends **Approval** with conditions as noted in staff report dated January 17, 2020; that the applicants adhere to ARC Position Statements and the permitting agencies' requirements.

CELINE L. CRUZ
Guam Chief Planner, Acting

CASE PLANNER: Penmer C. Gulac
With Attachments

ATTACHMENT B

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
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671-649-LAND (5263)

Facsimile:
671-649-5383

January 16, 2020

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Subject: Staff Report - Application No. 2019-21; GLUC Mtg: January 23, 2020

1. PURPOSE:

a. **Application Summary:** The applicant, EMC Incorporated c/o Harry D. Gutierrez is requesting approval for a Zone Change from "R-2" (Multi-Family Dwelling) to "C" (Commercial) for proposed construction of a commercial complex with retail space, office spaces, an accessory warehouse /storage and (2) residential duplexes on the second level on Lot 1123-1-R6 , Municipality of Mongmong-Toto-Maite.

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

2. FACTS:

a. **Location:** The subject lot is located in Maite along the southern side of Route No. 8, approximately 1,000 feet east (towards Barrigada) from the junction of Route No. 8 and East Obrien Dr., and across first Hawaiian Bank.

b. **Lot Areas:** 7,029 SM or 75,659 SF or a total of 1.89 Acre (map is attached)

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

c. **Field Description:** The subject lot is undeveloped with all utility infrastructure connection within 100-150 feet of the subject lot. Topography slopes from the western border (along Route No. 8 to Camacho Street (eastern border).

e. **Masterplan:** Residential (Med-High)

f. **Community Design Plan:** Urban Residential (Med-High Density)

g. **Previous Commission Action:** None

Doc. No. 35GL-20-1606.

3. **APPLICATION CHRONOLOGICAL FACTS**:

a. Date Application Accepted: April 28, 2019
b. Public Hearing Results: May 16, 2019 (Attachment A)

4. **DISCUSSION and STAFF ANALYSIS**:

The applicant's request is for the rezoning and approval of Lot 1123-1-R6, municipality of Mongmong-Toto-Maite from "R-2" (Multi-Family Dwelling) zone to "C" (Commercial) zone in order to develop the site for full commercial development of the lot for retail spaces, offices and other permitted uses on the site once it is rezoned to commercial.

Pursuant to Section 61630 (Requirements for Changes) of Chapter 61 (Zoning Law) 21GCA, where it states; "The Commission may, with the 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:

A. **Public Necessity**:
The proposed zone change of the lot and proposed uses are compatible with existing commercial, light industrial and some residential uses in this area. The proposed land use and activities will provide the community with retail, office spaces as well as professional office space and other permitted commercial services for the publics' needs. This area is within central Guam and near the Airport and business districts. This area will be developing into more commercial type activities to accommodate a growing island population and the continuation of the military build-up in the next few years and beyond. There will be greater demands for retailing, offices, services, restaurants, for products/commodities, and import/export activities that will be available to the island community both private, military and the general public.

B. **Public Convenience**:
The proposed zone change of the lot will afford public convenience for much needed retail, office spaces and commercial/professional offices and service-related activities at this location as it is centrally located that is consistent with the current land uses as an extension of the existing commercial zone along Route 8. The location is prime and ideal, central and conveniently near areas with large population to better provide goods and services and related activities in the immediate area and to a growing island community.

C. **General Welfare**:
The proposed zone change of the lot will protect the general public, the immediate surroundings and properties by being consistent for commercial zone within close proximity of commercial lots and commercial zone with existing commercial and light industrial activities along Route No. 8. There are vacant lots, single family dwellings, multi-family complexes, commercial businesses, bank/credit union, car dealership, and churches nearby and on the south, south west that will be protected and buffered by a public access, as well as with landscaping of the site and all setbacks to be in compliance with the zoning law. Development plans for the proposed project site will ensure protection of adjacent neighbors, the public, and the environment, by adhering to all permitting requirements, as well as all local and federal regulations. The location is prime, ideal and is central to all areas with large population, and is very near commercial districts and the Airport. The proposed new commercial development will be requiring products and other services from other commercial local vendors. The establishment of this site for commercial activities, and its operations will provide employment to local

residents and contribute to the island's economic development and prosperity. The applicants/owner will ensure that all conditions and other requirements by permitting agencies are to be adhered to from clearing, construction and to final occupancy.

The proposed development will be fenced if required, and landscaped and will be kept in good order to buffer, protect neighbors, and to provide an orderly and appealing site.

In our analysis, Planning staff finds that the proposal to change the designated zone of the subject lot and site to be compatible to existing land uses of the immediate area and surroundings, the facility while not impacting nearby residential and retail sales areas and from a planning perspective supports the applicant's position that the proposed development is the best use of the subject property.

This request has received no objection as noted on the Position Statements from ARC members/agencies with conditions and in addition, the results of the community public hearing, was positive and the Mayor stated during the hearing he supports the application, provided all permitting requirements, regulations are adhered to for the proposed development. In conclusion, we find the above and the context of the application provides justification that the public necessity, convenience and general welfare, supports a positive action on the zone change request.

RECOMMENDATION: Planning Staff recommends approval, subject to the ARC official position statements and permitting agencies' requirements.

CELINE L. CRUZ
Acting Chief Planner

Attachments: ARC Summary of Position Statements
Case Planner: Penmer Gulac

Attachment – A : Public Hearing Results/Minutes ; December 11, 2019
Ref: Zone Change Staff Report, ZC 2019-21

GLUC Hearing January 23, 2020

The required public hearing was held at Mongmong-Toto-Maite Mayor's office/Community Center on December 11, 2019 at 6:10 PM, present were DLM Case Planner and Mr. Harry Gutierrez (Representative), also present was Mayor Paco and adjacent neighbors, a total of 8 attendees were present at the hearing.

The Case Planner presented the application and purpose of the hearing, and read all the position statements received from the ARC agencies, DPW, GWA, GPA, GEPA, BSP, DPR/HPO & Dep of Agriculture ; Mr. Gutierrez highlighted on the application, construction development of the site and discussed operations and also addressed ponding basin requirements to mitigate surface storm water runoffs on site and ensured the public that the applicant/owners will comply to all other permitting requirements and any conditions imposed by permitting agencies.

Public Comments, concerns, responses noted as follows:

JPR Inc., owners of JPR Apartments: Regarding flooding and ponding basin on new development for EMC , they have concerns and object to removal of the existing ponding basin in use to miminize rainwater flooding; otherwise JPR has no objections to the EMC development. Suggest that larger ponding basin be on site and around the property ..

Mr Harry Gutierrez (Rep): Stated that EMC will reassess the proposed ponding basins for the new complex and a French drain type systems is planned and if other flood mitigation is needed to minimized flooding they will cooperate with the permitting agencies and comply with all requirements, they want to be a good neighbor, ensure that the general welfare and safety, for the surrounding neighbors are addressed, as well as mitigate noise levels on site during daily operations and that the site will be landscaped and kept clean.

Mayor Paco: Expressed his support, and stated he will work closely with EMC for the development proposed, this development will again have new jobs for our residents, good for our community.

There were no major concerns or objections to the application during the hearing.

Hearing was adjourned at 7pm.

Penmer Gulac, Planning Staff

JPR, INC.

Residential | Lease | Rental

December 10, 2019

Chairman, GLUC or
Executive Secretary, GLUC

c/o Department of Land Management
Land Planning Division
PO Box 2950 Hagatna, Guam 96932

Rec'd 12/11/19 P. Calvo Land Plan Div

To whom it may concern:

This is in response to your letter dated November 25, 2019 regarding the application filed by EMC Incorporated by Harry Gutierrez for a Zone change from "R-2" (Multi Family Dwelling) to "C" (Commercial) zone, for the proposed construction of a commercial complex with retail space, office spaces, an accessory warehouse/storage and two(2) residential duplexes on the second floor level, on lot 1123-1-R6 (land adjacent to JPR Apartment) in the Municipality of Mongmong-Toto-Maite.

July 06, 2019, we sent a letter to Mr. Eddie dela Rosa of EMC Incorporated regarding our concern and objection to their plan to remove the existing ponding basin for JPR Apartment which is located to their newly acquired land next to JPR's parking lot.

Our only concern is that once an establishment is built in the adjacent land, the existing ponding basin connected to our parking lot drainage will be eliminated and over time, our area will be flooded from all the rain water coming from the main road and higher grounds around JPR.

I humbly ask you to consider that when JPR Apartment, formerly known as Gumma Arrot Apartment, was built the previous owner of both LOT 1123-1-6 and Lot 1123-1-R6 have designed the parking lot drainage system and the ponding basin as it is. Any future changes will affect not just all families residing in our apartment but all other residential establishments in that area.

With further consideration, I am hoping that the new establishment, both with its purpose and structure, will be beneficial not just to its owner and occupants but also to everyone else in the community.

Sincerely,

Amarjit Sachdev
President – JPR, Inc.

415 Chalan San Antonio Road Tamuning, Guam 96913 STE. 401A (Rooftop)
Telephone: (671) 989-0408 | Fax: (671) 646-9744
Doc. No. 35GL-20-1606.

residents and contribute to the island's economic development and prosperity. The applicants/owner will ensure that all conditions and other requirements by permitting agencies are to be adhered to from clearing, construction and to final occupancy.

The proposed development will be fenced if required, and landscaped and will be kept in good order to buffer, protect neighbors, and to provide an orderly and appealing site.

In our analysis, Planning staff finds that the proposal to change the designated zone of the subject lot and site to be compatible to existing land uses of the immediate area and surroundings, the facility while not impacting nearby residential and retail sales areas and from a planning perspective supports the applicant's position that the proposed development is the best use of the subject property.

This request has received no objection as noted on the Position Statements from ARC members/agencies with conditions and in addition, the results of the community public hearing, was positive and the Mayor stated during the hearing he supports the application, provided all permitting requirements, regulations are adhered to for the proposed development. In conclusion, we find the above and the context of the application provides justification that the public necessity, convenience and general welfare, supports a positive action on the zone change request.

RECOMMENDATION: Planning Staff recommends approval, subject to the ARC official position statements and permitting agencies' requirements.

CELINE L. CRUZ
Acting Chief Planner

Attachments: ARC Summary of Position Statements
Case Planner: Penmer Gulac

EMC INCORPORATED

SHOP-4-LESS

P.O. BOX 3627 HAGATNA, GUAM 96932 TEL.: (671) 479-5553/633-5551 FAX: (671) 479-5554 SHOP4LESS671@GMAIL.COM

April 16, 2019

JPR, Incorporated
415 Chalan San Antonio
Tamuning, Guam 96931
Attention: Mr. Paul Sachdej

Dear Mr. Sachdej,

I was given your name as the point of contact for JPR, Inc. I understand JPR, Inc. owns the JPR Apartments formerly known as Guma Arrot. I am writing in behalf of my company EMC Incorporated which recently purchased Lot Number 1123-1-R6 in Mongmong-Toto-Maite.

This lot is located in front of the JPR Apartments and is adjacent to its parking area. During the processing of this transaction, it was noted by the surveyor that the existing ponding basin located on lot 1123-1-R6 is connected to JPR Apartments' parking lot drainage system.

During my meetings with my design team, it was brought to my attention that in order for my company to fully utilize the property, I have to eliminate the existing ponding basin that serves your parking area.

I understand that you may need time to address this situation. This letter is provided as notice that you have up to 6 months to address your needs for your parking area drainage system. The six month period will end on October 16, 2019. Thereafter, my company may begin the project, which can include the immediate backfilling of the ponding area.

Please feel free to contact me if you have any questions via email at edcdelarosa@yahoo.com or you may call my cellphone at 483-0718.

Sincerely,

Eddie de la Rosa
EMC, Incorporated

JPR, INC.

Residential | Lease | Rental

July 06, 2019

EMC INCORPORATED

Dba SHOP-4-LESS

PO Box 3627 Hagatna, Guam 96932

Dear Mr. De la Rosa:

This is in response to your letter dated April 16, 2019 regarding your plan to eliminate the existing ponding basin that serves our parking area.

I am aware that as the new owner of the lot located in front of JPR Apartment, adjacent to our parking lot, you are entitled to do as you please with the lot but the existing ponding basin was required and has been approved by the Department of Public Works when JPR Apartment was built by the previous owner. It was already designed to be where it is currently located.

Also, to my understanding, the previous owner has required before that any future buyer of the lot shall NOT remove the existing ponding basin, otherwise, the lot would not have been sold.

I would deeply appreciate it if you could please discuss your plan again with your design team. I am confident that they will be able to come up with a solution/design that will be beneficial to everyone.

Thank you for reaching out to me, I really appreciate it. Should you have any question/concern, please feel free to contact me via e-mail at jimsachdev@hotmail.com or call me at 689-4878.

Sincerely,

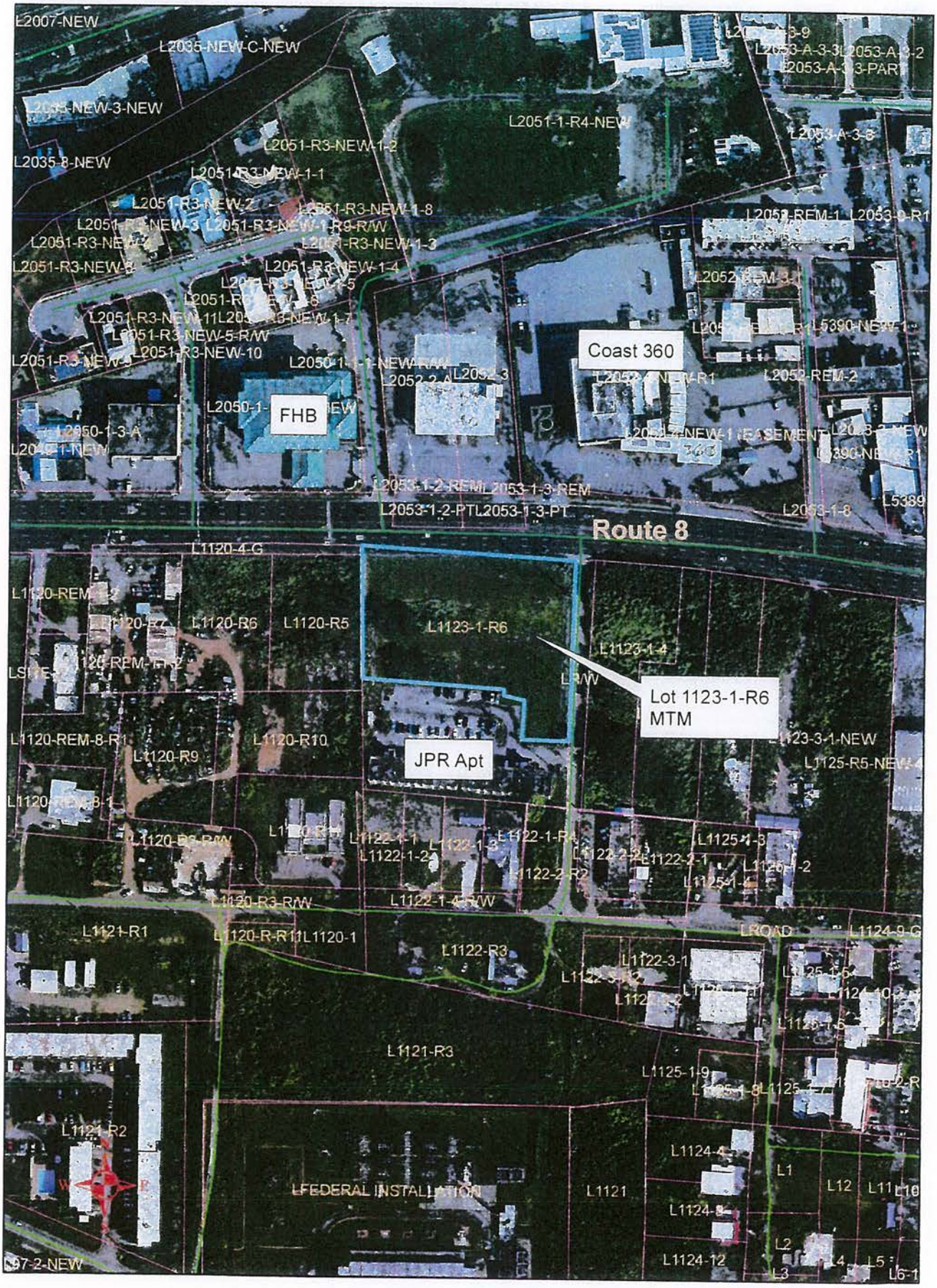
Amarjit Sachdev

President

JPR, Inc.

415 Chalan San Antonio Road Tamuning, Guam 96913 STE. 401A (Rooftop)
Telephone: (671) 989-0408 | Fax: (671) 646-9744

APPLICATION NO. 2019-21
EMC Inc.



Doc. No. 35GL-20-1606.

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
DIRECTOR

January 15, 2020

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2019-21 (Zone Change)

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

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

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

1. Access Roads- ingress/egress must be wide enough for public access. Shall be coordinated with Division of Highways (Right of Way Section).
2. Traffic Impact Analysis/study shall be coordinated with DPW, Division of Highways (Traffic Management Control Section)
3. Parking Requirements – Parking stalls and layout (compact, standard and accessible stall) shall meet the American Disability Act (ADA) requirements:
4. Solid waste – location of the commercial trash bins container shall be in an area that will not hinder the Public Right of Way and flow of traffic.
5. Provisions for Drainage Disposal Design to be support with calculations.
6. Consideration must me given for potential off-site drainage entering the property, as the lot elevation in the vicinity of route 9 is lower that the main road.
7. Revise site plan to reflect additional parking along frontage with route 8 & as required for this development.

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

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "R2" (Multi-Family) to "C" (Commercial) zone for the proposed construction of a commercial complex building for retail, office and service shops, and accessory warehouse/storage, and 2 residential duplexes on the 2nd level to make it compatible with existing commercial uses along Route No. 8.

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

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone change application, (See Attached Agency Position Statement for requirements and Conditions)

GUAM POWER AUTHORITY (GPA):

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

A. Comments and Recommendations Concerning GPA requirements:

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

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

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

B. General Comments:

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

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submitted their position statement with no objections and provided requirements and recommendations (See Attached)

BUREAU OF STATISTICS AND PLANS (BSP):
Has submitted Position Statement with no objection, and provides comments and recommendations (See attached).

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):
Has submitted their Position Statement with no objection, concerns, comments and recommendations (See Attached).

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

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

DEPARTMENT OF AGRICULTURE (DoAg):
Has submitted their Position Statement /AIS and has no objection, with comments and provides requirements and recommendations (See Attached).

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
Guam Chief Planner, Acting

Attachments: ARC Position statements
Cc: Executive Secretary, GLUC

Department of Parks and Recreation
Dipattamenton Plaset yan Dibuetsion
Government of Guam
Director's Office, Parks and 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:
RC2019-0148

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUL 02 2019
7/2/19
CLTC/GALC/GLUC

June 3, 2019

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: GLUC No. 2019-21, Zone Change Application
Lot No. 1123-1-R6, Mongmong, Municipality of Mongmong, Toto, Maite
EMC Incorporated (Owners), Rep. by: Harry D. Gutierrez, Consultant
Case Planner: Penmer C. Gulac

We reviewed the subject DLM application and have no objection to the Zone Change Application. However, the proposed construction of the commercial complex, retail office spaces, accessory warehouse/storage, and residential duplexes is within and/or in close proximity of the former GW High School, and the 5th Service depot. Therefore, the proposed construction will have a potential to affect historic properties present in the area. We will work closely with the applicant to address these concerns when the DPW permitting process gets underway.

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

Sincerely,

R. Ybanez

Richard Y. Ybanez
Acting Director

7-3-19 cc

Department of Agriculture
Dipattamenton Agrikottura

Lourdes A. LeonGuerrero
Governor

Joshua F. 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

Chelsa Muna-Brecht
Director

September 30, 2019

ORIGINAL

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
OCT 08 2019
CLTC/GALC/GLUC

Memorandum

To: Director, Department of Land Management

Attn: Executive Secretary, Guam Land Use Commission

From: Director of Agriculture

Subject: **"Agricultural & Environmental Impact Statement" for a "Zone Change" request for application 2019-21 from an "R-2" to a "Commercial" for the future construction of a complex to house retail space, an accessory warehouse and 2 residential units on the second level on Lot 1123-1-R6 located off of route 8 and N Old GW Chalan in Maite . (EMC incorporated c/o Harry Guitierrez consultant).**

Department of Agriculture (DoAgri) has reviewed the subject lot for a "Zone Change" request from an "R-2" to a "Commercial" zone for the purpose of constructing a complex that will house retail space, residential units and an accessory warehouse. DoAgri has found no negative impacts to any agricultural activity, coastal waters, wetlands or protected habitat. The project does not pose any negative impacts to these sensitive and protected areas. 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.*

The application mentions very little with regard to mitigation measures that will be implemented in the project should it be developed. DoAgri will require that a comprehensive plan be incorporated to ensure proper steps are taken to introduce a landscaping plan that addresses loss of native habitat. As part of the landscaping plan indigenous tree species must be used as proper barriers to prevent run-off material from clearing and grading. Runoff will affect adjacent lots and government rights of ways. The lot presently has several mature trees located at the south east portion of the lot that may be used as part of the landscaping plan if they do not impact the footprint of the proposed building.

By including a landscaping plan that addresses habitat loss, the native tree species that are planted will filter out contaminants that eventually leak into **Guam's Northern Aquifer.** A green landscaping plan will prevent that and help preserve and maintain a healthy ecosystem.

The **Department** of Agriculture has several programs and personnel that can assist you in developing a plan to address these issues. Please contact our **Agricultural Development Services & Forestry** divisions for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used, visit our **Department of Agriculture Organic and Environmental Demonstration Farm**. The Agricultural Development Services division can also provide **vetiver grass** to project applicants to incorporate for erosion control on farms as well as developments that occur in areas that are prone to high impact erosion.

For questions or concerns regarding Agriculture's position please contact our office at 300-7973. Thank you in this regard.

Chelsa Muna-Brecht

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
Director
JESSE G. GARCIA
Deputy Director

Memorandum

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
NOV 14 2019
CLUC/GALC/GLUC

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

FROM: Director, Department of Public Works

APPLICATION NO.: EMC Incorporated

APPLICATION NO.: 2019-21

SUBJECT: Zone Change from Multi Family Dwelling ("R-2") to Commercial ("C"), Lot No.: 1123-1-R6, Mongmong-Toto-Maite, Guam

Bueñas yan Håfa Adai! The above applicant is requesting a zone change from (R-2") to ("C") to allow and build a commercial building for retail spaces, office spaces, service shops, storage space and two (2) residential duplexes on the 2nd level. The lot area is approximately 7,029 square meters or 75,659 square feet located in the Municipality of Maite, Guam.

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

1. Access Roads – ingress/egress must be wide enough for public access. Shall be coordinated with Division of Highways (Rights of Way Section).
2. A Traffic Impact Analysis/study shall be coordinated with DPW, Division of Highways (Traffic Management Control Section).
3. Parking Requirements – parking stalls and lay-out (compact, standard and accessible stall) shall meet the American Disability Act (ADA) requirements.
4. Solid Waste – the location of the commercial trash bin container shall be in an area that will not hinder the Public Right of Way and flow of traffic.
5. Provisions for Drainage Disposal Design to be supported with calculations.
6. Consideration must be given for potential off site drainage entering the property, as the lot elevation in the vicinity of route 9 is lower than the main road.
7. Revise site plan to reflect additional parking along the frontage with Route 8 as required for this development.

DPW recommends approval, subject to the comments provided by the Application Review Committee (ARC) with conditions that for building permit application requirements, a complete set of design drawings with all the engineering disciplines certifications to be present. The design must conform with the latest international building code edition signed and stamped by Guam Registered Engineers Architects.

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

If you have any questions, please contact Ms. Maryrose M. Wilson, Engineer III for the Division of Capital Improvement Projects @ (671) 646-3225. Dangkulu na Si Yu'os Ma'ase!

VINCENT P. ARRIOLA

CC: MTeimoury

542 North Marine Drive, Tamuning Guam 96913 ● Tel (671) 646-3131 / 3259 ● Fax (671) 649-6178

GUAM POWER AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
MAY 2019
10:09
CLTC/GALC/GLUC
5/23/19

May 15, 2019

MEMORANDUM

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

From: General Manager

Subject: Lot 1123-1-R6, Municipality of MongMong-Toto-Maite, (EMC Incorporated); Zone Change Application from "R-2" (Multi-Family Dwelling) to "C" (Commercial) to construct a commercial complex. **Application No. 2019-21**

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 the 34.5KV Line (Power Line Easement) MA-PWRSYS(8-60) and Parcel 37 under map Y&D No. 100182.**

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

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: **Guam Power Authority**
Applicant: EMC Incorporated
Location: Lot 1123-1-R6, M-T-M
Type of Application: Zone Change
GLUC/GSPC Application No. 2019-21
Brief Project Description:
"R-2" to "C" to construct a commercial complex.

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

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

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

   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

5/21/19
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

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

JUN 18 2019

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
JUN 20 2019
9:00 6/21/19
CLTC/GALC/GLUC

Memorandum

TO: Director, Department of Land Management

ATTN: Division of Planning

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **Application No.** 2019-21
Location: 1123-1-R6, Municipality of Mongmong-Toto-Maite
Applicant: EMC INC. c/o Mr. Harry D. Gutierrez
Proposed Use: Zone Change "R-2" Multi Family Dwelling to "C" Commercial Zone for the Construction of a Commercial/Retail Building

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, EMC INC., represented by Mr. Harry D. Gutierrez, request a Zone Change for the future construction of a commercial complex for retail, office spaces, service shops, an accessory warehouse/storage, and 2-residential duplexes on the 2nd level on Lot 123-1-R6, Municipality of Mongmong-Toto-Maite.

The property is 7,029 square meters or 75,659 square feet and can be accessed through Marine Corp Drive and Purple Heart Memorial Highway. The surrounding land uses include single family dwellings, condominiums, private business, school, government power plant and religious center. Basic infrastructure such as water and power including sewer is available and located 50 feet from the location.

The property is located on the Hagatna Watershed. Having an accurate picture of an area's landscape and understanding how that landscape is changing is crucial for any planning effort. According to NOAA's Coastal Change Analysis Program (C-CAP) land cover data from 2011, this watershed has changed by 10.52% which is primarily due to an increase in impervious surfaces.

In terms of developmental impacts, 50.59% of the Hagatna Watershed is developed and 30.91% is comprised of impervious surface. An area is at greater risk of flooding the more an area is developed and levels of impervious surfaces are high. Areas with impervious surface rates that exceed the 12 to 15% will negatively impact the water quality with severe degradation when rates reach 25%. Effects of runoff can be seen in Hagatna Bay during heavy rain events that result in channeling and loss of beach profile along untreated storm drain outfalls, sediment plumes from the mouth of the Hagatna River, algae blooms along the shoreline and occasional noxious orders as result in poor water quality in the bay.

Effects Test Review Analysis and Conditions

Land Use. According to 5GCA, Article 2, Chapter 1, Kabales na Planu Para Guahan is approved as an element to 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 "Urban District" designation in the Land Use Plan.

The application for a zone change is in line with the GCDP.

Development Policy

Executive Order 78-37, (B) Development Policy, (2) Urban Development states "uses permitted only within commercial, Multi-Family, Industrial, and Resort-Hotel zones; and uses requiring high levels of support facilities shall be concentrated within urban districts as outlined on the Land-Use districting map."

The application for a zone change is in line with the current Land Use Plan.

Resource Policy

Executive Order 78-37, (C) Resource Policy, (3) Water Quality states "Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas." The Guam Territorial Seashore Protection Act (21 GCA Ch. 63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas while the Water Pollution Act (10 GCA Ch. 47) is in place to protect the Northern Guam Lens Aquifer (NGLA). The property is located on the boundary of Guam's aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island's population. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply or nearshore area.

While the Bureau recognizes the need for economic growth, it must always be concerned with impacts of unbridled growth. However, there are development principles that work toward minimizing cumulative and secondary impacts as growth reaches its tipping point. The Low Impact Development (LID) approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features while minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Incorporating a green approach in its landscaping design by implementing island bioretention, permeable parking and walkways, grassed swales and/or rain gardens is a way to reduce runoff from their property. These approaches will benefit the property with respect to low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration and pride.

As mentioned earlier, 50.59% of the Hagatna Watershed is impervious, in which any additional development will add to the hydrologic and hydraulic dynamics within the Hagatna 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*

*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.

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

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 JUN 13 2019 10:35 CLTC/GALC/GLUC

JUN 12 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. 2019-21, request for a Zone Change from "R-2" (multi family dwelling) to "C" (commercial) zone, for proposed commercial complex with retail, office spaces, warehouse, and 2 residential duplexes, on Lot 1123-1-R6, Mongmong, in the Municipality of Mongmong, Toto, Maite

The staff of this Agency has reviewed the application and does not have any objection to the proposed **Zone Change** 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. Drinking Water
    1. The developer 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
    1. The proposed development must be connected to public sewer. The developer must ensure that any improvements required to connect to public sewer, and to ensure that the public sewer system can accommodate the proposed wastewater flows, are completed before occupancy of the proposed development.

C. Stormwater and Erosion Control
    1. The proposed development must meet all requirements of the Guam Soil Erosion and Sediment Control Regulations (22 GAR Chapter 10), and must provide both pre- and post-construction stormwater controls meeting the requirements of the 2006 CNMI and Guam Stormwater Management Manual, as implemented by Executive Order No. 2012-02.

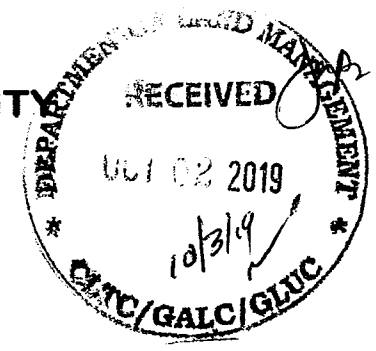
2. The existing ponding basin located on the property must remain in place if it is determined that the basin serves to accept discharge from any public roadway or public drainage system. If the proposed development intends to also use the ponding basin for site drainage, the basin must be upgraded and sized in accordance with the standards referenced in comment C.1. above. If the existing ponding basin is determined to serve public roadways, it must be sized appropriately to accept both runoff from the proposed development plus whatever existing runoff is determined to come from the public roadways. The engineering plans for the proposed development must address this and include calculations demonstrating that this requirement can be met. If the proposed development does not intend to use the existing ponding basin, new stormwater practices meeting the above referenced requirements must be provided separately.

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



MEMORANDUM

September 16, 2019

TO: Joseph Borja, Acting Director, Department of Land Management

CC: Mayor Rudy A. Paco, Municipality of Mongmong-Toto-Maite (mtmmayorpaco17@gmail.com)

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

SUBJECT: Position Statement on Zone Change Application 2019-21 for Lot 1123-1-R6, in the Municipality of Mongmong-Toto-Maite

APPLICANT: EMC Incorporated

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "R2" (Multi-family) to "C" (Commercial) zone for the proposed development of a commercial complex for retail, office spaces, service shops, and accessory warehouse/storage, and 2-residential duplexes on the 2nd level to make it compatible with existing commercial uses along Route 8.

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 to of the approval of this zone change application:

1. GWA records and field observations indicate there is a private water line on the subject lot. The water line serves a fire hydrant at the apartment building south of the subject lot. The applicant shall confirm the location of utilities with the neighboring property owner and relocate any encroaching utilities without interrupting service. Contact GWA if a water meter needs to be relocated.

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.

3. 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.

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

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

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

13. Applicant should be aware that there is a 6" waterline that runs through the property that serves a hydrant adjacent to the property.

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 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
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

January 15, 2020

MEMORANDUM

To: Chairman, Guam Land Use Commission

From: Acting Guam Chief Planner

Subject: Staff Report - Application No. 2019-26

1. PURPOSE:

a. **Application Summary:** The applicant, Anthony M. Artero representing the Estate of Jose Cruz Artero and represented by FC Benavente is requesting approval of a Subdivision Variance for lot ratio to create a subdivision consisting of twenty-four (24) lots on Lot 11, Tract 34000 in the Municipality of Dededo.

b. **Legal Authority:** Title 21, GCA, Chapter 62, Article 6, Section 62601 thru 62604; (Variance & Appeals) Subdivision Law and Section 3204 (b) of Article 2, 18 GAR (Lot Design).

2. FACTS:

a. **Location:** The subject lot is located in Urunao about 1.5 mile from Route 3A within the Municipality of Dededo.

b. **Lot Area:** 362,783 Square Meters or 3,904,963.71 Square Feet.

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

d. **Field Description:** The subject property was previously cleared to accommodate a military environmental mitigation mandate and is presently overgrown with various types of ground cover vegetation, small bushes and a canopy of various types of trees. The site's topography is from the east (rear cliff line) to the west (front coastal area).

e. **Masterplan:** Conservation

f. **Community Design Plan:** Conservation

g. **Previous Commission Action:** None

3. APPLICATION CHRONOLOGICAL FACTS:

a. **Date Application Accepted:** July 1, 2019

b. **Date Heard By ARC:** July 18, 2019

c. **Public Hearing Results:** December 30, 2019 see attachment "A"

4. DISCUSSION:

As presented by the applicant, the intent of the subdivision variance request, is to exceed the 3:1 ratio pursuant to Section 3204 (b) of the Subdivision Rules and Regulations in order to create a subdivision consisting of twenty-four (24) lots with 11 cliff side lots at 16,206 SM in size, 11 shoreline lots at 16,038.8 SM in size and 2 lots at the front or northern boundary at 4,047 SM in size for distribution to the heirs of Jose Cruz Artero, in line with the result of the probate case and the heirs' desire for a fair and equitable partitioning of the property.

Pursuant to Section 62601 (Petition for Variance) of Chapter 62 (Subdivision Law) 21GCA, variances may be granted by the Commission, provided the applicant can provide that there are special circumstances or conditions affecting said property, that the variance is necessary for the preservation and enjoyment of a substantial property right of the subdivider, that the granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated, that the variance, if granted, will conform with the intent and purpose of the general or precise plans for the territory, and of this Chapter.

In response the applicant provides:

a. That there are special circumstances or conditions affecting said property;
Response: **The proposed Urunao property lot layouts are prepared in conformance with Decisions and Orders of the Superior Court of Guam in response to the Estate's distribution plan, and the property's unique and special topography. These unique landform features include a composite of ocean shoreline, cliff slope, cliff face, cliff edges, and cliff tops.**

b. That the variance is necessary for the preservation and enjoyment of a substantial right of a subdivider,
Response: **The subdivider's rightful intention is to distribute his property to his heirs. The Court has ordered for a fair and equitable partitioning of the property. This layout presented (Exhibit I) is fair and equitable; allows the subdivider to enjoy and preserve a substantial property right; and is in conformance with the Order of the Superior Court of Guam.**

c. That the granting of the variance shall not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated; and,
Response: **Adjacent properties in the same Tract 34000, i.e. Lots 7, 8, 9. and 10, have been previously patitioned and distributed with similar 3:1 length-to-width lot ratio layouts, as hereby presented for Lot 11, Tract 34000. The layout of lots as presented in the sketch map for Lot 11, Tract 34000 will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is located.**

d. That the variance, if granted, shall conform with the intent and purpose of the general or precise plans for the territory, and Chapter 62.
Response: **The general plan as described in the Zoning Law for the Urunao area allows the location of general and precise uses in this area of Guam, and that this proposed layout conforms with the intent and purpose of the Zoning Law. This request is in reasonable accordance with and not contrary to the Zoning Law.**

5. **RECOMMENDATION:** Based on the applicants' proposal to create a subdivision consistent with the results of the probate of the estate in 1978 and consistent with the subdivisions of the adjoining lots that were granted a 3 to 1 ratio variance by the Commission in 2004 and the justification provided, We recommend Approval with the following condition:

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

Frank P. Taitano
For: Celine L. Cruz

Case Planner: F.P.TAITANO

Attachments: ARC Memo to GLUC Member
Attachment "A"
Addendum dated July 30 2019
Photo of SIgn

Attachment "A"

Minutes of Public Hearing

Application No. 2019-26, Subdivision for Lot Ratio of Proposed Subdivision of Lot 11, Tract 34000, Urunao, Zoned "H" (Hotel/Resort), Municipality of Dededo.

On December 30, 2019 - 6:20 P.M. a public hearing was conducted at the Dededo Senior Center, present was the applicant's representative, Mr. Ray Benavente with FC Benavente, Planners, the Mayor, Melissa B. Savares, Mr. Patrick Sherman and Mr. Franklin Artero.

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

Mr. Ray Benavente introduced himself, explained the purpose of the request, the location and description of the proposed subdivision and a brief history of the property. The floor was open for comments:

Question: Mayor Savares asked; If the application just for the proposed subdivision?
Response: Mr. Benavente responded: Yes, based on the probate case as shown on the proposed subdivision sketch

Concern: Mr. Artero voiced his concern: That the position statements submitted has no mention that the property has been previously by the contractor of the military during the environmental cleanup of their property and that the property owners will be subject to an environmental assessment should they develop in the future.
Response: Case planner responded that his concern is noted.

Question: Mayor Savares asked; If the application requires a MPC resolution?
Response: Case planner responded; Yes, it does need a resolution or letter from the MPC.

There being no further questions or concerns the case planner adjourned the meeting at 6:45 P.M.

Frank Taitano
Case Planner


NOTICE TO REZONE
PUBLIC NOTICE
AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A
SUBDIVISION VARIANCE
APPLICATION DESCRIPTION: To Allow Lots To Exceed Greater Than Ratio of 3:1 of Lot Length To Lot Width
APPLICANT / REPRESENTATIVE: Estate of Jose Cruz Artero / FC Benavente, Planners
LOT, BLOCK, TRACT: Lot 11, Tract 34000
MUNICIPALITY: Dededo
PUBLIC HEARING: Date: DEC 30, 2019 Time: 6:00 pm Place: Dededo Senior Citizens Center
GLUC MEETING: Date: JAN 23, 2020 Time: 1:30 PM Place: DLM Conf Rm, 3rd Flr, ITC Bldg, Tamuning

7-30-19
RECEIVED
Planning Div, DLM

FC BENAVENTE, PLANNERS

Planning, Zoning, Land Development Consulting, Permitting

127 Bejong Street, Barrigada, Guam 96913
Tel: 671.988.7911 felouben@gmail.com

July 30, 2019
Mr. Joseph Borja, Executive Secretary
Guam Land Use Commission
Department of Land Management
P.O. Box 2950 Hagatna, Guam 96932

Subject: Addendum to Urunao, Dededo Subdivision Variance application (No. 2019-26).

Hafa Adai Mr. Borja

At the ARC meeting of July 18, 2019, as part of our presentation we distributed 2 documents amending the application.
1. An amended submittal letter (Copy attached as Exhibit A). On page 1 of the amended letter, we reworded the "Subject:" to read: "Subdivision Variance Application to allow certain proposed lots located in Urunao, Dededo to exceed the lot length to lot width relationship of a 3:1 ratio." This reword is highlighted in yellow. On page 3, we amended all erroneously numbered lot numbers within the proposed family subdivision. For example, instead of lot numbers 1 thru R23, their numbers are now 11-1 thru 11-R3. This renumbering is also highlighted in yellow.
2. An amended subdivision map (Copy attached as Exhibit B). Map "Exhibit I" of the application is amended; and is replaced by a new map labeled as "Exhibit I – NEW." Map Exhibit I – NEW shows the amended lot numbers of the proposed 24 lots as iterated on page 3 of the amended submittal letter.

Part of our presentation to the ARC included our verbal references to existing prior approved neighboring property maps which had similar lot configurations of greater than the 3:1 lot length to lot width ratio. We now submit for reference hard copies of the subdivision survey maps of Lots 7 & 8, and Lots 9 & 10. Both maps were approved by the GLUC via this similar process. We attach these approved and recorded maps as Exhibit C, and Exhibit D respectively.

We additionally submit for your information, the original subdivision sketch plan prepared in 2010, by the same Professional Land Surveyor, which shows heir lot assignments and their locations, with signatures. This sketch plan map is attached as Exhibit E.

We are available to discuss any of these items, and we thank you for your attention.

Esta, and Si Yu'os Ma Ase'

Felix C. Benavente
Exhibits as Stated

Exhibit A

FC BENAVENTE, PLANNERS

Planning, Zoning, Land Development Consulting, Permitting

127 Bejong Street, Barrigada, Guam 96913
Tel: 671.988.7911 felouben@gmail.com

Amended: July 18, 2019

1. "Subject" is reworded. See highlighted in yellow.

2. Page 3. Lot numbers modified to include parent lot 11.

May 31, 2019

Mr. Joseph Borja, Executive Secretary
Guam Land Use Commission
Department of Land Management
P.O. Box 2950 Hagatna, Guam 96932

Subject: Subdivision Variance Application to allow certain proposed lots located in Urunao, Dededo to exceed the lot length to lot width relationship of a 3:1 ratio.

Hafa Adai Mr. Borja

On behalf of the Estate of Jose Cruz Artero (the Estate), and as represented by Executor of the Estate Mr. Anthony M. Artero (Probate Case No. PR 110-78), I am pleased to submit 32 sets of this Subdivision Variance Application for review and approval by the Guam Land Use Commission (GLUC).

Project Description.

The Estate proposes, as shown on the proposed Sketch Plan (Exhibit I), to create and distribute to family, twenty four (24) lots from parent Lot 11, Tract 34000, located in Urunao, Dededo, pursuant to Probate Case No. PR 110-78. In this family distribution of beachfront and rugged cliffside property, a percentage of undivided land interest is allotted to each family member. In attempting to arrive at fair and equitable distribution of property amenities to each family member, the most acceptable design as presented in the Sketch Plan, requires approval from the GLUC as 20 of the 24 lots do not meet the requirement of Section 3204, d., of the Subdivision Rules and Regulations.

Section 3204. d. Lot design. No lot shall have a length to width relationship that exceeds a three (3) to one (1) ratio."

We include in this application, documents attesting to the family land distribution process, and particulars as asserted by the Superior Court of Guam. These documents are attached as Exhibits D, E, F, G, and H.

This Lot 11 Sketch Plan design is compatible with, and mirrors previous approved plans of adjacent family distributions e.g. Lot 7, Lot 8, Lot 9, and Lot 10; which were court ordered, distributed and recorded.

The 24 proposed new lots, created from parent Lot 11, Tract 34000, will be accessed by a recorded 60 foot public access and utility easement, i.e. Lot 12R/W, also known as Chalan

Urunao. Chalan Urunao is presently a 10ft to 15ft wide gravel based road, which improvements terminate at a point between adjacent Lots 9-R11 and 10-R11, of Tract 34000.

The proposed lots exceeding the 3:1 lot length to lot width ratio and subject to this variance will include:
Lots 11-1, 11-2, 11-3, 11-4, 11-5, 11-6, 11-7, 11-8 and Lots 11-13, 11-14, 11-15, 11-16, 11-17, 11-18, 11-19, 11-20, 11-21, 11-22, 11-23, 11-R23. Their dimensions and land areas are shown on the table below.

Lot Number	Lot Area (In Meters +-)	Lot Dimensions (In Meters +-) * curve radius distance	Lot Area Length/Width Ratio	Need Variance
Lot 11-1, Tr 34000	4,047 SM	34x120x34x120	>3:1	Yes
Lot 11-2, Tr 34000	16,206 SM	34x34xx188x66x296	>3:1	Yes
Lot 11-3, Tr 34000	16,206 SM	56x296x55x285	>3:1	Yes
Lot 11-4, Tr 34000	16,206 SM	59x285x57x274	>3:1	Yes
Lot 11-5, Tr 34000	16,206 SM	61x274x60x262	>3:1	Yes
Lot 11-6, Tr 34000	16,206 SM	64x282x63x250	>3:1	Yes
Lot 11-7, Tr 34000	16,206 SM	1*x250x67x233	>3:1	Yes
Lot 11-8, Tr 34000	16,206 SM	2*x233x82x201	>3:1	Yes
Lot 11-9, Tr 34000	16,206 SM	3*x201x99x74	<3:1	No
Lot 11-10,Tr 34000	16,206 SM	4*x174x117x157	<3:1	No
Lot 11-11,Tr 34000	16,206 SM	39&5*x157x106x157	<3:1	No
Lot 11-12,Tr 34000	16,206 SM	32&7*&6*&30x157x104x170	<3:1	No
Lot 11-13,Tr 34000	16,308 SM	32&8*&9*&9x241x71x220	>3:1	Yes
Lot 11-14,Tr 34000	16,038 SM	60&10*x262x59x241	>3:1	Yes
Lot 11-15,Tr 34000	16,038 SM	11*x275x51x262	>3:1	Yes
Lot 11-16,Tr 34000	16,038 SM	12*x280x46x275	>3:1	Yes
Lot 11-17,Tr 34000	16,038 SM	13*x277x44x280	>3:1	Yes
Lot 11-18,Tr 34000	16,038 SM	14*x267x48x277	>3:1	Yes
Lot 11-19,Tr 34000	16,038 SM	15*x250x60x267	>3:1	Yes
Lot 11-20,Tr 34000	16,038 SM	67x234x61x250	>3:1	Yes
Lot 11-21,Tr 34000	16,038 SM	71x221x70x234	>3:1	Yes
Lot 11-22,Tr 34000	16,038 SM	75x211x74x221	>3:1	Yes
Lot 11-23,Tr 34000	4,047 SM	37x110x37x110	>3:1	Yes
Lot 11-R23,Tr 34000	16,038 SM	61x110x37x93x97x211	>3:1	Yes

We request your attention to the enclosures and look forward to presenting this application before the Commissioners of the Guam Land Use Commission. We appreciate your time and effort in considering this application, and the Estate humbly requests your approval. Please contact me should you have any concerns or questions.

Si Yu'os Ma Ase'

Felix C. Benavente, Principal
A Duly Authorized Representative

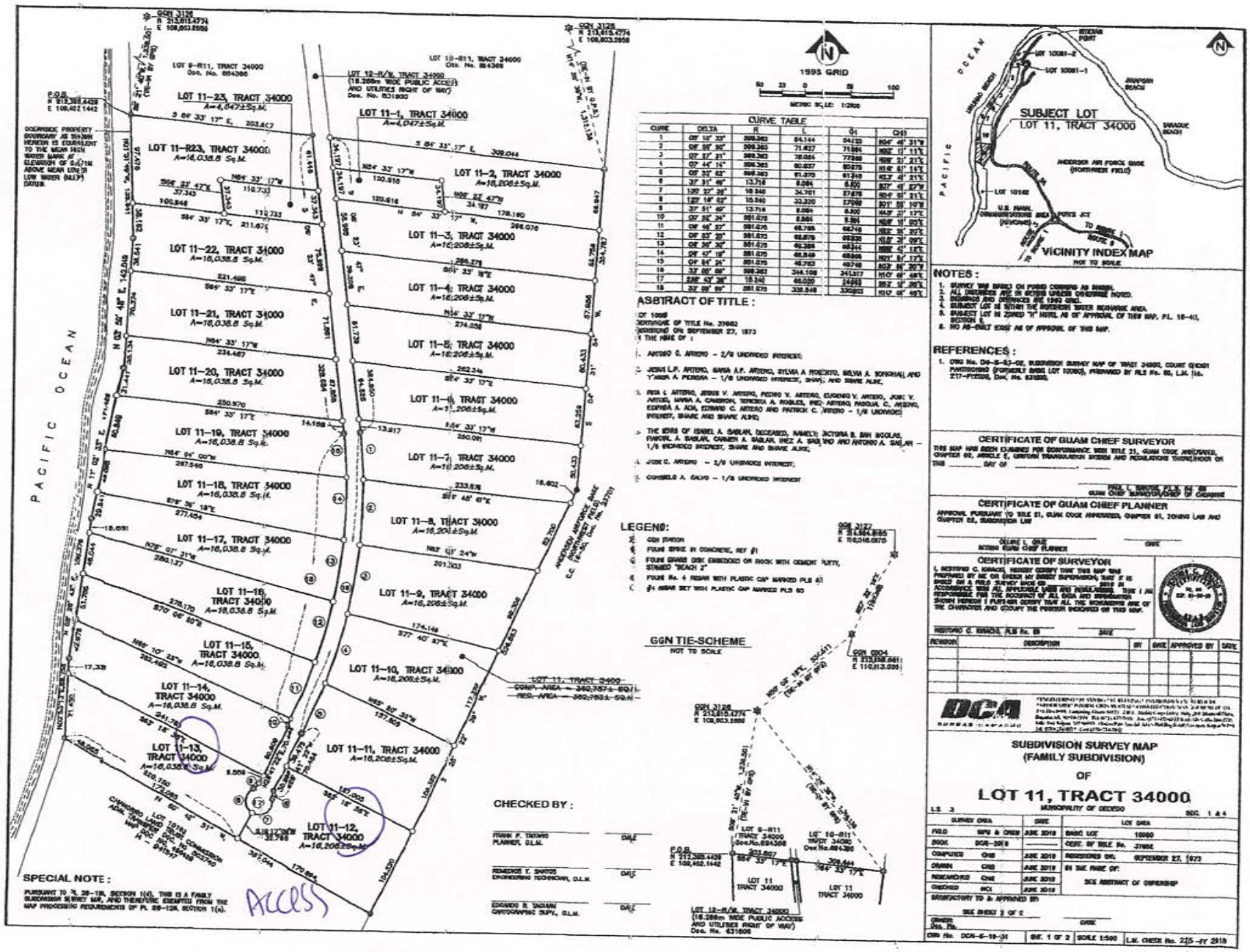


Exhibit B

EXHIBIT I-NEW

SUBDIVISION SKETCH PLAN OF

LOT 11, TRACT 34000

PLACE OF URUNAO, MUNICIPALITY OF DEDEDO

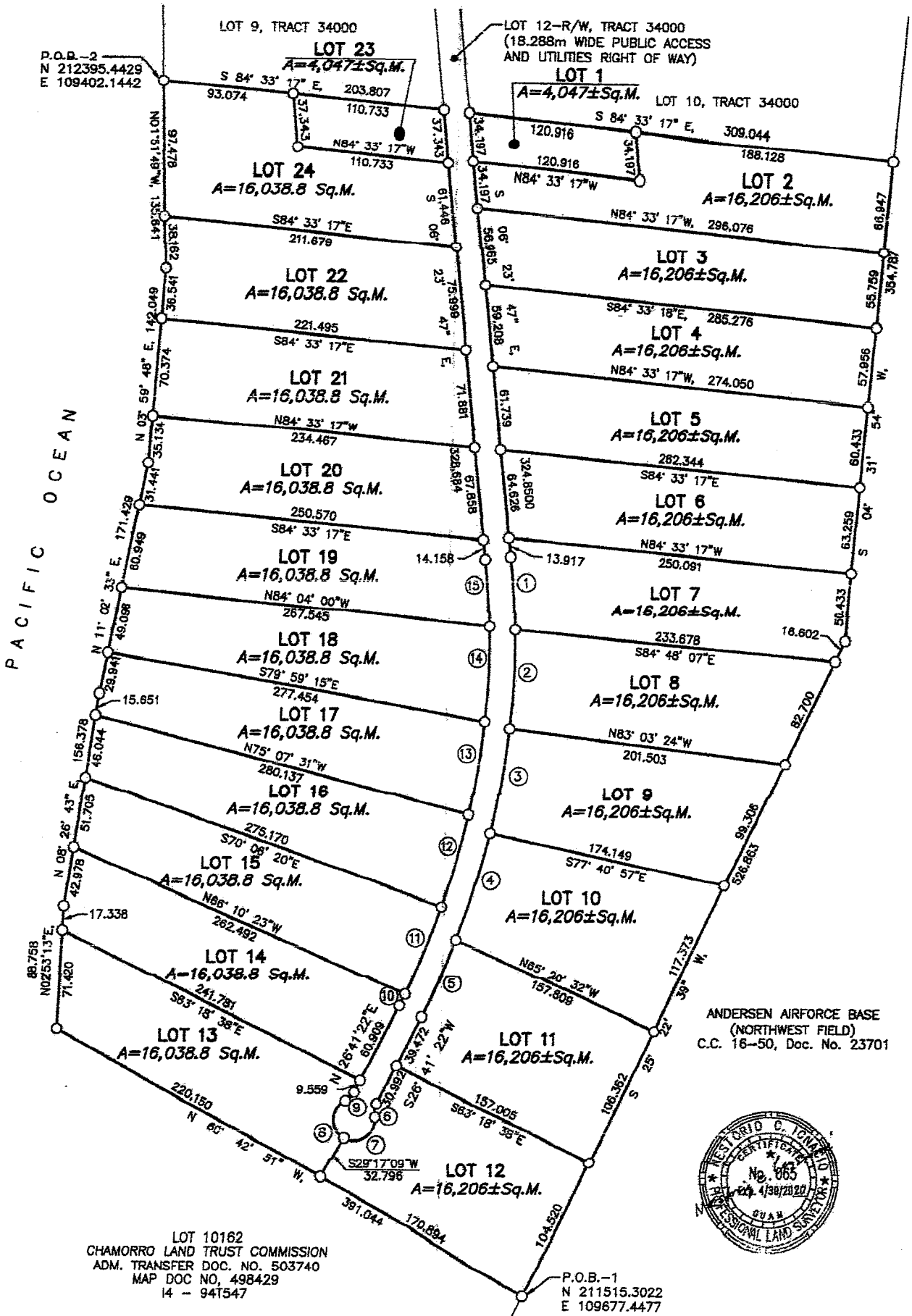
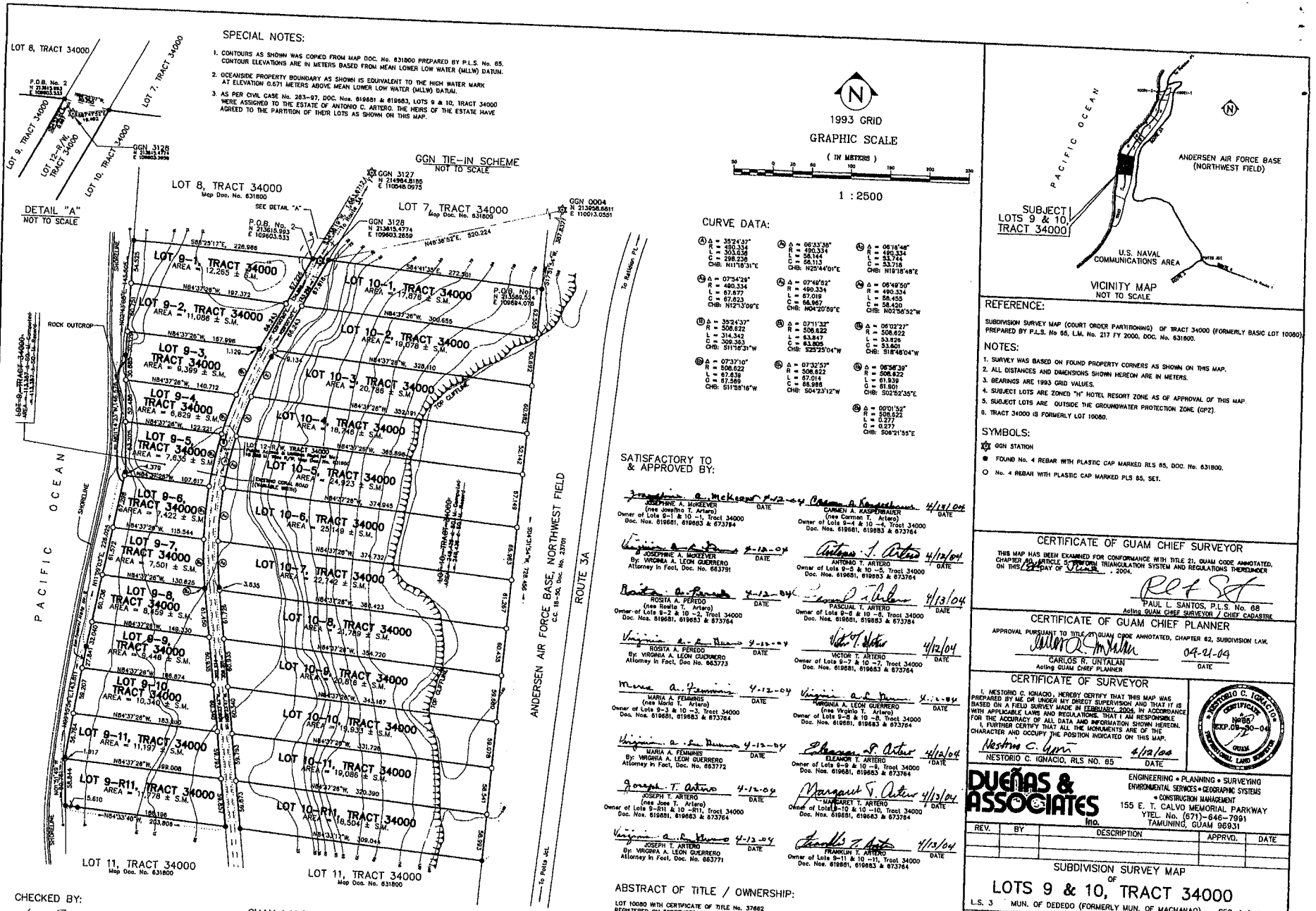


EXHIBIT I

Doc. No. 35GL-20-1506.

Exhibit C



Doc. No. 35GL-20-1606.

Exhibit D

SATISFACTORY TO & APPROVED BY:

VICTORIA ARTERO SABLAN-SAN NICOLAS — DATE 8/11/04
CO-OWNER OF LOTS 7 and 8, TRACT 34000
DOC. NOS. 663647, 663807, 663812, 663814, 663805, 664236, 664237

PASCUAL ARTERO SABLAN — DATE 7/09/04
CO-OWNER OF LOTS 7 and 8, TRACT 34000
DOC. NOS. 663647, 663807, 663812, 663814, 663805, 664236, 664237

by: CARMEN ARTERO SABLAN-CORPUZ P.O.A. # 646139 — DATE 8/11/04
CO-OWNER OF LOTS 7 and 8, TRACT 34000
DOC. NOS. 663647, 663807, 663812, 663814, 663805, 664236, 664237

by: INES ARTERO SABLAN-RODRIGUEZ P.O.A. # 646180 — DATE 8/11/04
CO-OWNER OF LOTS 7 and 8, TRACT 34000
DOC. NOS. 663647, 663807, 663812, 663814, 663805, 664236, 664237

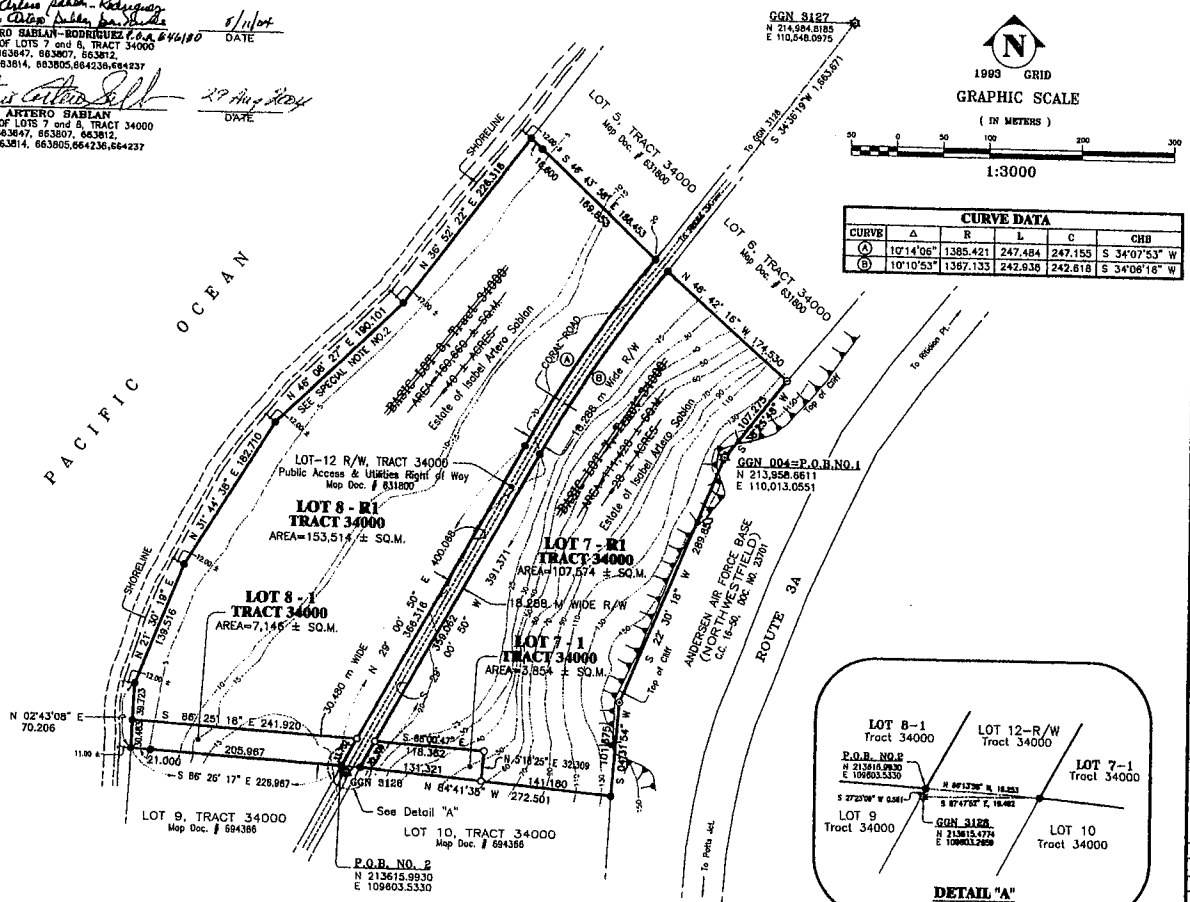
ANTONIO ARTERO SABLAN — DATE 29 Aug 2004
CO-OWNER OF LOTS 7 and 8, TRACT 34000
DOC. NOS. 663647, 663807, 663812, 663814, 663805, 664236, 664237

ABSTRACT OF TITLE / OWNERSHIP:
LOT 10080 WITH CERTIFICATE OF TITLE NO. 37662 REGISTERED ON SEPTEMBER 27, 1973 IN THE NAMES OF:

1. ANTONIO C. ARTERO – 2/9 UNDIVIDED INTEREST
2. JESUS L. P. ARTERO, MARIA A. P. ARTERO, SYLVIA A. ROBERTO, MELVIA A. WONGHAM and Y' ASELA A. PEREIRA – 1/8 UNDIVIDED INTEREST, SHARE & SHARE ALIKE.
3. RITA C. ARTERO, JESUS V. ARTERO, PEDRO V. ARTERO, EUGENIO V. ARTERO, JOSE V. ARTERO MARIA A. CAMERON, TERESITA A. ROBLES, INEZ ARTERO, PASCUAL C. ARTERO, EDIFREDA A. ADA, EDWARD C. ARTERO, and PATRICK C. ARTERO – 1/6 UNDIVIDED INTEREST, SHARE & SHARE ALIKE.
4. THE HEIRS OF ISABEL A. SABLAN (DECEASED) NAMELY, VICTORIA S. SAN NICOLAS, PASCUAL A. SABLAN, CARMEN A. SABLAN, INEZ A. SABLAN, and ANTONIO A. SABLAN –1/8 UNDIVIDED INTEREST, SHARE & SHARE ALIKE.
5. JOSE C. ARTERO – 2/9 UNDIVIDED INTEREST
6. CONSUELO A. CALVO – 1/18 UNDIVIDED INTEREST.

SPECIAL NOTES:

1. CONTOURS AS SHOWN WERE COPIED FROM MAP DOC. NO. 631800 PREPARED BY P.L.S. NO. 65. CONTOUR ELEVATIONS ARE IN METERS BASED FROM MEAN LOWER LOW WATER (MLLW) DATUM.
2. OCEANSIDE PROPERTY BOUNDARY AS SHOWN IS EQUIVALENT TO THE MEAN HIGH WATER MARK AT ELEVATION 0.671 METERS ABOVE MEAN LOWER LOW WATER (MLLW) DATUM.
3. AS PER CIVIL CASE NO. 283-97, DOC. NO. 619581 and 619683, LOTS 7 and 8, TRACT 34000 WERE ASSIGNED TO THE ESTATE OF ANTONIO C. ARTERO . THE HEIRS OF THE ESTATE HAVE AGREED TO THE PARTITION OF A PORTION OF LOTS 7 and 8 AS SHOWN ON THIS MAP.
4. LOT 7-1 INDICATES OWNERS PREFERENCE AS TO SUBDIVISION OF HIS UNDIVIDED INTEREST AS PER DOCUMENT 664236.



CURVE DATA

CURVE	Δ	R	L	C	CHB
(A)	10°14'06"	1385.421	247.484	247.155	S 34°07'53" W
(B)	10°10'53"	1367.133	242.938	242.618	S 34°08'16" W

DETAIL "A"
NOT TO SCALE

GUAM LAND USE COMMISSION APPROVAL:

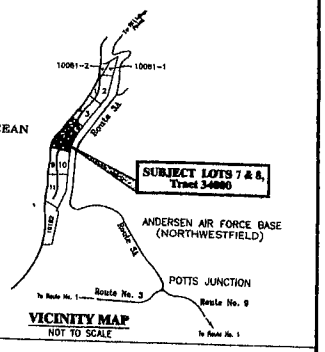
THE GUAM LAND USE COMMISSION AT ITS MEETING ON APRIL 27, 2004, APPROVED THE SUBDIVISION OF LOTS 7-1 and 8-1, TRACT 34000, TO EXCEED THE 3:1 (LENGTH TO WIDTH) RATIO. RECORDED UNDER INSTRUMENT TYPE GLUC, DOC. NO. 694385

EDWIN K. W. CHING
ACTING CHAIRMAN, GLUC — DATE 9/27/04

CHECKED BY:

M. MARVIN Q. AGUILAR
PLANNER, DLM — DATE 9-23-04

CARTOGRAPHIC SUPV., DLM — DATE 9.23.04



VICINITY MAP
NOT TO SCALE

REFERENCE:

1. SUBDIVISION SURVEY MAP OF TRACT 34000, PREPARED BY P.L.S. NO. 65, L.M. NO. 217 FY 2000, DOC. NO. 631800.

SURVEY NOTES:

1. SURVEY WAS BASED ON FOUND PROPERTY CORNERS AS SHOWN ON THIS MAP.
2. ALL DISTANCES AND DIMENSIONS SHOWN HEREON ARE IN METERS.
3. BEARINGS ARE 1993 GRID VALUES.
4. SUBJECT LOTS ARE ZONED "H" HOTEL AS OF APPROVAL OF THIS MAP.
5. SUBJECT LOTS ARE OUTSIDE THE GROUND WATER PROTECTION ZONE (GPZ)
6. THERE ARE NO AS-BUILTS WITHIN THE SUBJECT LOTS.

SYMBOLS:

- GUAM GEODETIC NETWORK (GGN) STATION
- NO. 4 RBAR WITH PLASTIC CAP MARKED PLS NO. 71, SET
- CONC. NAIL WITH PLASTIC CAP MARKED PLS NO. 71, SET ON ROCK.
- FOUND SPIKE IN CONCRETE, DOC. NO. 631800.
- FND NO. 4 RBAR WITH PLASTIC CAP MARKED PLS NO. 65, DOC. NO. 631800.

CERTIFICATE OF GUAM CHIEF SURVEYOR

THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH TITLE 21, GUAM CODE ANNOTATED, CHAPTER 80, ARTICLE 2, UNIFORM TRIANGULATION SYSTEM AND REGULATIONS THEREUNDER ON THIS 23rd DAY OF Sept, 2004

PAUL SANTOS, P.L.S. NO. 68
ACTING GUAM CHIEF SURVEYOR/CHIEF OF CADASTRE

CERTIFICATE OF GUAM CHIEF PLANNER

APPROVAL PURSUANT TO TITLE 21 GUAM CODE ANNOTATED, CHAPTER 62, SUBDIVISION LAW.

CARLOS B. UNTALAN
ACTING GUAM CHIEF PLANNER — DATE 09-23-04

CERTIFICATE OF SURVEYOR

I, THOMAS J. CONDON, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, THAT IT IS BASED ON A FIELD SURVEY MADE IN JULY, 2004 IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS, THAT I AM RESPONSIBLE FOR THE ACCURACY OF ALL DATA AND INFORMATIONS SHOWN THEREON, I, ALSO CERTIFY THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED ON THIS MAP.

THOMAS J. CONDON
Professional Land Surveyor No. 71 — DATE 08/09/04

THOMAS J. CONDON CERTIFICATE No. 71 EXP: 08-30-04 08/09/04 GUAM PROFESSIONAL LAND SURVEYOR

DUEÑAS & ASSOCIATES Inc.
ENGINEERING • PLANNING • SURVEYING
ENVIRONMENTAL SERVICES • GEOGRAPHIC SYSTEMS
• CONSTRUCTION MANAGEMENT
134 MAIL ST., SUITE 303
TAMUNING, GUAM 96931

REV.	BY	DESCRIPTION	APPRVD.	DATE

SUBDIVISION SURVEY MAP OF

LOTS 7 and 8, TRACT 34000

L.S. 3 MUN. OF DEDEDO (FORMERLY MUN. OF MACHANAO) SEC. 1 & 4

SURVEY DATA	DATE	LOT DATA
FIELD DAI CREW	JULY 2004	TRACT 34000 (FORMERLY LOT 10080)
BOOK NO. 04-01	—	CERT. OF TITLE NO. 37662
COMPUTED TSV	JULY 2004	REGISTERED ON SEPTEMBER 27, 1973
DRAWN EFL	JULY 2004	IN THE NAME OF
RESEARCHED TSV	JULY 2004	
CHECKED TJC	JULY 2004	SEE PLAN

SATISFACTORY TO & APPROVED BY:

SEE PLAN

DWG. NO. DAI-8-04-14	SCALE: 1:3000 meters	SHEET 1 of 1	L.M. CHECKED NO. 190 FY 2004

253

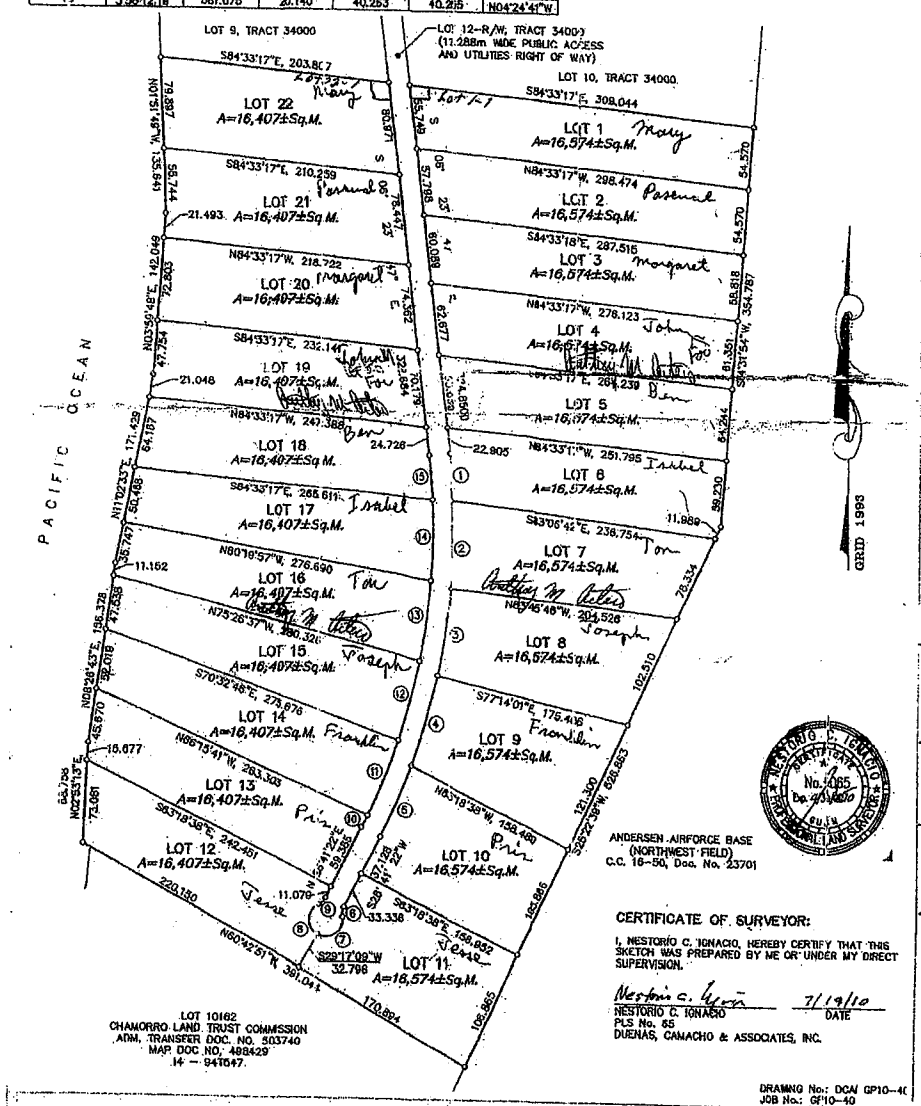
190 Fy 2004

Exhibit E

SUBDIVISION SKETCH PLAN OF LOT 11, TRACT 34000

PLACE OF URUNAO, MUNICIPALITY OF DEDEDO
SCALE: 1=3000M

CURVE TABLE						
CURVE	DELTA	R	T	L	CH	CHB
1	4°06'10.60"	599.363	21.382	42.746	42.737	N04°21'12"W
2	7°21'47.15"	599.363	38.565	77.024	76.971	N01°22'17"E
3	7°21'47.16"	599.363	38.565	77.024	76.971	N08°44'04"E
4	7°41'24.58"	599.363	40.283	80.448	80.389	N16°15'40"E
5	6°34'59.52"	599.363	34.471	68.866	68.828	N23°23'52"E
6	37°51'49.13"	13.716	4.705	9.064	8.900	S07°46'27"W
7	130°27'36.13"	15.240	33.028	34.701	27.676	N54°03'21"E
8	125°16'09.13"	15.240	29.443	33.320	27.069	S01°35'10"W
9	37°51'49.13"	13.716	4.705	9.064	8.900	N45°37'17"E
10	1°10'19.75"	581.075	5.944	11.888	11.887	N26°06'12"E
11	6°59'09.27"	581.075	35.488	70.849	70.805	N22°01'28"E
12	6°39'09.27"	581.075	35.488	70.849	70.805	N15°02'18"E
13	6°59'09.27"	581.075	35.488	70.849	70.805	N08°03'09"E
14	6°59'09.27"	581.075	35.488	70.849	70.805	N01°04'00"E
15	3°58'12.18"	581.075	20.140	40.263	40.255	N04°24'41"W



CERTIFICATE OF SURVEYOR:

I, NESTORIO C. IGNACIO, HEREBY CERTIFY THAT THIS SKETCH WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

NESTORIO C. IGNACIO — 7/19/10 DATE
PLS No. 65
DUENAS, CAMACHO & ASSOCIATES, INC.

DRAWING No.: DCA/ GP10-4(
JOB No.: GP10-40

Heirs of Jose Cruz Artero

Propose Partition of Lot 11

Lot 1 + 22 Mary Artero Calvo

Mary C. Artero Calvo Date 8/8/10

Lot 2 + 21 Pascual Arriola

Pascual C. Artero 8/8/10 Date

Lot 3 + 20 Margaret T.M Artero

Margaret T.M Artero Date 8.8.10

Lot 4 + 19 John M. Artero

For John M Artero

Anthony M Artero Date 7/24/10

Lot 5 + 18 VINCENT T. ARTERO

V T. Art Date 8/6/10

Lot 6 + 17 Isabel A. Cruz

Date 7/26/10

Lot 7 + 16 Anthony M Artero

Anthony M Artero Date 7/24/10

Lot 8 + 15 Joseph M Artero

Joseph M. Artero Date 7/26/10

Lot 9 + 14 Franklin M Artero

Franklin M. Artero Date 8/8/10

Lot 10 + 13 Priscilla A. Suda

Priscilla A. Suda 8/22/10

9/5/2010

9/5/10 9/5/10

Lot 11 + 12 Jesus M Artero 9/5/10

Rebecca C. Artero Date 7/26/2010

LOT 1-1

Date 1 Sep 2010

LOT 22-1

Date 9/6/10

Application Review Committee

Guam Land Use Commission/Guam Seashore Protection Commission
Department of Land Management

AGENDA

Thursday, July 18, 2019 at 9:30 a.m.
Department of Land Management Conference Room
590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

TIMELINE FOR ABOVE APPLICATIONS
Day #1 – July 18, 2019
Day #30 – August 18, 2019
GLUC Tentative Meeting – Next available date

I. Attendance

Roll Call [ ] Quorum [ ] No Quorum

II. Approval of Minutes

- ARC Regular Meeting Minutes for Thursday, June 6, 2019
- ARC Regular Meeting Minutes for Thursday, June 20, 2019

III. New Business

Subdivision Variance

A. Application No. 2019-26, the Applicant, Anthony M. Artero (Executor, Estate of Jose C. Artero) represented by F.C. Benavente, Planners; requests a Subdivision Variance for lot area ratioing, on Lot 11, Tract 34000 (Urunao), in the Municipality of Dededo, in an "H" (Hotel/Resort) zone.
Case Planner: Frank Taitano

IV. Approval of ARC Agenda

A. ARC Regular Meeting, Thursday, August 1, 2019 – Final [No Agenda Items]
B. GLUC Regular Hearing, Thursday, August 8, 2019 – Tentative

V. Administrative & Miscellaneous Matters

VI. Adjournment

DEDEDO MUNICIPAL PLANNING COUNCIL
MUNICIPALITY OF DEDEDO



RESOLUTION NO 2020-01

Introduced by:
Melissa B. Savares, Chairperson
Frank A. Benavente, Vice Chairperson
MEMBERS:
Acda, Romy
Artero, Pascual V.
Chan, Jose Arthur Jr.
Faculo, Natalia
Gines, Bernardo
Mafnas, Frank
Makepeace, Annie M.
San Nicolas, Joseph C.
Santos, Felix
Servino, Benito
Tainatongo, Carmen N.
Wusstig, Ernie

Relative to the Dededo Municipal Planning Council's (DMPC) support of the Subdivision Variance of Lot 11 Tract 34000 (Urunao) the (Estate of Jose C. Artero), in the Municipality of Dededo for the purpose of lot ratioing of lot parceling for family distribution.

BE IT RESOLVED BY THE DEDEDO MUNICIPAL PLANNING COUNCIL:

WHEREAS, on Tuesday, January 14, 2020, during a DMPC meeting, members reviewed and discussed the Subdivision Variance of Lot 11 Tract 34000 (Urunao); and

WHEREAS, members acknowledged that this is for the purpose of lot ratioing of lot parceling for family distribution; and

BE IT RESOLVED, that after a lengthy discussion, a motion to support the subdivision variance with seven (7) members approving, four (4) abstaining, one (1) recused and two (2) absent, this motion was passed; therefore be it

FURTHER RESOLVED, that the Chairperson of the Dededo Municipal Planning Council certify to and the secretary attest the adoption hereof and that copies of the same be therefore transmitted to the Department of Land Management, Department of Public Works and Department of Revenue & Taxation.

DULY RECORDED AND REGULARLY ADOPTED BY THE DEDEDO MUNICIPAL PLANNING COUNCIL ON THIS 14th DAY OF January 2020.

MELISSA B. SAVARES, MAYOR OF DEDEDO

YVONNE S. ACDA, Secretary DMPC

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
DIRECTOR

January 15, 2020

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2019-26 (Subdivision Variance)

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

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

A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their official Position Statements.

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR has reviewed the above application and has no objection to the approval of the Subdivision Variance application; however, the subdivision lots are within, or in close proximity to Falcona Beach and Urunao Beach sites, which are listed in the Guam Historic Properties Inventory. These sites contain historic resources and probable human remains, that will need to be archaeologically mitigated before proceeding with any undertaking.

GUAM ENVIRONMENTAL PROTECTION (GEPA):
Agency has reviewed the application and have no objection to the proposed Subdivision Variance for lot area ratio at this location. The owners are reminded that any development of these lots must comply with all relevant laws and regulations administered by the Guam Environmental Protection Agency.

GUAM POWER AUTHORITY (GPA):

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's 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; and,
- 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.

BUREAU OF STATISTICS AND PLANS (BSP):

Landscape Assessment
This property is located on the Northern Watershed. Having an accurate picture of an area's landscape and understanding how that landscape is changing is important information for planning efforts. Land cover data can help provide that big-picture view. According to NOAA's C Change Analysis Program (CCAP) land cover data from 2011, shows this watershed has changed by 9.39% due to increased impervious surfaces.

In terms of development impacts, 29.42% of the Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent.

Effects Test Review and Analysis and Conditions
Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The property is identified as "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-I (f): "The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas." The request is consistent with the land use for the area.

Development Policy

Executive Order 78-37, (B) Development Policy Development Policies (1) Shore Area Development: Only those uses' shall be located within the Seashore Reserve which: (1) enhance, are compatible with or do not generally detract from the surrounding coastal area's aesthetic and environmental quality and beach accessibility; or (2) can demonstrate dependence on such a location and the lack of feasible alternative sites.

As stated in the NCGLUP 5.2 Goals and Policies: Goal NS 1: Use land use categories to protect the natural environment and guide future development.

Policy NS-1 Protect the Northern Aquifer watershed and recharge areas through appropriate land use categories and development standards including requirements for public sewer infrastructure for all residential subdivisions, low development density for unsewered areas, on-site storm water disposal, and limiting heavy industrial activities.
Policy NS-2 Protect marine water quality through appropriate shoreline area land use designations and development standards such as discouraging construction below the mean high tide mark, including sea or retaining walls, allowing natural beach development processes to prevail, controlling erosion from shoreline development and ensuring that wastewater infrastructure is appropriately set back from marine waters.

The Bureau reminds the GLUC that 21 GCA Ch. 61 Section 61504 states that the Legislature finds that the indiscriminate building of structures on the beaches of the Territory of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, that such construction, in addition, deprives the people of Guam of their right to the untrammeled use of beach areas beyond the high water mark, and finally, that such construction destroys the natural beauty of Guam 's beaches, one of the territory's greatest natural resources. Accordingly, it is the purpose of the restrictions hereinafter contained to protect the beaches of Guam for future generations, to alleviate the health problems caused by construction near tidal areas, and to make certain that the people of Guam remain free to use the beaches of the territory to the maximum extent not incompatible with private ownership of the lands adjoining said beaches.

The applicant must ensure that all future development is consistent with the above mention policies and statute.

Goal NS 4. Ensure that new development protects the shoreline character and coastal environment consistent with the Guam Coastal Zone Management program.
Policy NS-8 Preserve the marine environment and coastal area as a first priority in new development. If development is proposed in marine waters it should be for public facilities or for uses that provide regional community and economic benefit. Community benefits must be "direct" in nature and include cultural and traditional community practices.
Policy NS-9 Provide for additional and improved public access to beaches as part of new development and retain traditional access wherever possible.

The applicant must comply with provisions of 21 GCA Ch.64, Territory Beach Areas. Chapter 7. Infrastructure, 7.2. Goals and Policies:

Goal I 4. Assure a reliable, sustainable water supply for existing and future development while protecting the natural environment.

Policy 1-15 Ensure that future development does not lead to contamination of the aquifer:

a. Provide line replacements to reduce leakage, provide additional water and reduce demand on the Northern Aquifer.
b. Support water conservation programs.

c. Implement wellhead protection standards with special emphasis on areas where high density development is planned, such as village centers, mixed use and industrial areas.
d. Encourage use of sustainable "green streets" designs to minimize runoff and increase aquifer recharge.
e. Institute new density requirements for land uses that utilize on-site wastewater disposal systems that are more protective than current standards.

The applicant must ensure that all future development is consistent with the above mention policies.

Resource Policy
Erosion Control. The alteration of vegetated areas to buildings, driveways, parking lots, roads, and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water resource. Therefore, the Bureau recommends that the GLUC require the applicant to comply with CNMI Guam Stormwater Management Manual Standards and implement Island Best Management Practices specifications.

*Concepts, design and performance standards can be found in the 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.

Visual Quality
Executive Order 78-37, (C) Resource Policy, (6) Visual Quality states "Preservation and enhancement of, and respect for the island scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use laws; visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significantly views from scenic overlooks, highways, and trails.

The applicant must ensure that all future development is consistent with the above mention policies.

Recommendation and Decision
Pursuant to Executive Order 96-26, Appendix A § 700 (g), the Bureau hereby recommends approval based on 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.

Department of Agriculture (DoAG):

The Department of Agriculture (DOAG) has reviewed the subject lot for a "Subdivision Variance" request in a "Hotel Zone" to allow for 20 of the proposed 24 lots to come into compliance with the 3: 1 ratio. Agriculture does not oppose the subdivision variance provided that should any development of the lot(s) proceed, mitigation practices described below must be implemented. The property's proximity to the coast and its largely undeveloped state has inherent risks to the environment and habitat of the area. As the total make up of land is 89.64 acres, any development of the site should have proper and approved protection measure built in the development.

Our agency recommends approval of the current proposal for subdivision variance to allow for lot(s) to meet the 3:1 ratio for lot parceling allowing for family distribution with the following statements, conditions and requirements set forth in 21 GCA Chapter 61 §61637.

Should the parceling proceed, all lots once parceled out must comply with both local and federal permitting rules and regulations in areas in and near coastal zones, protected habitat and highly erodible lands. DOAG will require that all landowners and heirs of the Estate of Jose Cruz Artero and any subsequent new owners, should any of the heirs sell their interests in the parceled lots, comply with the specified mandates.

As development occurs on Guam the destruction and removal of native tree species increases the potential for pollution. Guam's Northern Aquifer, Coastal Zones, Wetlands, Native Habitat and its Flora and Fauna without the incorporation of environmentally friendly practices, will be permanently changed or destroyed. Should the proposed project proceed to the build phase our agency will require a comprehensive biological survey to be performed on the entire site before any clearing and grading permits are secured with the Department of Public Works. The Biological Survey will give DOAG a complete picture of the make-up of the flora, fauna and ecosystem of the area to guide both the developer and agency in proceeding, to incorporate mitigation practices into this development.

DOAG will also require that as part of the development, a comprehensive landscaping plan that includes the use of indigenous tree species common to this area and habitat. As the plan helps in maintaining natural resources, it is vital that developers include aspects of preservation with eco-friendly practices that preserve this sensitive environment. The inclusion of a landscaping plan will provide benefits to the land owner and developer as planted trees help reduce erosion of soils, provide windbreak benefits during storms, keep buildings cooler, provide shading to patrons and tenants, create an aesthetic appeal for the lots and preserve the integrity of filtration that the root systems provide in filtering pollutants that will enter into the aquifer. Additionally, an adequate buffer zone between the shoreline and the upland must be established to prevent any erosion of soils and other materials into the coastal zone. The buffer zone should use native species that are well adapted to high saline soils and coastal spray of ocean water to filter and prevent erosion of these sections of the entire property along the coastal side of the total land mass.

No Clearing and Grading of any section of the property is allowed prior to securing the permit from Department of Public Works and all appropriate agencies. This is to ensure compliance and prevention of the destruction of habitat as well as public safety. Prior to proceeding into the construction phase, our agency will require that any equipment associated with this type of activity is properly marked and fueled off site and away from areas near the shoreline to prevent contamination of chemicals into the waters. Entry and Egress sections must be appropriately marked to ensure no encroachment into sensitive areas occurs. The use of berms and silt screen material must also be included during initial and final phases of any projects as these BMPS will limit and prevent both encroachment and run-off.

DEPARTMENT OF PUBLIC WORKS (DPW):

- DPW has completed its review of the applicant's request for a Subdivision Variance has no objections to the request provided that the following conditions are met:
- Proper infrastructure for the proposed development.
- Any future setback issues shall be resolved prior to the proposed development.

- The Guam Subdivision Laws and Standards should be followed to ensure an orderly development of the following: stormwater disposal, access road, flood zone, transportation, solid waste, utilities, and park.
- Requirements of the Department of Parks and Recreation Historic Preservation Division shall be met for any proposed development.
- The area is located near marine waters with healthy coral reefs. Adverse impacts of excess runoff by future development shall be mitigated.
- Miscellaneous items shall include: compliance with all the Geotechnical requirements related to the site preparations, ecological planning to ensure the conservation of resources, location and proper width of all the proposed streets in the development, location and dimensions of all known existing easements and reservations. Topography, depicting two feet (2') contour intervals.

GUAM WATERWORKS AUTHORITY (GWA):

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 subdivision variance:

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations. If a development will be served by a septic tank/leaching field system, then the system must be approved by the Guam Environmental Protection Agency.
2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage, as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.
3. If off-site water and sewer infrastructure improvements are installed by the developer, they will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy permit application will be contingent upon the completion of offsite utility improvements.
   The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management and provide copies to GWA.
4. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.
5. 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.
6. The applicant shall install GWA water meters in the public right of way or easement.

7. backflow prevention devices are required for non-residential activities, swimming pools, or when a development will be served by a master meter.
8. New development is subject to water and/or sewer system development charges.
9. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
10. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates. to avoid adverse impacts to the receiving public sanitary sewer system. The applicant would be responsible for the design, permitting, construction, and maintenance of a sufficiently large lift station to meet this requirement.
11. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.
12. Only wastewater shall be discharged to the sanitary sewer system. Storm-water, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.
13. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

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

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

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

JOINT REGION MARIANAS (JRM):
Has not submitted a Position Statement as of Staff Report date.

GUAM DEPARTMENT OF EDUCATION (GDOE):
Has not submitted a Position Statement as of Staff Report date.

for: Celine L. Cruz
Acting Chief Planner

Attachments: ARC Position Statements
Cc: Executive Secretary, GLUC

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



MEMORANDUM

July 19, 2019

TO: Joseph Borja, Director, Department of Land Management

CC: Mayor Melissa B. Savares, Municipality of Dededo (melissa.savares@gmail.com)

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

SUBJECT: Position Statement on Subdivision Variance Application 2019-26 for Lot 11 Tract 34,000 in the Municipality of Dededo

APPLICANT: Anthony M. Artero on Behalf of Estate of Jose Cruz Artero

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a subdivision variance for the property Lot 11 Tract 34,000 in the Municipality of Dededo.

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 subdivision variance:

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

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing GWA facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary. Utility capacity analysis will consider service to existing customers, as well as approved projects in the building permit/construction stage, as unavailable for use by newly proposed developments. Discussions with the GWA Engineering Department will also include applicable GWA standards and requirements.

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

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

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

5. 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.

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

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

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

9. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
10. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public

sanitary sewer system. The applicant would be responsible for the design, permitting, construction, and maintenance of a sufficiently large lift station to meet this requirement.

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

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

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

This 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
Director
JESSE G. GARCIA
Deputy Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
2019
CLTC/GALC/GLUC

Memorandum

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

FROM: Director, Department of Public Works

APPLICATION NO.: 2019-26

SUBJECT: Subdivision Variance for Lot Area Ratio 3:1 (Lot parceling for family distribution), Lot 11, Tract 34000, "H" Hotel Zone, located in Urunao, Dededo

Bueñas yan Håfa Adai! The Estate of Jose Cruz Artero as represented by Executor of the Estate Mr. Anthony M. Artero. Request for a a Subdivision Variance to allow lot area ratio greater than 3:1 ratio, twenty-four (24) lot parceling on Lot 11, Tract 34000 located in the Municipality of Dededo. The Subdivision Variance is necessary for a fair and equitable partitioning and shares of the property to be distributed to each family member as authorized by: Probate Case No. PR 110-78; and Executive Deed Document No. 411854. Totaling the lot area approximately 89.64 acres or 362,786 square meters.

a) ***In accordance with, Title 21 GCA, Chapter 61 Zoning Law, Chapter 62 Subdivision Law, Reference Public Law 21-118 Rights of Way & Obligations.***

b) DPW has completed its review of the applicant's request for a Subdivision Variance has no objections to the request provided that the following conditions are met:

- Proper infrastructure for the proposed development.
- Any future setback issues shall be resolved prior to the proposed development.
- The Guam Subdivision Laws and Standards should be followed to ensure an orderly development of the following: stormwater disposal, access road, flood zone, transportation, solid waste, utilities, and park.
- Requirements of the Department of Parks and Recreation Historic Preservation Division shall be met for any proposed development.
- The area is located near marine waters with healthy coral reefs. Adverse impacts of excess runoff by future development shall be mitigated.

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

- Miscellaneous items shall include: compliance with all the Geotechnical requirements related to the site preparations, ecological planning to ensure the conservation of resources, location and proper width of all the proposed streets in the development, location and dimensions of all known existing easements and reservations. Topography, depicting two feet (2') contour intervals.

Vincent P. Arriola

Cc: MTeimoury

GUAM POWER AUTHORITY

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

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
AUG 07 2019
8:13
CLTC/GALC/GLUC
8/8/19

July 29, 2019

MEMORANDUM

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

From: General Manager

Subject: Lots 11, Tract 34000, Municipality of Dededo, (Anthony M. Artero); Subdivision Variance Application for family distribution of 24 Lots requiring approval from the GLUC to meet the requirement of Section 3204d of the Subdivision Rules and Regulations. **Application No. 2019-26**

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: Anthony M. Artero
Location: Lot 11, Tract 34000, Dededo
Type of Application: Subdivision Variance
GLUC/GSPC Application No. 2019-26
Brief Project Description:
The 24 Lots requires approval from the GLUC to meet the requirement of Section 3204d.

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

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

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

   Yes ☐ No ☒

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

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

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

JOHN M. BENAVENTE, P.E.
General Manager

8/1/19
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.

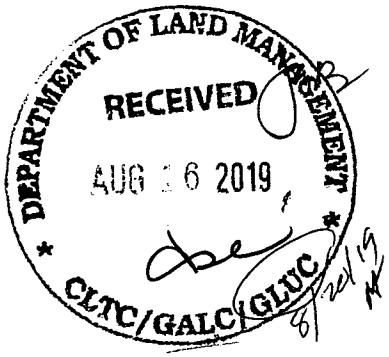
ASG/arp

Department of Parks and Recreation
Dipattamenton Plaset yan Dibuetsion
Government of Guam
Director's Office, Parks and 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
Deputy Director

In reply refer to:
RC2019-0199



August 8, 2019

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: DLM Application No.: 2019-26, Subdivision Variance
For Lot Area Ratio, Anthony M. Artero (Executor)
Lot 11, Tract 34000, Urunao, Municipality of Dededo
Case Planner: Frank Taitano

We reviewed the above subject and have no objection to the approval of this Subdivision Variance Application.

However, the subdivision lots are within, or in close proximity to Falcona Beach, listed in the Guam Historic Properties Inventory (GHPI) as Site # 66-08-0010, and Urunao Beach Site, GHPI-Site # 66-08-0011. These sites contain historic resources and probable human remains, that will need to be archaeologically mitigated before proceeding with any undertaking.

Should you have any questions, please contact Mr. Alfred Masga at 475-6338 or Mr. John Mark Joseph at 475-6339.

Sincerely,

Richard Y. Ybanez
Acting Director

Patrick Q. Lujan
Acting State Historic Preservation Officer

ORIGINAL

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

AUG 2 8 2019

DEPARTMENT OF LAND MANAGEMENT
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AUG 29 2019
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8/30/19

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. 2019-26: the Applicant, Anthony M. Artero (Executor, Estate of Jose C. Artero) represented by FC Benavente, Planners; requests a Subdivision Variance for lot area ratioing of Lot 11, Tract 34000 (Urunao), in the Municipality of Dededo, in an "H" (Hotel/Resort) zone.**

The staff of this Agency has reviewed the application and **have no objection to the proposed Subdivision Variance for lot area ratio** at this location. The owners are reminded that any development of these lots must comply with all relevant laws and regulations administered by the Guam Environmental Protection Agency.

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

WALTER S. LEON GUERRERO
Administrator

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 C. Santos
Deputy Director

NOV 0 5 2019

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
NOV 05 2019
3:05
CLTC/GALC/GLUC

MEMORANDUM

TO: Director, Department of Land Management

ATTN: Division of Planning

FROM: Director, Bureau of Statistics and Plans

SUBJECT: **Application No.** 2019-26
Location: Lot 11, Tract 3400, Municipality of Dededo
Applicant: Mr. Anthony M. Artero
Proposed Use: Subdivision Variance Request

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 based on its professional and technical analysis of effects to statutory authorities under the Bureau's purview.

Project Overview

The applicant, Anthony M. Artero, represented by FC Benavente, requests a subdivision variance to allow the proposed lots to have equal to or greater than the required lot area ratio of 3:1. The Estate proposes to create and distribute to family, twenty four lots from parent Lot 11, Tract 3400, located in Urunao, Municipality of Dededo.

The proposed property lot layouts were prepared in conformance with decisions and orders of the Superior Court of Guam in response to the Estate's distribution plan, and the property's unique and special topography. These unique landform features include a composite of ocean shoreline, cliff slope, cliff face, cliff edges, and cliff tops. The subject lot is 362,783 square meters or 3,904,963.71 square feet. Its current use is vacant and undeveloped and currently zoned "H" with proposed uses as Residential and a Hotel Resort.

Landscape Assessment

This property is located on the Northern Watershed. Having an accurate picture of an area's landscape and understanding how that landscape is changing is important information for planning efforts. Land cover data can help provide that big-picture view. According to NOAA's C Change Analysis Program (CCAP) land cover data from 2011, shows this watershed has changed by 9.39% due to increased impervious surfaces.

In terms of development impacts, 29.42% of the Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent.

Effects Test Review and Analysis and Conditions

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The property is identified as "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f):

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

The request is consistent with the land use for the area.

Development Policy

Executive Order 78-37, (B) Development Policy Development Policies (1) Shore Area Development: Only those uses' shall be located within the Seashore Reserve which: (1) enhance, are compatible with or do not generally detract from the surrounding coastal area's aesthetic and environmental quality and beach accessibility; or (2) can demonstrate dependence on such a location and the lack of feasible alternative sites.

As stated in the NCGLUP 5.2 Goals and Policies: Goal NS 1: Use land use categories to protect the natural environment and guide future development.

> **Policy NS-1** Protect the Northern Aquifer watershed and recharge areas through appropriate land use categories and development standards including requirements for public sewer infrastructure for all residential subdivisions, low development density for unsewered areas, on-site storm water disposal, and limiting heavy industrial activities.
> **Policy NS-2** Protect marine water quality through appropriate shoreline area land use designations and development standards such as discouraging construction below the mean high tide mark, including sea or retaining walls, allowing natural beach development processes to prevail, controlling erosion from shoreline development and ensuring that wastewater infrastructure is appropriately set back from marine waters.

The Bureau reminds the GLUC that 21 GCA Ch. 61 Section 61504 states that the *Legislature finds that the indiscriminate building of structures on the beaches of the Territory of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, that such construction, in addition, deprives the people of Guam of their right to the untrammeled use of beach areas beyond the high water mark, and finally, that such construction destroys the natural beauty of Guam's beaches, one of the territory's greatest natural resources. Accordingly, it is the purpose of the restrictions hereinafter contained to protect the beaches of Guam for future generations, to alleviate the health problems caused by construction near tidal areas, and to make certain that the people of Guam remain free to use the beaches of the territory to the maximum extent not incompatible with private ownership of the lands adjoining said beaches.*

The applicant must ensure that all future development is consistent with the above mention policies and statute.

Goal NS 4. Ensure that new development protects the shoreline character and coastal environment consistent with the Guam Coastal Zone Management program.

Policy NS-8 Preserve the marine environment and coastal area as a first priority in new development. If development is proposed in marine waters it should be for public facilities or for uses that provide regional community and economic benefit. Community benefits must be "direct" in nature and include cultural and traditional community practices.

Policy NS-9 Provide for additional and improved public access to beaches as part of new development and retain traditional access wherever possible.

The applicant must comply with provisions of 21GCA Ch.64, Territory Beach Areas.

Chapter 7. Infrastructure, 7.2. Goals and Policies:

Goal I 4. Assure a reliable, sustainable water supply for existing and future development while protecting the natural environment.

Policy I-15 Ensure that future development does not lead to contamination of the aquifer
a. Provide line replacements to reduce leakage, provide additional water and reduce demand on the Northern Aquifer.
b. Support water conservation programs
c. Implement wellhead protection standards with special emphasis on areas where high-density development is planned, such as village centers, mixed use and industrial areas.
d. Encourage use of sustainable "green streets" designs to minimize runoff and increase aquifer recharge.
e. Institute new density requirements for land uses that utilize on-site wastewater disposal systems that are more protective than current standards.

The applicant must ensure that all future development is consistent with the above mention policies

Resource Policy

Erosion Control. The alteration of vegetated areas to buildings, driveways, parking lots, roads, and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water resource. Therefore, the Bureau recommends that the GLUC require the applicant to comply with CNMI Guam Stormwater Management Manual Standards and implement Island Best Management Practices specifications.

*Concepts, design and performance standards can be found in the 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.

Visual Quality
Executive Order 78-37, (C) Resource Policy, (6) Visual Quality states "Preservation and enhancement of, and respect for the island scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use laws; visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significantly views from scenic overlooks, highways, and trails.

The applicant must ensure that all future development is consistent with the above mention policies

Recommendation and Decision

Pursuant to Executive Order 96-26, Appendix A § 700 (g), the Bureau hereby recommends approval based on 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.

Please do not hesitate to contact Mr. Jathan Muna-Barnes, Planner, at 300-9665or email jathan.barnes@bsp.guam.gov or Mr. Edwin Reyes, Coastal Program Administrator at 475-9672 or email edwin.reyes@bsp.guam.gov for any questions regarding this matter.

Si Yu'os Ma'ase'.

Mathew C. Santos
Acting Director

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

Department of Agriculture
Dipåttamenton Agrikottura

163 Dairy Road, Mangilao, Guam 96913

Chelsa Muña-Brecht
Director

DEPARTMENT OF LAND MANAGEMENT
RECEIVED
NOV 07 2019
CLTC/GALC/GLUC

11-07-2019
RECEIVED
Frank L. Farfan
Planning Div. DLM

October 28, 2019

Memorandum

To: Director, Department of Land Management

Attn: Executive Secretary, Guam Land Use Commission

Subject: **"Agricultural & Environmental Position Statement" for a "Subdivision Variance" request on application 2019-26 in an "H" zone to allow Lot 11 Tract 34000 encompassing 89.64 acres located in Urunao, Dededo to have equal to or greater than required a lot area ratio of 3:1. (Anthony M. Artero on behalf of Estate of Jose Cruz Artero).**

The Department of Agriculture (**DOAG**) has reviewed the subject lot for a "Subdivision Variance" request in a "Hotel Zone" to allow for 20 of the proposed 24 lots to come into compliance with the 3:1 ratio. Agriculture does not oppose the subdivision variance provided that should any development of the lot(s) proceed, mitigation practices described below must be implemented. The property's proximity to the coast and its largely undeveloped state has inherent risks to the environment and habitat of the area. As the total make up of land is 89.64 acres, any development of the site should have proper and approved protection measure built in the development.

Our agency recommends approval of the current proposal for subdivision variance to allow for lot(s) to meet the 3:1 ratio for lot parceling allowing for family distribution with the following statements, conditions and requirements set forth in ***21 GCA Chapter 61 §61637.***

Should the parceling proceed, all lots once parceled out must comply with both local and federal permitting rules and regulations in areas in and near coastal zones, protected habitat and highly erodible lands. DOAG will require that all landowners and heirs of the Estate of Jose Cruz Artero and any subsequent new owners, should any of the heirs sell their interests in the parceled lots, comply with the specified mandates.

As development occurs on Guam the destruction and removal of native tree species increases the potential for pollution. **Guam's Northern Aquifer, Coastal Zones, Wetlands, Native Habitat and its Flora and Fauna** without the incorporation of environmentally friendly practices, will be permanently changed or destroyed. Should the proposed project proceed to the build phase our agency will require **a comprehensive biological survey** to be performed on the entire site before any clearing and grading permits are secured with the Department of Public Works. The **Biological Survey** will give **DOAG** a complete picture of the make-up of the flora, fauna

and ecosystem of the area to guide both the developer and agency in proceeding, to incorporate mitigation practices into this development.

DOAG will also require that as part of the development, a comprehensive landscaping plan that includes the use of indigenous tree species common to this area and habitat. As the plan helps in maintaining natural resources, it is vital that developers include aspects of preservation with eco-friendly practices that preserve this sensitive environment. The inclusion of a **landscaping plan** will provide benefits to the land owner and developer as planted trees help reduce erosion of soils, provide windbreak benefits during storms, keep buildings cooler, provide shading to patrons and tenants, create an aesthetic appeal for the lots and preserve the integrity of filtration that the root systems provide in filtering pollutants that will enter into the aquifer. Additionally, an adequate buffer zone between the shoreline and the upland must be established to prevent any erosion of soils and other materials into the coastal zone. The buffer zone should use native species that are well adapted to high saline soils and coastal spray of ocean water to filter and prevent erosion of these sections of the entire property along the coastal side of the total land mass.

Please be aware that no **Clearing and Grading** of any section of the property is allowed prior to securing the permit from Department of Public Works and all appropriate agencies. This is to ensure compliance and prevention of the destruction of habitat as well as public safety. Prior to proceeding into the construction phase, our agency will require that any equipment associated with this type of activity is properly marked and fueled off site and away from areas near the shoreline to prevent contamination of chemicals into the waters. Entry and Egress sections must be appropriately marked to ensure no encroachment into sensitive areas occurs. The use of berms and silt screen material must also be included during initial and final phases of any projects as these BMPS will limit and prevent both encroachment and run-off.

The **Department of Agriculture** has several programs and personnel that can assist you in developing a landscaping plan. Please contact our **Agricultural Development Services & Forestry** divisions for further assistance and guidance at 300-7972 & 7976 respectively.

Our Forestry division grows and maintains native tree species that you may incorporate into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing this loss. To see these eco-friendly practices being used, visit our **Department of Agriculture Organic and Environmental Demonstration Farm**. The Agricultural Development Services division can also provide

Vetiver grass to project applicants to incorporate for erosion control on developments that occur in areas that are prone to high impact erosion.

For questions or concerns regarding Agriculture's position please contact our office at 300-7973. Thank you in this regard.

Chelsa Muña-Brecht
Director

ATTACHMENT D

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
DIRECTOR

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

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

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http://dlm.guam.gov

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dlmdir@land.guam.gov

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

January 15, 2020

Memorandum

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2019-10 – Request for Issuance of Final Public Report – Tumon Isa 16 Condominiums – HPR Registration Number 171

1. PURPOSE:

A. Application Summary: The applicant, Harmon Star Corporation, represented by Terrence M. Brooks, is requesting issuance of a Final Public Report for a condominium project to be known as "Tumon Isa 16 Condominiums." Said project consists of two, 2-storey buildings containing a total of fifteen (15) residential condominium units and one (1) commercial condominium unit, with common elements in an "H" (Hotel-Resort) Zone, on Lot 5118#1-7-3NEW, Tumon, in the Municipality of Tamuning under HPR Registration Number 171.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act)

2. FACTS:

A. Location: "Tumon Isa 16 Condominiums", hereinafter called "The Project" is located on Lot 5118#1-7-3NEW, Tumon, in the Municipality of Tamuning. It is along Bamba Street in Tumon, approximately 500 feet in from Pale San Vitores Road.

B. Lot Area: 3,491± Square Meters or 37,577± Square Feet or 0.86 Acres.

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

D. Sewer Status: With sewer.

3. **APPLICATION CHRONOLOGICAL FACTS:**

A. **Previous Commission Actions:** On March 27, 2008, the Guam Land Use Commission approved with conditions the request for a Tentative Development Plan under application number 2008-15. (See attached Notice of Action 771369)

B. **Date Application Accepted:** January 17, 2019

C. **Date Heard by ARC:** Not applicable.

D. **Public Hearing Results:** Not applicable.

4. **DISCUSSION:**

Buildings: The Project consists of two (2) two-story buildings within the "Project" limits and consists of sixteen (16) units, Building 1 has 12 units and Building 2 has 4 units

OFFERINGS

A. **Description:** There are three types of units, Type 1, Type 2 and Type 3.

a. **Type 1:** Type 1 units contain a living room with adjacent dining area and a kitchen, 3 bedrooms and two bathrooms having an area of approximately 1,322.7 square feet. There are a total of 12 Type 1 units.

b. **Type 2:** Type 2 units contain a living room with adjacent dining area and a kitchen, 2 bedrooms and two and a half bathrooms having an area of approximately 1,386.5 square feet. There are a total of 2 Type 2 units, one of which is designated as the commercial unit.

c. **Type 3:** Type 3 units contain a living room with adjacent dining area and a kitchen, 2 bedrooms and two and a half bathrooms having an area of approximately 1,386.5 square feet. There are a total of 2 Type 3 units.

Each unit will be separately metered for water and power, it will also have conduit installed for telephone and cable television. Each unit will have its own water heater and split unit air conditioners. Each unit shall be assigned two (2) parking spaces.

B. **Common Elements:** The common elements of the project shall include, but shall not be limited to:

a. The property, in leasehold;

b. All foundations, floor slabs columns, girders, beams, support bearing walls, roofs, corridors, entry halls, stairs, walkways, pipe chase, outdoor lights, entrances and exits of said building; excepting, however, any stairways and walkways specifically covered by the limited common elements;

c. All yards, grounds, landscaping, mail boxes refuse facilities, drainage ditches, walkways and steps; excepting however, any stairways and walkways specifically covered by the limited common elements;

d. All driveways and parking areas, and fencing and walls;

e. All ducts, sewer and water lines, fire protection systems, electrical equipment, wiring and other power, light, refuse, telephone and television; excluding the individual air-conditioning units and refrigerant lines.

C. Limited Common Elements:

Limited Common Elements include, but are not limited to the assigned automobile parking spaces as designated for each unit.

D. Non-Common Elements:

Certain items within or concerning the units are not common elements, but are the property of the unit owner. The unit owner shall be responsible for and shall maintain, at its expense, the following:

a. As to items within the unit, the air-conditioning blowers, cooling coil, air filter and any duct work;

b. As to items outside of the unit, any pipes, lines, wires, ducts, and equipment, including air conditioning compressor/condenser units located on the roof of the building, which exclusively serves each respective unit shall be the responsibility of the particular unit it serves;

c. Any non-load bearing wall within the unit.

Current Status of the Project: The developer holds a long-term lease on the property. The intended condominium units are leasehold units, for which the lease expires on April 30, 2086. In addition, the property, in fee simple is subject to a claim of Mechanic's Lien by JMSI Electrical LLC (recorded under instrument number 901251) as well as a twenty-feet (20') wide public access and utility right of way (recorded under instrument number 106281).

It is our position, based on the submitted documents, we find the material facts has been presented and considered adequate for any prospective purchaser to consider; and that adequate protection for purchaser's funds has been provided.

5. **STAFF RECOMMENDATION:** We recommend issuance of a Final Public Report and said Final Public Report shall expire thirteen months from the date of recordation of the Notice of Action.

Celine L. Cruz
Acting Chief Planner

Attachment

771369

Island of Guam, Government of Guam
Department of Land Management

File for record is Instrument No. 771369

For the Year 2008, Month 4, Day 7, Time 12:02

Recording Fee $3 - Cash Receipt No. _____

Deputy Recorder _____

(*Space above for Recordation*)

"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change."

ORIGINAL

GUAM LAND USE COMMISSION
Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96932

NOTICE OF ACTION

March 28, 2007
Date Typed

To: United Overseas Investment Co.
c/o Romeo H. Merjilla
142 Seaton Boulevard
Hagatna, Guam 96910

Application No. 2008-015

The Guam Land Use Commission, at its meeting on March 27, 2008:

___/ Approved ___/ Disapproved

XX/ Approved with Conditions ___/ Tabled

your request on Lot No. 5118#1-7-3,-4,-5,-6,-7,-8, and 5118#1-7-8R, Tumon, Municipality of Tamuning, for a:

___/ Zone Change** ___/ Subdivision Variance

___/ Conditional Use ___/ Tentative Subdivision

XX/ Tentative Development Plan

**Approval by the Guam Land Use Commission of a Zone Change DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor. [Ref: 21 GCA (Real Property), Chapter 6 (Zoning Law), Section 61634 (Decision by the Commission).]

NOTICE OF ACTION **Application No. 2008-015**
United Overseas Investment Co.
Lot No. 5118#1-7-3, -4, -5, -6, -7, -8 & -R8,
Tumon, Municipality of Tamuning
GLUC Meeting of March 27, 2008

APPLICATION DESCRIPTION: The applicant, United Overseas Investment Inc. represented by Mr. Romeo H. Merjilla is requesting approval of its Tentative Development Plan application to construct a Multi-Family structure consisting of sixteen (16) dwelling units.

CONDITIONS: The Guam Land Use Commission Approved Application No. 2008-015 subject to Planning Staff Report conditions;

DEPARTMENT OF LAND MANAGEMENT (DLM):

1. The applicant adhere to the ARC conditions and requirements as stipulated on their official Position Statement;
2. That pursuant to Section IV(E) of the Interim "H" Resort-Hotel Zone Rules and Regulations a performance bond in the amount of One Hundred and Ten Percent (110%) of the infrastructure costs of the project, and not less than Two Thousand Dollars ($2,000) is required and a copy shall be submitted to the Guam Chief Planner, Department of Land Management;
3. Subject Parcels shall be consolidated and the survey map shall be approved via the administrative map review and approval process prior to obtaining a Building Permit;
4. That prior to issuance of an Occupancy Permit, the applicant, submit to the Guam Chief Planner for Approval, a Landscaping Plan and that the Landscaping Project be at least 2% of the construction cost, to be certified as such by a registered Architect or Engineer;
5. That pursuant to Section IV(F) of the Interim "H" Resort-Hotel Zone Rules and Regulations and based on consultation with applicant's representative a period of three (3) years will be an acceptable time period within which all of the improvements authorized in the Tentative Development Plan shall be completed;
6. That the applicant is put on notice that the proposed project may be withheld due to Public Sewer System problems in Tumon.

BUREAU OF STATISTICS AND PLANS (BSP):

1. The parking layout and dimensions as well as the vehicular layout within the development must be approved by the Department of Public Works (DPW) to ensure that the applicant is in conformance with the right of way requirements;
2. The applicant must be required to work with the Guam Fire Department (GFD) to ensure that the access to the proposed establishment is sufficient and acceptable for emergency vehicles in the event of fire or an emergency;
3. The applicant must be required to work with the Guam Environmental Protection Agency (GEPA) to ensure that all storm water and run-off issues are adequately addressed. Furthermore, if the establishment proposes to use a backup generator, the applicant is advised to apply for other permits including those for fuel storage and for air quality related to generator emissions;
4. If there is any clearing or grading of the subject property, the applicant must be required to work with the Division of Historic Preservation, Department of Parks and Recreation (DPR) in the event of uncovering or discovering any historical artifacts;
5. The applicant must closely coordinate with the Guam Waterworks Authority (GWA) and must obtain clearance that the proposed development can be connected to the sewer system;
6. No future changes to the proposal will be allowed unless GLUC first approves them.

GUAM POWER AUTHORITY (GPA):

1. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
2. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code;
3. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
4. Secure electric utility easements required;
5. Provide scheduling and magnitude of project power demand requirements for new loads;
6. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
7. Primary distribution line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations;
8. A "fair share" assessment for power generation, transmission and/or substation facilities may be required.

GUAM WATERWORKS AUTHORITY (GWA):
GWA has no objection to the Tentative Development Plan if the conditions noted below are met and if a resolution to the wastewater capacity issues can be reached prior to the commencement of the project. Otherwise, wastewater connection of the applicant's proposed development may cause or contribute to sewage overflows in the Tumon Bay area. Such a connection cannot be approved by GWA.

1. Any extension and/or expansion of the water and wastewater system required to serve the property shall be subject to the rules and regulations of GWA and shall be at the expense of the applicant;
2. Plans and specifications must be submitted for review and approval by GWA prior to construction. Submittals shall include water and sewer design calculations and complete drawings and specifications. GWA recommends that project consultants coordinate development of utility plans with GWA well in advance of building permit submittal (conceptual and 60% development stages). Final submittal shall include electronic and paper copies of plans (electronic copy required for utilities only);
3. The Tamuning wastewater collection system does not currently have sufficient residual capacity to support this development nor does the system carrying wastewater from Tamuning to Hagatna. System capacity issues must be addressed before the proposed additional development can be connected to the wastewater system. Specific solutions to currently capacity issues have not been identified for this area. A consortium of developers, GWA and the Guam Legislature are currently reviewing funding options to enable expedited large sewage capacity improvement projects in Tumon and Tamuning that would consists of additional gravity sewers, forced mains and pump stations. GWA strongly recommends that the developer enter into ongoing discussions of creation of a similar consortium for the Tamuning area;
4. Submittal shall demonstrate compliance with proposed zoning rules and regulations. Applicant shall submit both electronic and paper copies of design plans (electronic copy required for utilities only);
5. The project design effort shall include an evaluation of fire flow requirements and a fire flow test of the existing hydrant;
6. Applicant is also on notice that water and sewer development charges may be applicable.

DEPARTMENT OF PARKS AND RECREATION (DPR):
DPR submits the following as a condition for their approval of the subject application; That, DPR will require several controlled clearings at different sections of the property in order to assess the presence or absence of historical properties within the project area. This inspection will require coordination between Mr. Merjilla or his representative, and our office and the use of his construction equipment. The inspection results will determine if archaeological work will be required or not.

Carlos R. Untalan 04-01-08

Carlos R. Untalan **Date**
Acting Guam Chief Planner

4-1-08

Jay L. Lather **Date**
Chairman, GLUC

Case Planner: Frank Taitano
Attachment(s): ARC Distribution List
cc: Building Permits Section, DPW (Attn: Mr. Jesus Ninete)

771369

NOTICE OF ACTION
United Overseas Investment Co.
Lot No. 5118#1-7-3, -4, -5, -6, -7, -8 & -R8,
Tumon, Municipality of Tamuning
GLUC Meeting of March 27, 2008

Application No. 2008-015

CERTIFICATION OF UNDERSTANDING

I / WE

_____ / ROMEO H. MERJILLA
(Applicant, pls. print) (Representative - pls. print)

understand that pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change. The Commission may grant two (2) one-year extensions of the above approval period at the time of initial approval.

I/We, further agree and accept the conditions above as a part of the Notice of Action, and further agree to adhere to any and all conditions made a part of and attached to this Notice of Action as mandated by the approval of the Guam Land Use Commission/Guam Seashore Protection Commission.

_____ Romeo H. Merjilla
Signature of Applicant **Signature of Representative**

Date: _____ **Date:** 4-4-08

****

ONE (1) COPY OF RECORDED NOTICE OF ACTION RECEIVED BY:

_____
Applicant or Representative

_____
Date

ATTACHMENT E

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
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

January 8, 2020

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Acting Guam Chief Planner

SUBJECT: Commission Brief – Tentative Subdivision on Lot 2303-R8NEW, Municipality of Mangilao, Application No. 2018-21

1. PURPOSE:

a. Application Summary: The applicant, TRI Inc., represented by FC Benavente Planners, pursuant to Section 5 of Executive Order 96-26 and Section 62504 (b), Chapter 62, Title 21 GCA is requesting for an extension of time of an Approved Tentative Subdivision on Lot 2303-R8NEW, in the Municipality of Mangilao.

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 and Executive Order 96-26.

2. DISCUSSION:

As conditionally approved by the Commission on December 13, 2018, the subject application is a Tentative Subdivision to create a subdivision consisting of Seventeen (17) Single Family residential lots on Lot 2303-R8NEW, Municipality of Mangilao.

As noted on the attached request package, with reasons provided, the applicant is requesting for an Extension of Time pursuant to Section 5 of Executive Order 96-26 where it states "The applicant must apply for and received a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action,

Dec. 10, 2019
RECEIVED
Planning Div. GLUC

FC BENAVENTE, PLANNERS

Planning, Zoning, Land Development Consulting, Permitting
127 Bejong Street, Barrigada, Guam 96913
Tel: 671.988.7911 felouben@gmail.com

December 10, 2019

Mr. Joseph Borja, Executive Secretary
Guam Land Use Commission
Department of Land Management
P.O. Box 2950 Hagatna, Guam 96910

Subject: Request for Time Extension for 17-lot Paradise Court Subdivision, (Application No. 2018-21), located in Mangilao, Guam.

Hafa Adai Mr. Borja,

With reference to TRI, Inc.'s Tentative Subdivision Approval (GLUC Application No. 2018-21), and as announced in the Notice of Action (See Attached Document No. 930945), we humbly submit this request:

1. for extension of time allowed to obtain "... a building or grading permit" pursuant to Section 5 of Executive Order 96-26; and
2. for extension of time allowed to install all required infrastructure improvements within one year pursuant to Title 21 GCA, Chapter 62, Section 62504(b).

Despite all good faith efforts expended by TRI, Inc. to comply with the GLUC's conditions of approval, the company finds itself in need of an extension of time to obtain permits, as well as to complete the installation of required infrastructure improvements.

The reasons are as follows:

1. The original project engineer was replaced because of severe illness, thus requiring procuring the services of another project engineer. This resulted in significant delay in the finalization and submittal of ARC agency required drawings, calculations, and specifications.
2. The original contractor was changed, again resulting in significant start up and material sourcing delays.
3. There were major development issues, including the time required to reach resolutions with GWA, GFD, and DPR, prior to obtaining permit clearances, which resulted in further extending time for obtaining these permits.

TRI, Inc. is diligently moving forward to this project's successful completion, as it has with its previous Paradise Estates Subdivision in Dededo, and the Paradise Meadows Subdivision in Yigo. We thank the GLUC for its consideration of our request, and look forward to your continuing support and approval. We are available at your convenience, should you have any concerns or questions that need further clarification.

Si Yu'os Ma'Ase'

Felix C. Benavente, Principal
A Duly Authorized Representative

Attachment As Stated:
1. Notice of Action, Document No. 930945
2. Building Permit Application No. B19000483

Paradise Court

A 17 Lot Residential Single Family Subdivision



SITE PLOT PLAN
SCALE: 1:500



NOTES :
1. SURVEY AND SHOWN ON FOUND CORNERS AS SHOWN.
2. ALL DISTANCES ARE IN METERS UNLESS OTHERWISE NOTED.
3. BEARINGS AND DISTANCES WITHIN THE PARENTHESIS ARE RECORD DATA, ALL OTHERS ARE 1993 GRID VALUE.
4. SUBJECT LOT IS WITHIN THE NORTHERN AQUIFER.
5. SUBJECT LOT IS ZONED "R-1" SINGLE-FAMILY RESIDENTIAL PER 1967 OFFICIAL ZONE MAP, 7/6/2004.
6. AS-BUILTS SHOWN EXISTS AS OF APPROVAL OF THIS MAP.

SYMBOL	DATE	BY	REVISION	APPROVED
PROJECT TITLE :				
LOCATION:				
DES.	EVB		CONTENT: SITE PLOT PLAN	
DRWN.	ANIM			
CHK.	EVB/ELOY			
DEVELOPER: TRI, Inc.			PROJECT: PARADISE COURT SUBDIVISION	DRAWING NO. CO.3
				SHEET OF

Old Price Road, Mangilao, Guam

Doc. No. 35GL-20-1606.

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

File for Record is Instrument Number 930945

On the Year 2019 Month 01 Day 29 Time 3:20

Recording Fee DE-OFFICIO Receipt No. _____

Deputy Recorder Jane Yamasaki
JANE T. YAMASAKI

(Space above for Recordation)

IMPORTANT NOTICE - READ CAREFULLY

"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change*."**

GUAM LAND USE COMMISSION
Department of Land Management
Government of Guam
P.O. Box 2950
Hagåtña, Guam 96932

COPY

NOTICE OF ACTION

December 14, 2018
Date

To: **TRI Inc.**
c/o FC Benavente
127 Bejong Street
Barrigada, Guam 96913

Application No. 2018-21

The Guam Land Use Commission, at its meeting on **December 13, 2018**.

____/ Approved ____/ Disapproved **XX/** Approved with Conditions

____/ Tabled

Your request on **Lot No. 2303-R8NEW, Municipality of Mangilao for a:**

NOTICE OF ACTION **Application No. 2018-21**
TRI Inc.
RE: Lot No. 2303-R8NEW
Municipality of Mangilao
GLUC Hearing Date: December 13, 2018

ZONING

___/ Zone Change***

___/ Conditional Use

___/ Zone Variance

___/ Tentative Development Plan

SUBDIVISION

XX/ **Tentative Subdivision**

___/ Final

___/ Extension of Time

___/ PL 28-126, SECTION 1(A)

NOTE ON ZONE CHANGE

*****Approval by the Guam Land Use Commission of a ZONE CHANGE DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Applicant shall be notified upon action taken by the Governor. [Reference 21 GCA (Real Property), Chapter 61(Zoning Law), Section 61634 (Decision by the Commission).]**

SEASHORE

___/ Wetland Permit

___/ Seashore Clearance

HORIZONTAL PROPERTY REGIME

___/ Preliminary

___/ Final

__/ Supplementary (Specify)

MISCELLANEOUS

___/ Determination of Policy and/or Definitions

___/ Other (Specify)

NOTICE OF ACTION
TRI Inc.
RE: Lot No. 2303- R8NEW
Municipality of Mangilao
GLUC Hearing Date: December 13, 2018

Application No. 2018-21

APPLICATION DESCRIPTION:
The applicant, TRI Inc. represented by FC Benavente, Planners is requesting approval of a Tentative Subdivision to create a subdivision consisting of Seventeen (17) Single Family residential lots on Lot 2303-R8NEW, Municipality of Mangilao.

COMMISSION DECISION:
The Guam Land Use Commission **APPROVED** the applicants request subject to the following conditions:

1. Applicant adhere to ARC conditions and requirements as stated in the official position statements; and,

2. All infrastructure improvement requirements must be installed throughout the proposed development site within the prescribed one-year pursuant to Title 21GCA, Chapter 62, Sec 62504(a). The applicant may further elect to secure a bond pursuant to Title 21GCA, Chapter 62, Section 62504(b).

3. The one-year period will begin December 13, 2018 and expires on December 13, 2019.

Marvin Q. Aguilar
Guam Chief Planner

12/27/18
Date

Tae S. Oh
Acting Chairman
Guam Land Use Commission

12/27/2018
Date

Case Planner: Frank Taitano
Cc: Building Permits Section, DPW

NOTICE OF ACTION
TRI Inc.
RE: Lot No. 2303-R8NEW
Municipality of Mangilao
GLUC Hearing Date: December 13, 2018

Application No. 2018-21

CERTIFICATION OF UNDERSTANDING

I/We_____ / Richard Sana
(Applicant [Please print name]) (Representative [Please print name])

Understand that pursuant to Section 5 of Executive Order 96-26, that a building or grading permit must be obtained for the approved GLUC/GSPC project within one (1) year of the date of recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire.

The Commission may grant two (2) one-year extensions of the above approval period at the time of initial approval.

This requirement shall not apply for application for a Zone Change***

I/We, further **AGREE** and **ACCEPT** the conditions above as a part of the Notice of Action and further **AGREE TO ANY AND ALL CONDITIONS** made a part of and attached to this Notice of Action as mandated by the approval from the Guam Land Use Commission or from the Guam Seashore Protection Commission.

_____ _____ _____ 1/29/19
Signature of Applicant Date Signature of Representative Date

ONE (1) COPY OF RECORDED NOTICE OF ACTION RECEIVED BY:

_____ _____ _____ 1/30/2019
Applicant Date Representative Date

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
Government of Guam

BUILDING SAFETY IS NO ACCIDENT



BUILDING INSPECTION & PERMITS SECTION
APPLICATION FOR PERMIT

Application Number: _____

IMPORTANT: Applicant must complete all items in sections I, II, III, IV

Permit Number: B19000483
GFD NO. 19-0281

I. LOCATION OF BUILDING

Location: LOT NO. 2303-R8NEW
Zoning District: R-1
Between: MANGILAO, GUAM (No) (Street) and _____ (Cross Street)
Subdivision: PARADISE COURT SUBDIVISION Lot # _____ Block _____ Lot Size _____

II. TYPE AND COST OF BUILDING

A. Type of Building

R-3 (Group Occupancy) | II (Type of Construction) | CONCRETE (Foundation)

- [X] New Building
- [ ] Foundation Only
- [ ] Shell Only
- [ ] Fence Wall
- [ ] Retaining Wall
- [ ] Other _____
- [ ] Add
- [ ] Alter
- [ ] Repair
- [ ] Demolished
- [ ] Reconstructed
- [ ] Relocated

65'-9" x 29'-0" x 9'-0" (Dimension of Building)

B. Ownership

- [X] Private (individual, corporation, non-profit institution, etc.)
- [ ] Public (Federal, State, or Local Government)

C. COST

Cost of Improvements	
electrical	
plumbing	
heating, air conditioning	
other (elevator, etc.)	
TOTAL COST OF IMPROVEMENT	$ 4,075,414.60

SCOPE OF WORK

17 UNITS SUBDIVISION
-16UNITS NEWHOUSE BUILDING & 1UNIT EXISTING HOUSE RENOVATION

D. PROPOSED USE

Residential
- [X] One family
- [ ] Two or more families — Enter No. of Units → _____
- [ ] Transient hotel, motel, or dormitory — Enter No. of Units → _____
- [X] Garage
- [ ] Carport
- [X] Other (specify) 17 UNITS SUBDIVISION

Non-Residential
- [ ] Amusement, Recréational
- [ ] Church, other religious
- [ ] Industrial
- [ ] Parking garage
- [ ] Service station, repair garage
- [ ] Hospital, institutional
- [ ] Office, bank, professional
- [ ] Public utility
- [ ] School, library, other educational
- [ ] Stores, mercantile
- [ ] Tanks, towers
- [ ] Other (specify) _____

III. SELECT CHARACTERISTICS OF BUILDING

E. Principal Type of Frame
- [ ] Masonry (wall bearing)
- [ ] Wood frame
- [ ] Structural steel
- [X] Reinforced concrete
- [ ] Other (specify) _____

F. Type of Sewage Disposal
- [X] Public Sewer
- [ ] Private (septic tank, etc.)

G. Type of Mechanical
- [ ] Yes [ ] No Central Air Conditioning
- [ ] Yes [ ] No Will there be an elevator?

H. Type of Water Supply
- [X] Public Supply
- [ ] Private (well, cistern)

I. Dimensions
- [X] Number of stories: ONE (1)
- Total square feet of floor area, all floors, based on exterior dimensions: 1,856.00 SF
- Total land area, sq. ft.: 12,200 SQ.M

J. Number of Parking Spaces
- Enclosed: TWO (2)
- Outdoors: _____

K. Residential Buildings Only
- Number of bedrooms: 3
- Number of Bathrooms: Full 2, Partial _____

IV. IDENTIFICATION

	Print Name / Signature	Mailing Address - Number, street, city and state	ZIP Code	Telephone
1. Owner or Lessee	TRI, INC.	562 HARMON LOOP ROAD #200 DEDEDO, GUAM	96929	635-3095
2. Contractor	BASE CORPORATION License # 8035	P.O. BOX 23903 GMF BARRIGADA, GUAM	96921	637-4059
3. Architect or Engineer SEAL NO.	WILLIAM B. FLORES 579	P.O. BOX 27747 GMF BARRIGADA, GUAM	96921	482-6387

The owner of this building and the undersigned agree to conform to all applicable laws of this jurisdiction

Owner/Lessee: TRI, INC. _____ Current Address: 562 HARMON LOOP ROAD #200 DEDEDO, GUAM 96929 Application Date: _____

public works
DIPATTAMENTON CHE'CHO' PUPBLEKO
Government of Guam

BUILDING SAFETY IS NO ACCIDENT

BUILDING INSPECTION & PERMITS SECTION
APPLICATION FOR PERMIT

Application Number: _____

Permit Number: B19000483

TO BE FILLED OUT BY BUILDING STAFF ONLY

V. PLAN REVIEW

Review Required	Date Plans Started	Date Plans Approved	Print Name / Signature	Comments
Architectural				
Structural				
Mechanical/Plumbing				
Flood Control				
Electrical				
HPCC				
Hydraulics/Civil				
Highway Encroachment				
Rights of Way				
Traffic Engineering				

VI. ZONING EXAMINATION TO BE DONE BY DLM

District "R-1"

Use Single family Residence

Front Yard 15' min.

Side Yard 8' min. Side Yard 8' min.

Rear Yard 10' min.

Ownership of Property:

If not owner, is there a lease or authorization to the property?

Did this project receive TLUC approval? What are the conditions 2018-21 - NOA Attached

VII. COMMENTS BY OTHER AGENCIES (Route as indicated)

	Agency	Date	Print Name / Signature	Comments
X	Land Management, Zone	6-19-19	Frank Taitano	
X	Contractor's License Board	6.19.19	[illegible]	Lic Exp: 6.30.2019
	Public Health			
X	E.P.A.			
X	GWA			
X	Guam Power Authority	6/24/19	APRIEL D MATA	APPROVED AS NOTED (167-19)
X	Fire Prevention Bureau	12.2.2019	[illegible]	APPROVED FOR RUBC 11/26/19 (RESUBMITTED 12/2)
X	Peals Board	6/20/2019	Nixon M. Teaic	Valid Registration
X	Parks & Rec.			
X	Dept. of Agriculture	7/10/19	For JOHN C. BORJA	Approved for its intended purpose only

VIII. VALIDATION

Building Permit Number _____

Building Permit Issued _____, 20 ____

Approved By: _____

Title _____ Date: _____

Approved Valuation: $4,075,414.60

Plan Checking Fee $ 8,761.35 Rec'd - Paid 4/19/19 C

Building Permit Fee $ 13,479.00

Total $ 22,240.35