



**DIPATTAMENTON MINANEHAN TANO'**  
 (Department of Land Management)  
**GUBETNAMENTON GUAHAN**  
 (Government of Guam)



JOSEPH M. BORJA  
 Director

**LOURDES A. LEON GUERRERO**  
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May 1, 2019

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

From: Planning Division  
 Department of Land Management

Hafa Adai:

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

1. Guam Land Use Commission; Thursday, March 28, 2019; and,
2. Guam-Hybrid Land Use Commission; Thursday, December 27, 2018

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

Thank you.

3566-19-0454  
 Speaker Tina Rose Muña Barnes

MAY 01 2019  
 Time 2:38 ( ) AM (X) PM  
 Received By: Alan

MAY -1 PM 5:06 P



GOVERNMENT OF GUAM – Department of Land Management  
Office of the Recorder **934611**

File for Record is Instrument Number \_\_\_\_\_  
on the Year 20 19 Month 4 Day 30 Time 224

Recording Fee DE-OFFICIO Receipt No. DE-OFFICIO

Deputy Recorder: Joel Antenor Cruz

JOEL ANTENORCRUZ

Above Space for Recorder's Use only

COPY

<sup>ME</sup>  
**GUAM LAND USE COMMISSION ~~SPECIAL~~ MEETING MINUTES**



Department of Land Management Conference Room  
ITC Building, Tamuning



Thursday, March 28, 2019  
1:46 p.m. to 2:51 p.m.

**GUAM LAND USE COMMISSION SPECIAL MEETING**

Department of Land Management Conference Room

3<sup>rd</sup> Floor ITC Building, Tamuning

Thursday, March 28, 2019 • 1:46 p.m. to 2:51 p.m.

**MEMBERS PRESENT:**

Mr. Tae S. Oh, Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Hardy I.T. Vy, Commissioner

**PLANNING STAFF PRESENT:**

Mr. Nicolas Toft, Legal Counsel

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Patricia Muna, Administrative Assistant

[Excused: Executive Secretary, Joseph M. Borja]

**GUAM LAND USE COMMISSION  
GUAM SEASHORE PROTECTION COMMISSION  
Attendance Sheet**

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

Date of Meeting: THURSDAY, MARCH 28, 2019

Time of Meeting: GLUC: 1:46 PM GSPC:

X	GLUC
X	Regular
	Special
✓	Quorum
	No-Quorum

	GSPC
	Regular
	Special
	Quorum
	No-Quorum

**COMMISSION MEMBERS**

**SIGNATURE**

Acting Chairman Tae S. Oh

Commissioner Conchita D. Bathan

Commissioner Hardy T.I. Vy

Chairman, Vacant

Commissioner, Vacant

*[Handwritten signatures on lines]*

**STAFF**

Joseph M. Borja, Executive Secretary

Nicolas E. Toft, Legal Counsel (OAG)

Marvin Q. Aguilar, Chief Planner

Frank Taitano, Planner IV

Penmer Gulac, Planner IV

Celine L. Cruz

M. Grace Vergara, Planner II

M. Cristina Gutierrez, WPS II

*[Handwritten signatures on lines]*

ADJOURNMENT

GLUC: 2:57 PM GSPC:







**GUAM LAND USE COMMISSION REGULAR MEETING MINUTES**  
**Department of Land Management Conference Room, 3<sup>rd</sup> Floor, ITC Bldg., Tamuning**  
**Thursday, March 28, 2019 • 1:46 p.m. to 2:51 p.m.**

**I. Notation of Attendance**

**Chairman Oh** called the regular meeting of the Guam Land Use Commission for Thursday, March 28, 2019 to order at 1:46 p.m., noting a quorum.

Present were: Chairman Tae Oh, Commissioner Conchita Bathan, Commissioner Hardy Vy, Legal Counsel Nick Toft, Guam Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz.

**II. Approval of Minutes**

**Chairman Oh** for approval of the Commissioners was the GLUC special meeting Minutes for Tuesday, March 19, 2019. Commissioners have had a chance to review the Minutes; there was no discussion, Chairman Oh was ready to entertain a motion.

**Commissioner Bathan** made a motion to approve the GLUC Special Meeting Minutes of Tuesday, March 19, 2019, subject to minor edits that will be submitted to the Recording Secretary by close of business today.

**Commissioner Vy** seconds the motion.

**Chairman Oh** motion is made by Commissioner Bathan, seconded by Commissioner Vy; no discussion noted, motion was put to a vote.

All in favor of the motion say "aye" [ Chairman Oh, Commissioner Bathan, and Commissioner Vy], all opposed say "nay." **[Motion passed; 3 ayes, 0 nay]**

**Next item on the agenda –**

**III. Old or Unfinished Business [None]**

**IV. New Business**

**Zone Change**

- A. Application No. 2018-46, Annie Yanfang Zhao represented by Harry D. Gutierrez; Zone Change request from "A" (Rural/Agricultural) to "C" (Commercial) zone, for the proposed construction of a commercial building, on Lots 45-1 and 45-R1, Tract 1536, in the Municipality of Mangilao. Case Planner: Penmer Gulac

**Chairman Oh** announced that Application No. 2018-46 was withdrawn from today's agenda at the request of the applicant due to technical issues, and will be rescheduled at a later date.

**Next item on the agenda –**

## V. Administrative and Miscellaneous Matters

### Order to Show Cause/Status Report

- B. Application No. 2008-003B, Grandview Development, LLC represented by FC Benavente, Planners; continuation of an Order to Show Cause as to the reason(s) for failure to comply with the conditions of approval of an amended Tentative Development Plan as noted on the GLUC Notice of Action dated March 29, 2013, and its six-month status report for the Grandview Shopping Mall, Tumon. Case Planner: Frank Taitano

Marvin Aguilar (Chief Planner) reads Commission Brief to include update on all ongoing work at the project site. [For full content/context, see attached report]

[Attachment B – Commission Brief dated February 4, 2019]

Chairman Oh opened the floor to the Commissioners for questions for staff.

Commissioner Bathan inquired if this was the first status report since issuing a Notice of Action.

Marvin Aguilar responded “yes.”

Commissioner Bathan the applicant should have submitted the report in February. Commissioner Bathan wanted to ensure that it was submitted in compliance with the requirement of six months.

Frank Taitano (Case Planner) assured Commissioner Bathan that the applicant was within the six months; and it was not heard until today due to Commission meeting schedules.

Chairman Oh noting no additional questions for staff, Chairman Oh invited the applicant and their representative to give their presentation.

Felix Benavente (FC Benavente, Planners) the staff report presents a good summary of their presentation today. Mr. Benavente states that Grandview Development assures the Commission that they will continue to strive and preserve the integrity of this project until its completion. The applicant continues to actively seek its anchor tenant at this time. And in addition to what was outlined in the report on the accomplishments since the Commission’s issuance of its last Notice of Action, the development is still at status quo at this time.

Mr. Benavente adds that the project site is well maintained, security is provided, and also landscaped. The company has met with the condition of keeping the property well maintained, and they have continued to comply with the Commission’s intent that the property remains viable.

Chairman Oh questions for the applicant.

Commissioner Bathan is there an estimated time when the project will be completed.

**Felix Benavente** the completion of the project is dependent on what the requirements will be of the anchor tenant. The shell of the building is finished, the grounds are finished. Mr. Benavente reiterated that parts of the structure maybe modified depending on the requirements of an anchor tenant. At this time, Mr. Benavente could not comment as to when the development will be completed.

**Commissioner Bathan** it is then basically completed pending anchor tenant improvements.

**Felix Benavente** concurred with Commissioner Bathan's comment. He further added that the power, water and sewer systems are also in place.

**Commissioner Bathan** comments that she has heard from the community that the demographics of the tourists that come to Guam is changing and that they are not spending money on high end merchandise; but rather, they come to Guam to experience the island. Commissioner Bathan inquired what would be the alternative plan of the developer if there is no improvement in the consumer market.

**Phillip Schrage** is the Senior Vice President of Operations and Leasing for Goodwind and Grandview Development.

**Fred Yaman** is the General Manager for the Micronesia Mall.

**Phillip Schrage** it is the intention of the developer to operate this building as a shopping center, and that there are no other plans for any other uses at this time.

[Discussion ensues]

**Chairman Oh** does the developer still intend to move forward with the installation of the traffic control lights.

**Fred Yaman** replies that they are currently at the design stage, and has been in discussion with the Department of Public Works.

**Phillip Schrage** a traffic light is a necessity for the project in order to accommodate traffic from both directions to access the property.

**Chairman Oh** upgrade designs from the architects is for the exterior.

**Fred Yaman** for the interior infrastructure such mechanical and electrical for the common areas.

**Chairman Oh** commends the developer for keeping the property well maintained.

**Felix Benavente** commends the Commission for their proactive approach to ensure that Tumon remains a nice environment and free of blighted buildings.

[Discussion ensues]

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

**Commissioner Bathan** I would like to make a motion to accept the applicant, Grandview Development, LLC's six-month status report that was received by Department of Land Management of January 29, 2019; and, that the applicant continues with its timely submission of the succeeding six-month report.

**Chairman Oh** there is a motion on the floor. Is there a second.

**Commissioner Vy** second.

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

### **Horizontal Property Regime**

- C. Application No. 2014-07E, Allegro Properties represented by Atty. Melinda Swavely; requests issuance of its 3<sup>rd</sup> Supplementary Final Public Report for the Avida Townhomes, on Lot 5360-R19NEW-4, in the Municipality of Mangilao, in an "R2" (Multi Family Dwelling) zone, HPR No. 168. Case Planner: Celine Cruz

**Celine Cruz** summarizes the staff report for the Commission. [for full content/context, please see attached report]

### **[Attachment C – Staff Report dated March 22, 2019]**

**Chairman Oh** there were no questions for staff, Chairman Oh invited the applicant's representative to present the application. Please state your name for the record.

**Melinda Swavely** (representing Allegro Properties) as Ms. Cruz has summarized, there are no changes to the development. Ms. Swavely reports that the owner almost sold the units recently; however, the sale did not go through. The developer wants to continue to market the units as a condominium project.

**Chairman Oh** the developer is trying to sell the units.

**Melinda Swavely** the President would be happy if one, two or all five were sold, but that hasn't happened yet.

**Chairman Oh** asked where the project was located.

**Celine Cruz** the project is closer to the entrance of Guam Community College in Mangilao. It is right behind the Mangilao Domino's location.

**Chairman Oh** are there any occupants.



**Melinda Swavely** the units are currently being rented out.

**Commissioner Bathan** how many brokers does the owner have.

**Melinda Swavely** the condominiums are on multiple listings, but it has been Ms. Liz Duenas from Remax Realty.

**Chairman Oh** wished the applicant the best of luck in finding a buyer for the project. Noting no additional questions of the applicant, Chairman Oh was ready to entertain a motion.

**Commissioner Vy** Mr. Chairman, I move to accept the issuance of a Third Supplementary Final Public Report for the Avida Townhomes, on Lot 5360-R19NEW-4, in the municipality of Mangilao, in an "R2" zone, HPR No. 168; Application No. 2014-07E, for a period of thirteen months ending April 28, 2020.

**Chairman Oh** motion on the floor, is there a second.

**Commissioner Bathan** second.

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

### **Horizontal Property Regime**

- D. Application No. 2017-02B, S&C Investments, LLC represented by Atty. Terrence M. Brooks; requests issuance of a First Supplementary Final Public Report for the San Vitores Condominiums, consisting of 15 residential units, on Lots 5118#1-2-4NEW and 5118-1-2-4NEW R/W, in the municipality of Tamuning, in an "H" (Hotel/Resort) zone, HPR No. 170. Case Planner: Celine Cruz

**Celine Cruz** summarized the staff report for the Commission. [For full content/context, please see attached report]

**[Attachment D – Staff Report dated March 22, 2019]**

**Chairman Oh** requested for clarification on the expiration date which states November 12, 2018.

**Celine Cruz** the expiration date is corrected, and is expired. The request for the issuance of the first supplementary report was received by this Department in January; it was still a bit late, but the Commission is only hearing it now due to GLUC meeting schedules.

**Commissioner Bathan** since the expiration of the final public report on November 12, 2018, has there been any applications that expired, but were given approvals by this Commission.

**Celine Cruz** believed that there have been some. The issue with the expired reports is that when a report expires, the developer is unable to actively sell the units for that project until they obtain

an updated public report from the Commission. With the expiration of this public report and the applicant reporting that none of the fifteen units have been sold indicates that they did not do anything outside of what they are allowed to do under the HPR rules. With them coming in to request for the issuance of a new public report will put the developer in a position where they can actively market the units if a report is to be issued.

**Nick Toft (Legal Counsel)** this differs then what is noted on Executive Order 96-26 where an applicant has to obtain a building/grading permit within one year or everything expires and start all over. HPRs do not fall under this situation.

[Discussion issues]

**Chairman Oh** there were no further questions for staff, Chairman Oh invited the applicant's representative to give their presentation.

**Terry Brooks** is before the Commission on behalf of S&C Investments; and with Mr. Brooks is Mr. Scott Clark who is a partner in the LLC that has developed this project.

This project is a conversion of an existing apartment building that was originally completed back in 1985, and has since been upgraded. The units are being marketed as long-term rentals, and most units are occupied at this time. The developer is interested in potentially selling the entire complex, but cannot continue until a new final public report is issued by this Commission.

**Chairman Oh** questions for the applicant.

**Commissioner Bathan** prior to the expiration of the first report did the developer have a broker to help market the units.

**Terry Brooks** the other developer is Mr. Chris Felix who is a realtor and is taking care of all marketing and broker portions for this application.

**Chairman Oh** when this property was acquired there was no HPR, it was an apartment complex.

**Terry Brooks** that is correct.

**Chairman Oh** is it the goal of the developer to sell the units.

**Scott Clark** if that doesn't work, they hope to sell the units individually.

[Discussion ensues]

**Chairman Oh** reminded the developer to be cognizant of the report's expiration date and to submit the request for issuances of future reports (should there be a need to) before the expiration date of the report.

There being no additional discussion, the Chairman was ready to entertain a motion.

**Commissioner Vy** Mr. Chair, with regards to Application No. 2017-02B, I would like to make a motion to accept the issuance of a First Supplementary Final Public Report for the San Vitores Condominium consisting of 15 residential units, on Lots 5118#1-2-4NEW and 5118#1-2-4NEW R/W, in the municipality of Tamuning, in an “H” (Hotel/Resort) zone, HPR No. 270. With staff’s recommendation for a period of thirteen months to end on April 28, 2020.

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

**Commissioner Bathan** second.

**Chairman Oh** seconded by Commissioner Bathan. Any discussion on the motion.

**Celine Cruz** for the record, Ms. Cruz noted that the HPR number on the agenda was incorrect; and that the correct HPR number is 170 and not 270.

**Commissioner Vy** asked if the motion should be read over to reflect correct number.

**Nick Toft (Legal Counsel)** just say “so amended.”

**Commissioner Vy** so amended.

**Commissioner Bathan** seconds the amended motion.

**Chairman Oh** motion to amend the motion made by Commissioner Vy, seconded by Commissioner Bathan. No discussion. On the amended motion, all in favor say “aye” [Chairman Oh, Commissioner Vy, Commissioner], opposed say “nay.” **[Amended motion passed; 3 ayes, 0 nay]**

**On the main motion**, no further discussion; on the main motion, all in favor say “aye” [Chairman Oh, Commissioner Vy, Commissioner Bathan], all opposed say “nay.” **[Main motion passed; 3 ayes, 0 nay]**

**Next item on the agenda –**

**Conditional Use Renewal**

- E. Application No. 1997-23F, BME & Sons, Inc.; request for annual renewal of a previously approved Conditional Use permit, for the continued operation of its Temporary Workforce Housing Facility, on Lot 5223-R9-3, in the municipality of Barrigada, in an “M1” (Light Industrial) zone. Case Planner: Penmer Gulac

**Penmer Gulac (Case Planner)** summarizes supplemental staff report to include purpose, facts, staff discussion/analysis, recommendation and conditions. [for full content/context, see attached report]

**[Attachment E – Staff Report dated March 18, 2019]**

**Chairman Oh** for the record, additional documents were received from BME & Sons, Inc.; authorization of representation by Mr. Victor Gaza and additional photographs of the existing facility.

**[Exhibit 1 – Letter of Authorization, Exhibit 2 – photos of existing facility.]**

**Chairman Oh** inquired when was the last expiration date for the Conditional Use permit.

**Penmer Gulac** stated that the last expiration date was in 2015.

**Commissioner Bathan** is there an expiration date on the Conditional Use.

**Penmer Gulac** the permit has to be renewed every two years; however, at the last renewal approval, the Commission stated that the renewal of the permit was to be done on an annual basis.

**Chairman Oh** there was a Notice of Action dated October 12, 2017 for one year. The applicant submitted a letter on October 1, 2018 to request for the annual review reporting renewal of the permit. The Commission is only hearing the application today due to quorum issues, and they have met the deadline.

**Penmer Gulac** responds, “yes.” The applicant has been very consistent with the renewal process of its TWFH.

**Chairman Oh** concurs with Mr. Gulac’s statement and the Commission appreciates it. No additional comments and/or questions noted for staff, Chairman Oh invited the applicant’s representative to present the request.

**Vic Gaza** (authorized representative for BME & Sons, Inc.) Mr. Gaza is here today to request for the Commission’s consideration for the annual renewal of the previously approved Conditional Use permit to operate a temporary workforce housing facility for temporary workers on Lot 5223-R9-3, in Barrigada.

This is noted in the application packet and BME submits their request to renew their permit and update the Commission on their continued efforts to maintain a temporary worker’s housing facility in good order. They have remained in full compliance to the Notice of Action that was granted on July 25<sup>th</sup>, 2013, for a period of two years, and thereafter, to be renewed annually. The applicant has adhered to all provisions named in GLUC Resolution 2009-01 on the policies on operations for all temporary workforce housing and all additional imposed conditions from the GLUC.

The most recent approval was on October 27, 2017 for the housing to accommodate 114 workers onsite at the BME village. They continued to update their operating license as a general contractor and maintains their administrative offices in their recently approved Mangilao facility. All licenses and permits for business practices are up to date, and all conditions and requirements have been met. BME is dedicated in maintaining the housing facility in anticipation of accommodating eighty (80) new H2B temporary workers to arrive between April and June of this year.

**Chairman Oh** questions for Mr. Gaza.

**Commissioner Bathan** as mentioned by staff the facility is being renovated. Will renovations be completed in time for the arrival of the new workers considering there is a shortage of workers on Guam.

**Vic Gaza** responds, "yes it will."

**Commissioner Vy** there was a revocation of H2 visas. How are you sure that this will be accomplished.

**Vic Gaza** it is dependent on the federal government lifting this restriction; however, BME, along with other contractors on Guam are hopeful that it will happen.

**[Discussion ensues on arrival of BME's H2B workers]**

**Commissioner Bathan** the projects that BME has submitted for H2 workers is for military projects or outside of the fence projects.

**Vic Gaza** the upcoming project is for the federal government.

**[Brief discussion on the photos submitted to the Commissioners. Mr. Gulac noted that the current facility is the former M.D. Crisostomo barracks.]**

**Chairman Oh** there no additional comments, Chairman Oh was ready to entertain a motion.

**Commissioner Bathan** Mr. Chair, I would like to make a motion to approve the continuation of a Conditional Use permit for a temporary workforce housing facility on Lot 5223-R9-3, in the municipality of Barrigada, under Application No. 1997-23E.

1. For the continuation of the operation as a temporary workforce housing;
2. The applicant to continue the annual reporting as a condition of the approval; and,
3. All Commission, ARC, Workforce Housing applicable conditions and GLUC Resolution No. 2009-01 is still applicable and in force.

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

**Commissioner Vy** second.

**Chairman Oh** seconded by Commissioner Vy.

**Marvin Aguilar** stated for the record that the latest Notice of Action was approved on October 27, 2017; and the deadline would have been October 27, 2018. The applicant did submit their request for renewal on September 3<sup>rd</sup>, 2018, two months prior to the expiration date. But due to the rollovers in agendas, they are still in compliance with the NOA to renew.

**Chairman Oh** for clarification, Chairman Oh stated that considering it is March, and the original renewal date was October 2018 which was five months ago that means the applicant would have to come before the Commission in a few months to renew the conditional use permit.

**Commissioner Bathan** the Commission may want to consider changing the renewal date.

**Marvin Aguilar** stated that he will make comments in the NOA the sequence of events that led the applicant to this renewal request in March.

[Discussion ensues on renewal date of the Conditional Use permit.]

**Nick Toft** suggested that the main motion reflect the change on the renewal date.

**Commissioner Bathan** amends the motion to include the one-year expiration date to begin on the recordation date of the Notice of Action.

**Chairman Oh** there is a motion by Commissioner Bathan to amend the original motion. Is there a second.

**Commissioner Vy** second.

**Chairman Oh** no additional discussion on the amended motion, all in favor say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy], opposed say "nay." **[Amended Motion passed; 3 ayes, 0 nay].**

**On the main motion;** all in favor of the motion say "aye" [Chairman Oh, Commissioner Bathan, Commissioner Vy], opposed say "nay." **[Main motion passed; 3 ayes, 0 nay]**

**Chairman Oh** there is a confirmation hearing today for a new Commissioner for the GLUC. Was there any feedback if there was support or opposition of the new candidate?

**Marvin Aguilar** we have not received any word.

**Chairman Oh** no additional discussion, Chairman Oh was ready to entertain a motion for adjournment.

## VI. **Adjournment**

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



The regular meeting of the Guam Land Use Commission for Thursday, March 28, 2019 was adjourned at 2:51 p.m.

Approved by:

Date approved:

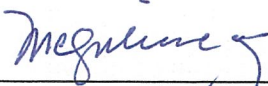


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Tae S. Oh, Chairman  
Guam Land Use Commission



Transcribed by:



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M. Cristina Gutierrez, Recording Secretary  
DLM, Planning Division

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**Recording Secretary's Note:** I, M. Cristina Gutierrez, was not present for the March 28, 2019 GLUC hearing. Minutes were transcribed based on recording and notes that was provided to me by Ms. Patricia Muna, Administrative Assistant for the Planning Division.

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# GUAM LAND USE COMMISSION

Acting 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)

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## AGENDA

### Regular Meeting

**Thursday, March 28, 2019 @ 1:30 p.m.**

Department of Land Management Conference Room  
590 S. Marine Corps Drive, 3<sup>rd</sup> Floor, ITC Building, Tamuning  
*[As advertised in the Guam Daily Post on March 21<sup>st</sup> and March 26<sup>th</sup>, 2019]*

- I. **Notation of Attendance**                      [ ] Quorum                      [ ] No Quorum
- II. **Approval of Minutes**
  - GLUC Special Meeting of Tuesday, March 19, 2019
- III. **Old or Unfinished Business [None]**
- IV. **New Business**

#### Zone Change

- A. Application No. 2018-46, Annie Yanfang Zhao represented by Harry D. Gutierrez; request for a Zone Change from "A" (Agricultural/Rural) to "C" (Commercial) zone, for the proposed construction of a commercial building, on Lots 45-1 and 45-R1, Tract 1536, in the Municipality of Mangilao.  
Case Planner: Penmer Gulac

#### **V. Administrative & Miscellaneous Matters**

- B. Application 2008-003B, Grandview Development, LLC; Continuation of an Order to Show Cause as to the reason(s) for failure to comply with the conditions of approval of an amended TDP as noted on the GLUC Notice of Action dated March 29, 2013 and its six-month status report for the Grandview Shopping Mall, Tumon. Case Planner: Frank Taitano
- C. Application No. 2014-07E, Allegro Properties represented by Atty. Melinda S. Swavley; requests insurance of its 3<sup>rd</sup> Supplementary Final Public Report for Avida Townhomes, on Lot 5360-R19NEW-4, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone, HPR No. 168.  
Case Planner: Celine Cruz
- D. Application No. 2017-02B, S&C Investments, LLC represented by Atty. Terrence M. Brooks; requests issuance of a First Supplementary Final Public Report for the San Vitores Condominiums, consisting of 15 residential units, on Lots 5118#1-2-4NEW and 5118#1-2-4NEW R/W, in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone, HPR No. 270. Case Planner: Celine Cruz

- E. Application No. 1997-23E, the Applicant, BME & Sons, Inc.; request for annual renewal of a previously approved Conditional Use permit, for the continued operation of a Temporary Workforce Housing Facility, on Lot 5223-R9-3, in the Municipality of Barrigada, in an "M-1" (Light Industrial) zone. Case Planner: Penmer Gulac

**VI. Adjournment**

**ATTACHMENT A**  
**APPLICATION NO. 2018-46**  
**WITHDRAWN FROM TODAY'S AGENDA**  
**DUE TO TECHNICAL ISSUES**

ATTACHMENT B

**DIPĀTTAMENTON MINANEHAN TĀNO'**  
(Department of Land Management)  
**GUBETNAMENTON GUĀHAN**  
(Government of Guam)



LOURDES A. LEON GUERRERO  
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JOSEPH M. BORJA  
Acting Director

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February 4, 2019

MEMORANDUM

TO: Acting Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Commission Brief – 6-Month Status Report and Compliance to Conditions of Approval of Application No. 2008-003B, Amended Tentative Development Plan for Lot Nos. 5131NEW, 5131-1, 5126-3-1NEW, Tumon, Municipality of Tamuning

Grandview Development , LLC submits its status report in response to the required 6-month status report condition, as noted on its issued Notice of Actions dated March 29, 2013 and July 6, 2018.

In its report the applicant submits assurance to the GLUC that they continue to comply and adhere to conditions listed on the original and amended Notice of Actions and submits the following completed projects shown on the site plan that was presented to the GLUC on January 14, 2016.

1. The construction of 4 bus shelters.
2. The construction and paving of the parking lot and storm drainage system in the front of building structure.
3. Relocation of the ponding basin and widening of roadway entrance.
4. Construction and installation of underground water, sewer and electrical utilities. Pending GPA's installation of electrical lines and transformers.
5. Completion of landscaping and irrigation system on the sides and front of the building and main entrance to the building.

6. Traffic Study: On November 21, 2017, representatives of Grandview Dev. LLC met with Stanley Consultants and Parsons and it was determined that a traffic control light will be required by DPW for removal of the curbs and center lane median located at the main entrance to the shopping mall building. Other requirements are a traffic light on the San Vitores Road intersection. Topographic survey work were performed at three locations. ASC Engineers were commissioned for the design and is presently ongoing.
7. The upgrades design by Laguana Architects LLC are finished and pending solicitation for bids.
8. Landscaping are being maintained by JJ Global Services.
9. Denanche Security Agency provides security services 24 hours a day and 7 days a week to protect and prevent vandalism to the property.

In addition, the applicant submits that one of two transformers has been installed and activated by the Guam Power Authority and a secondary transformer and electrical lines are being installed as a temporary power source.

We have review the applicant's submittal and at this time reserved our response and remit it to the Commission for their action.



Marvin Q. Aguilar  
Chief Planner

ATTACHMENTS: 6-Month Status Report  
NOA dated 3/29/13  
NOA dated 7/6/2018



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

925069

File for Record is Instrument Number \_\_\_\_\_  
on the Year 20 18 Month 08 Day 01 Time 2:01

Recording Fee \_\_\_\_\_ Receipt No. \_\_\_\_\_

Deputy Recorder: Jane Yamasaki

JANET VANESSAKI

(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

**ORIGINAL**

**NOTICE OF ACTION**

July 6, 2018

Date

To: Grandview Development, LLC  
c/o F C Benavente, Planners  
2149 San Miguel Building,  
Suite 1, Army Drive  
Dededo, Guam 96929

Application No. 2008-003B

The Guam Land Use Commission, at its meeting on June 28, 2018.

   / Approved    / Disapproved XX/ Approved with Conditions;

**6-month Status Report in Compliance to Conditions of Approval of Application No. 2008-003B, Amended Tentative Development Plan for Lot Nos. 5131NEW, 5131-1, 5126-3-1NEW, Tumon, Municipality of Tamuning**

**NOTICE OF ACTION**

Grandview Development, LLC

RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW

Municipality of Tamuning

GLUC Hearing Date: June 28, 2018

Date: July 6, 2018

Page 2 of 4

Application No. 2008-003B

**ZONING**

/ Zone Change\*\*\*

/ Conditional Use

/ Zone Variance

Height                       Use

**XX** / 6-Month Status Report and Order to Show Cause for an Approved Amended Tentative Development Plan (TDP).

**SUBDIVISION**

/ Tentative

/ Final

/ Extension of Time

/ PL 28-126, SECTION 1(A)

**NOTE ON ZONE CHANGE**

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

**SEASHORE**

/ Wetland Permit

/ Seashore Clearance

**HORIZONTAL PROPERTY REGIME**

/ Preliminary

/ Final

/ Supplementary (Specify)

**MISCELLANEOUS**

/ Determination of Policy and/or Definitions

/ Other (Specify)

**NOTICE OF ACTION**

Application No. 2008-003B

**Grandview Development, LLC**

**RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW**

**Municipality of Tamuning**

**GLUC Hearing Date: June 28, 2018**

**Date: July 6, 2018**

**Page 3 of 4**

**APPLICATION DESCRIPTION:** The Applicant, Grandview Development, LLC; submission of its six-month status report in continuance of an Order to Show Cause for failure to comply with the conditions of approval of an amended TDP for the Grandview Shopping Mall as noted on the GLUC Notice of Actions dated March 29, 2013 and October 27, 2017 under Application No. 2008-003B.

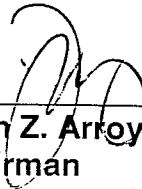
**COMMISSION DECISION:** The Guam Land Use Commission accept the applicant's Six (6) Month Status Report and that the applicant is to continue with its timely submission of its report.



**Marvin Q. Aguilar**  
**Guam Chief Planner**

7/26/2018

**Date**



**John Z. Arroyo**  
**Chairman**  
**Guam Land Use Commission**

7/26/18

**Date**

Case Planner: Frank P. Taitano

Cc: Building Permits Section, DPW

Real Property Tax Division, Department of Revenue and Taxation

**NOTICE OF ACTION**  
Grandview Development, LLC  
RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW  
Municipality of Tamuning  
GLUC Hearing Date: June 28, 2018  
Date: July 6, 2018  
Page 4 of 4

Application No. 2008-003B

**CERTIFICATION OF UNDERSTANDING**

I/We Raymond Brune / [Signature]  
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

Signature of Applicant      Date      Signature of Representative      Date

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

Applicant      Date      Representative      Date  
[Signature]      [Signature]      [Signature]      8/6/18

850531

File for Record is Instrument No.

On the Year 2013 DE OFFICIO Month 04 Day 16 Time 3:49

Recording Fee \_\_\_\_\_ Receipt No. \_\_\_\_\_

Deputy Recorder Lisa S. Manggar  
(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

**NOTICE OF ACTION**

March 29, 2013

Date

To: Grandview Development, LLC  
c/o Felix C. Benavente  
2149 San Miguel Building,  
Suite 1, Army Drive  
Dededo, Guam 96929

Application No. 2008-003B

The Guam Land Use Commission, at its meeting on March 28, 2013.

   / Approved    / Disapproved XX/ Approved with Conditions

   / Tabled

Your request on Lot Nos. 5131NEW, 5131-1, 5126-3-1NEW, Municipality of Tamuning for approval of an Amended Tentative Development Plan (TDP).

NOTICE OF ACTION  
Grandview Development, LLC  
RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW  
Municipality of Tamuning  
GLUC Hearing Date: March 28, 2013  
Date: March 29, 2013  
Page 2 of 4

Application No. 2008-003B

<u>ZONING</u>	
<input type="checkbox"/> /	Zone Change***
<input type="checkbox"/> /	Conditional Use
<input type="checkbox"/> /	Zone Variance
<input type="checkbox"/> [ ]	Height
<input type="checkbox"/> [ ]	Density
<input type="checkbox"/> [ ]	Setback
<input type="checkbox"/> [ ]	Use
<input type="checkbox"/> [ ]	Other (Specify)
<input checked="" type="checkbox"/> /	Amended Tentative Development Plan

<u>SUBDIVISION</u>	
<input type="checkbox"/> /	Tentative
<input type="checkbox"/> /	Final
<input type="checkbox"/> /	Extension of Time
<input type="checkbox"/> /	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).]

<u>SEASHORE</u>	
<input type="checkbox"/> /	Wetland Permit
<input type="checkbox"/> /	Seashore Clearance

<u>HORIZONTAL PROPERTY REGIME</u>	
<input type="checkbox"/> /	Preliminary
<input type="checkbox"/> /	Final
<input type="checkbox"/> /	Supplementary (Specify)

<u>MISCELLANEOUS</u>	
<input type="checkbox"/> /	Determination of Policy and/or Definitions
<input type="checkbox"/> /	Other (Specify)



**NOTICE OF ACTION**

Application No. 2008-003B

**Grandview Development, LLC**

**RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW**

**Municipality of Tamuning**

**GLUC Hearing Date: March 28, 2013**


**Date: March 29, 2013**

**Page 3 of 4**


**APPLICATION DESCRIPTION:** The applicant, Grandview Development, LLC represented by Felix C. Benavente is requesting for an Amended Tentative Development Plan approval for the Grandview Shopping Mall (formerly Ino Corporation's Tumon Bay Shopping Center). Tumon, Municipality of Tamuning.

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

- A. Applicant continues to adhere to the March 13, 2008 conditions listed on the original Notice of Action; and
- B. That the March 13, 2008, Notice of Action be amended to show that it was temporarily suspended from October, 2011 to March, 2013 with a new expiration date of April, 2014 ; and
- C. That the proposed number of parking stalls to be provided on Lots 5126-2-1, 5126-2-2 and 5126-2-R2 should not be less than 174; and
- D. That Applicant, within six months, returns before the Commission with a status report.

  
 \_\_\_\_\_  
**Marvin Q. Aguilar**  
 Acting Guam Chief Planner

4-01-2013  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
**Lawrence S. Rivera**  
 Acting Chairman  
 Guam Land Use Commission

4-16-13  
 \_\_\_\_\_  
 Date

Case Planner: Frank P. Taitano  
 Cc: Building Permits Section, DPW  
 Real Property Tax Division, Department of Revenue and Taxation

NOTICE OF ACTION  
Grandview Development, LLC  
RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW  
Municipality of Tamuning  
GLUC Hearing Date: March 28, 2013  
Date: March 29, 2013  
Page 4 of 4

Application No. 2008-003B

**CERTIFICATION OF UNDERSTANDING**

I/We \_\_\_\_\_, Felix C. Benavente  
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

\_\_\_\_\_  
Signature of Applicant Date

Felix Benavente 4/16/2013  
Signature of Representative Date

9

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

\_\_\_\_\_  
Applicant Date

Felix Benavente 4/16/2013  
Representative Date

ATTACHMENT C

**DIPĀTTAMENTON MINANEHAN TĀNO'**  
(Department of Land Management)  
**GUBETNAMENTON GUĀHAN**  
(Government of Guam)



LOURDES A. LEON GUERRERO  
Governor

JOSHUA F. TENORIO  
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](mailto:dlmdir@land.guam.gov)

Telephone:  
671-649-LAND (5263)

Facsimile:  
671-649-5383

March 22, 2019

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report -Application No. 2014-07E, Request for Third Supplementary Final Public Report on Lot 5360-R19NEW-4 in the Municipality of Mangilao.

1. **PURPOSE:**

**A. Application Summary:** The applicant, Allegro Properties Corporation, represented by Attorney Melinda Swavely, Esq. of Dooley Roberts & Fowler LLP, request for issuance of a Third Supplementary Final Public Report in order to continue to market and sell the Avida Townhomes project, located in an "R-2" (Multi-Family Dwelling) zone on Lot 5360-R19NEW-4, in the Municipality of Mangilao, under Application No. 2014-07E.

**B. Legal Authority:** Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act) Sections 45154 Automatic Expiration of Public Reports.

2. **FACTS:**

**A. The Avida Townhomes project consists of:**

**Apartments Description:** There five (5) apartment units with three (3) bedrooms, two and one-half (2 ½) bathrooms, kitchen, dining/living room area, storage area and balcony. The floor area of each unit is 1606.89 square feet inclusive of a two (2) car carport and balcony on the second floor.

The parking facilities consists of fifteen (15) parking stalls comprised of five (5) carports with two (2) parking stalls each and five common parking stalls. Each apartment unit includes a carport for two (2) cars. Five (5) parking stalls are part of the Common Elements for use by tenants, guests and invitees.

Other common elements of the project include a three foot (3) concrete wall with chain link fence around the right and left side yards and the rear of the project, three (3) foot concrete wall and four concrete columns and decorative fencing along the front of the project.

- B. Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for “Avida Townhomes” on December 10, 2015 with an expiration date of January 10, 2017 (Reference Instrument No. 889055).
- C. A First Supplementary Final Public Report was issued by the Commission on January 12, 2017 and expired on February 12, 2018 (Reference Instrument No. 902799).
- D. A Second Supplementary Final Public Report was issued by the Commission on February 22, 2018 and expired on March 22, 2019 (Reference Instrument No. 919861).
- E. **Current Status.** The developer is currently marketing the project as a whole. If the Developer is unable to sell the entire project in the next few years, it has plans to market the units individually.
- F. **Changes to Original Project.** There are no material changes to the project.

3. **STAFF RECOMMENDATION:**

Recommend issuance of a Third Supplementary Final Public Report in order for the developer to continue to sell the project containing 5 condominium units; and, pursuant to §45154 of Chapter 45, Title 21 the issuance of this Third Supplementary Final Public Report is **for a period of thirteen months to end on April 28, 2020.**

  
Marvin Q. Aguilar  
Guam Chief Planner

Attachment  
**Case Planner: Celine Cruz**

ROBERTS FOWLER & VISOSKY LLP  
ATTORNEYS AT LAW

TIM ROBERTS  
KEVIN J. FOWLER  
JON A. VISOSKY  
SETH FORMAN

865 SOUTH MARINE CORPS DRIVE SUITE 201  
TAMUNING, GUAM 96913  
TELEPHONE: (671) 646-1222  
FACSIMILE: (671) 646-1223  
www.guamlawoffice.com

Of Counsel:  
MELINDA S. SWAVELY  
DAVID W. DOOLEY  
COLIN P.A. JONES

Writer's Direct Email:  
swavely@guamlawoffice.com

February 14, 2019

Via Hand Delivery

Mr. Tae Oh  
Chairman, Guam Land Use Commission  
c/o Mr. Marvin Q. Aguilar, Guam Chief Planner  
DEPARTMENT OF LAND MANAGEMENT  
Government of Guam  
Tamuning, Guam 96913

Application No.:	2014-07E
	Allegro Properties
	<b>3RD SUPPLEMENTARY FINAL PUBLIC REPORT Avida Townhomes HPR 168</b>
Accepted Date:	14-Feb-19
Case Planner:	Celine Cruz

**SUBJECT: AVIDA TOWNHOMES**  
**REGISTRATION NO.: 168**  
**TYPE: REQUEST FOR APPROVAL OF A THIRD  
SUPPLEMENTARY FINAL REPORT**

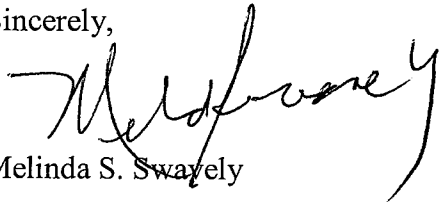
Dear Chairman and Commissioners:

Our firm represents Allegro Properties Corporation ("Developer") of Avida Townhomes ("Project") on Lot No. 5360-R19NEW-4, Mangilao, Guam.

The Developer is requesting the issuance of a Third Supplementary Final Report. The Developer is actively marketing the Project, as a whole, to potential on-island and off-island investors. However, if the Developer is unable to sell the entire Project in the next few years, it plans to market the Units individually.

We have attached hereto information in support of the issuance of a Third Supplementary Final Report for the Project. Your favorable consideration of our request for issuance of a Third Supplementary Final Report is respectfully requested.

Sincerely,

  
Melinda S. Swavely

Attachment

**INFORMATION IN SUPPORT OF THE ISSUANCE OF A THIRD SUPPLEMENTARY  
FINAL REPORT FOR AVIDA TOWNHOMES**

**1. Brief background information of the project identifying the project name and any amenities provided, its location by lot, block, tract number, and municipality.**

- a. Name of Project: Avida Townhomes
- b. Location: Lot No. 5360-R19NEW-4, Mangilao, Guam
- c. Zoning: R-2
- d. Developer: Allegro Properties Corporation  
162 W. Route 8, Suite 100  
Barrigada, Guam 96913  
(671) 734-3011
- e. No. of Buildings and Floors: There is one (1) reinforced concrete apartment building with two (2) floors
- f. No. of Units: Five (5) Units.
- g. Unit Type: All of the five (5) apartment units have three (3) bedrooms, two and one-half (2-1/2) bathrooms, kitchen, living and dining room, storage area, balcony, and two (2) parking stalls in the carport.
- h. Parking Stalls: Each apartment unit includes two (2) parking stalls in the carport. There are also five (5) parking stalls, which are Common Elements of the Project and are for use by the owners, tenants, guests, and invitees. Each parking stall contains a minimum of one hundred eighty (180) square feet, and has immediate access within the Project leading to a public street.
- i. Other Amenities or Features: Grounds refuse facilities, transformer, concrete area, ingress and egress along the front of the Project, three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall, and four (4) concrete columns and decorative fencing along the front of the Project.

**2. Number and identification of Units sold.**

None.

**3. Number and identification of Units not sold.**

The following Units are not sold: Unit A, Unit B, Unit C, Unit D and Unit E.

4. **Type of extension requested.**

[ ] preliminary [X] final

5. **Number of extension (i.e., third, fourth, etc.).**

Third.

6. **Real Estate Broker. Has the Developer retained the services of a real estate broker/company to marketing the remaining units? If so, please provide the complete name, mailing address and phone number of the broker/company. Does the Developer intend to market the remaining units himself or within his company?**

The Developer has retained the services of Elizabeth C. Duenas, a broker for ReMax, to market the units. The mailing address, telephone number, facsimile number, mobile number and email address for Elizabeth C. Duenas are as follows:

Mailing Address: 238 East Marine Corps Dr., Suite 202, Hagatna, Guam 96910  
Telephone No.: (671) 479-8843  
Facsimile No.: (671) 479-8913  
Cellular No.: (671) 687-0911  
Email Address: lduenas@remax.guam.com

7. **Marketing Plan. A brief explanation on how the Developer or its broker plans to market the remaining condominium units.**

The Developer currently desires to sell the Project as a whole. If the Developer is unable to do so in the next few years, it plans to market the Units individually.

8. **Changes to original Project. Should there be any material changes to the Project at the time of the application for a supplementary report to extend an existing Report, the Developer shall be required to identify those exact changes in his Report, and provide an explanation as to what remedies or action has been taken to correct those changes. Supporting documents are recommended to justify material changes.**

There are no material changes to the Project.



ATTACHMENT D  
**DIPĀTTAMENTON MINANEHAN TĀNO'**  
*(Department of Land Management)*  
**GUBETNAMENTON GUĀHAN**  
*(Government of Guam)*



LOURDES A. LEON GUERRERO  
Governor

JOSHUA F. TENORIO  
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:  
[dmdir@land.guam.gov](mailto:dmdir@land.guam.gov)

Telephone:  
671-649-LAND (5263)

Facsimile:  
671-649-5383

March 22, 2019

Memorandum

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-02B Request for Issuance of First Supplementary Final Public Report

RE: San Vitores Palace Condominiums – Registration Number 170

1. **PURPOSE:**

- A. **Application Summary:** S & C Investments, LLC, represented by Terrence M. Brooks, Esq. request for a First Supplementary Final Public Report for “San Vitores Palace Condominiums”, on Lot 5118#1-2-4NEW and Lot 5118#1-2-4NEW R/W, Tumon, Municipality of Tamuning, in an “H” (Hotel/Resort) zone, HPR Registration No. 170, under application No. 2017-02B, pursuant to §45101 to §45155, Chapter 45, Horizontal Property Regime Act.
- B. **Legal Authority:** Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act), §45154, Automatic Expiration of Public Reports.

2. **FACTS:**

- A. The project consist of 15 apartment units, each having a living room and adjacent dining area, a kitchen, three bedrooms and two bathrooms.
- B. Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for “San Vitores Palace Condominiums” (SVPC) on October 12, 2017 with an expiration date of November 12, 2018. (Reference Instrument No. 915965 dated December 15, 2017.)
- C. To date, all 15 units are still in the name of the Developer. Because of the current economic conditions, the developer has determined that it was not ready to sell condominium units in the SVPC at this time.
- D. The Developer has reported that there are no material changes to the project.



3. **STAFF RECOMMENDATION:** Recommend issuance of a First Supplementary Final Public Report in order for the developer to market the 15 condominium units, and pursuant to §45154 of Chapter 45, Title 21 the issuance of this First Supplementary Final Public Report is for a period of thirteen months to end on April 28, 2020.



Marvin Q. Aguilar  
Chief Planner

Case Planner: Celine Cruz

# Brooks Concepcion Law, P.C.

247 Martyr Street, Ste. 101  
Hagatna, Guam 96910-5190

Terrence M. Brooks, Esq.  
Georgette Bello Concepcion, Esq.

Telephone: (671) 472-6848  
Facsimile: (671) 477-5790  
Email: mail@guamlaw.net

January 17, 2019

*Received  
1-10-19  
CMM*

Mr. Marvin Aguilar  
Chief Planner, Guam Land Use Commission  
P.O. Box 2950  
Hagatna, Guam 96932

Re: Petition to Extend Effective Date of Public Report  
San Vitores Palace Condominiums

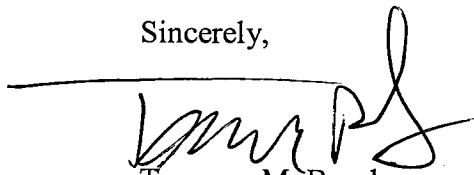
Dear Mr. Aguilar:

I am the attorney for S & C Investments, LLC. Enclosed for your review, please find our Petition to Extend the Effective Date of the Public Report for the "San Vitores Palace Condominiums." Also enclosed is a check to the Treasurer of Guam in the amount of \$100 for the filing fee and a check payable to the Guam Times LLC in the amount of \$192 for publication of the notice of hearing.

The developers have not sold any units yet. At this time, the economy is still somewhat stagnant. The developers are holding onto the units until such time as the economy improves and the value of the units increases.

If you have any questions, feel free to call us at the numbers listed above.

Sincerely,



Terrence M. Brooks

encl.

Application No.:	2017-02B
S&C INVESTMENTS, LLC	
1ST SUPPLEMENTARY FINAL PUBLIC REPORT SAN VITORES PALACE HPR 170	
Accepted Date:	18-Jan-19
Case Planner:	Celine Cruz

bc

A SMART APPROACH TO LEGAL SERVICES

**PETITION TO EXTEND FINAL PUBLIC REPORT  
SAN VITORES PALACE CONDOMINIUMS**

Registration Number 170

Petitioner, S&C Investments, LLC, hereby petitions the Guam Land Use Commission (GLUC) for an order extending the effective period of the Final Public Report for the San Vitores Palace Condominiums.

Petitioner states:

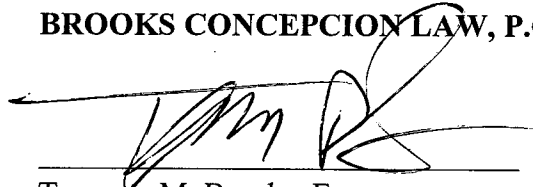
1. S&C Investments, LLC, is the developer of the San Vitores Palace Condominiums (SVPC).
2. The SVCP is a 15-unit condominium located on the following real property:
  - a. Lot Number 5118#1-2-4NEW Tamuning, Guam; and
  - b. Lot Number 5118#1-2-4NEW-R/W, Tamuning, Guam.
3. A Final Public Report approving the condominium was issued by the GLUC on October 12, 2017, and recorded in the Department of Land Management on December 15, 2017, under document number 915965.
4. The project was complete when the Final Public Report was issued.
5. The Final Public Report was good for 13 months from the date of issuance, however the GLUC is authorized to extend effective period of a public report (21 GCA 45154).
6. The existing Report expired on November 12, 2018.
7. Because of economic conditions, the Developer has determined that it was not ready to sell condominium units in the SVPC at this time.
8. No units have been sold to this date.

9. No changes have been made to the condominium that would require a supplementary public report.

WHEREFORE, the Developer requests an order from the GLUC extending the effective date of the Final Public Report issued in this matter for a period of two years.

DATED: January 17, 2019

**BROOKS CONCEPCION LAW, P.C.**

A handwritten signature in black ink, appearing to read 'T. Brooks', is written over a horizontal line.

By: Terrence M. Brooks, Esq.  
Attorney for S&C Investments, LLC

ATTACHMENT E

**DIPĀTTAMENTON MINANEHAN TĀNO'**  
(Department of Land Management)  
**GUBETNAMENTON GUĀHAN**  
(Government of Guam)



**LOURDES A. LEON GUERRERO**  
MAGA'HAGA • 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:  
[dldm@land.guam.gov](mailto:dldm@land.guam.gov)

Telephone:  
671-649-LAND (5263)

Facsimile:  
671-649-5383

March 18, 2019

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Supplemental Staff Report - Application No. 1997-023F,  
Request for continuation of Conditional Use Permit-TWHF  
Lot 5223-R9-3, Municipality of Barrigada

1. **PURPOSE:**

**A. Application Summary:** The Applicant, BME & Sons, Inc., are requesting approval for the renewal of a previously approved Conditional Use Permit to continue operations of a Temporary Workers Housing Facility (TWHF), consisting of an existing 2-storey workers dormitory for 86 workers and an additional single-storey concrete dormitory for 28 workers, at the site that will be housing a total 114 workers. The buildings/structure in the company compound are administrative/planning office, a motor pool/transport/maintenance facility, and a fabrication shop and materials yard. The BME village (compound) have support facilities such as dining area, lounge, recreation area, and other amenities to support the operation of a Temporary Workers Housing Facility (TWHF) on Lot 5223-R9-3, Municipality of Barrigada, in an "M-1" Light- Industrial) Zone.

**B. Legal Authority:** Title 21, Guam Code Annotated, Chapter 61, Section 61303 Conditional Uses, and other pertinent regulations of the Zoning Law to include Section 61309(c), Public Law 31-07 (Policy for Workforce Housing Facility for Temporary Workers, and GLUC Executive Order 2009-01 applicable to Temporary Workers Housing Facilities (TWHF).

2. **FACTS:**

**A. Location:** The subject site is fronting a 40-foot right of way known as Perez Coral Pit Road and directly behind Asia Motors and west across Perez Quarry and approximately 500 feet north off of Route No. 16 underpass in Barrigada.

- B. Lot Area:** 4,934 square meters or 53,109.13 square feet or 1,219 acres.
- C. Present Zoning:** "M-1" (Light-Industrial) Zone.
- D. Field Description:** There an existing 2-storey barracks/dormitory facility and maintenance shop and office and materials yards on the site. The topography is fairly flat. On the west, there are a few residential duplexes to the east and across the street is a light industrial activity and a quarry. Other land use activities within a 500 - 2,000 feet radius are warehouses, commercial activities along Route No. 16 and Guam International airport to the south and sporadic residential homes and vacant lots. All utility infrastructures are within 100 feet of the subject development.
- E. Masterplan:** Residential – Low Density
- F. Community Design Plan:** Conservation
- G. Previous Commission Action (s):** Conditional Use Permit for Temporary Workers Housing Facility (TWHF) on October 7, 1997; Ref: Application No. 1997-023; GLUC – 1997-23B Conditional Use Permit-TWHF Renewal July 25, 2013 for 2-years (24 months) and thereafter renewed annually; GLUC - 1997-23C Annual Renewal June 23, 2015; GLUC -1997-23D Annual Renewal September 8, 2016. GLUC -1997-23E, Annual Renewal October 12, 2017; All approvals with conditions noted on all Notice of Actions remain in force and applicable conditions for compliance of Workforce Housing Facilities for Temporary Workers to references P.L. 31-72, and to GLUC Resolution 2009-01, Policy for Workforce Housing Facility for Temporary Workers).


### 3. DISCUSSION:

On October 1, 2018, BME & Sons, Inc., submitted a letter of request for their annual review/reporting renewal of their Temporary Workers Housing Facility as required by Notice of Action dated October 12, 2017, and reporting that they have complied with all GLUC and ARC conditions and applicable conditions for compliance of Workforce Housing Facilities for Temporary Workers to references P.L. 31-72, and to GLUC Resolution 2009-01, Policy for Workforce Housing Facility for Temporary Workers). That they have maintained operations to meet or exceed standards of operating a temporary workforce facility and make it a safe and comfortable for all their workers. The have further maintained good standing and relations to the community and clients. They report of no complaints /problems or negative impacts of their operations on and off-site. They also have been pro-active in supporting community-based projects, assist non-profit organizations, assist GDOE prepare for new school year in facility maintenance in various sites and assist the municipal mayors (Barrigada & Mangilao) with community facility upgrades and repairs as well as being a good neighbor in their immediate area.

They continue to maintain and make improvements on site in the event the federal government and Guam Department of Labor approves H2B importation request of 80 pending foreign labor/workers. At present, they have 120 local workers on jobsite around the island and still need more workers for more new projects, to include bidding for military/federal projects for the military build-up and local/federal projects, and capital improvement projects.

On June 27, 2018, the Mayor of Barrigada submitted a letter (attached) and stated that Municipal Planning Council was fully in support for the request of renewal of BME's TWHF and commended the company for their contribution and supporting the community and benefitting the residents and surrounding boundaries.

4. **RECOMMENDATION:** Having complied with previously approved Conditional Use Permit conditions imposed by the Guam Land Use commission, in the operations of its Temporary Workers Housing Facility (TWHF), Planning staff recommends approval of the applicants request for renewal and continuation for the operation of a Temporary Workers Housing Facility (TWHF) and further reporting annually on their status. All Commission, ARC, Workforce Housing applicable conditions, and GLUC Resolution No. 2009-01 is still applicable and in force.



**Marvin O. Aguilar**  
**Guam Chief Planner**

#### **ATTACHMENTS**

Case/Project Planner: Penmer C. Gulac

**DEPARTMENT OF LAND MANAGEMENT  
LAND PLANNING DIVISION  
SITE INSPECTION REPORT - FIELD WORK**

Planner/Staff: P. Colac Date of Request: 9-3-18  
 Date of Inspection: 9-5-18 Time of Inspection: 8:30a.

Project Name: BME Barracks  
 Lot Number: 5273-R9-3 Municipality: Barngada

Description: Barracks Renewal (Annual)  
Existing Facilities: 114 Persons / Major  
supports renewal (MPC Barngada)

Type of Inspection:  Occupancy  Site  Other  
Renewal

Contact Person: Danny Hernandez / Myra Marynan Phone: 483 4484

Findings: Facilities clean / In compliance  
to NOA, HFTW Regulations, and OLC Resoluto  
2009-01. No workers occupying Barracks;  
only Motor Pool / Maintenance / Fabrication Shop  
activities.

**OCCUPANCY INSPECTION ONLY:**  IN COMPLIANCE  NOT IN COMPLIANCE  
Recommend Approval for renewal.

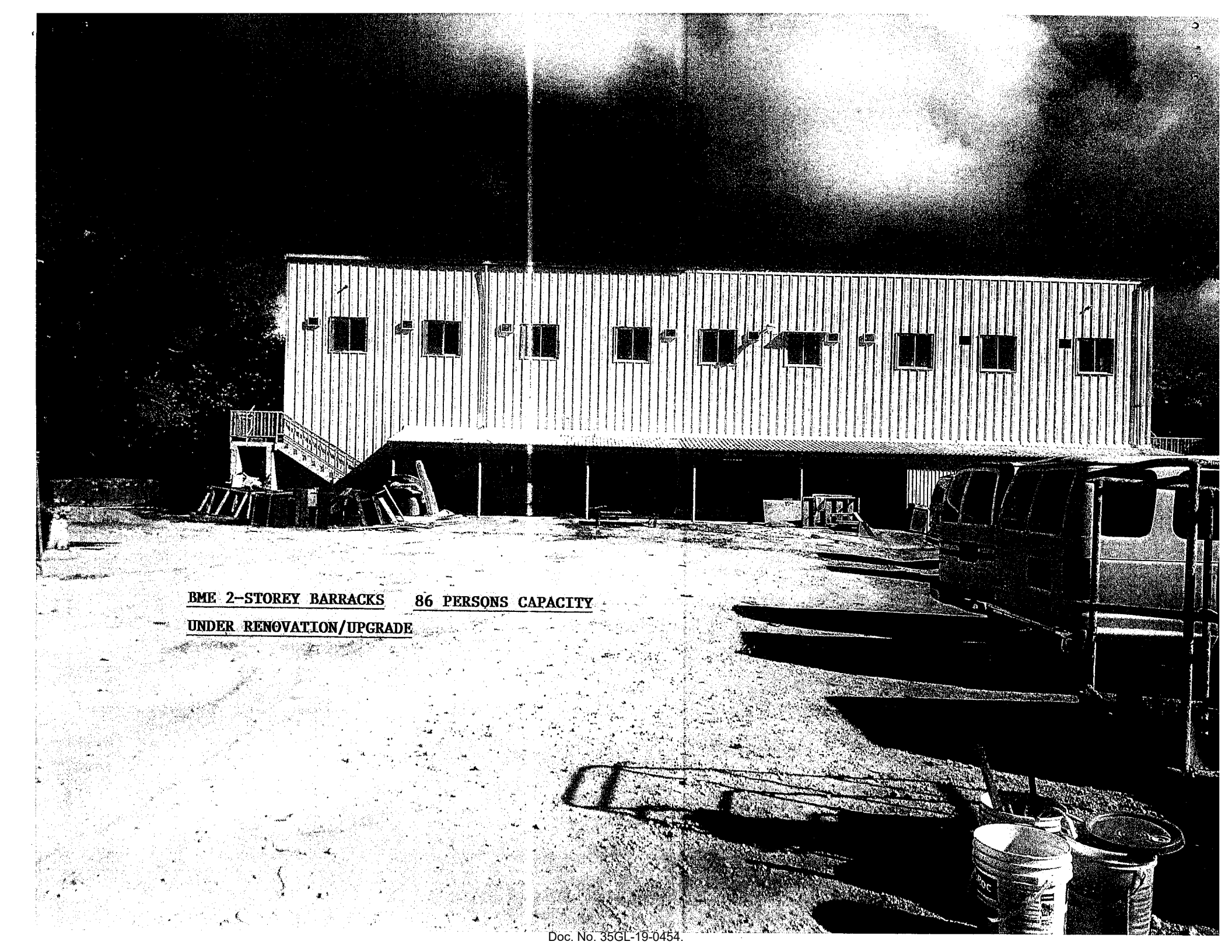
ATTENTION: All inspection must be approved three (3) days in Advance by Guahan Chief Planner. 9/5/18

Applicant: BME & Sons

Case Planner: Peter Colac Approved: [Signature]  
 Guahan Chief Planner

Revised: March 2010





BME 2-STOREY BARRACKS    86 PERSONS CAPACITY

UNDER RENOVATION/UPGRADE

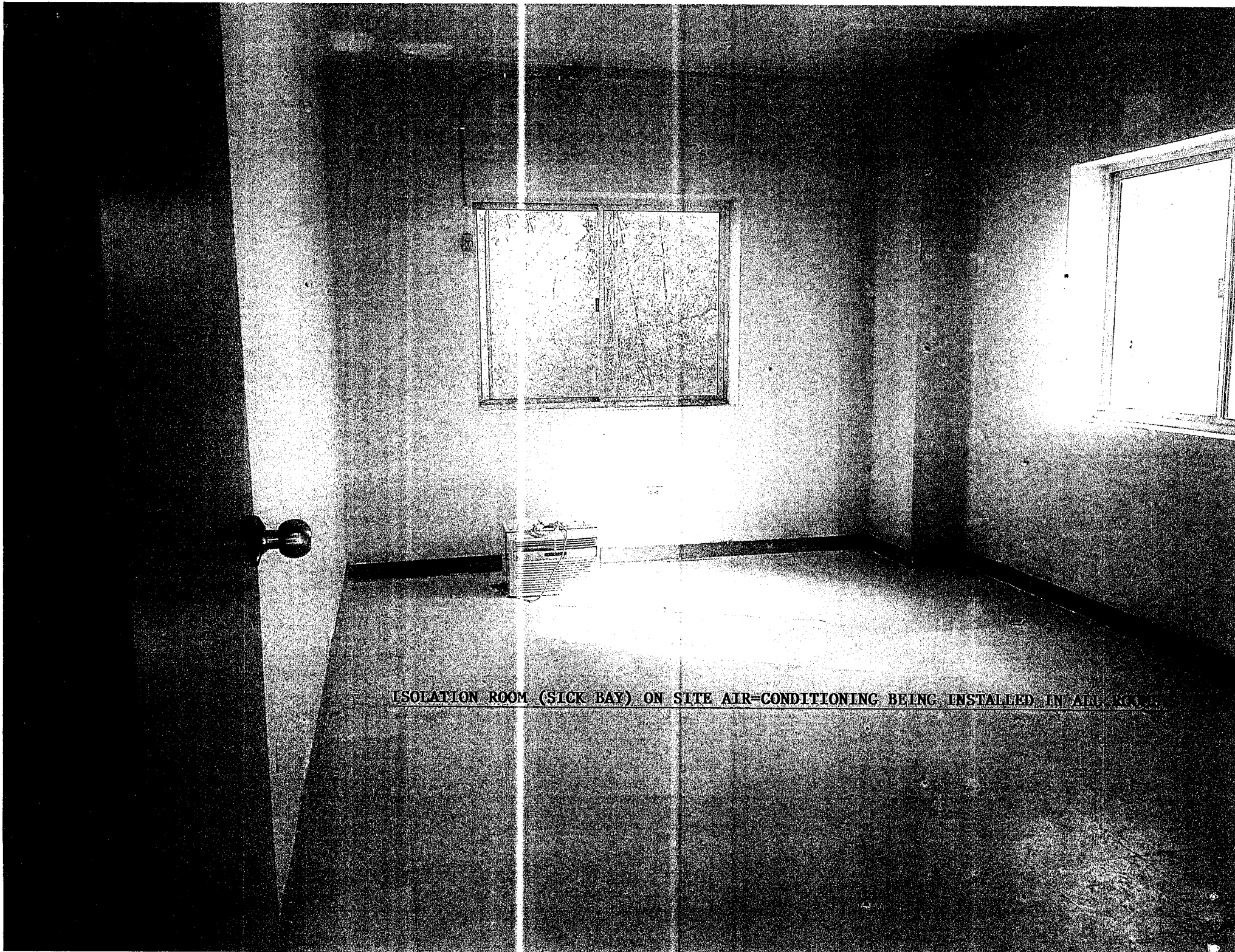


1-STOREY DORMITORY  
28 PERSONS CAPACITY.

TRANSPORTATION VAN FLEET ON STANDBY-READY



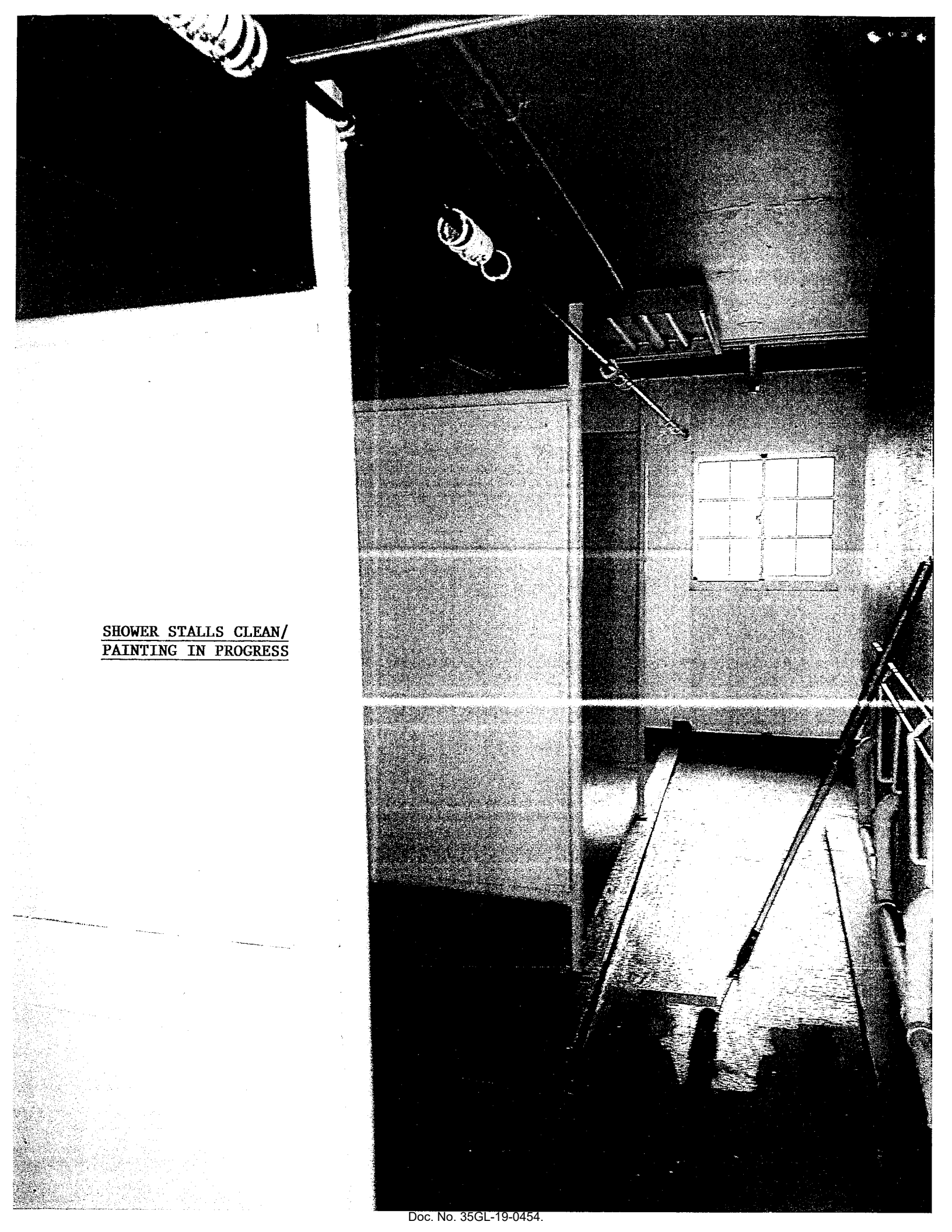




ISOLATION ROOM (SICK BAY) ON SITE AIR-CONDITIONING BEING INSTALLED IN A/C ROOM



DINING HALL/KITCHEN AREA UNDER RENOVATIONS/UPGRADE ON-GOING



SHOWER STALLS CLEAN/  
PAINTING IN PROGRESS



GOVERNMENT OF GUAM – Department of Land Management  
 Office of the Recorder **934613**

File for Record is Instrument Number \_\_\_\_\_  
 on the Year 20 19 Month 4 Day 30 Time 229

Recording Fee DE-OFFICIO Receipt No. DE-OFFICIO

Deputy Recorder: *Joel Antenor Cruz*

JOEL ANTENOR CRUZ

Above Space for Recorder's Use only

COPY

Signature

*ms*

**GUAM-HYBRID LAND USE COMMISSION ~~SPECIAL~~ MEETING MINUTES**



Department of Land Management Conference Room  
 ITC Building, Tamuning



Thursday, December 27, 2018  
 1:41 p.m. to 4:17 p.m.

**GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING**  
**Department of Land Management Conference Room**  
**3<sup>rd</sup> Floor, ITC Building, Tamuning, Guam**  
**Thursday, December 27, 2018**

**GLUC MEMBERS PRESENT:**

Mr. Tae S. Oh, Chairman

Mr. Hardy I.T. Vy, Commissioner

[Excused: Ms. Conchita D. Bathan, Commissioner]

**HYBRID MEMBERS PRESENT [MCoG DLM 2019-03]**

Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon

Mr. Rudy Paco, Mayor of Mongmong-Toto-Maite

Ms. Melissa Savares, Mayor of Dededo

Mr. Rudy Matanane, Mayor Yigo

**HYBRID MEMBERS PRESENT [MCoG DLM 2018-02]**

Mr. Allan Ungacta, Mayor of Mangilao

Ms. June Blas, Mayor Barrigada

Ms. Melissa Savares, Mayor of Dededo

Mr. Rudy Matanane, Mayor of Yigo

**STAFF PRESENT:**

Mr. Nicolas Toft, Legal Counsel

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

[Excused: Mr. Michael Borja, Executive Secretary]





# GUAM-HYBRID LAND USE COMMISSION

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

Commissioner [Vacant]  
Commissioner [Vacant]

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

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## AGENDA

### Regular Meeting

**Thursday, December 27, 2018 @1:30 p.m.**

Department of Land Management Conference Room

590 S. Marine Corps Drive, 3<sup>rd</sup> Floor, ITC Building, Tamuning

*[As advertised in the Guam Daily Post on December 20, 2018 and December 25, 2018]*

**[MCoG DLM 2019-03]**

- I. **Notation of Attendance**                      [  ] Quorum                      [  ] No Quorum
  
- II. **Approval of Minutes**
  - GLUC-Hybrid Regular Meeting of Thursday, September 27, 2018
  - GLUC-Hybrid Regular Meeting of Thursday, December 13, 2018
  
- III. **Old or Unfinished Business [None]**
  
- IV. **New Business**

#### Tentative Development Plan

- A. **Application No. 2017-47A** the Applicant, LULU Investment Industry Co., Ltd. represented by FC Benavente, Planners; request for a Tentative Development Plan for the proposed construction of a three-story, 33-unit apartment complex, Lot 5111-3-1NEW, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. **[MCoG DLM 2019-03]** Case Planner: Grace Vergara  
**[Municipal Commissioners – Mayor Louise Rivera; Mayor Melissa Savares; Mayor Rudy Matanane; Mayor Rudy Paco]**

#### Zone Variance

- B. **Application No. 2017-47B** the Applicant, LULU Investment Industry Co., Ltd. represented by FC Benavente, Planners; request for a Zone Variance for Height, for the proposed construction of a three-story, 33-unit apartment complex, Lot 5111-3-1NEW, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning. **[MCoG DLM 2019-03]** Case Planner: Grace Vergara  
**[Municipal Commissioners – Mayor Louise Rivera; Mayor Melissa Savares; Mayor Rudy Matanane; Mayor Rudy Paco]**

**V. Administrative & Miscellaneous Matters**

**Request for Extension**

- C. **Application No. 2017-39**, the Applicant, KEPCO-LG CNS represented by TG Engineers; request for an Extension of Time for a previously approved Conditional Use permit for the Mangilao Solar Farm, Lot 1, Tract 1541, in the Municipality of Mangilao. **[MCoG DLM 2018-02] [Municipal Commissioners – Mayor Allan Ungacta, Mayor June Blas, Mayor Melissa Savares, Mayor Rudy Matanane]** Case Planner: Frank Taitano

**VI. Adjournment**

# GLUC-HYBRID LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

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

Date of Meeting: Thursday, December 27, 2018

Time of Meeting:

GLUC:	1:41 pm
HYBRID:	1:44 pm

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

**COMMISSION MEMBERS**

**SIGNATURE**

Acting Chairman Tae S. Oh	
Commissioner Conchita D. Bathan	_____
Commissioner Hardy T.I. Vy	
<b>HYBRID COMMISSION: Lulu Investment Industry, 2017-47A/B [MCoG DLM 2019-03]</b>	
Municipal Commissioner Louise Rivera	
Municipal Commissioner Rudy Paco	
Municipal Commissioner Melissa Savares	
Municipal Commissioner Rudy Matanane	
<b>HYBRID COMMISSION: KEPCO LG CNS, 2017-39B [MCoG DLM 2018-02]</b>	
Municipal Commissioner Allan Ungacta	
Municipal Commissioner Melissa Savares	
Municipal Commissioner June Blas	
Municipal Commissioner Rudy Matanane	
Michael J.B. Borja, Executive Secretary	
Nicolas E. Toft, Legal Counsel (OAG)	
Marvin Q. Aguilar, Chief Planner	Present
Frank Taitano, Planner IV	Present
Penmer Gulac, Planner IV	Present
Celine Cruz, Planner IV	Present
M. Grace Vergara, Planner II	_____
M. Cristina Gutierrez, WPS II	

Adjournment	GLUC:	HLUC: 4:17pm
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**GUAM-HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES**  
**Department of Land Management Conference Room, 3<sup>rd</sup> Floor, ITC Bldg., Tamuning**  
**Thursday, December 27, 2018 • 1:41 p.m. to 4:17 p.m.**  
*[As advertised in the Guam Daily Post on Thursday, December 20<sup>th</sup> and December 25<sup>th</sup>, 2018]*

**I. Notation of Attendance**

**Chairman Oh** called the regular meeting of the Guam-Hybrid Land Use Commission for Thursday, December 27, 2019 to order at 1:41 p.m., noting a quorum.

Present were: [MCoG\_DLM 2019-03] Chairman Tae Oh, Commissioner Hardy Vy, Mayor Louise Rivera, Mayor Rudy Paco, Mayor Melissa Savares, Mayor Rudy Matanane, Guam Chief Planner Marvin Aguilar, Legal Counsel Nicholas Toft, Planning Staff Celine Cruz, Frank Taitano and Recording Secretary Cristina Gutierrez

**II. Approval of Minutes**

**Chairman Oh** before the Commission today are Minutes from the regular meetings of September 27, 2018 and December 13, 2018 for review and approval. Chairman Oh states that the members have had the opportunity to review the Minutes and asked for a motion.

**Commissioner Vy** makes a motion to approve the Guam-Hybrid Land Use Commission Meeting Minutes of September 27<sup>th</sup> and December 13<sup>th</sup>, 2018.

**Mayor Louise Rivera** seconds the motion.

**Chairman Oh** motion made by Commissioner Vy, seconded by Mayor Rivera; no discussion noted.

All in favor of the motion say “aye” [Chairman Oh, Commissioner Vy, Mayors Rivera, Paco, Matanane and Savares], all opposed say “nay.” **[Motion passed; 6 ayes, 0 nay]**

**III. Old or Unfinished Business [None]**

**IV. New Business**

**Tentative Development Plan**

- A. Application No. 2017-47A, LULU Investment Industry Co., Ltd. represented by FC Benavente, Planners; request for a Tentative Development Plan for the proposed construction of a three-story, 33-unit apartment complex, on Lot 5111-3-1NEW, in the Municipality of Tamuning, in an “H” (Hotel/Resort) zone. **[MCoG DLM 2019-03]**  
Case Planner: Grace Vergara

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

**[Attachment A – Staff Report dated December 13, 2018]**

**Chairman Oh** acknowledges the arrival of Mayor Melissa Savares. Chairman Oh states that there was a previous Commission action of January 30, 1990 for a height variance for eight stories. This at one time was two separated lots and have been since consolidated.

**Celine Cruz** responds “yes” to Chairman Oh’s questions.

**Chairman Oh** any other questions for staff.

**Mayor Rudy Paco** comments that his main concern is the parking. There are sixty-six stalls and are there additional stalls.

**Marvin Aguilar (Chief Planner)** two ADA parking stalls is incorporated into the total number of parking stalls; applicant was only required one, but will provide two.

**Chairman Oh** no further questions for staff, Chairman Oh invited the applicant’s representative to give the presentation. Please state your name for the record.

**Felix Benavente** [representing LULU Investment] Mr. Benavente provides a brief PowerPoint presentation for the Commission.

- The application is for a three-story apartment building. There was a previous project approved for the subject parcel, but is not related to this project. This is a new application and will only be three stories.
- The project is compatible and fits within the Hotel/Resort rules and regulations as promulgated.
- Reiterated that it is a three-story apartment building, underground parking, surface parking as well with full, available, power, water, sewer, telephone service and fully paved road accessible to the property.
- The project site is located on Happy Landing Road in Tumon.
- Explains that there are condominiums and apartment buildings that surround the subject lot and this project is compatible with the existing hotel/resort master plan.

**Chairman Oh** Chairman Oh states that the applicant is proposing underground and surface parking for the structure with a total of sixty-six parking stalls. [Mr. Benavente responds, “that is correct.”] The law calls for a minimum of one parking stall per unit; but, providing two stalls meets the Code. Chairman Oh asks if there is guest parking.

**Celine Cruz** responds that it was not designated in the application; there are only twenty-two semi-basement parking. It doesn’t necessarily describe it in the application how they plan to allocate the parking; the building will essentially have thirty-one additional parking for guest use; two ADA parking that is van accessible.

**Chairman Oh** the covered parking will be for both structures to which Mr. Benavente responds “that is correct.”

[Discussion ensues on parking requirements.]

**Mayor Melissa Savares** inquires if the only access to the property was through Leon Guerrero Drive.

**Felix Benavente** responds “that is correct.”

**Mayor Savares** what is the width of the road. Mayor Savares’ concern is that the additional 66 cars traversing the access in the morning and afternoon may cause traffic congestion.

**Felix Benavente** explains that there are thirty-three units with thirty-three parking stalls. It does not necessarily mean that there will be thirty-three cars that will come and go at the same time. According to traffic generation reports there are peak hours in the morning and in the afternoon, and will never be at the maximum number.

[Lengthy discussion ensues on traffic impact, easement, project location, site plan, egress/ingress, and discussion on the location of a recently completed condo project on Happy Landing Road and possible shared access between the two properties.]

**Mayor Rudy Matanane** he does not foresee a problem with this project; however, he comments whether or not the Department of Land Management has done any studies on how long can Guam afford to allow projects like this to continue. Mayor Matanane wants to ensure that investors do not come to Guam, buy million-dollar properties in Tumon in hopes of building what they want, in order to make profit.

**Chairman Oh** there has been discussion on investors that come to Guam and the various projects that they have done; who they are, what they have invested on Guam and get to know who the companies are. Chairman Oh asked Mr. Benavente to provide background information on the company for this project.

**Felix Benavente** LULU Corporation is a Guam-based, Chinese company, and are the current owners of the VIP Restaurant in Tumon. The corporation had the opportunity to purchase the property from the Leon Guerrero family, in hopes of building the apartment structures. It is a simple application; three-story building, residential. It is not a hotel or commercial building; low in density compared to what was previously approved by the Territorial Planning Commission. The project being proposed is much more compatible to the surrounding neighborhood than the previous project.

**Chairman Oh** briefly touches on the role of the Application Review Committee on applications that go before the Commission. Chairman Oh states that position statements that are submitted are included in the staff report and always considered. He feels that this project fits for the surrounding neighborhood and supports the company’s efforts.

[Lengthy discussion ensues on traffic, infrastructure, and road improvements.]



**Mayor Savares** wants reassurance that the company will be responsible for any damages caused to the road that may occur during the construction period; and suggested that repairs, by the developer, are made prior to issuance of occupancy permit.

**Mayor Rudy Pago** comments that it should be the responsibility of the contractor to repair damages to the road.

**Chairman Oh** any other comments.

**Commissioner Vy** inquires if a demolition bond is required for this project since it is in the hotel-resort zone.

**Nick Toft (Legal Counsel)** replies that it is not required.

**Celine Cruz** it is a requirement of the Hotel/Resort rules and regulations on bonding of 110-percent.

**Chairman Oh** in the past, how has this been applied to previous projects. It has been required for certain projects and others not. Clarification is needed.

**Marvin Aguilar** recalls that only two projects in Tumon were required to provide bonding; former INO Corporation project (now owned by Goodwind Development) and the Tagada Amusement Park. Bonding is not a standard requirement for projects.

Lengthy discussion ensues on bonds. Chairman Oh comments that the need for bonds for some projects can become an issue in the future, and there is a need for uniformity on this subject. He asks if the Commission is required to have bonds for "H" zoned properties, and if it is not legally binding, at what point does the Commission made the decision on the need for bonds.

Legal Counsel Toft reads Section 3315 of the Hotel/Resort rules and regulations which states: *A performance bond or undertaking shall be required for any development undertaken pursuant to an approved tentative plan within an "H" Zone as otherwise provided in the regulations. "The amount of the bond shall be one-hundred ten percent of the infrastructure costs of the project and not less than two-thousand dollars. The entire bond or any undertaking of any portion thereof shall be forfeited as determined by the Commission for failure to comply with any applicable land use, water quality or zoning regulation except as allowed for under prior granting of a variance or other legal exception from such requirement: including, but not limited to, erosion and grading standards, landscaping, height and setback requirements, the tentative, development plan as approved by the Commission, and any applicable zone regulations. The entire bond or any portion thereof shall be forfeited as is required to complete the site preparation and infrastructure features of the project should these not be completed by the developer.*

**Chairman Oh** called for a five-minute recess.

**[Commission recessed at 2:41 p.m. and reconvened at 2:55 p.m.]**

**Chairman Oh** reconvened the meeting at 2:55 p.m. Commissioners were reminded that this is a two-part application; first is for the tentative development plan, and the second is for a Zone Variance for height which will be discussed following this application.

There being no further discussion, Chairman Oh opened the floor for public comment.

**Public Comment [None noted, Chairman Oh closed the public comment period]**

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

**Commissioner Vy** Mr. Chairman, I would to make a motion to approve Application No. 2017-47A, tentative development plan on Lot 5111-3-1NEW, Tumon, municipality of Tamuning; request for an approval of a Tentative Development Plan for the proposed construction of a three-story, 33-unit apartment complex; subject to the following conditions:

- (a) Applicant shall adhere to all the ARC conditions and requirements as stipulated in their official position statement;
- (b) Any future additional development or changes to the approved site plans shall required the applicant to submit an amended TDP for review and approval by the Guam Land Use Commission;
- (c) Applicant shall provide a landscaping plan pursuant to Section 5G of the Interim "H" Hotel-Resort Rules and Regulations for review and approval by the Chief Planner;
- (d) Pursuant to "H" Hotel-Resort Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval;
- (e) Applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations;
- (f) Applicant shall also ensure compliance to the one-year time restriction that states "*a grading or building permit must be obtained from the date of recordation of the Notice of Action; otherwise, the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5;*
- (g) Any damages to Leon Guerrero Drive caused by the contractor shall be repaired at the expense of the developer prior to issuance of an Occupancy Permit;
- (h) Applicant shall present a letter from the Mayor of Tamuning stating to the satisfactory completion of the project prior to the issuance of an occupancy permit; and,
- (i) Applicant shall adhere to the requirement of a performance bond pursuant to Title 18 of GARR, Section 3315.

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

**Commissioner Savares** seconds the motion.

**Chairman Oh** noting no discussion, the motion was to put to a vote. All in favor of the motion say "aye" [Chairman Oh, Commissioner Vy, Mayor Savares, Mayor Rivera, Mayor Paco and Mayor Matanane.], all opposed say "nay." **[Motion passed; 6 ayes, 0 nay]**

**Next item on the agenda --**

**Zone Variance**

- B. Application No. 2017-47B, LULU Investment Industry Co., Ltd. represented by FC Benavente, Planners; request for a Zone Variance for Height, for the proposed construction of a three-story, 33-unit apartment complex, on Lot 5111-3-1NEW, in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone. **[MCoG DLM 2019-03]**  
Case Planner: Grace Vergara

**Celine Cruz** summarizes the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation, conditions. [See attached report for full content/context.

**[Attachment B – Staff Report dated December 13, 2018]**

**Chairman Oh** questions for staff.

**Mayor Rivera** will conditions G thru I from the previous applications be included for this zone variance application.

**Nick Toft** that will not be necessary because those conditions were specific for the TDP, and this application is for a Zone Variance for height.

**Chairman Oh** the structure is three stories and the variance is for 5-feet and so many inches. So that the Commissioners have an understanding for the height request; Chairman Oh asked staff to clarify the request.

**Marvin Aguilar** the application is describing is a three-story structure with a basement. It's the underground parking area and somewhere along the mid-point, the starting point versus the ending point from ground zero to the roofline where it comes up a bit. So, the first is actually described as a basement, and it is at that point where ground zero is measured.

**Celine Cruz** Grace Vergara, the applicant's Case Planner reached to the Department of Public Works to determine how to classify the lower area of the building, and to determine the actual height of the building based on the lower floor being a basement level and not living space. DPW did not respond to her inquiry; and when we received their position statement, it did not address that issue at all.

[Discussion ensues]

**Chairman Oh** there were no questions for staff, Chairman Oh welcomed the applicant's representative to give his presentation.

**Felix Benavente** presented to the Commission the following for the Height Zone Variance request:

- The request for a height variance of 5'-1/2" over the 30-feet allowed by law;
- The proposed structures are three stories;
- When this project is was for a TDP and not a request for zone variance. As the application moved forward, they were asked to submit a height variance application as well;
- From the front, you are facing a basement parking area with three floors of multi-family units and that level is at 40-feet; but from the back, it is a simple two-story building;
- It is 43-feet from the building bottom to the top;
- Each floor is 10-feet which is typical, basement is 10-ft, 1-in; and,
- Both buildings are the same height.

[Discussion ensues on drawing plans of the two structures and building height calculations]

**Chairman Oh** was the calculations based on discussions with DPW.

**Felix Benavente** comments that he is unable to reply to the question since it was the Case Planner that had discussions with DPW.

**Commissioner Rivera** there was one comment made at the public hearing by a resident who claimed that it would block their view. This project was also brought before the Municipal Planning Council on December 6<sup>th</sup> who had no objections or from the Office of the Mayor.

**Chairman Oh** there were not additional comments, Chairman Oh opened the floor for public comment.

**Public Comment** [Seeing none, public comment period was closed]

**Chairman Oh** other than the one objection from a resident, the consensus was no objection to the project. Other than obstruction of the view where there any other concerns brought up at the public hearing.

**Celine Cruz** questions arose on how the residents would access the project site and the traffic flow. Residents were not aware of the project site partly because this property is tucked away in the back; they asked the questions, but nobody expressed objection to the project.

**Mayor Rivera** the testimony from a resident that the Chairman received; they were at the public hearing, and it was their family that sold the property to the developer. Mayor Rivera added that their complaint was loss of their view.

**Chairman Oh** loss of views is a sensitive issue for residents who may have their view blocked.

[Discussion ensues on view corridor]

**Chairman Oh** briefly discussed the height request. Chairman Oh is concerned that the applicant will go to DPW and there may be a mis-interpretation on the calculations that is provided by staff. In cases such as this, a cushion is provided to the applicant. He suggested that a cushion be given to the developer in order to avoid any issues during the permitting process. The façade measures 3-ft, 3-in; 5-1/2 plus 3-ft, 3-in comes out to 8-ft, 3-1/2 inches. If the Commission approves for 8-ft, 6-in will that be sufficient.

**Marvin Aguilar** the Commission can decide to add a safety cushion on the height.

**Chairman Oh** proposed that the Commission provide a cushion of 8-feet, 6-inches which should be sufficient.

**Nick Toft** the Zoning Code has a definition for building height; it is the vertical distance measured from the average level of the highest and lowest point of that portion of the lot covered by the building to the roof.

[Lengthy discussion ensues on calculation of for the height] [Brief recess was called by Chairman Oh and reconvened the meeting after 5 minutes.]

**Chairman Oh** there were no additional comments/discussion, Chairman Oh was ready to entertain a motion.

**Mayor Rivera** I would like to make a motion to approve a height variance for Application No. 2017-47B, Applicant, LULU Investment Industry Co., Ltd. for the proposed construction of a three story, 33-unit apartment complex on Lot 5111-3-1NEW, in a hotel-resort zone, in the municipality of Tamuning. The Commission hereby grants an additional safety cushion of up to 10-feet for the three-story units with basement/garage; and the following conditions:

- a. Applicant shall adhere to all the ARC conditions and requirements as stipulated in their official position statement;
- b. Any future additional development or changes to the site plan shall require the applicant to submit an amended TDP application for review and approval by the GLUC;
- c. Applicant shall provide a landscaping plan pursuant to Section 5G of the Interim "H" Resort-Hotel rules and regulations for review and approval of by the Chief Planner;
- d. Pursuant to the Interim "H" Resort-Hotel Rules and Regulations, paragraph F, the improvements as specified in the TDP shall be completed within one year from date of Commission approval;
- e. Applicant shall comply with the Interim "H" Resort-Hotel rules and regulations' yard area and height regulations; and,

- f. The Applicant shall also ensure compliance to the one-year time restriction that states a *“grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise, the approval as granted by the Commission be NULL and VOID, per E.O. 96-26, Section, 5.*

**Chairman Oh** there is a motion on the floor, do I have a second.

**Mayor Savares** seconds the motion.

**Chairman Oh** noting no discussion, the motion was put to a vote. All in favor of the motion say “aye” [Chairman Oh, Commissioner Vy, Mayor Rivera, Mayor Savares, Mayor Paco, Mayor Matanane], all opposed say “nay.” **[Motion passed; 6 ayes, 0 nay]**

**[Municipal Mayors for MCoG DLM 2019-03 was dismissed at 3:46 p.m.]**

**Next item on the agenda –**

**V. Administrative and Miscellaneous Matters**

**Conditional Use – Request for Extension**

- C. Application No. 2017-39, the Applicant, KECO-LG CNS represented by TG Engineers; request for an Extension of Time for a previously approved Conditional Use Permit for the Mangilao Solar Farm, on Lot 1, Tract 1541, in the municipality of Mangilao. [MCoG DLM 2018-02] Case Planner: Frank Taitano

**Chairman Oh** acknowledged the presence of Mayor Allan Ungacta, Mayor June Blas, Mayor Melissa Savares and Mayor Rudy Matanane for the abovementioned application; and, noted that Executive Secretary Mike Borja left the meeting due to conflicting schedule]

**Celine Cruz** reads the Commission Brief for the members of the Commission. [See attached report for full content/context]

**[Attachment C – Commission Brief dated December 19, 2018]**

**Chairman Oh** no questions noted for staff, Chairman Oh asked the applicant to provide a presentation of the application request. Please

**Joaquin Flores** [with TG Engineers PC, Director of Energy Projects] Mr. Flores is here on behalf of KEPCO-LG CNS; consortium project owner and LG-CNS as the EPC contractor for the project. Mr. Flores provided the following:

- This project began in 2017 when TG was hired to design and planning process for the project;

- Clearing/grading and design work was completed that was approved by the Government in December of 2017; but suspended due to a variety of reasons, but mainly because the consortium was still trying to obtain financing;
- There was a lawsuit launched by a landowner in the vicinity and that lawsuit was recently dismissed by Court without merit;
- This project is well over one-hundred fifty million dollars, and it is critical that no litigation is in place while this process is ongoing;
- The commitment from KEPCO was reaffirmed back in August when they signed a 25-year power purchase agreement with GPA with a 5-year extension to 30-years;
- They recently encountered changes to the clearing/grading with Guam EPA despite their previous approval; they had to redesign the clearing/grading designs for a significant erosion control and sediment control which resulted in additional ponding basins and phasing in the construction site in terms of zone based on the flow patterns of the project;
- EPA had concerns on mass clearing of the entire parcel; TG redesigned the project; creating five zones and each zone would have to be completed with active construction and had its own erosion and sediment controls;
- EPA recently approved the final design in the last few days; and,
- They are coordinating with DPW for final fees to be paid.

There were many things that contributed to the request for an extension for this project. The other designs of the project are complete; the electrical PV design is for building permit issuance; the energy storage building is also ongoing for building permit; the civil and structural work that involves the roadways and the racking system for the PV is also 100-percent complete and ongoing for final building permits. There was a discovery of tree-snail habitat which is about three-quarters of an acre and will be completely avoided which will preserve and protect the tree snails in their natural environment. In closing, Mr. Flores asks for the Commission's favorable approval for the extension.

**Chairman Oh** any questions for the applicant.

**Mayor Savares** extends her appreciation to Mr. Flores for working with Guam EPA on erosion because it is a concern especially during heavy rains and the protection of the tree snails.

**Mayor Allan Ungacta** the discover of the tree snails did not go beyond the property.

**Joaquin Flores** the snail was discovered on the property that KEPCO-LG purchased; it will be avoided all together and will not build solar panels in this area and will remain a natural habitat to protect the area.

**Chairman Oh** will the number of solar panels be decreased because of this discovery.

**Joaquin Flores** it affected about 550KW of solar capacity. They have identified other areas within the site where they will have to redesign the solar panels and relocate them. It will not be a major change in the PV layout.

**Mayor Matanane** will neighbors be provided with solar power.

**Joaquin Flores** this contract is directly with GPA, and all the energy will be inputted into the grid and 345-KB and it will benefit all residents. There have been commitments made by KEPCO to the MPC of Mangilao and still honored by KEPCO.

**Mayor Ungacta** the concern is the safety of residents. Is there a way that the company can provide lighting and/or crosswalk during the construction phase, moving forward.

**Joaquin Flores** there are representatives are here from KEPCO and the request has been duly noted. The Mayor's concerns are well noted and the area has to be cleaned and protected.

**Mayor Ungacta** expresses his appreciation on the company's commitment on the requirements made by the Mangilao MPC and Mayor's office. He further added that he had no objection to the request.

**Chairman Oh** asked Legal Counsel to elaborate on the results of the lawsuit.

**Nick Toft** it was appealed by one of the nearby residents to the Superior Court. Superior Court heard arguments on the case in September of this year, and very recently issued an opinion that dismissed the claim against KEPCO and the Guam Land Use Commission.

**Mayor Matanane** will Yigo benefit from this solar farm.

**Joaquin Flores** the solar panels will feed the entire grid; Dededo, Yigo and Mangilao will benefit from this first.

**Chairman Oh** when is construction to begin.

**Joaquin Flores** it is conceivable January 2019 is an early start with a completion date of December 2021.

**Chairman Oh** there is a timeline in terms of the tax credit, does that expire in 2019?

**Joaquin Flores** it does not expire, but starts to drop off significantly over the next few years.

**Chairman Oh** states that he is in support of the project. Seeing no other comments, Chairman Oh opened the floor for public comments.

### **Public Comments**

**Felix Benavente** his company has been involved in a lot of projects as this Commission knows. They have had difficulties in meeting many of the conditions that are time-based. Many of the things that have to be put together after the GLUC Notice of Action is received, and when they



have to add up all the conditions noted on the ARC position statements that is a whole task in itself aside from getting a permit for construction. After all of this done, and the one year is almost up, there is still no building permit. And forced many times to come back for an extension for projects. Mr. Benavente states that he is in support for the request for extension for this project.

**Nick Toft** the old Executive Order 96-26 which was issued by the Governor a long time ago and can only be altered by another executive order. If that is something that is a big sticking point for the industry, then the way to go is to petition the Governor to amend that E.O.

**[Noting no additional comments, Chairman Oh closed the public comment period.]**

**Chairman Oh** no other discussion noted, Chairman Oh was ready to entertain a motion.

**Mayor Savares** I would like to make a motion to grant Application No. 2017-39B, on Lot 1, Tract 1541, in the municipality of Mangilao; and extension of their Notice of Action recorded under Document No. 918197, an extension from their previous Notice of Acton for this conditional use permit that was granted. The Commission grants this request for an extension to expire on February 14, 2020.

**Chairman Oh** clarification from staff. The Commission has granted extensions, but normally for a one year period; but staff's recommendation is for a two-year period. Has this been done previously.

**Marvin Aguilar** it has been done before.

**Celine Cruz** the expiration is up to 2020; but based on the original Notice of Action, it will expire February 14, 2019. So, this additional time carries over from that one year.

**Mayor Blas** second.

**Chairman Oh** discussion on the motion [none]. All in favor of the motion say "aye" [Chairman Oh, Commissioner Vy, Mayor Savares, Mayor Blas, Mayor Ungacta, Mayor Matanane], all opposed say "nay." **[Motion passed; 6 ayes, 0 nay]**

**Next item on the agenda –**

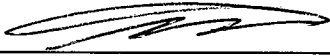
## **VI. Adjournment**

Commissioner Vy makes a motion to adjourn the Hybrid Commission, seconded by Mayor Matanane; with all in favor.

The regular meeting of the Guam Hybrid Land Use Commission for Thursday, December 27, 2019 was adjourned at 4:17 p.m.

Approved by:

Date approved:



\_\_\_\_\_  
Chairman Tae S. Oh  
Guam Hybrid Land Use Commission

4/25/2019

\_\_\_\_\_

Transcribed by:



\_\_\_\_\_  
M. Cristina Gutierrez, Recording Secretary  
DLM, Planning Division



**ATTACHMENT A**  
**DIPATTAMENTON MINANEHAN TANO'**  
*(Department of Land Management)*  
**GUBETNAMENTON GUAHAN**  
*(Government of Guam)*



EDDIE BAZA CALVO  
 Governor

MICHAEL J.B. BORJA  
 Director

RAY TENORIO  
 Lieutenant Governor

DAVID V. CAMACHO  
 Deputy Director

December 13, 2018

**MEMORANDUM**

**TO:** Chairman, Guam Land Use Commission

**FROM:** Guam Chief Planner

**SUBJECT:** Staff Report - Application No. 2017-47A, Tentative Development Plan on Lot 5111-3-1NEW, Tumon, Municipality of Tamuning

**1. PURPOSE:**

- a. **Application Summary:** The applicant, Lulu Investment Industry, Co. represented by FC Benavente Planners, is requesting an approval for a Tentative Development Plan for the proposed 3-storey, 33-unit apartment complex on Lot 5111-3-1NEW, Tumon, Municipality of Tamuning, Guam.
- b. **Legal Authority:** Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61311 "H" (Hotel-Resort) Zone and Section IV (Procedures for Development within an "H" zone) of the Interim "H" Hotel-Resort Zone Rules and Regulations.

**2. FACTS:**

- a. **Location:** The subject lot is located along Leon Guerrero Road, and near to the Happy Landing Road.
- b. **Lot Area:** 0.96 Acre or 3,878± Square Meters or 41, 742± Square Feet.
- c. **Present Zoning:** "H" (Hotel-Resort) Zone.
- d. **Field Description:** The subject lot is presently vacant and overgrown with vegetation.
- e. **Masterplan:** "H" (Hotel-Resort)
- f. **Community Design Plan:** "H" (Hotel-Resort)

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

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

Website:  
<http://dlm.guam.gov>

E-mail Address:  
[dlmdir@dlm.guam.gov](mailto:dlmdir@dlm.guam.gov)

Telephone:  
 671-649-LAND (5263)

Facsimile:  
 671-649-5383

- g. **Previous Commission Action:** On January 30, 1990 the Territorial Planning Commission (TPC) approved with conditions a Conditional Use to construct a proposed 40-unit condominium, a Zone Variance for Height to 8 stories, and a Setback Variance on a common boundary in the middle of the two (2) lots (Lot 5111-2-1 and portion of Lot 5111-3).

3. **APPLICATION CHRONOLOGICAL FACTS:**


- a. **Date Application Accepted:** July 26, 2017, however, revisions were accepted on March 28, 2018.
- b. **Date Heard By ARC:** April 19, 2018
- c. **Public Hearing Results:** Not required.
4. **DISCUSSION and STAFF ANALYSIS:** As proposed by this application, the intent is to construct 3-storey buildings, 33-unit apartment complex. Building A consists of eighteen (18) – 3 bedroom & 2 bath dwelling units while Building B consists of fifteen (15) – 3 bedroom & 2 bath dwelling units.

The subject property is 41,742 square feet in size with a maximum density of forty-one (41) dwelling units (41,742 sq. ft. ÷ 1,012 sq. ft. dwelling unit) and the proposed development is to build thirty-three (33) units which is 20% less than the allowable density. Parking as per zoning requirement is one (1) per dwelling unit, the applicant proposed to provide sixty-six (66) parking stalls twenty-two (22) semi-basement parking stalls and forty-four (44) surface parking stalls which includes two (2) ADA compliant and van accessible stalls). The total number of parking stalls are adequate to accommodate the proposed residential use and its' guests. In addition, water, waste water and power services are available within the vicinity of the site. The proposed project will also be landscaped and stormwater management can be accommodated through an infiltration trench system to mitigate rain and stormwater on site. The proposed use is compatible with the adjacent land uses. It is located in an area surrounded by condominiums and multi-family dwelling units.

In line with the Zoning Law and the Interim "H" Resort- Hotel Zone Rules and Regulations, the Commission may approve a Tentative Development Plan (TDP) upon determination that such use is normally to be found in a tourism-related development area, and that the use is reasonably compatible with existing or reasonably foreseeable development in the surrounding area. Uses normally to be found in a tourism related development area as described in the permitted land uses of the Interim "H" Zone Rules and Regulations include cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks, marinas, zoos, amusement activities and supportive services. Permitted accessory uses and structures include uses and structures which are customarily accessory and clearly complimentary to permitted principal uses and structures reasonably compatible with existing or reasonably foreseeable development in the surrounding area.

The Division of Planning is of the position that the proposed development is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations. This position is based on our findings that the development proposal remains in line and compatible with the existing surrounding uses and is consistent with the law with respect to the Tumon Hotel-Resort master plan, and therefore that it be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Recommend **APPROVAL WITH CONDITIONS** as follows:
- a. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement;
  - b. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission;
  - c. That Applicant shall provide a Landscaping Plan pursuant to Section 5G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner;
  - d. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval;
  - e. The Applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations; and
  - f. That the Applicant shall also ensure compliance to the 1-year time restriction that states a **"grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5"**.

  
Marvin Q. Aguilar  
Chief Planner

CASE PLANNER: Grace Vergara/Celine Cruz

ATTACHMENT B

DIPĀTTAMENTON MINANEHAN TĀNO'  
(Department of Land Management)  
GUBETNAMENTON GUĀHAN  
(Government of Guam)



EDDIE BAZA CALVO  
Governor

MICHAEL J.B. BORJA  
Director

RAY TENORIO  
Lieutenant Governor

DAVID V. CAMACHO  
Deputy Director

December 13, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-47B, Zone Variance for Height on Lot 5111-3-1NEW, Tumon, Municipality of Tamuning

1. PURPOSE:

- a. **Application Summary:** The applicant, Lulu Investment Industry, Co. represented by FC Benavente Planners, is requesting an approval for a Zone Variance for Height for a proposed 3-storey, 33-unit apartment complex on Lot 5111-3-1NEW, 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. **Location:** The subject lot is located along Leon Guerrero Drive, and near to the Happy Landing Road.
- b. **Lot Area:** 0.96 Acre or 3,878± Square Meters or 41, 742± Square Feet.
- c. **Present Zoning:** "H" (Hotel-Resort) Zone.
- d. **Field Description:** The subject lot is presently vacant with overgrown vegetation.
- e. **Masterplan:** "H" (Hotel-Resort)
- f. **Community Design Plan:** "H" (Hotel-Resort)
- g. **Previous Commission Action:** On January 30, 1990 the Territorial Planning Commission (TPC) approved with conditions a Conditional Use to construct a proposed 40-unit condominium, a Zone Variance for Height to 8 stories, and a Setback Variance on a common boundary in the middle of the two (2) lots (Lot 5111-2-1 and portion of Lot 5111-3).

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:  
[dmdir@dlm.guam.gov](mailto:dmdir@dlm.guam.gov)

Telephone:  
671-649-LAND (5263)

Facsimile:  
671-649-5383

### 3. APPLICATION CHRONOLOGICAL FACTS:

- a. **Date Application Accepted:** March 28, 2018.
- b. **Date Heard By ARC:** April 19, 2018
- c. **Public Hearing Results:** A public hearing was held on November 20, 2018 at the Tamuning Senior Center. Present were planning staff, the applicant's representatives, Mr. Richard Sana and Ray Benavente, Mayor of Tamuning, Louise Rivera as well as ten (10) lot owners and concerned citizens.

The applicant's representative presented the proposed project and responded to questions and concerns from the attendees. Issues/inquiries discussed included the height, number of stories of the proposed development and the slope of the property. The attendees were informed that another public hearing on the application will be with the commission and will be advertised in Guam Daily Post and will be conducted at Department of Land Management Conference Room. The public hearing was adjourned at 6:39 P.M.

**DISCUSSION and STAFF ANALYSIS:** This request is for Height Variance to allow the proposed development to exceed the standard building height regulation by five feet and a half inch (5'-1/2") for the proposed 3-storey buildings, 33-unit apartment complex. Representatives of the project asserts a total height of the building to be forty feet one inch (40'-1") with a height variance request of five feet and a half inch (5'-1/2"). Normally a building of such height would require a *10 feet and 1/2-inch deviation* from the thirty (30) foot height restriction. However, in determining structure height, section 61103(f) of Chapter 61 defines height as "the vertical distance measured from the average level of the highest and lowest point of that portion of the lot covered by the building to a point midway between the highest and lowest point of the roof". As Lot 5113-3-1NEW maintains a sloped topography its starting point (ground zero) of measurement occurs somewhere midpoint of the first floor and vertically to the proposed building's roofline. This line measured thirty-five (35) feet, thus a variance request of five feet and a half inch (5'-1/2").

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and that the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owner's or the public right to untrammled use of the beach and it's natural beauty.

In response, the applicant provides the following:

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

The applicant provides that the slope of the subject lot would result in practical difficulties or unnecessary hardship inconsistent with the purpose and intent of the law. The design of the proposed apartment buildings is to incorporate the existing slope of the property to provide semi-basement parking facilities for both structures that will minimize excessive cut and grading of the property. The proposed project will be utilizing the natural slope and terrain of the property to provide better automobile parking and circulation, stormwater management and open space for landscaping.

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

The applicant provides that the sloping condition of the property does not apply to most properties in the area.

- c. *That the granting of Variance(s) will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located;*

The applicant provides that the granting of the variance will not result negatively or detrimental to the surrounding developments and neighbors as the proposed development is consistent with the general intent of the Zoning Law.

- d. *The granting of such Variance(s) will not be contrary to the objectives of any part of the "Guahan Master Plan" adopted by the Commission or Legislature;*

The applicant provides that the granting of the Variance is consistent with the vision and general plan of the Northern and Central Guam Land Use Plan and will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or the Legislature.

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

This criterion is "Not Applicable". The site is approximately 0.5 miles away from the beach area.



The applicant's intent for the height variance allows reasonable use of the property to be able to provide covered parking, to provide as much open views as possible for a better circulation of automobiles driving through the property, to provide more spaces for stormwater management and landscaping to aesthetically enhance the area.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provided adequate justification in reference to their request.

In addition, our review and analysis of the form and context of this application in reference to the Zoning Law as well as the positive responses received from the Application Review Committee members, we find that the proposed development is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations, whereby the development is compatible with the surrounding existing uses and will add more value to the property as well as to surrounding properties and provide an aesthetically pleasing structure in the area. We, therefore, conclude that this request is in proper form and context to be considered favorably by the Guam Land Use Commission.

5. **RECOMMENDATION:** Recommend **APPROVAL WITH CONDITIONS** as follows:
- a. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement;
  - b. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission;
  - c. That Applicant shall provide a Landscaping Plan pursuant to Section 5G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner;
  - d. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval; and
  - e. The Applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations; and
  - f. 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"**.

  
Matvin Q. Aguilar  
Chief Planner

Attachments: Public Hearing Minutes  
CASE PLANNER: Grace Vergara/Celine Cruz

Continuation of Memorandum  
Staff Report - Application 2017-47B - Zone Variance for Height  
Lot 5111-3-1NEW, Tumon, Municipality of Tamuning  
Date of GLUC Hearing: December 27, 2018  
Date of Preparation of Staff Report: December 13, 2018

The meeting was called to order at 6:02 PM by Planning Division staff. After a brief explanation by Planning Division staff of the public hearing process, the floor was turned over to the applicant's representative, Mr. Richard Sana from FC Benavente Planners. Mr. Sana provided the attendees with a detailed description of the project, after his presentation, the floor was opened for questions as noted below:

**Q.** Is it a 3-storey or 4-storey? Doesn't the bottom storey not counted because it's build below at a certain level? How did it happen to be 5 ft variance height request?

**A.** The difference is actually 10 feet 1 inch. But based on the interpretation of the Zoning Law when the property is slope what you do is measure the height from the high point to the lowest point of the slope and set the median of that which is the average that's why it's 5 feet and a half inch but that's if the Commission will interpret it that way. The justification to the variance is that it's located on a slope property and the owner decided to use the natural slope to create more parking underneath the building and that would be beneficial because there will be more open space to provide better circulation for cars driving through the property and we'll be able to utilize some of the area for the stormwater management. The owner also wants each unit to have a bigger space than the average apartment rentals that we normally see because he wants people to call and feel it like their home.

**Q.** Is the property located along Happy Landing Road or will you be able to see it from Happy Landing Road?

**A.** No, you can't see it from Happy Landing Road because there's an apartment building just recently constructed from the side view of the property and that's the one adjacent to Happy Landing Road.

**Q.** On the 18-unit apartment building, will there be a retaining wall that would separate the property of this subject lot to the Leon Guerrero's?

**A.** The proposed development may require a retaining wall to avoid some type of erosion.

**Q.** Does the 5 ft height variance being requested is only for the aesthetics of the building (the one on top of the roof)?

**A.** No, it is to utilize the sloping condition of the property, for covered parking or semi-basement parking, to minimize grading and using more asphalt.

**Q.** You'll be using more asphalt because of the surface parking.

**A.** No, because we're trying to utilize some area for landscaping and stormwater management. There's a mitigation to prevent a lot of that and we're guided by the CNMI/Guam Stormwater Management Manual and we have to comply so have to capture everything.

**Q.** Are the proceedings recorded? I have a written testimony that I want to be included in the record.

**A.** Yes, everything is recorded but not verbatim. You can submit your written testimony.

Mr. Albert Tolentino refused to provide or submit his written testimony. He just read it and below was his testimony:

Mr. Tolentino is the husband of Doris and son-in-law of the adjacent property owner (Mr. Felix Leon Guerrero). He said neither his wife nor Mr. Leon Guerrero won't be able to attend the Public Hearing, however they provided information that they would like the commission to consider to determine whether the variance being requested should be approved. The quality of the request was the primary concern of Mr. Leon Guerrero and hopes the commission appreciates it. The subject lot was originally owned by Mr. Leon Guerrero and the properties surrounding it were originally owned by Mr. Leon Guerrero's siblings and their families. Mr. Leon Guerrero constructed his home with his own hands for his wife and children. The residence has been the venue for their family gatherings. It was the meeting place for family masses, rosaries, birthdays, christening, thanksgiving, Christmas, New Year's Eve and other celebrations even to this date. Its location is central and accessible for most of the family members and is isolated from the hustle and bustle of San Vitores Road. The tourist activities provide the idea of place for celebrating special occasions. The property and the house built upon has a special significance for Mr. Leon Guerrero, he has never wanted to part with despite numerous offers to purchase the property; he remained steadfast to the thought of commitment he could preserve the property for his children and grandchildren. The panorama view of Tumon Bay has already been obstructed by the structures that have been built and the proposed project wants to further materially diminish the value with which the family's house and lot is regarded. The variance being requested can only be described as 5 feet but it is beyond than that; 5 feet of encroachment to be use in enjoyment of the house and a lot which has been the family's place of comfort and security. The face of Tumon has undergone massive changes and the small town character it once had has disappeared into the construction of shopping districts, hotels, condominiums, intrusive lights at night, infrastructure, crimes, however, in some small places and in some ways preservation of the beauty, security and enjoyment of once small face in this concrete jungle should not be dismiss by the Commission. Mr. Leon Guerrero does not stand in the way of the use of another property owner's using the enjoyment of their property rather he stands before the Commission, does want the Zoning Law of Guam respected and adhere to the Zoning provisions, provide the balance that the Legislature has disrupt between the development of these multi-family dwelling units and the surrounding areas. What is the unnecessary hardship that would fall the applicant in 5 feet height variance request? In conclusion, unless the applicant proves to the satisfaction of the Commission that the variance is needed to somehow mitigate some practical difficulties or deviate unnecessary hardship. Why would the Commission want to impose the difficulty and hardship and material diminution value of Mr. Leon Guerrero and his family?

No further discussions. Meeting adjourned at 6:39 PM.



**DIPATTAMENTON MINANEHAN TANO'**  
 (Department of Land Management)  
**GUBETNAMENTON GUAHAN**  
 (Government of Guam)



EDDIE BAZA CALVO  
 Governor

MICHAEL J.B. BORJA  
 Director

RAY TENORIO  
 Lieutenant Governor

DAVID V. CAMACHO  
 Deputy Director

December 11, 2018

**MEMORANDUM**

**TO:** Guam Land Use Commission (GLUC) Members  
**FROM:** Chairman, Application Review Committee (ARC)  
**SUBJECT:** Summary of Position Statements by ARC Members  
**RE:** Tentative Development Plan Application No. 2017-47A  
 Zone Variance Application No. 2017-47B

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 conditions:

- A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
- B. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission; and
- C. That Applicant shall provide a Landscaping Plan pursuant to Section 5G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner; and
- D. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval; and
- E. The Applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations; and
- F. 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".

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 Tamuning, GU 96913

Mailing Address:  
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 Hagåtña, GU 96932

Website:  
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[dlmdir@land.guam.gov](mailto:dlmDir@land.guam.gov)

Telephone:  
 671-649-LAND (5263)

Facsimile:  
 671-649-5383

**DEPARTMENT OF AGRICULTURE (DoAg):**

Agriculture has reviewed the subject lot for the construction of a 3-storey, 33-unit apartment complex and has no opposition to the proposed usage and development. Our agency will recommend approval of the current proposal for the construction of the facility with the following statements, conditions and requirements set forth in 21 GCA Chapter 61 Section 61637.

Our preliminary inspection of the site found no adverse impact to Agriculture as the site has no recent history of cultivation and animal husbandry occurring. However upon review of the application and based on site survey our agency will require a Biological Survey to be submitted for review when and if the plan proceeds to obtaining a Clearing and Grading Permit. The Biological Report should have listed and determined if any protected and endangered species are located on the lot and a proper mitigation plan is in place to address the issue. Agriculture also recommends the developer implement "Best Management Practices" that addresses both environmental and ecological issues. The application plans that show design of the complex shows only a limited aspect of a landscaping. Agriculture encourages this section and the boundary edges of the property line to include native and indigenous trees and other foliage to be used as part of the overall design of the structure.

The continued development of the island creates challenges in trying to achieve a proper balance as the removal of Guam's vegetation will continue to affect the islands environmental make up.

Replanting these trees will allow and prevent the destruction of our "Northern Aquifer" and avoid unchecked and reckless development that does not take into account preservation and continuation of native habitat that has protected our natural resources and island lifestyle. Planting these trees back into the environment will not only achieve that but also add to the development's aesthetic appeal. In addition, these planted trees will help provide shading, windbreak capabilities and a greener appeal to the proposed development.

The use of native trees that originate in this area is recommended as they are suitable and will adapt readily to the existing soils and will help to maintain a healthy aquifer and surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and coastal zones thereby polluting it. The Department of Agriculture has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our Agricultural Development Services & Forestry divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. In addition, our Agricultural Development Services division maintains an Organic and Environmental Demonstration Farm. The demonstration farm displays various planting techniques that will aid the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment for assistance contact John Borja, Rick Lizama and Pete Terlaje at the ADS division at 300-7976 where our agricultural agents can assist you.

Further as the development of this lot is in proximity to Guam's western coastal zone we require that proper silt screens are installed prior to any clearing and grading work on the site is performed and must be maintained throughout the active period of construction to prevent any erosion of soils, debris and other contaminants from making its way into the lower coastal plane and to other adjacent properties. The silt screens must be installed with the bottom third properly buried and secured to prevent seepage from occurring underneath the skirt. The support of the silt screen fence should be staked every 2-4 feet to allow for proper support during heavy periods of rain and wind that will burden the skirt and cause it to fail if it is not properly secured.

The guidelines as listed in this Impact Assessment should be used as a template to ensure continuation of Guam's habitat. Please be aware that the increased kiss if Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. For other earth friendly techniques and guidance form the Department of Agriculture please contact our offices at 300-7973.

**GUAM POWER AUTHORITY (GPA):**

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

**A. Comments and Recommendations Concerning GPA requirements:**

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
  - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
  - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
  - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
  - Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
  - Provide scheduling and magnitude of project power demand requirements for new loads.
  - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
  - GPA reserves its easement rights established under Document No. 428244.
2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

**B. General Comments:**

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

**DEPARTMENT OF PARKS AND RECREATION (DPR):**

We reviewed the subject request by FC Benavente, Planners for Lulu Investment Industry Co., LTD. for a Tentative Development Application of subject Lot 5111-3-1NEW and have no objection to the approval of the Tentative Development Plan and Height Variance Application.

**DEPARTMENT OF PUBLIC WORKS (DPW):**

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

- parking layout and parking stalls (compact, standard and accessible stalls) must meet the American Disability Act (ADA) requirements;
- if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way;
- must provide typhoon shutters to all opening;
- incorporate noise attenuation measure such as double-glazed windows, sealed doorways under balcony area and sound absorbing materials; and
- comply with all the geotechnical requirements related to site preparations

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

**BUREAU OF STATISTICS AND PLANS (BSP):**

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

**Land Use.** The Bureau finds that the proposed project is within the tourist/resort use category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

**Tourist Resort.** The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominiums-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.

In order to meet the goals and objectives of the NCGLUP, the applicant shall be required to comply with the guidance to adhere to the concept of affordable development as proposed within the North and Central Guam Land Use Plan. Housing Policy H-9 states:

"Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households earning 80% to 120% of local income adjusted for family size. Incentives could include density increases, flexibility in development standards or other measures."

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

**Aquifer Protection.** The subject property is located within the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA) so any groundwater contamination can be impacted directly. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply. 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 a 33 unit 3-storey apartment complex 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, sidewalks, 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 to surrounding neighbors, and avoid contaminating Guam's sole aquifer in accordance with the CNMI and Guam Stormwater Management Manual.

The Bureau requires the applicant to incorporate bio-retention features to the planter lane dividers and Cul-de-sac loops and modify the road slope plan so the islands serve as a feature to help manage stormwater. Additional BMPs may be found in the CNMI and Guam Stormwater Manual in the Bureau's website [www.bsp.guam.gov](http://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.

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, which includes the NGLA. The Bureau requires that LULU Investment Company LTD., prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following but are not limited to:

1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves a construction site.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.
3. Stabilize construction entrance and install necessary perimeter controls and diversions.
4. Disturbed areas shall be stabilized as soon as possible after construction.
5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
6. Where feasible, schedule construction during the dry season.

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](http://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).** This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than 5.17% according to National Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and decreased water quality and in order to minimize negative impacts best management practices should be incorporated.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

Considering the growing concerns of flooding due to increased impervious surfaces, 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](http://www.bsp.guam.gov) under the Guam Coastal Management Program.

**Historical and Archaeological Resources.** The Bureau recommends that the applicant coordinate with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to Historical Objects and Sites, 21 GCA, Chapter 76.

**Height Zone Variance.** Pursuant to 5GCA Chapter 1 Article 2 Section 1200 (c), (d) Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions:

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

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

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 BMP's are not in place to manage stormwater runoff on site. Therefore, the Bureau advises the applicant, LULU Investment Industry Co. LTD., 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.

**GUAM WATERWORKS AUTHORITY (GWA):**

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a Tentative Development Plan and Height Variance for a 33-unit apartment complex on Lot 5111-3-1NEW.

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

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 application:

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

Given current growth in Tumon, it is likely that future developments will be required to increase the sewer system capacity through offsite utility improvements.

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

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

4. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.
5. The applicant shall install GWA water meters in the public right of way or easement.

6. Backflow prevention devices are required for non-residential activities, swimming pools, or when a development will be served by a master meter.
7. New development is subject to water and/or sewer system development charges.
8. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
9. 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.
10. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.
11. Only wastewater shall be discharged to the sanitary sewer system. Stormwater, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.
12. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

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

**GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):**

The staff of this Agency has reviewed the application and determined that the proposed project will meet the requirements of our regulations provided the owner/developer and contractor comply with all relevant laws and regulations administered by GEPA and if they address the following concerns during the preparation of design documentation, permit application and construction as follows:

**A. Stormwater Management Plan**

1. All applicable requirements of the Guam Soil Erosion Sediment Control Regulations (GSESCR) and CNMI and Guam Stormwater Management Manual must be followed, to include but not limited to the use of all appropriate construction and post-construction BMPs and appropriate paving and landscaping practices to contain storm run-off within the property.
2. The applicant must obtain coverage under and follow all requirements of the USEPA Construction General permit (CGP). The applicant must submit a Notice of Intent (NOI) and stormwater pollution prevention plan (SWPPP) to USEPA and submit copy to Guam EPA pursuant to GSESCR. Submit an Environmental Protection Plan (EPP) and Erosion Control Plan for review and approval prior to commencement of clearing and grading activities.

**B. Water System**

1. A water storage tank and a booster pump is necessary to provide the minimum water pressure at the highest fixtures in the building pursuant to Safe Drinking Water Regulations. However, if other water treatment or a water softener is to be used to enhance the water quality

or remove the hardness in water, the applicant is advised that this may trigger additional considerations and requirements under the Lead and Copper Rule.

2. Any water storage tank or other component that comes into contact with potable water must be NSF certified product.

C. Wastewater System

1. A hydraulic analysis must be conducted to insure the receiving sewer main is adequate to receive all discharges from your facility especially during peak hours of sewer used.

2. A transition Sewer Manhole at the point of connection to the existing sewer line is recommended to facilitate maintenance and minimize impedance to upstream flows.

D. Others:

1. Provide adequate Trash Bin to accommodate a full capacity of the apartment complex.

2. Must comply with the Guam EPA Air Pollution Control Act and Guam Pesticide Act and other regulations that applies to the project.

**DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES (DPH&SS):**

No Position Statement has been received as of the date of this Memorandum of November 6, 2018.

**GUAM FIRE DEPARTMENT (GFD):**

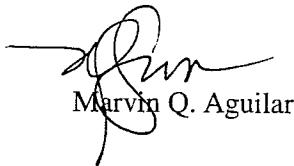
No Position Statement has been received as of the date of this Memorandum of November 6, 2018.

**GUAM DEPARTMENT OF EDUCATION (GDOE):**

No Position Statement has been received as of the date of this Memorandum of November 6, 2018.

**DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):**

No Position Statement has been received as of the date of this Memorandum of November 6, 2018.

  
Marvin Q. Aguilar

Attachments: ARC Position statements



**Eddie B. Calvo**  
Governor  
**Ray Tenorio**  
Lt. Governor

**Department of Parks and Recreation  
Government of Guam**

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



**William N. Reyes**  
Director  
**John P. Taitano**  
Deputy Director

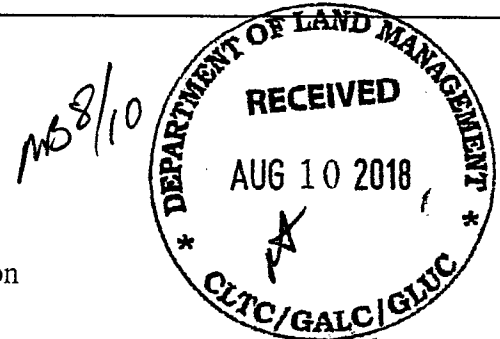
In reply refer to:  
RC2018-0615  
cr: RC2016-0379

July 27, 2018

To: Executive Secretary, Guam Land Use Commission

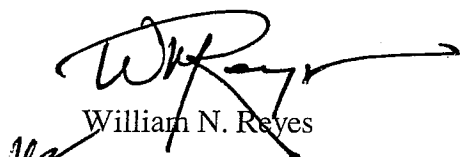
From: Director, Department of Parks and Recreation

Subject: DPR Position Statement on DLM Application No. 2017-47 A/B:  
Tentative Development Plan and Height Variance to Construct A 33-Unit  
Apartment Complex in Tumon within an "H" Zone



We reviewed subject application submitted by Richard J. Sana and Ray Benavente of FC Benavente, Planners, Authorized Representative, on behalf of the applicant, LULU Investment Industry Co., Ltd. The proposed construction of the 33-residential apartment complex will comprise two buildings on a 3,878-square meter lot, Lot 5111-3-1NEW, situated along and fronting Leon Guerrero Drive in the vicinity of the Old San Vitores Road, also known as Happy Landing Road.

We have no objection to the approval of the subject application. However, the subject development must go through the proper DPW permitting process for review by the various agencies, including the Department of Parks and Recreation, and may be subject to additional development requirements. If you have any questions with regards to our position, please contact our office.

  
William N. Reyes

Cc: Richard J. Sana, Authorized Representative, FB Benavente, Planners  
[Richard.jsana@yahoo.com](mailto:Richard.jsana@yahoo.com)

08/08/18



**Eddie B. Calvo**  
Governor  
**Ray Tenorio**  
Lt. Governor

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



**William N. Reyes**  
Director  
**John P. Taitano**  
Deputy Director

In reply refer to:  
RC 2018-0569

May 30, 2018

Memorandum

To: Executive Secretary, Guam Land Use Commission

From: Director, Department of Parks and Recreation

Subject: Application No. 2017-47: Tentative Development Plan and Height Variance to Construct a 33 Unit Apartment Complex on Lot 5111-3-1EW, Tumon, Guam

We reviewed the subject request by FC Benevente, Planners for Lulu Investment Industry Co., LTD. for a Tentative Development Application of subject Lot 5111-3-1NEW and have no objection to the approval of the Tentative Development Plan and Height Variance Application.

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

Sincerely,

  
William N. Reyes

*WB 6/8*

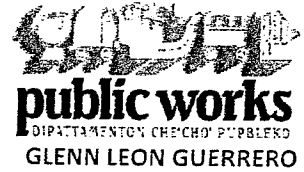


*Rec'd 6/8/18  
P. B. L. A.  
Planing Div.  
CB*



The Honorable  
**EDDIE BAZA CALVO**  
 Governor

The Honorable  
**RAY S. TENORIO**  
 Lieutenant Governor



**GLENN LEON GUERRERO**

Director

**ANDREW S. LEON GUERRERO**

Deputy Director

**MEMORANDUM**

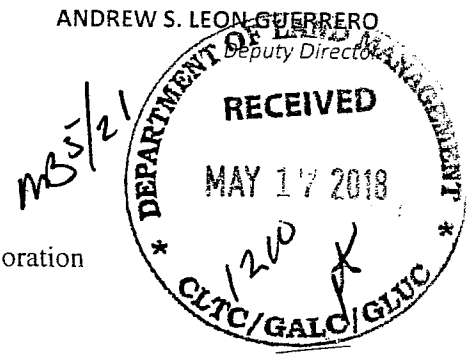
**TO:** Director, Department of Land Management

**FROM:** Director

**APPLICANT:** LULU Investment Industry Co., Ltd., Guam Corporation

**APPLICATION No.:** 2017-47 A/B

**SUBJECT:** Tentative Development Plan and Height Variance to Construct 33 Units, Apartment Complex in Tumon within an "H" Zone, on Lot 5111-3-1-NEW



**Buenas yan Hafa Adai!** The applicant is proposing to construct 33 units, apartment type complex which consists of the following:

- a) Building "A" – 18 units 3 bedrooms and 2 baths with 12 semi-basement parking stalls.
- b) Building "B"- 15 units, 3 bedrooms and 2 baths with 10 basement parking stalls.
- c) Additional 44 surface parking stalls including 2 ADA compliant and van accessible stalls.

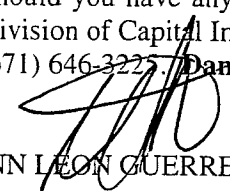
Access to the property will be from Leon Guerrero Drive, a 2- lane paved road with variable width fronting the above subject property. The total lot area is 3,878 square meters or 41,742 square feet.

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

- parking layout and parking stalls (compact, standard and accessible stalls ) must meet the American Disability Act (ADA) requirements;
- if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way;
- must provide typhoon shutters to all opening;
- incorporate noise attenuation measure such as double glazed windows, sealed doorways under balcony area and sound absorbing materials; and
- comply with all the geotechnical requirements related to site preparations

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

Should you have any questions, please contact Mr. Max C. Manzano, P.E., Chief Engineer for the Division of Capital Improvement Projects @ (671) 988-6273 or Maryrose M. Wilson, Engineer III @ (671) 646-3225. **Dangkulu na Si Yu'os Ma'ase!**

  
 GLENN LEON GUERRERO



# GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN  
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

April 17, 2018

*MB5/1*



## MEMORANDUM

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

From: General Manager

Subject: Lots 5111-3-1NEW, Municipality of Tamuning, (Lulu Investment Industry Co., Ltd); Tentative Development & Height Variance Application to construct a 33-Unit, 3-Story apartments. **Application No. 2017-47**

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

### A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
  - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
  - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
  - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
  - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
  - Provide scheduling and magnitude of project power demand requirements for new loads.
  - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
  - **GPA reserves its easement rights established under Document No. 428244.**
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.

*[Signature]*  
JOHN M. BENAVENTE, P.E.



**INFRASTRUCTURE CERTIFICATION FORM**

Agency Certifying: **Guam Power Authority**  
 Applicant: Lulu Investment Industry Co., Ltd.  
 Location: Lot 5111-3-1NEW, Tamuning  
 Type of Application: Tentative Development & Height Variance  
 GLUC/GSPC Application No. 2017-47  
 Brief Project Description:  
 To construct a 33-Unit, 3-Storey apartments.

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

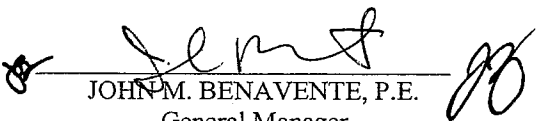
1. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently **AVAILABLE AND IN PLACE** to support this project:  
 Yes  No

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

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

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

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

  
 JOHN M. BENAVENTE, P.E.  
 General Manager

4/30/18  
 Date

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

ASG/arp

Eddie Baza Calvo  
Governor of Guam

**BUREAU OF  
STATISTICS & PLANS**  
SAGAN PLANU SIHA YAN EMFOTMASION



Ray Tenorio  
Lieutenant Governor

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 29 2018

MB 10/31



**MEMORANDUM**

**TO:** Chairman, Guam Land Use Commission

**VIA:** Executive Secretary, Department of Land Management

**FROM:** Director, Bureau of Statistics and Plans

**SUBJECT:** **Application No. 2017-47**  
**Location:** Lot 5111-3-1NEW, Municipality of Tamuning-Tumon-Harmon  
**Applicant:** LULU Investment Industry Co. LTD  
**Proposed Use:** Zone Variance (Height)\Tentative Development Plan in a "H" Hotel-Resort Zone

**Håfa Adai!** The applicant, LULU Investment Industry Co., LTD., represented by FC Benavente, is requesting for a Height Zone Variance and a Tentative Development Plan to construct a 33 unit 3-storey apartment complex in a "H" Hotel-Resort Zone within the Municipality of Tamuning-Tumon-Harmon.

The subject lot is 3,878 square meters or 41,742 square feet. Lot 5111-3-1NEW is fronting Leon Guerrero Drive, via Happy Landing Road, on Marine Corp Drive, a major thoroughfare. The adjacent surrounding properties include single family homes, apartment complexes, strip malls, St. John's Church and School, East West Building, Guam Telephone Authority, LMS Landscape, Capitol Hotel, Grand Plaza Hotel, Tumon Police Precinct, and other regularly associated activities in the "H" zone.

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

**Land Use.** The Bureau finds that the proposed project is within the tourist/resort use category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

**Tourist Resort.** *The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominiums-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.*

In order to meet the goals and objectives of the NCGLUP, the applicant shall be required to comply with the guidance to adhere to the concept of affordable development as proposed within the North and Central Guam Land Use Plan. Housing Policy H-9 States :

*"Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households earning 80% to 120% of local income adjusted for family size. Incentives could include density increases, flexibility in development standards or other measures."*

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

**Aquifer Protection.** The subject property is located within the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA) so any groundwater contamination can be impacted directly. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply. 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 a 33 unit 3-storey apartment complex 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, sidewalks, 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 to 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 the planter lane dividers and Cul-de-sac loops and modify the road slope plan so the islands serve as a feature to help manage stormwater. Additional BMPs may be found in the CNMI and Guam Stormwater Management Manual in the Bureau's website [www.bsp.guam.gov](http://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.

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, which includes the NGLA. The Bureau requires that LULU Investment Company LTD., prevent adverse impacts from construction site runoff by employing BMPs. These BMPs include the following but are not limited to:

1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves a construction site.
2. Minimize unnecessary clearing and grading to preserve existing natural areas.
3. Stabilize construction entrance and install necessary perimeter controls and diversions.
4. Disturbed areas shall be stabilized as soon as possible after construction.
5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
6. Where feasible, schedule construction during the dry season.

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](http://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).** This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than 5.17% 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 decreased water quality and in order to minimize negative impacts best management practices should be incorporated.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

Considering the growing concerns of flooding due to increased impervious surfaces, 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](http://www.bsp.guam.gov) under the Guam Coastal Management Program.

**Historical and Archaeological Resources.** The Bureau recommends that the applicant coordinate with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to Historical Objects and Sites, 21 GCA, Chapter 76.

**Height Zone Variance.** Pursuant to 5GCA Chapter 1 Article 2 Section 1200 (c), (d) Section 1201(a) (5) the Bureau requires the applicant to comply with the following conditions:

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

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

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, LULU Investment Industry Co. LTD., 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  
DPR  
DPW  
GWA  
GPA

**GUAM WATERWORKS AUTHORITY**

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



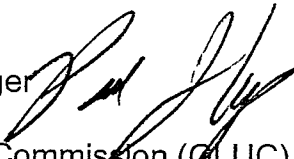
MB 11/7

MEMORANDUM

October 10, 2018

TO: Michael Borja, Director, Department of Land Management

CC: Mayor Louise C. Rivera, Municipality of Tamuning-Tumon-Harmon  
(mayorlcrivera.tatuha@gmail.com)

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

SUBJECT: Position Statement on Guam Land Use Commission (GLUC) Application  
No. 2017-47

APPLICANT: Lulu Investment Industry Co., Ltd.

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a Tentative Development Plan and Height Variance for a 33-unit apartment complex on Lot 5111-3-1NEW.

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

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 application:

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.
2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to the building permit application submittal. Discussions

11/8  
C

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.

Given current growth in Tumon, it is likely that future developments will be required to increase the sewer system capacity through offsite utility improvements.

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

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

4. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.
5. The applicant shall install GWA water meters in the public right of way or easement.
6. Backflow prevention devices are required for non-residential activities, swimming pools, or when a development will be served by a master meter.
7. New development is subject to water and/or sewer system development charges.
8. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
9. 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.

10. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.
11. Only wastewater shall be discharged to the sanitary sewer system. Stormwater, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.
12. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

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



**GUAM WATERWORKS AUTHORITY**

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




**MEMORANDUM**

October 10, 2018

**TO:** Michael Borja, Director, Department of Land Management

**CC:** Mayor Louise C. Rivera, Municipality of Tamuning-Tumon-Harmon  
(mayoricrivera.tatuha@gmail.com)

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

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

# GUAM ENVIRONMENTAL PROTECTION AGENCY

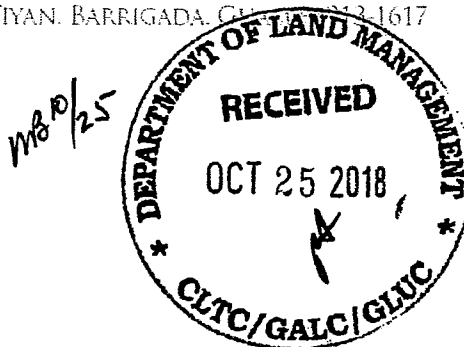
AHENSIAN PRUTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO  
GOVERNOR OF GUAM

RAY TENORIO  
LT. GOVERNOR OF GUAM

17-3304 MARINER AVENUE TIYAN, BARRIGADA, GUAM 96913-1617 FIND US ONLINE AT EPA.GUAM.GOV

Mr. Tao Oh, Acting Chairman  
Guam Land Use Commission  
c/o Department of Land Management  
5905. Mrine Corps Drive  
ITC Building, Ste. 733  
Tamuning, Guam 96913



OCT 25 2018

**Ref:** Application No. GLUC-2017-47A, "Zone Variance for Height" and GLUC-2017-47B, "Request for a Tentative Development Plan", for the proposed construction of a three story, 33-unit apartment complex, on Lot 56111-3-1NEW (Tumon), in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning, Guam

The staff of this Agency has reviewed the application and determined that the proposed project will meet the requirements of our regulations provided the owner/developer and contractor comply with all relevant laws and regulations administered by GEPA and if they address the following concerns during the preparation of design documentation, permit application and construction as follows:

#### A. Stormwater Management Plan

1. All applicable requirements of the *Guam Soil Erosion Sediment Control Regulations (GSESCR)* and *CNMI and Guam Stormwater Management Manual* must be followed, to include but not be limited to the use of all appropriate construction and post-construction BMPs and appropriate paving and landscaping practices to contain storm run-off within the property.
2. The applicant must obtain coverage under and follow all requirements of the USEPA Construction General Permit (CGP). The applicant must submit a Notice of Intent (NOI) and stormwater pollution prevention plan (SWPPP) to USEPA and submit copy to Guam EPA pursuant to GSESCR. Submit an Environmental Protection Plan (EPP) and Erosion Control Plan for review and approval prior to commencement of clearing and grading activities.

#### B. Water System

1. A water storage tank and a booster pump is necessary provide the minimum water pressure at the highest fixtures in the building pursuant to Safe Drinking Water Regulations. However, if other water treatment or a water softener is to be used to enhance the water quality or remove the hardness in water, the applicant is advised that this may trigger additional considerations and requirements under the Lead and Copper Rule.
2. Any water storage tank or other component that comes into contact with potable water must be a NSF certified product.

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE.



C. Wastewater System

1. A hydraulic analysis must be conducted to insure that the receiving sewer main is adequate to receive all discharges from your facility especially during peak hours of sewer used.
2. A transition Sewer Manhole at the point of connection to the existing sewer line is recommended to facilitate maintenance and minimize impedance to upstream flows.

D. Others:

1. Provide adequate Trash Bin to accommodate a full capacity of the apartment complex.
2. Must comply with the Guam EPA Air Pollution Control Act and Guam Pesticide Act and other regulations that applies to the project.

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

  
WALTER S. LEON GUERRERO  
Administrator

# GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO  
GOVERNOR OF GUAM

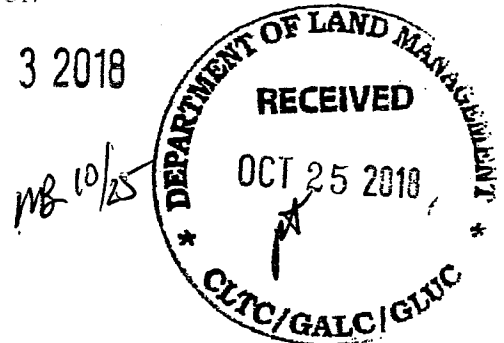
RAY TENORIO  
LT. GOVERNOR OF GUAM

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

FIND US ONLINE AT EPA.GUAM.GOV

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

OCT 23 2018



**Ref:** Application No. GLUC-2017-47A - Zone Variance for Height and GLUC-2017-47B- Request for a Tentative Development Plan, for the proposed construction of a three story, 33-unit apartment complex, on Lot 56111-3-1NEW (Tumon), in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning.

The staff of this Agency has reviewed the application and determined that the proposed project will meet the requirements of our regulations provided the owner/developer and contractor comply with all relevant laws and regulations administered by GEPA and if they address the following concerns during the preparation of design documentation, permit application and construction as follows:

#### A. Stormwater Management Plan

1. All applicable requirements of the *Guam Soil Erosion Sediment Control Regulations* (GSESCR) and *CNMI and Guam Stormwater Management Manual* must be followed, to include but not be limited to the use of all appropriate construction and post-construction BMPs and appropriate paving and landscaping practices to contain storm run-off within the property.
2. The applicant must obtain coverage under and follow all requirements of the USEPA Construction General Permit (CGP). The applicant must submit a Notice of Intent (NOI) and stormwater pollution prevention plan (SWPPP) to USEPA and submit copy to Guam EPA pursuant to GSESCR. Submit an Environmental Protection Plan (EPP) and Erosion Control Plan for review and approval prior to commencement of clearing and grading activities.

#### B. Water System

1. A water storage tank and a booster pump is necessary provide the minimum water pressure at the highest fixtures in the building pursuant to Safe Drinking Water Regulations. However, if other water treatment or a water softener is to be used to enhance the water quality or remove the hardness in water, the applicant is advised that this may trigger additional considerations and requirements under the Lead and Copper Rule.
2. Any water storage tank or other component that comes into contact with potable water must be a NSF certified product.

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE.



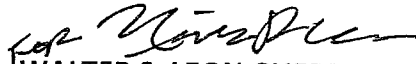
C. Wastewater System

1. A hydraulic analysis must be conducted to insure that the receiving sewer main is adequate to receive all discharges from your facility especially during peak hours of sewer used.
2. A transition Sewer Manhole at the point of connection to the existing sewer line is recommended to facilitate maintenance and minimize impedance to upstream flows.

D. Others:

1. Provide adequate Trash Bin to accommodate a full capacity of the apartment complex.
2. Must comply with the Guam EPA Air Pollution Control Act and Guam Pesticide Act and other regulations that applies to the project.

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

  
WALTER S. LEON GUERRERO  
Administrator



ATTACHMENT C

DIPATTAMENTON MINANEHAN TANO'  
(Department of Land Management)  
GUBETNAMENTON GUAHAN  
(Government of Guam)



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

MICHAEL J.B. BORJA  
Director

DAVID V. CAMACHO  
Deputy Director

December 19, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission


FROM: Guam Chief Planner

SUBJECT: **Commission Brief** - Application No. 2017-39B, Conditional Use Permit issued to Lot 1-R3, Tract 1541 in the Municipality of Mangilao

On January 25, 2018, the Guam Land Use Commission (GLUC) approved a Conditional Use Permit for the construction and operation of a Solar Photovoltaic Facility and Renewable Integration Energy Storage System on Lot 1-R3, Tract 1541, in the Municipality of Mangilao. On February 14, 2018, a Notice of Action (NOA) was recorded under instrument number 918197 as a result of the Commission approval.

On November 29, 2018, a letter was received from the applicant's representative, requesting for a one year extension of the approved Notice of Action pursuant to condition "B" where it states that, "If this Conditional Use Permit is granted, The Applicant is required to carefully read, Understand, and Comply with the Time Limitation Condition Noted on the First Page and the Acknowledgment Agreement at the Last Page of the Notice of Action that cites "Pursuant to Executive Order 96-26, Section 5, Applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall be null and void".

In support for the request the applicant submitted a total of ten summarized reasons as for the delay in obtaining a building or grading permit for the approved project within the required time. We have reviewed the reasons and find them justifiable in support to the request and therefore support a favorable consideration of the request from the Commission for an extension of time up to February 14, 2020.

  
Marvin Q. Aguilar  
Guam Chief Planner

Case Planners: Frank Taitano and Celine Cruz  
Attachments – Letter from TG Engineers dated November 29, 2018

Street Address:  
10 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](mailto:dlmdir@land.guam.gov)

Telephone:  
671-649-LAND (5263)

Facsimile:  
671-649-5383

November 29, 2018

Marvin Aguilar, Chief Planner  
**Department of Land Management**  
590 S. Marine Corps Drive, Ste 733  
Tamuning, Guam 96913

Attn: Frank Taitano, Planner IV  
Celine Cruz, Planner IV

Subject: Request for a One (1) Year Extension of Notice of Action (NOA) Expiration  
Deadline of February 14, 2019, Application No. 2017-39, KEPCO-LG CNS  
Mangilao, 60MW Solar PV/ESS Plant, Lot 1 Tract 1541.

Buenas Yan Hafa Adai,

On behalf of KEPCO-LG CNS Mangilao Solar Plant, TG Engineers PC (TGE) is kindly requesting your assistance to include the above subject matter in the agenda for the next GLUC meeting. TGE is filing this request in advance of the next available GLUC meeting scheduled for December 13, 2018, in hopes that this matter can be entertained by the Commission to comply with Condition B below for expiration date from recordation of the GLUC decision dated February 14, 2017. TGE is requesting a one (1) year extension to February 14, 2020 for this NOA.

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

The reasons for this extension request can be summarized as follows:

1. KEPCO-LG CNS showed a commitment to proceed with this development by entering into a Power Purchase Agreement with GPA in August 2018. The PPA was an essential requirement for project financing.
2. The construction start date was planned for January 2018 for Clearing and Grading (C&G). However, a lawsuit was filed on March 1, 2018 that caused delays in construction contracting.
3. Financial closure for the project has been delayed as well due to this lawsuit.

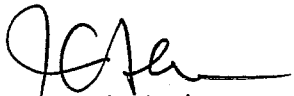
11/20/18  
S

4. Construction Contracts are still being finalized with several contractors. This is necessary, in part, for final financial closure with the consortium owner, KEPCO-LG CNS Mangilao Solar Plant. Also contracting with an Engineering, Procurement and Construction (EPC) contractor has been complex because it has required contract provisions to be back-to-back with the PPA and thus it has taken some time to finalize.
5. TGE final engineering designs are complete for the Onsite Solar PV/ESS project but all necessary permits for the project are still pending government approval. A status list of federal and local permit applications are provided in Attachment 1 for your reference.
6. C&G Permit approval is pending because GEPA requirements have been added requiring changes to final design drawings. These include but are not limited to: erosion and sediment control; temporary and post construction storm water drainage; re-vegetation and site stabilization requirements, and increases to the number and capacity for storm water ponds.
7. USEPA NPDES Construction General Permit (CGP) is pending due to additional mitigation plans to protect listed tree snail (*Samoana Fragilis*) colony—the colony was only recently discovered but well after C&G designs were submitted to government agencies for review and approval. Mitigation plans (BMPs) are being negotiated with the USFWS to develop a formal agreement prior to the USEPA CGP approval. BMPs have been defined between the Service and TGE and a formal agreement is imminent. Final BMPs will require revisions to C&G plan.
8. USEPA NPDES Construction General Permit (CGP) is also pending due to modifications needed for to the existing Storm Water Pollution Prevention Plan (SWPPP) for erosion and sedimentation control, phasing of the site C&G plan, and additional and larger retention ponds, etc.
9. Storm Water Pollution Prevention Plan (SWPPP) revisions are needed to comply with GEPA and USEPA for changes due to the listed tree snail BMPs, erosion and sedimentation control and additional storm water drainage requirements.
10. The Energy Storage Building Permit review and comments by GEPA, GFD and GWA require design modifications prior to final approval.

Should you have any questions or concerns, please contact me at 483-4141 or 647-0808.

We look forward to hearing from you soonest.

Si Yu'us Ma'ase



Joaquin C. Flores, P.E.

Director of Energy Projects

**Attachment "A"**  
**KEPCO-LG CNS MANGILAO SOLAR PLANT**  
**Building Permit Application Tracking**  
**Thursday, November 29, 2018**

<b>Permit Application No. G17000065 - Clearing and Grading</b>		
<b>Agency</b>	<b>Date</b>	<b>Agency Comments</b>
Land Management Zone	8/23/2017	<b>Resubmitted 9/18/18 - Approved. Deed Document 911851</b>
Parks & Recreation	10/23/2017	Approved, Archaeologist on Board.
GEPA		<b>Need EPP/EPC, NOISWPP, Storm Drainage Calculations. 12/14/2017 - Approved per GEPA # CG111-01012017</b>
Dept of Agriculture	11/8/2017	As per conditions stated on memo dated 8 Nov
GGN Survey Division	8/20/2017	None affected.
Contractor's License Board	1/25/2018	Resubmitted 9/18/18 - Approved. License valid until 6/30/2019.
Dept. of Public Works - D/A	1/5/2018	Approved.
PEALS Board	1/4/2018	Valid Registration.

<b>Permit Application No. G18000865 - Perimeter Fencing</b>		
<b>Agency</b>	<b>Date</b>	<b>Agency Comments</b>
Dept of Land Mgmt	9/21/2018	GLUC Approved. NOA Doc 918197
Contractor's License Board	9/19/2018	License valid until 6/30/2019
GEPA		<b>Under review. GEPA needs to clear Clearing &amp; Grading first.</b>
PEALS Board	9/21/2018	Valid registration
Parks & Rec		
Dept of Agriculture		

<b>Permit Application No. G18000866 - Civil &amp; Structural</b>		
<b>Agency</b>	<b>Date</b>	<b>Agency Comments</b>
Dept of Land Mgmt	9/21/2018	No comments.
Contractor's License Board	9/19/2019	License valid until 6/30/2019
GEPA		<b>Under review - Clearing &amp; Grading needs to clear first. Submit a separate set with Solid Waste Disposal Plan</b>
PEALS Board	9/21/2018	Valid registration
Parks & Rec		
Dept of Agriculture		

<b>Permit Application No. G18000867 - Energy Storage System Building</b>		
<b>Agency</b>	<b>Date</b>	<b>Agency Comments</b>
Dept of Land Mgmt	10/30/2018	None
Contractor's License Board	9/19/2019	License valid until 6/30/2019.
GEPA		<b>Pending pesticide certification.</b>
GWA		<b>11/27/18 - Pending GWA review of revised drawings and creation of SDC account. 11/6/18 - Delivered revised drawings. 10/12/2018 - Picked up drawings. Mauryn McDonald emailed building permit conditions. 10/1/18 - Followed up at GWA-not ready. 9/27/18 - Submitted to Sylvia Mercado for review.</b>
GPA	9/27/2018	Approved

Fire Prevention Bureau		<b>Pending drawing revisions.</b> 10/31/2018 - Met with GFD to discuss 2018 IFC requirements. 10/10/2018 - Sent to email to I. Campos. 10/5/18 - Followed up - Drawing is in review. Go to DLM upon approval. 9/28/18 - Follow up with GFD. Reviewer is available only on MWF. 9/21/2018 - Submitted under GFD Plan No. 2018-0210.
PEALS Board	9/21/2018	Valid registration
Parks & Rec		

<b>Permit Application No. G18000868 - PV Electrical Installation</b>		
<b>Agency</b>	<b>Date</b>	<b>Agency Comments</b>
Dept of Land Mgmt	9/21/2018	Approved
Contractor's License Board	9/19/2019	License valid until 6/30/2019.
GEPA		Clearing & Grading needs to clear first. Submit a separate set with Solid Waste Disposal Plan
GPA	9/27/2018	Approved
PEALS Board	9/21/2018	Valid registration
Parks & Rec		
Dept of Agriculture		

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

918197

File for Record is Instrument Number \_\_\_\_\_

On the Year 20 18 Month 02 Day 14 Time 9:02

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\*\*\*."**

COPY

**GUAM LAND USE COMMISSION**

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

**NOTICE OF ACTION**

January 26, 2018

Date

To: LG CNS America, LLC  
c/o TG Engineers, PC  
101 First Street, Tiyan  
Barrigada, Guam 96932

Application No. 2017-39

The Guam Land Use Commission, at its meeting on January 25, 2018.

  / Approved   / Disapproved XX/ Approved with Conditions

  / Tabled

Your request on Lot 1-R3, Tract 1541, Municipality of Mangilao for a:

NOTICE OF ACTION  
LG CNS America, LLC  
Lot 1-R3, Tract 1541, Municipality of Mangilao  
GLUC Meeting of January 25, 2018  
Page 2 of 4

Application No. 2017-39

03HRO-3

**ZONING**

/ Zone Change\*\*\*

/ **Conditional Use**

/ Zone Variance

- |                                  |  |
|----------------------------------|--|
| <input type="checkbox"/> Height  | <input type="checkbox"/> Use             |
| <input type="checkbox"/> Density | <input type="checkbox"/> Other (Specify) |
| <input type="checkbox"/> Setback |  |

/ TENTATIVE DEVELOPMENT PLAN

**SUBDIVISION**

/ 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)

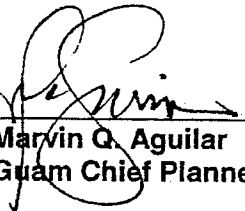
**APPLICATION DESCRIPTION:**

The applicant, LG CNS America, LLC, represented by TG Engineers is requesting approval of their Conditional Use Application to construct and operate a Solar Photovoltaic Facility and Renewable Integration Energy Storage System on Lot No. 1-R3, Tract 1541, Municipality of Mangilao


**COMMISSION DECISION:**

The Guam Land Use Commission **Approved** the applicant's request subject to the following condition;

- A. That the applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement; and
- B. If this Conditional Use Permit is granted, The Applicant is required to carefully read, Understand, and Comply with the Time Limitation Condition Noted on the First Page and the Acknowledgment Agreement at the Last Page of the Notice of Action that cites **"Pursuant to Executive Order 96-26, Section 5, Applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall be null and void";** and
- C. That Applicant shall not submit any request for a Building or Grading Permit, should the Time Limitation as specified in EO 96-26, Section 5 has elapsed (note: if this occurs, the application must be resubmitted as a new application that must undergo the entire process anew); and
- D. Any changes to the approved site development plan shall as a result of ARC permitting agency requirements shall be reflected in an "As-Built" Survey Map to be submitted to the Guam Chief Planner prior to the issuance of an Occupancy Permit.

  
\_\_\_\_\_  
Marvin Q. Aguilar  
Guam Chief Planner

1-29-18  
Date

  
\_\_\_\_\_  
Victor F. Cruz  
Acting Chairman  
Guam Land Use Commission

1-29-18  
Date

Case Planner: Celine Cruz & Frank Taitano

Cc: Building Permits Section, DPW



**CERTIFICATION OF UNDERSTANDING**

I/We \_\_\_\_\_, TOR GUOMUNDJEN  
(Applicant [Please print name]) (Representative [Please print name])

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

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

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

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

\_\_\_\_\_  
Signature of Applicant      Date

[Signature]      2.12.18  
Signature of Representative      Date

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

\_\_\_\_\_  
Applicant      Date      Representative      Date