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ORIGINAL

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room
ITC Building, Tamuning



Thursday, January 28, 2016
1:45 p.m. to 4:50 p.m.

**GUAM LAND USE COMMISSION
Regular Meeting
Thursday, January 28, 2016**

Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Arroyo, Chairman

Mr. Victor Cruz, Vice Chairman

Ms. Conchita Bathan, Commissioner

Mr. Tae Oh, Commissioner

Mr. Michael Borja, Executive Secretary

Ms. Kristan Finney, Legal Counsel

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Penmer Gulac, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

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

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

Date of Meeting: Thursday, January 28, 2016

Time of Meeting: 1:45 pm

<input checked="" type="checkbox"/>	GLUC	<input type="checkbox"/>	GSPC
<input checked="" type="checkbox"/>	Regular	<input type="checkbox"/>	Regular
<input type="checkbox"/>	Special	<input type="checkbox"/>	Special
<input checked="" type="checkbox"/>	Quorum	<input type="checkbox"/>	Quorum
<input type="checkbox"/>	Non-Quorum	<input type="checkbox"/>	Non-Quorum

COMMISSION MEMBERS

John Z. Arroyo, Chairman

Conchita D. Bathan, Commissioner

Beatrice "Tricee" P. Limtiaco, Commissioner

Victor F. Cruz, Commissioner

Tae S. Oh, Commissioner

Vacant, Commissioner

Vacant, Commissioner

SIGNATURE

[Handwritten signatures in blue ink on horizontal lines]

Michael J.B. Borja, Executive Secretary

Kristan K. Finney, Legal Counsel

Marvin Q. Aguilar, Chief Planner

Frank Taitano, Planner IV

Penmer Gulac, Planner IV

Celine Cruz, Planner IV

Jeffrey Baker, Planner II

M. Cristina Gutierrez, WPS II

[Handwritten signatures in blue ink on horizontal lines]

ADJOURNMENT: 4:50 pm

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, ITC Building
Thursday, January 28, 2016 • 1:45 p.m. to 4:50 p.m.

I. Notation of Attendance

Chairman Arroyo called the regular meeting of the Guam Land Use Commission for Thursday, January 28, 2016 to order at 1:45 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioners Conchita Bathan and Tae Oh, Executive Secretary Michael Borja, Legal Counsel Kristan Finney, Guam Chief Planner Marvin Aguilar, Case Planners Penmer Gulac, Celine Cruz and Recording Secretary Cristina Gutierrez

II. Approval of Minutes

Chairman Arroyo first of order of business is a review and approval of the Minutes for our regular meeting of January 14th, 2016. You all had the opportunity to review the Minutes. If there are no questions or corrections, I'll entertain a motion.

Commissioner Bathan I'll make a motion to approve of GLUC regular meeting Minutes of Thursday, January 14, 2016.

Chairman Arroyo we have a motion by Commissioner Bathan, do I have a second [**Vice Chair Cruz seconds the motion**], second by Vice Chair. All in favor of the motion say "aye" [**Chairman Arroyo, Vice Chair Cruz, Commissioners Bathan and Oh**]; all opposed say "nay."

Minutes are approved.

[**Motion to approve the Minutes of January 14, 2016 was passed unanimously; 4 ayes, 0 nay. No corrections received by the Recording Secretary at the close of business 1/28/2016**]

III. Old or Unfinished Business

Chairman Arroyo okay, we have any old or unfinished business? (**Chief Planner Aguilar responded "nothing at this time sir."**) Okay. So let's move on to new business. The agenda, is everybody satisfied with agenda as it is? Do we need to make any changes? [None noted]

The first item ---

IV. New Business

Zone Variance

- A. The Applicant, Cherry Enterprises, Inc. represented by Vic Gaza; request for a zone variance to erect a 23'-0" high LED billboard sign on a 20x20 portion of Lot No. 5371-1-1-R1, in the Municipality of Mangilao, in a "C" (Commercial) zone, under Application No. 2015-10. Case Planner: Celine Cruz

Chairman Arroyo and we do have an email addressed to Celine, and I guess it's coming from Mr. Gaza who is requesting to withdraw the application until a later date because of an emergency. **[For full content/context of Mr. Vic Gaza's request, please refer to Exhibit 1]**

Alright, we'll take this off the agenda and then they'll come back whenever you guys can schedule it.

So, the next item is ---

Subdivision Variance

- B. The Applicant, SJM Holdings, Inc.; request for a Subdivision Variance to delete a portion of a cul-de-sac that encroaches into Lot No. 5106-R7, in the Municipality of Tamuning, in an "M1" (Light Industrial) zone, under Application No. 2016-06.
Case Planner: Marvin Aguilar

Marvin Aguilar before I press on with the staff report that I prepared I would like to insert... there are two items that are not part of my report. You do have a copy of Map No. 432FY1988 (Exhibit 2). For the record, in that map (and by the way it's the most latest map) which shows the consolidation of the former Lot 5106-5 and 5106-6 (if I'm not mistaken) into a new larger lot, Lot 5106-5NEW. The importance of this discovery is the fact that in my report I didn't insert the fact that there was one particular lot that was dependent on the easement that's in question right now. Per this new design or configuration the new lot has another alternative access available to it which is available through the old Agana/Yigo bull cart trail. And as you can see in the subdivision map there is a severance of the easement. It creates an R/W (right-of-way). This is given a new Lot 5106-5-NEW-R/W; it's a 25-foot wide access and utility easement consisting of 9,730 give or take square feet. So, I would like to enter that as part of my report.

Likewise, a staff report, a position statement was submitted by the Bureau of Statistics and Plans. Although my staff report that is dated January 22nd, 2016 is they had submitted their report on January 20th; however, it didn't get to my desk in time when I crafted this letter. If I may for the record summarize their position on this matter. **[Summarizes BSP's Position Statement - for full content/context, please refer to Exhibit 2].**

[Mr. Aguilar summarizes the staff report to include purpose, facts, staff analysis/discussion, recommendation and conditions. It was noted that a public hearing was not required for this application. For full content/context of the staff report please see Attachment B.]

[Attachment B – Staff Report dated January 22, 2016. Strike from Staff Report “*with the exception of Lot 5106-5.*” Mr. Aguilar states that that property has been consolidated into Lot 5106-5-NEW.

Chairman Arroyo Marvin, can you describe the difference between a dotted easement and a solid line easement?

Marvin Aguilar truly sorry I can't speak for the past; but, it was a common practice back in the earlier days when ... to to (sic) to create these sort of ...some folks depending upon who you are talking to they may call them “pseudo easements.” But yet they are considered encumbrances once they're placed and adopted as bonafide subdivision maps. So for that purpose, it serves that purpose of providing easements to subdivided lots. My understanding of it is that that (sic) number one that it is an encumbrance, so it is a legal easement; however, it would have to do through another step which is to convert it from a dotted easement to a solid line easement so that we could sever for the purpose of identifying ownership. In most cases it would be to dedicate that portion that has been severed to the Government of Guam. As it stands right now these properties insofar as square meters are concerned or square feet are concerned, they are encumbrances but yet still part of the total square area that is owned and identified as owned by the property owner. So if you read the description of the property it'll say “x” amount of square meters it would include that dotted easement. And at the sametime, they are prohibited from doing the type of development on that easement because it is, for the lack of a better term, reserved for that specific use until such time it is fully severed.

Chairman Arroyo so as a dotted easement it isn't government property it's still the private owner's property.

Marvin Aguilar for the most part up to date, yes. That's what we've discovered yes sir.

Chairman Arroyo would it be considered a public easement though or is that private?

Marvin Aguilar yes, yes and that's where the encumbrance comes in it's that it's treated like so. It's treated like a public easement; so, even though it's dotted you as the public can actually get on that property. Use it to get to point B and so on and so forth.

Chairman Arroyo so when the building and that fence were built over that portion of the cul-de-sac, at the time whoever built applied for a building permit; would that portion, that dotted easement show up on the map? And would Public Works be alerted to that

Marvin Aguilar it should have been caught, yes sir. But, as the procedure to assess subdivision requests (you know) ... we found these discrepancies to be persistent so they've been changed, we've caught them. As a matter of today unless you have a specific reason, you will never see a subdivision map come up with a dotted easement on it. It's just not permitted at this time.

Chairman Arroyo are there very many of these dotted easements still existing?

Marvin Aguilar yes, they're still out there.

Chairman Arroyo so, with this request to delete that portion of the cul-de-sac do we need to get the surrounding property owners to give us their approval or

Marvin Aguilar it would be desirable to have their approval (you know) we exercise the ... we can administratively delete easements at my level provided that we have everyone signing off on it.

Chairman Arroyo and they'd have to sign off on the map.

Marvin Aguilar they would have to sign off on the final map, yes.

Chairman Arroyo now the only one that seems to have a problem with deleting that portion of the cul-de-sac is GPA because they're saying that deleting it will impede their ability to turn their vehicles around. How are they turning their vehicles around now? I mean that portion .. they don't have access to it anyway.

Marvin Aguilar I don't know, and you do have power poles out there.

Michael Borja (Executive Secretary) there are power poles going dissecting it?

Chairman Arroyo right on this easement?

Marvin Aguilar yes sir.

Vice Chairman Cruz I have a question on that I don't whether ... my question is this is ... so is it the applicant who submitted all this application all this photos? (sic)

Marvin Aguilar yes sir.

Vice Chairman Cruz okay, I'll wait for the applicant to ... before I ask about the photos.

Chairman Arroyo any other questions for staff? [None noted] Okay so, I'd like to invite the applicant's representative to come and please state your name for the record.

James L. Adkins (with James W. Adkins)

Chairman Arroyo do you have a presentation for us?

James L. Adkins not so much a presentation, but what you were just talking about is that GPA being able to turn around. We have some photos here that I can show you where GPA (inaudible/noise) the power pole and the easement and you can see that they have plenty of room to get three of their (undecipherable) trucks in the easement. And they have plenty of room there to do anything they would like to do.

[Photos passed around to the Commission members]

Chairman Arroyo Marvin, Guam Fire Department did they have anything to say about this?

Marvin Aguilar we didn't get any response from them. Again sir, only (up to date) four agencies had submitted position statements.

Chairman Arroyo would you anticipate they may have an ... well, I mean, an issue, still they can't use it anyway. But, their trucks are bigger than GPA's trucks.

Marvin Aguilar let me ask the heavy equipment guy; are fire trucks bigger than GPA trucks?

James L. Adkins uh no, they would not be. You will see there are three big trucks lined up side by side and there's still more space to the side for the trucks to maneuver. What we're asking for is just the deletion of part of the cul-de-sac whatever would be used to turn around and there's no ah....well, the property has never been used since (I believe) since 1972 (inaudible/coughing) taken place and these fences but buildings built way back then. And it's never been used since that time. So we are not asking for deleting the whole road going in and out only the section that is on our property where the cul-de-sac area on our property.

Chairman Arroyo did you talk to the property owners, the other property owners (you know) the easement is running through their property and what it is about what you're looking at doing?

James L. Adkins no ... we haven't ... well we haven't talked to all of the owners because that would not affect (inaudible/coughing) would not affect them in anyway. The easement still goes to where they can go in and out just like they're doing today; and it would have no affect on them at all.

Chairman Arroyo now that those two lots are consolidated it doesn't seem that much of a problem with the easement the property that was located in the back formerly Lot 5106-5. Now it has access to the front of the property.

Commissioner Oh who's paying taxes currently for the current usage in place?

James L. Adkins we are.

Commissioner Oh you guys are paying taxes?

James L. Adkins we are paying taxes on that piece of property, yes.

Vice Chairman Cruz the one you want deleted.

James L. Adkins yes, the one we want deleted we are paying taxes on it.

Commissioner Oh umm, what this property recently purchased?

James L. Adkins yes, we purchased it about three or four years ago.

Commissioner Oh were the previous owners aware of this issue?

James L. Adkins umm, I'm pretty sure ... well, I don't know I didn't ask them. But since it was on the map they may have been.

Commissioner Oh did they inform you about it during the purchase period or it was something you discovered on?

James L. Adkins the property's been next to us for oh since 1978 we've owned the property next door to it. And we've seen the trucks going in/out and the building's been there for that long. So I know the history of that property, and it's never been used in any way for this cul-de-sac. It's just a piece of property that had a line through it as far a ... everyone knew it was not used for anything else.

Commissioner Oh is this the old DCK?

James L. Adkins yes.

Commissioner Bathan so the title report would show encroachments right?

James L. Adkins I would assume so.

Commission Bathan when you purchased the property did the encroachment show on the title report?

James L. Adkins yes it did. It showed that there was some (undecipherable) on it, yes.

Vice Chair Cruz I have a question Jim. On this thing that you submitted, all the photos third from the last sheet. My question to you I see this power pole I see that sort of dotted line. There's two risers coming up on the power pole. Is one of them yours?

James L. Adkins the lines going in? Yes, that's where the lines come in and go underneath the fence here and then back to our warehouse. The fence going along this area that's been there for....

Vice Chair Cruz where is the hand-hole? Is it in your side of the property?

James L. Adkins the hand-hole --- yes, it's right in here. Right close to the power pole.

Vice Chair Cruz so in otherwords if there's any issues whatsoever on your electrical you would have to go to this guy's property to access your property.

James L. Adkins well we have (as it goes over) we have our main panel boxes are all on the other side in this part here.

Vice Chair Cruz because I guess that's one of GPA the way I'm trying to understand GPA's concern is maybe it's one of that. Because I'm pretty sure that when this line was put up ... you know how old the building is the one that you purchased?

James L. Adkins about in the 1970's; right around 1972 I believe.

Vice Chair Cruz so when this guy built it the previous owner built it I'm guessing that the previous owner was the one that laid the electrical pipe ran the wire up all the way to the top.

James L. Adkins we did that in the last few months here. The power originally came in from Marine Corps Drive. It was an overhead power line into it. Now, GPA wants everything underground so they came in from that power pole (which was there already) and they came into our underground into our building.

Vice Chair Cruz so you put the you're the one that put the riser the pipes and everything?

James L. Adkins yes, we have a contractor did it with GPA's engineers (inaudible/noise).

Chairman Arroyo any other questions?

Vice Chair Cruz I still have one. I'm going to say this because you know you've got other lots that for example Lot 5106-7 that my understanding was that you guys did plan to communicate with them? Behind your warehouse? You tried to communicate with them about your proposal to eliminate the cul-de-sac?

James L. Adkins yes, I think we have. It doesn't ... they haven't come up and said anything official on whether what their they like it or not. It doesn't affect their business whatsoever.

Vice Chair Cruz so who owns the other riser?

James L. Adkins which one?

Vice Chair Cruz there's two pipes there. Are both there's?

James L. Adkins on the power line? Both of those are ours yes.

Chairman Arroyo any other questions? (None noted) Do we have public comments on this Marvin?

Marvin Aguilar no sir it's not necessary. Sir, if I may. Mr. Adkins, who owns that container that's on the opposite side of your ... it's like a container office.

James L. Adkins I don't know.

Commissioner Oh quick question Marv. This map is dated '88 right so this portion of the lot here has been permanently severed?

Marvin Aguilar severed for the right-of-way, yes.

Commissioner Oh but then his side is still dotted easement.

Marvin Aguilar still a dotted easement and research shows that there has been no further subdivision or severance of the easement to show a full 40-foot.

Michael Borja but on this Lot 5106- for the lot that has the solid line easement they have a building that practically covers up the entire easement right? Where the solid line easement enters from the road that property owner has a building that rests across that easement that has been severed off.

Marvin Aguilar yes, yes. It appears to be going into the easement of I would say about maybe six feet.

Michael Borja so, they're fully encroaching across the easement designed to access their property and they're accessing their property through the dotted line easement from the other side that was allotted from the other lot.

Marvin Aguilar as well you have the severed that's part of the old Agana/Yigo road. When you come around the building you're actually going around to the ... you're skirting the building to get to the

Michael Borja you can see it clearly too with the power poles the way they run the power lines. The power lines are on the easement but they go over somebody's building.

Marvin Aguilar yes sir.

Vice Chairman Cruz on your lot Jim, the big lot; it's abutting your east-west building. Between that is there an easement? [Mr. Adkins asks Vice Chair to repeat his question] Between this your property...the property you just acquired and to your existing building where East West building is there an easement between those two?

James L. Adkins there is a power easement for the power lines going in, but there is no more power line so that will be taken out.

James W. Adkins it's on 5106-R7. It's not in between the two properties.

James L. Adkins which I believe we have a request for those to be deleted since there is no longer need for it from the power company.

Vice Chairman Cruz I know you just bought it 3, 4 years ago and everything. And you have I guess somewhere down within you mind of developing your big lot? To develop this lot?

James L. Adkins will we develop it? Yes we will.

Vice Chairman Cruz now when that time comes would you be continue to get your electrical access from that other easement?

James L. Adkins well yes we'll be (undecipherable) same area; same as what it is now. Well let's put it this way, we don't know. GPA, I mean not GPA, the Government of Guam has come in and said for the right-of-way they want to take up 80-feet of our frontage on the road. So right now anything we're going to do we can't do it until Land Management and you know everybody that decides what they're going to do. Are they going to take the property or they're not going to take it. In the meantime, we're just going to operate it the way we are. The development in the front part of the property along the Hamburger Road that's all on hold. Of course as we know Hamburger Road was supposed to have been repaired seven years ago, and they came up, well it's going to be five years that they were going to do it. They were going to do it last year when they came and told us well we put it up now another two or three years before we can do anything. So who knows whether we'll be able to do anything for awhile or not. In the meantime, the warehouse will be used as a warehouse, facilities and doing whatever we can with the property.

Vice Chairman Cruz alright, okay. That's all I have.

Chairman Arroyo any other questions? [None noted] Okay, so if there are no other questions for the applicant I'll open it up for public comments. Is there anyone who would like to provide any comments on this application please come forward and state your name.

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

Chairman Arroyo any other questions for the applicant?

Commissioner Bathan Marvin, on your recommendation would it change because of the new map that you had provided to us today? Would there be any change on your recommendation and conditions?

Marvin Aguilar I did clarification on the GPA easement to the right. Most importantly we would have to come up with a map that can clearly define the action of the deletion. But no ma'am, no other changes.

Chairman Arroyo are we good....so, I will entertain a motion at this time.

Commissioner Bathan I'll make a motion to approve the request of the applicant, SJM Holdings, Inc., to delete a portion of an existing easement located on Lot 5106-R7, in the municipality of Tamuning, subject to the conditions recommended by staff.

- a. That within 30 days from issuance of an approved Notice of Action, the applicant shall initiate a subdivision map indicative of the Commission's action to sever or delete that portion of a dotted line cul-de-sac as described in Application No. 2016-02;
- b. That upon such time, the applicant shall engage the services of a currently licensed and registered land surveyor for the purpose of creating subdivision map approvable in form and content by the Department of Land Management; and,
- c. That upon approval and recordation of said subdivision map and through appropriate procedures, the applicant shall submit said approved map to the Real Estate Commissioner for the purpose of adjusting land tax assessments, if applicable.

Chairman Arroyo okay, so I have a motion to approve the application subject to conditions just read. Do I have a second?

Commissioner Oh I'll second.

Chairman Arroyo thank you. Moved by Commissioner Bathan, seconded by Commissioner Oh; any discussion? [None noted] Alright, then we'll move for the vote.

All in favor of the motion please say "aye" [**Chairman Arroyo, Vice Chair Cruz, Commissioners Bathan and Oh.**], all opposed say "nay."

Chairman Arroyo motion is approved. Thank you so much.

[Motion passes unanimously; 4 ayes, 0 nay]

V. Administrative and Miscellaneous Matters

Zone Variance/Renewal

- C. The Applicant, Cherry Enterprises, Inc.; renewal request for a previously approved height/sign variance for a 23'-0" freestanding LED billboard sign located on a 20x20 portion of Lot 2021-1-1-2-1, in the Municipality of Tamuning, in a "C" zone, under Application No. 2012-30.

Case Planner: Penmer Gulac

Penmer Gulac reads supplemental staff report to include previous Commission action, staff analysis/discussion, recommendation and conditions. [For full content/context, please see Attachment C.]

Questions?

[Attachment C – Supplemental Staff Report dated January 21, 2016]

Commissioner Bathan I have a question. On condition 4 on the Notice of Action; we require they include a report of any (inaudible/noise) traffic. Who's the right office to issue that report on that traffic?

Penmer Gulac it should be the Department of Public Safety or Police Department. There was a report submitted with no incidents. It's attached with your packet. There's the report from the Guam Police, certificate of occupancy ---

Chairman Arroyo any other questions?

Commissioner Oh I just wanted to state for the record; I think I should kind of lay it out there that I do have an application coming in for a (low audibility) project. This is a ... we do have an LED sign project that I am looking at. I think I should state that for the record and also wanted to ask your recommendation as to whether you guys feel that there is any conflict of interest here. Personally me, I don't think so because I am all for it. I want to support such industry; but I

wanted to get your opinion and your feelings about this and I also wanted to state it for the record just so that we don't have any issues in the future.

Chairman Arroyo you are familiar with the sign law right? (Commissioner Oh responds "sure.") In your capacity as a member of the Commission do you think you could make an impartial decision with respect to the sign that you're anticipating.

Commissioner Oh I believe I could for this case. I feel that I could make an unbiased decision on this. I just wanted to state for the record just so that there are no issues in the future.

[Vice Chair Cruz and Commissioner Bathan stated that they were okay with Commissioner Oh participating and voting on this application.]

Chairman Arroyo great because we do need your vote; without it there would only be three of us and we wouldn't have the required number of votes for the request. If there are no other questions for the staff, I'll open it up for the applicant. If you could just state your name for the record.

Richard Devera I am the owner of Cherry Enterprises and the Cherry media-vision board in Tamuning]

Chairman Arroyo do you have anything you would like to present to us.

Richard Devera umm, just the letter that we submitted to the Board requesting a renewal or even the removal of the timeline. In actually following the conditions they were bit a constrainuos (sic) on us being a sole proprietor. I had to go out and actually search for these reports which acting didn't even exist within the departments that were requested in the conditions.

Chairman Arroyo you're talking about the reports on the traffic.

Richard Devera yes. Umm, with GPD You've got to sit patiently with people and try to source out the information which was actually taken from (I guess) Highway Traffic Safety website or ... a reporting system they go through with GPD. With DPW, that again was very difficult and I wasn't even able to get a report from them. I don't know why there was no reporting system ... I stated that in my letter there's really no supporting or reporting system that they have. General answer I got was what does your sign have to do with traffic or what does your sign have to do with the highway, you're 30-feet back, we don't need your permission to work on the roads; that kind of thing, and it's bounced back and forth between this. After that it's just like you know what okay leave it at that.

Based on our GPD report, there hasn't been any significance of traffic accidents based on...as cause of our sign. There's been no increase in traffic...well I'm hoping there's an increase traffic because of the advertising, but everything is pretty much status quo according what they have.

Chairman Arroyo I saw in your packet, I guess the letters that were submitted from some of the non-profits thanking you for providing some space for the messages, their PSAs. How has it been for you in trying to get the non-profits and the government agencies to provide materials for you to place on your sign performance, PSAs?

Richard Devera to be honest with non-profits it's not a problem they contact us and they have their ads readily available because it's something that's prepared beforehand. Government agencies are bit difficult for us because for one, I'll give you an example; during Typhoon Dolphin trying to get somebody to give me some sort of report from Civil Defense was like pulling teeth. You get transferred to this section and this section in order for them to just say hey I can I put up on my board we're in typhoon condition 4 or readiness 4. By the time I would get the ... I guess by the time we get the confirmation, we've already been moved up to readiness 3 and so forth. And sometimes after 2 you're not going to hear from them they rely on radio that kind of thing. And of course, we might have lost power by that time too so. It's kind of like the communication, communication is there but the material, trying to get the material is the difficult part. Like I said, I am a one-man operation and I cannot ... it's hard for me to call every single agency that I put there that's up there for free and try to get them to give me information. Because I am one communication board; they would rather got to TV, radio where they can reach the masses with one worth. With me they would have to actually try to prepare something and by that time there's a time lapse. I'm all for doing public awareness stuff for GPD, even for wanted posters, amber alerts. But dissemination of that information is hard to come by.

Marvin Aguilar so to be clear Mr. Devera, the platform, the media platform that's provided to let's say to cable TV or whatever they run on that free channel is different from that platform that you use? I was under the impression that it's just really an oversized TV.

Richard Devera well it is. But if I don't get the information ... it's getting the information; I don't have a clear to

Vice Chair Cruz but you did inform them that you would provide.

Richard Devera oh yes. I have the letters that have been signed off from the agencies.

Chairman Arroyo when you talk about getting the information are you waiting for them to send you some kind of file so that you could upload [Mr. Devera responds "yes."]. Have you ever considered just verifying the information and you can just kind of type text onto it without actually waiting for them to provide you with a file?

Richard Devera well I need to get confirmation of it because I don't want to falsely put information up there based on the

Chairman Arroyo what I'm saying is you get information but now you're waiting for a file to be sent to you so you could upload, could you ever just once you get the confirmation rather than waiting for the file just kind of type on text format that information to be displayed on the screen.

Richard Devera no, we don't have that scroll feature on the screen. We would actually have to prepare the ad, a visual picture for that to happen. And when that happens I would have to send it back to them so they can confirm that the verbiage is correct and then ... you got change this and it becomes a back and forth rather than just getting them to give something straight up; it's right from the horse's mouth.

Marvin Aguilar so....your advertisements all the ... each advertisement item it's actually like how many seconds?

Richard Devera we do an 8 second variable or 10 second variables.

Marvin Aguilar so if you were take let's say something from the weather channel I think that would be detrimental to the ... if it's in a scrolling form and you just take it the way it's presented and provided on the weather channel you're going to have people slowing down and trying to read it.

Richard Devera yeah, rather than just having a straight announcement that we're in readiness 4 or prepare that is something that's simple ... don't look at the We don't want that.

Vice Chair Cruz have your tried to communicate with both Civil Defense and Homeland Security with what you're telling us?

Richard Devera yes, through email, via call. Like for example was during Typhoon Dolphin...I mean everybody's on height and awareness, everybody's in their place, everybody's doing whatever it is. We tried to call down there and then get transferred over to this person, transfer to this person. Finally we had to call a person to get me a favor to get Ms. Gaminde to give me a call and ask her hey can I put this up and she's like can you send an email and I did. And, you know, we finally got on. Like I said, by the time I got the visual on we were already in the next condition and then I had to make another one and put that one up as well.

Commissioner Bathan you mentioned about typhoon. How did you secure your equipment at that time.

Richard Devera well fortunately the screens are rated up to 175 mph impact. So, they're basically solidly put on there. Our structure is actually built above code. When I say structure,

the actual steel structure. So, unless somebody gets up there and starts whacking stuff up we really have no reason to secure.

Commissioner Bathan I guess you have liability insurance right? [Mr. Devera responds "yes."] How much is your coverage?

Richard Devera about ... Depreciation so about \$185,000.

Commissioner Bathan how about general liability coverage.

Richard Devera it's actually fully covered.

Commissioner Bathan no like for example ... your panel flies off and there is a third party damage ---

Richard Devera I believe our coverage is up to a million on that one.

Commissioner Oh do you have an existing lease on the property and how long is the term of that.

Richard Devera yes; we have a five year lease with them currently.

Commissioner Oh and currently you are on ---

Richard Devera we're two years into it, but it's a conditional lease too. So after two years, we basically go month to month and then after five years (if we make it to the five years) then we re-negotiate.

Chairman Arroyo you're saying after two years you're on a month to month even though it's a five year lease?

Richard Devera it's a five year ... yeah, because of our stipulation on our conditions.

Chairman Arroyo so in otherwords on a month to month basis you can get out of the lease if you needed to?

Richard Devera yeah but it wouldn't be in our best interest to do that because our structure is basically permanent.

Chairman Arroyo in reading through the Minutes I think there was some discussion on whether or not ... this was discussion about the Federal Highway, and if it should turn out that the sign somehow or another prevented Guam from receiving funds that if you were asked to move you said you would move.

Richard Devera well, we would have.

Michael Borja going back to your communication with Homeland Security. Have you talked to them recently to try to make arrangements for any kind of future announcements and getting the messages

Richard Devera recently, no we haven't. Not since the new year.

Chairman Arroyo Mike, you have something ---

Michael Borja Homeland Security did have some communication issues during Typhoon Dolphin. Lately they've gotten a lot a lot better. Whether or not you're on an email listing (I am) but I guess that's because of my position; but for media, they do send out quite a few things that would probably be something that you could work on now with Jenna Gaminde to see if you can get onto the email listing. On the issue with the information to get from GPD and from the Department of Public Works, Highway Division; the software package that Mr. Devera was talking about exists between Public Works, GPD and the Court for them to track all (undecipherable). If anyone has had a police report recently from a traffic accident you'll see that it's quite comprehensive to include quite a few details of how you may or may not incurred your accident. So that information is there ... I guess because nobody else had been asking or has been asking lately where is this ... what specifically caused the accident to that...in front of your sign. Was it related to ... was that fender-bender related to someone distracted by a phone or someone distracted by drunk driving or someone that was just so (undecipherable) by a video on your display. That information is there but there's no requirement for them to produce it. So when someone does ask for it it's kinda like I don't know what you're talking about kind of thing. Because I was approached by the Director of Public Works yesterday asking me why he had to sign a letter for you, and I explained why later on why, what came up and what this was about. But that you had gotten your information through GPD. So I guess it's just a matter of trying to to ... if we're going to required this kind of information they need to know that we're going to be asking for this. This is the kind of stuck ... for example someone slams into a guardrail and Public Works wants to know who to go collect from to fix it they should be able to find that information, and it's a pretty good computer system that was set up for these three agencies so that they could share the important traffic information.

Chairman Arroyo okay thanks. You know you've been in operation for a couple of years now. About on the average what would you say is the amount of time that you devote to these PSAs?

Richard Devera umm

Michael Borja you can make them pre-canned right?

Richard Devera if we get the material. We usually like to put at least about thirty percent of our inventory, depending on what our inventory is. A PSA can come in and we can put it at like the

highest frequency or the highest rotation or the lowest rotation, but it depends on how much is in the inventory. Like if I only have five commercial in there then it's going to run just as heavy as the five commercials.

Chairman Arroyo so you're saying ... when you say thirty percent of your inventory about thirty percent of the time would be PSA.

Richard Devera if we have some, yes.

Chairman Arroyo otherwise it might be more because your inventory is lower. So it's at least thirty percent or more.

Richard Devera yes.

Chairman Arroyo Marvin I have a question on Condition #1 on the Notice of Action. In it it says that such notices shall be prepared and advertised I guess we're talking about amber alerts, traffic conditions, things like that at the expense of CEI.

"Such notices shall be prepared and advertised at your expense." That just hit me. That sounds to me like you're supposed to be creating these ads

Richard Devera there we go again, how do we get the information.

Chairman Arroyo no, but you were saying you're waiting for somebody to send you a file so that you could upload [Mr. Devera replies "yes."] and what it sounds here is that you have to prepare and advertise them. Is that what that means? That you've got to create the file to upload? Is that what that means?

Richard Devera like I said earlier too if I get the information you asked me I could create a file I said yes I can.

Chairman Arroyo but you were telling me you wait for somebody to send you a file.

Richard Devera it would be easier if we got them to otherwise it would be a longer process.

Chairman Arroyo so you agree that you should have been preparing these files at your expense.

Richard Devera if I had the information yes.

Chairman Arroyo did you ever let them know that just give me the information and I'll create the ad?

Richard Devera yes, I have.

Vice Chair Cruz and I guess because of the ah, the way the a ... especially with the storms upcoming storms and everything they just have to wait between the Homeland Security and Civil Defense and no ... on the typhoon went ... because that's one thing because I do not want to put up false information.

Chairman Arroyo that wasn't the question I was going to ask. What I wanted clarification on was the notification shall be run every one-third of every hour. What does that mean?

Marvin Aguilar 20 minutes ---

Chairman Arroyo so 20 minutes of every hour should be devoted just to PSAs.

Marvin Aguilar I think that reflects what he said in terms of the can-role that that would be the minimum depending upon how many advertisement that you have. And again I don't understand his ... it was a means to try and press upon the PSA benefit from this program without compromising the value of the

Commissioner Bathan I think that this is one of the reasons why we approved his application before because of the PSA. We really relied heavily on that.

Vice Chair Cruz as it's scrolling on there and the screen goes up and everything and it relates to what the previous question is so in otherwords if GPD should come up right then and there and you can format it or they format it to whatever you like and say I need this for example amber alert right then and there?

Richard Devera like I said if I get the material and I can (inaudible/noise) then I will put it up. But it also takes time it's ... if you don't have a graphic artist work there.

Chairman Arroyo I mean, does it take days or hours?

Richard Devera well, depending on the workload too. I mean I don't have a graphic artist on staff. I mean I do a lot of the ads myself.

Chairman Arroyo well but if you sat down and did it I can't imagine You're not adding a whole lot of pictures and stuff right.

Richard Devera it would take me, if it's real easy, about 3 hours.

Commissioner Bathan for one ad? [Mr. Devera replies "for an ad."]

Vice Chair Cruz for for that public service announcement.

Richard Devera like I said if it's easy and I can put it together very quickly minimum about 3 hours.

Commissioner Bathan what do you consider easy?

Richard Devera umm, finding a background, putting together some graphics and then put the verbiage together and then have it formatted correctly. It's a 20x20 screen or a 10x20 screen. You can only put so much verbiage on that screen to be legible. So if someone gives me a paragraph, I have to summarize that down to 8 words, and that's the most difficult part.

Marvin Aguilar and if I may Mr. Chair, I think Mr. Devera is also alluding to the possibility of liabilities by making mistakes. So getting that information spot-on is really important.

Michael Borja no but something as simple as condition of readiness 2; I mean that can be pre-can and pop it and it comes up and it's nothing special for graphics it's

Richard Devera for instance with just that as an example, I had to go to the Civil Defense website and then take a shoot of the actual ... there's like four different condition; take a snapshot of each and then send it over to Civil Defense to see if it's kosher enough. And then they go we have to have our logo here and so then I have to do that. Then editing stuff that's already pre-made is kind of difficult.

Chairman Arroyo you know you're not supposed to have moving images on your sign.

Richard Devera umm...the only one is the Chuck E Cheese [Mr. Chairman adds "and yours."] oh yeah.

Chairman Arroyo you're not supposed to have any moving images.

Richard Devera umm...yeah, but there are actually still some images that come down too.

Chairman Arroyo well yeah I understand but they are actually moving images. How are you going to address that.

Richard Devera well, we'd have to go back to the advertiser and tell them that hey this is the format we need to do and it has to be a still ad.

Chairman Arroyo would you pull those ads now if we told you we had to?

Richard Devera well I would have to re-create some of them first, and usually with the advertiser it takes a little while.

Chairman Arroyo I mean when you say while you're recreating will you still be showing the ad with the moving images or will you just take them down?

Richard Devera well, I'll take them down I mean the ones ... with especially with ours.

Chairman Arroyo why did you put moving images on you knew you weren't allowed to do that.

Richard Devera it was something that was given to us by the advertiser.

Chairman Arroyo why didn't you reject it?

Richard Devera a lot of it is revenue. We owe a lot of money for this, and if we were to reject a lot of the advertising ...

Chairman Arroyo but it was a condition of approval.

Commissioner Bathan that's what you committed to ... that was Felix Benavente ... on Page 16 of the Minutes; we were notified at the very beginning even the position statement from the Bureau of Planning they didn't want moving signs. We are not going to have moving signs. So that was the condition of Bureau of Planning not to have moving signs.

Chairman Arroyo you committed it to us. If you're telling us that well in spite of the fact you told this Commission that you weren't going to have moving signs you went ahead and did it anyway because you want the money.

Richard Devera there's nothing I can do it's up there. I mean moving forward we can address that.

Chairman Arroyo and now you're asking us not to limit the NOA, but at the same time we find an issue because you blatantly violated a condition.

Richard Devera yes, and I apologize for that.

Chairman Arroyo any other questions? [None noted from the Commissioners] You know this Commission, not necessarily these members of the Commission now, but this Commission has had a number of these types of requests for signs, and granted the sign law is extremely old and outdated. But, in the past members of the Commission found ways to utilize their authority to grant variances and approve the signs, not necessarily just the height and size of the signs but what the signs were being used for. The law says you can only do a certain number of things on a commercially zoned property. Really that's just to identify the businesses that are on premises. And what you're doing is you're advertising products and services, business not necessarily on premises that you are leasing. There are two members on this Commission now that sat...that were there when you through it and both of these two members approved your

application. Personally I have an issue with that in that (you know) the sign law is saying one thing, but our authority to grant variances say that we can do that provided that certain conditions are met. I am wide open to listen to those ... to what the applicant has to say and to justify all those things. And if I can settle that in my mind, I wholeheartedly approve the application. For this particular application, the decision was made in the past and I am going to honor that. At least for me personally because whatever it was that the previous Commission had saw that justified your use of the sign, I am not going to second guess that. I mean that's me personally; but, I do caution you that whatever we do decide whether it's to continue to the two year time limit, continue the conditions that were approved previously on this time around and that you pay attention to that and that you just comply with those conditions.

If there aren't any questions ... do we have a public hearing on this?

Marvin Aguilar we went through ... it's now administrative

Commissioner Oh I just wanted to suggest a break if possible before we make any

Chairman Arroyo let's take a ten minute recess.

[Commission recesses at 3:10 p.m. and reconvenes at 3:25 p.m.]

Chairman Arroyo let's come back to order. Kristen, this keeps coming up everytime we talk about the signs and our ability to approve not so much the height and size of the sign but what the signs are being used for what type of advertisement is being put on the sign. In the past, I guess the previous Commissioners have found justification to approve these requests. The law on variances gives the Commission the ability to approve a request for variances for anything within the zoning code; the sign law included provided there's justification and they have (undecipherable) it can be justified. Provided also that the decisions are in keeping with the general purpose and intent of the law and it's not detrimental to the health, welfare and safety of the general public. And I'm thinking that that is what the previous Commissions were using as authority to approve advertising businesses and services that were not necessarily on premise.

Kristan Finney that that's within the spirit of the law.

Chairman Arroyo that's the key, within the spirit of the law. And so they would have had to be convinced that the request to allow that type of advertising was within the spirit of the law in spite of the fact that the sign law says it can only be used for identification purpose. If there was discussion at those hearings that was sufficient enough to convince those Commissioners that allowing those other types of advertising was within the spirit of the law.

Kristan Finney that is the strict literal interpretation or enforcement with (inaudible) practical difficulties, unnecessary hardship or results that inconsistent with the general purpose of the law. I guess to put it out there you can, I mean if you're saying that there are practical difficulties

because there is a problem with the law itself then the remedy is to have the law fixed. But to say that there's these practical difficulties and unnecessary hardships because you don't like the law or you don't think that the law reflects what things should be then ... I don't see

Chairman Arroyo well yeah I think it's easier when an applicant comes to us and say okay our property is so irregular or there's too much of a slope that it would difficult and present us with a lot of hardship if we weren't allowed to setback variances or we weren't allowed a height or density variance.

Kristan Finney even with the sign it says you can advertise something only that's on the premises. If you premises were zoned such way that for practically for putting up a sign maybe you could have a variance ... a sign over here to advertise something there. Now just kind of brainstorming I'm thinking how can I envision something like that. But, that's not what we're talking about here and it's just like a continuation of the conversation previously. The ... to say that allowing a variance with a sign is within the spirit of the law that's says you can't do this, you said the Commission is convinced that all of these requirements are met then you can

Chairman Arroyo if we feel that it's justified and we feel that it's within the spirit of the law however far it reaches.

Vice Chairman Cruz and also at the sametime when they were but my take on this is that the sametime those Legislature were putting down in their term as usual it always start with one and sometime they put their legislative intent in there and by the time the whole thing is done the basic is also to me the Legislators that put up the idea of the variance at that time put it this way that says hey the way this Guam Land Use Commission is put together we're like a qusai legislature that you know we decide we're in charge of all the land and all the sign and all the variance and everything within the authority yes. At the sametime whoever put this variance together we don't know whether he's thinking that twenty years down line things like this is going be happen (sic) so I leave it up to the Commission. That's the best I can summarize it. Like anything else there is another party that come and tell us what we did is wrong. It's illegal, it's against the law then the next question is what do we do with the prior.

Chairman Arroyo well I think we mentioned the last time that the challenge would be in Court and that maybe that might not necessarily be such a bad thing because we do need clarification.

Do you have any other questions or comments?

Vice Chairman Cruz to me we should move forward that's it.

Chairman Arroyo okay, I am ready to entertain a motion on this application.

Commissioner Bathan I would like to make a motion to approve the request for a previously approved height/sign variance for a 23'-0' freestanding LED billboard sign located on a 20x20 portion of Lot 2021-1-1-2-1, in the municipality of Tamuning, in a "C" zone for Application No. 2012-30 for an additional two (2) years subject to the conditions that were previously set in the original NOA.

Chairman Arroyo so we have a motion to approve subject to a two-year timeline and the previously approved conditions of the NOA by Commissioner Bathan. Do I have a second? **[Vice Chair Cruz seconds the motion]** Second by Vice Chair Cruz. Discussion?

Commissioner Bathan the sign is already there and it's visible to everybody; legislatures, the public and the enforcing agencies and to not extend for another two years would financially impact the applicant. And so if somebody will challenge or bring this to the attention of the parties who regulate or enforce it then we'll look into that and we will put the applicant on notice that our action is subject to the final outcome of the enforcing agency should there be a challenge.

Commissioner Oh I think the applicant is doing a service for the general welfare of the community as he mentioned earlier as dedicating about thirty percent (30%) of the ad time towards public service announcements which I am kinda, I guess, impressed by that type of dedication for public service. I'm sure, as the applicant mentioned he's a one man businessman so he has to handle everything. I'm sure it's a lot of work trying to coordinate with the government officials at this own expense, and I think it's a great service he's doing for the community. I haven't heard any complaints from the community. It seems like the Mayor is in support of it. It's already been existing for the past two years, and I don't see any reason as to discontinue the current NOA.

Chairman Arroyo for me, I'm all in favor of business (especially small businesses) and I think we should do everything we can to help the small businesses continue and to thrive and not to put in place any barriers that would make it difficult for small businesses to do the things that they are trying to do and to make money. But at the sametime, I do have to weigh that off with what the AG is saying with respect to the sign laws, the limitations there as well as our ability to approve variances. I think that the previous Commission that approved this application was convinced that the advertisements for businesses and products and services not onsite was justified and I am not going to second guess that. I do like the fact that your motion is to not change anything from what was previously approved and that makes it easier for me to vote on this because no changes are being made. Moving forward Marvin, we really do need to resolve that issue with the letter to the Attorney General or whatever it is that you're working on. I think in the meetings of this last Minutes, you were asked to ... you mentioned that you were doing some research, compiling some information from previous opinions you had from the AG, and I think we need to step that up make that more of a priority because Mr. Benson is here and I know he's anxious to hear something and there is your application for the Mangilao, and of course Commissioner Oh says he's looking at doing something. And I think we really do need

some guidance to help us along. I don't necessarily want to have to rely on precedence. I don't necessarily want to rubberstamp these things simply because they were approved in the past. I think if we rely on our authority to grant variances that each case needs to be heard individually and be weighed against their own merits. That having some kind of guidance in making sure that we are not overstepping our boundaries would definitely help us in making those decisions.

And so that's all I have to say on that. Anybody else has anything else to say then I'll call for the vote.

Vice Chairman Cruz listening to everybody I do agree what everybody said. I'm not ... we've done it before and everything and like Chairman said he's not into precedence, you know, but yet when we're confronted and the (undecipherable) they're not before us your research also goes back to what previous Commissions have made. I do understand that what's written in the law is written the law but I do feel that part of the legislators looking into it is maybe anticipate ...if it's only 30-feet what if I want to raise it up to another 20-feet and then 50 but the law says 50 and all that. But the circumstances surrounding it that this ... the people that we rely on which is the planners that we rely on is they say you know if you take it this way you know but we have the so called authority to say hey there is a provision that says you can give a variance. So that's what I'm trying to say whether sign down the street or whatever what am I going to say to the guy that's going to sit up there and say hey ... you know what is it. Do we have to wait until that have that client or the person sitting in front of us and say screw it (SIC) take you to court is that what ... I guess that's what every Commission is waiting for to have that come down, the hammer come down. So for me like everybody says and I'm part of that Commission when it was voted on this part to say we'll give it a try. Well, I'm willing to give him another try based on the same thing that was given before. That's my take on this one. Mr. Chairman, it's up to you.

Chairman Arroyo any other discussion? [None noted] Okay, so I'll call for the vote. All in favor of the motion please say "aye" [**Chairman Arroyo, Vice Chair Cruz, Commissioners Bathan and Oh**], all opposed say "nay."

Motion passes; you have your two years. I know you were asking an unlimited time constraint, but ... I think you heard the discussion and it's probably the safest bet (at least for me) is to continue on with what was initially approved and wish you the best of luck.

[Motion to approve the renewal request for another two (2) years was passed unanimously; 4 ayes, 0 nay]

Chairman Arroyo is there any other business to discuss?

Commissioner Bathan can we talk about the email from Senator Morrison on the northern/central land use plan?

Chairman Arroyo we received an email from Senator Morrison; I copied you and I don't know if it went through because there was some attachments. Basically he was alerting us to the fact that a recent bill was passed. He was talking about the northern and central land use plan and how that plan was....well it lapsed into law. In his email, one of the attachments was a letter from the AG kind of explaining the history and how it eventually was lapsed ... became law. But, I think he was saying that in considering the properties that are in the northern and central area that we need to be guided by the northern and central use plan. I know that there's been some discussion and the fact that this Commission didn't necessarily agree that it is law because it didn't necessarily go through the proper channels. I think what was being said Marv, by you, is that it needed to be submitted by this committee to the Governor and then onto the Legislature; but that didn't happen.

Marvin Aguilar and if I may for the record sir that procedural requirement was through Public Law 12-200, and only be repealed or amended by the I'Tanota plan which in itself was repealed after about two or three weeks that revert back to applying the requirements of the zoning subdivision and all the other mandates that falls under the guidance of the GLUC. So it basically went back to that original that public law. I'm quite ... I'm kinda interested into seeing how they actually were able to take it to the Legislature. We do know that they did submit that plan to us, but it was more of a ... I think Commissioner Bathan was there; they presented the case but I think they were told to come back and address some issues (if I recall). But clearly there was not action by the Commission as to whether to the approval or to disapprove that plan.

Chairman Arroyo but at any rate, I think that in the AG's letter they were saying that this plan is really an element of the land use master plan, it's not law and we're not bound by it that we could use it for guidance. I think we need to resolve the question of whether or not this had to pass through the Commission and from the Commission be submitted.

I'd like to ask our Executive Secretary if you could direct the Chief Planner to submit a request to the AG asking AG to review the actions of the Bureau of Planning and Statistics in submitting the northern and central land use plan circumventing the Guam Land Use Commission; and whether or not ... there would be a change in the opinion of the AG with respect to this plan being lapsed into law.

What we're trying to do I think is to avoid this thing from becoming common place. I mean if there is a law, then I guess what we're trying to do is avoid other agencies from bypassing the other authorities in bypassing the law to get their agendas pushed through.

Michael Borja and that's kinda like the point to me. They're not a line agency, they were trying to serve the policy despite the fact that existing statutes created bodies like this to do that kind of stuff. While it existed then it still exists today to have this kind of conflict in turf

Chairman Arroyo well, I don't want to call it a turf war I just want to play by the rules.

Michael Borja and if you look he was the former Chief of that Bureau. There's some kind of argument that people can have that they're advisors to the Governor as opposed to an agency in the government.

Chairman Arroyo and so if you can do that as soon ... I know you guys are all busy but as soon as the (undecipherable).

Michael Borja I do want to inform the Commissioners that I did submit testimony on Tuesday requesting a bill that was ... that had been introduced to rezone a piece of property near the overpass area in Barrigada from agricultural to "M1." I asked that they go through this process specifically, and when I spoke with the senator and his constituent on this matter I advised the gentleman, the landowner, I said, you perhaps you might think instead of going to commercial to think "M1" because really the area is moving in that direction. But I told him that the process was to go to go through here. But his contention during the legislative public hearing is that the reason why he didn't want to go through this is because he is financially unable to do so. And I mentioned that there are others who are financially able to do so (you know) the purpose is to enlighten the public and immediate neighborhoods of this zone change so that they have a say on what's going on. And I also mentioned that there is a piece of property almost half a mile away in Barrigada Heights that has the neighbors up in arms over something that is really not as wild as this could be and then we have another one down in Pago Bay where it was just a height variance that was being requested that generated a considerable amount of public feedback. They needed to understand that the law was created for these purposes, and for significant zone changes from agriculture to "M1" that a legislative zone change was not appropriate. I don't know where it's going to go, but we'll see.

Chairman Arroyo okay, thanks. Anything else? [None noted] I'll entertain a motion to adjourn.

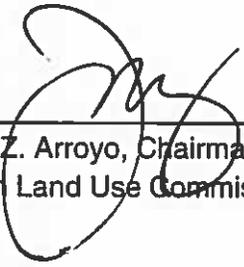
VI. Adjournment

Vice Chairman Cruz makes a motion to adjourn, seconded by Commissioner Bathan; with all in favor [4 ayes, 0 nay].

The regular meeting of the Guam Land Use Commission for Thursday, January 28, 2016 was adjourned at 4:50 p.m.

Approved by:

Transcribed by:



John Z. Arroyo, Chairman
Guam Land Use Commission



M. Cristina Gutierrez, Pro Tem
Planning Division, DLM

Date Approved: FEB. 11. 2016



GUAM LAND USE COMMISSION

Chairman John Z. Arroyo
Commissioner Conchita D. Bathan
Commissioner Tricee P. Limtiaco

Vice Chairman Victor F. Cruz
Commissioner Tae S. Oh

Michael J.B. Borja, Executive Secretary
Kristan Finney, Assistant Attorney General

AGENDA

Regular Meeting

Thursday, January 28, 2016 @ 1:30 p.m.

Department of Land Management Conference Room
590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

- I. **Notation of Attendance** [] Quorum [] No Quorum
- II. **Approval of Minutes**
- GLUC Regular Meeting of Thursday, January 14, 2016
- III. **Old or Unfinished Business**
- IV. **New Business**

Zone Variance

- A. The Applicant, Cherry Enterprises, Inc., represented by Vic Gaza; request for a zone variance to erect a 23'-0" high LED billboard sign on a 20'x20' portion of Lot 5371-1-1-R1, in the Municipality of Mangilao, in a "C" (Commercial) zone, under Application No. 2015-10.
Case Planner: Celine Cruz

Subdivision Variance

- B. The Applicant, SJM Holdings, Inc.; request for a Subdivision Variance to delete a portion of a cul-de-sac that encroaches into Lot 5106-R7, in the Municipality of Tamuning, in an "M1" (Light Industrial) zone, under Application No. 2016-06.
Case Planner: Marvin Aguilar

V. Administrative and Miscellaneous Matters

Zone Variance/Renewal

- C. The Applicant, Cherry Enterprises, Inc.; renewal request for a previously approved height/sign variance for a 23'0" freestanding LED billboard sign located on a 20x20 portion of ~~Lot 20121-1-1-2-1~~ Lot 2021-1-1-2-1, in the Municipality of Tamuning, in a "C" (Commercial) zone, under Application No. 2012-30.
Case Planner: Penmer Gulac

VI. Adjournment



Celine Cruz

From: vic_gaza <vic_gaza@yahoo.com>
Sent: Thursday, January 28, 2016 12:40 PM
To: Celine Cruz
Subject: Withdrawl of application for today jan 28 2016

Hello Celine

I am sorry for the late notice but i have an emergency i need to attend to and i will not be able to make todays gluc meeting. I ask that my applocation be withdrawn until a later date. Pls confirm.

Regards
Vic

Sent from Samsung Mobile

RECEIVED
@mm
1-28-16
12:47pm

ITEM A
POSTPONED

ATTACHMENT B

DIPATTAMENTON MINANEHAN TÁNO'
(Department of Land Management)
GUBETNAMENTON GUÁHAN
(Government of Guahan)



EDDIE BAZA CALVO
Governor of Guahan

RAY TENORIO
Lieutenant Governor of Guahan



MICHAEL JB BORJA
Director

DAVID V. CAMACHO
Deputy Director

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671-649-LAND (5263)

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671-649-5383

January 22, 2016

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2016-02
Subdivision Variance
Lot 5106-R7, municipality of Tamuning
Deletion of Easement Portion

1. **PURPOSE:**

- A. **Application Summary:** The Applicant, James W. Adkins dba SJM Holdings, Inc. request to delete a portion of an existing easement located on Lot 5106-R7 in the municipality of Tamuning.
- B. **Legal Authority:** Title 21, Guam Code Annotated, Chapter 62, *Subdivision Law*, Article 6, §§62601-62604.

2. **FACTS:**

- A. **Location:** Lot 5106-R7 is located in the heart of the Harmon Industrial Park along Adrian Sanchez Road. The easement area requested for deletion is located within the property and is located at the most opposite boundary from its main access way. The easement area requested for deletion may also be accessed through an existing pre-war easement, most commonly used to access commercial activities such as Johnstone Industry and Genghis Kahn Furniture (See **ATTACHMENT 1**).
- B. **Lot Area:** The lot area to be affected occurs within the dotted easement located within Lot 5106-R7. The exact amount of area to be deleted shall be determined upon completion and/or submission of a land survey assessment.
- C. **Present Zoning:** "M-1" (Light-Industrial) Zone.

- D. Field Description:** The applicant photographs of the easement in question where various structures do occur within its alignment to include power and encroaching commercial building infrastructure. Such conditions have been verified per staff site inspection.

Land uses abutting the subject easement are consistently light-industrial. The west boundary of the easement is completely bordered by 6-foot high fencing. Its western boundary contains various structures that appear to encroach onto the easement to include a portion of a commercial office and a loading dock.

- E. Master plan:** Light Industrial
- F. Community Design Plan:** Light industrial
- G. Previous Commission Action:** None.

3. APPLICATION CHRONOLOGICAL FACTS:

- A. Date Heard By ARC:** December 17, 2015
- B. Public Hearing Results of :** N/A

- 4. STAFF ANALYSIS:** Pursuant to §62601 of the subdivision law, the Commission, on its own initiative, or upon the petition of any subdivider stating fully the grounds of the application and all the facts relied upon by the subdivider, may grant variances to the regulations of the Commission. Such petition shall be filed with the tentative plan of the subdivision. Likewise as provided in the zoning law, in the event the Commission shall find the following facts with respect to the petition for a variance, it may grant a variance under such terms and conditions as it may prescribe:

- (a) That there are special circumstances or conditions affecting said property.
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the subdivider.
- (c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- (d) That the variance, if granted, will conform with the intent and purpose of the general or precise plans for the territory, and of this Chapter [sic].

The applicant responds to these criteria as follows:

- (a) That there are special circumstances or conditions affecting said property.
 - i. Research indicates the cul-de-sac easement was designed over four decades ago to serve a housing subdivision which was never developed.
 - ii. The historical use of the properties, to the present day, is commercial/industrial.
 - iii. Subject properties have been, and continue to be served by dedicated public roads. Property owners have designed and established the use of the properties to maximize access provided by the public roads. The easement has not been relied on, and to date property owners have not exercised the full use of the entire easement, thus, is not needed as the means of access to the properties it was originally designed to support.
 - iv. To facilitate operations, over the years, property owners have built onto the easement: warehouses, fences, loading docks, materials and equipment staging/storage area, and office space all appear to encroach onto the easement.
 - v. Concrete power poles, fire hydrants, electric power panel boxes, hand-holes, and transformers are haphazardly situated within of the easement. This defeats the purpose of the easement, however, their placement serves the needs of the property owners.

- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the sub-divider:
 - i. This is a request to sever a portion of the easement that has not been in use since its establishment. Granting this variance will not compromise the use of the easement, but will allow property owners to continue their current use of their properties, preserving and continuing the enjoyment of substantial property rights for all property owners.

- (c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated.
 - i. Dedicated public roads provide access to all subject properties.
 - ii. All property owners have enjoyed and continue to enjoy the use of their respective properties without the use of the easement.
 - iii. Removing and Clearing all obvious encroachments occurring on the easement, as indicated on the map, would adversely impact property owners and the government of Guam. Research indicates the effort would cost property owners and the government many tens of thousands of dollars, inconvenience property owners, and cost thousands more in lost business as a result.

- (d) That the variance, if granted, will conform with the intent and purpose of the general or precise plans for the territory, and of this Chapter.
 - i. 21 GCA Chapter 62 states in part, “§ 62102. The purpose of this Chapter... is to control and regulate the development and/or subdivision of any land for any purpose whatsoever... provide for the orderly growth and harmonious development of the territory; to insure adequate traffic circulation... to achieve individual property lots of maximum utility and livability... and to provide logical procedures for the achievement of this purpose.”
 - ii. Granting this variance will allow property owners the *maximum utility and livability, and serve to fulfill the logical procedure for achieving this purpose*. This is evidenced through the historical and present day use of the properties, that is, without hindrance or complaint by all property owners.

As we interpret the law provides the Commission with the authority to allow for:

- (a) The modification of certain subdivision arrangement;
- (b) To improve access rights of way and *easements*; or
- (c) To modify the size and shapes of lots and other improvements as a condition precedent to record the presentation as a subdivision. [sic].

It is important to note the easement as shown in its latest approved subdivision map exists as **dotted easement**. This means that during the subdivision of basic lot 5106, the owner or subdivider addressed the mandatory requirement of providing an easement for access and public utilities for each lot to be created¹. Further, by installing an easement, dotted or otherwise, further future subdivision of these properties will be afforded the opportunity to utilize the easement for said purposes.

Purposes as noted have been fulfilled as infrastructure exist and the easement appears to be servicing abutting properties and its current use as access. At the same time, the surrounding lots have alternative access independent of the easement with the exception of Lot 5106-5 that is solely dependent on the easement.

The applicant requests to delete a portion of the easement that imposes into his property as a turn-around cul-de-sac. The applicant explains, however, this portion has been blocked by a high CMU wall (see **ATTACHMENT 2**) that has been in place prior to his purchase of the property. In this respect, the opportunity to utilize the full design of the easement has been hampered by encroaching structures without immediate impact or compromise to those lots serviced. Likewise, other alternative access exists for all lots, less that of Lot 5106-5, thus in our opinion intent and purpose of the easement has been and remains fulfilled.

¹ The subdivision law requires all lots to abut an easement pursuant to §62108 (b) under the general requirements for subdivisions.

With respect to responses from the Application Review Committee, of three (3) agencies that have submitted comments as of date of the report, the Guam Power Authority was the only dissenting agency, stating, "the easement being used by GPA heavy equipment for service delivery and maintenance for electrical facilities. The portion being presented for deletion will eliminate the effective turning radius for GPA heavy equipment vehicles, which will impact GPA's ability to maintain the lines effectively". Other than serviceability, GPA did not provide any comments with on potential impacts to existing power infrastructure. At the same, we respectfully acknowledge GPA's position as a viable concern, however, such would be an impact not only to GPA, but to serviced lots as well.

In weighing the loss of the easement's use (as a result of removing a portion of the cul-de-sac), the assessment must also include *all* elements that may affect its full use, to include those structures that encroach upon or impede onto its alignment. In this respect, we can only assume the encumbered cost to implement corrective measures for the purpose of ensuring full improvement and use prevails. With this we provide the following recommendation.

5. **RECOMMENDATION:** We recommend Approval to the applicant's request provided the following conditions are adhered to:
- (a) That within thirty (30) days from issuance of an approved Notice of Action, the applicant shall initiate a subdivision map indicative of the Commission's action to sever or delete that portion of a dotted line cul-de-sac as described in Application No. 2016-02;
 - (b) That upon such time, the applicant shall engage services of a currently-licensed and registered land surveyor for the purpose of creating a subdivision map approvable in form and content by the Department of Land Management; and
 - (c) That upon approval and recordation of said subdivision map and through appropriate procedure(s), the applicant shall submit said approved map to the Real Estate Commissioner for the purpose of adjusting land tax assessments, if applicable.

Senseramente,


MARVIN QUITUGUA AGUILAR
Guam Chief Planner, Division of Planning
Department of Land Management

-----NOTHING FOLLOWS-----

GTA
TeleGuam

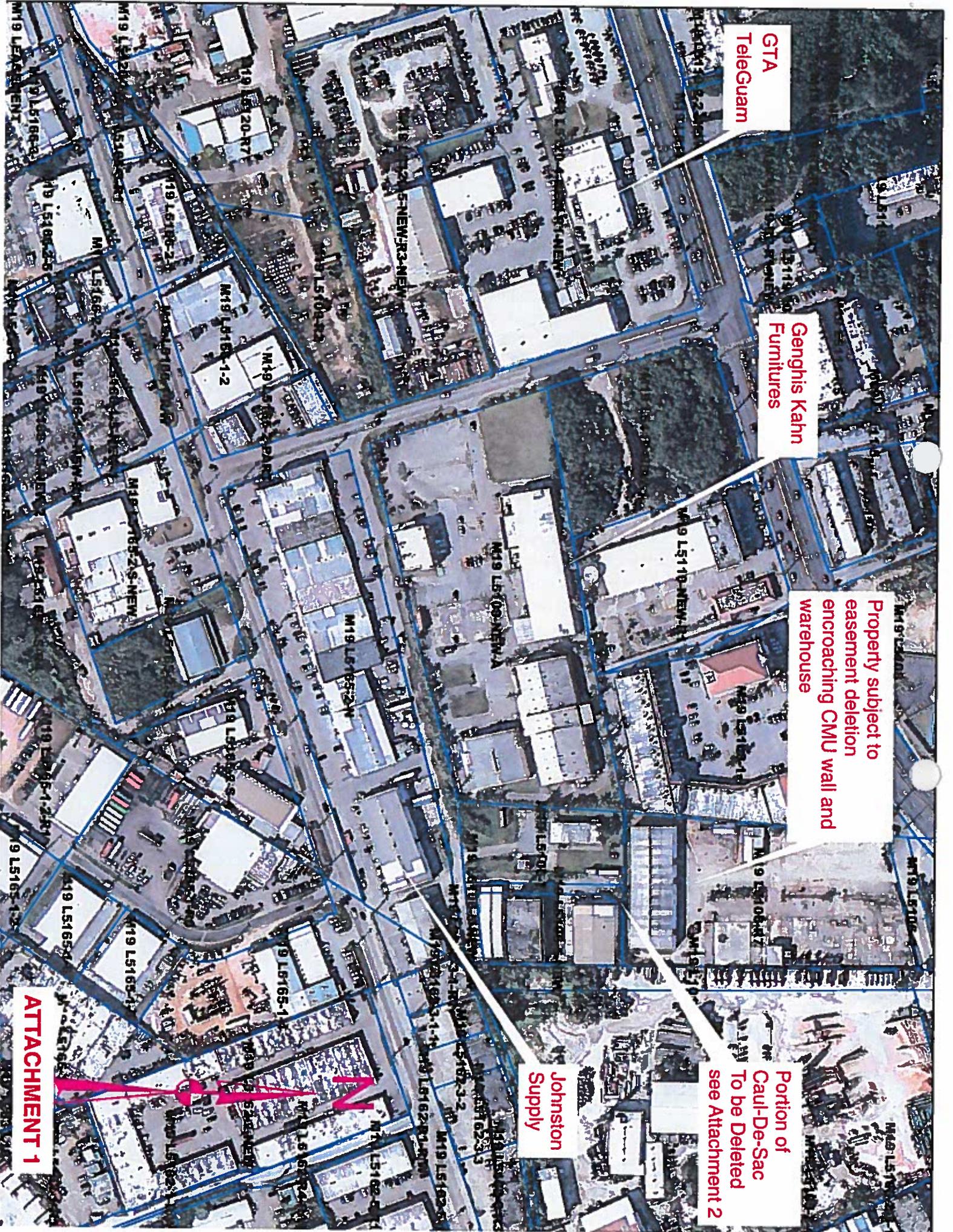
Genghis Kahn
Furnitures

Property subject to
easement deletion
encroaching CMU wall and
warehouse

Portion of
Caul-De-Sac
To be Deleted
see Attachment 2

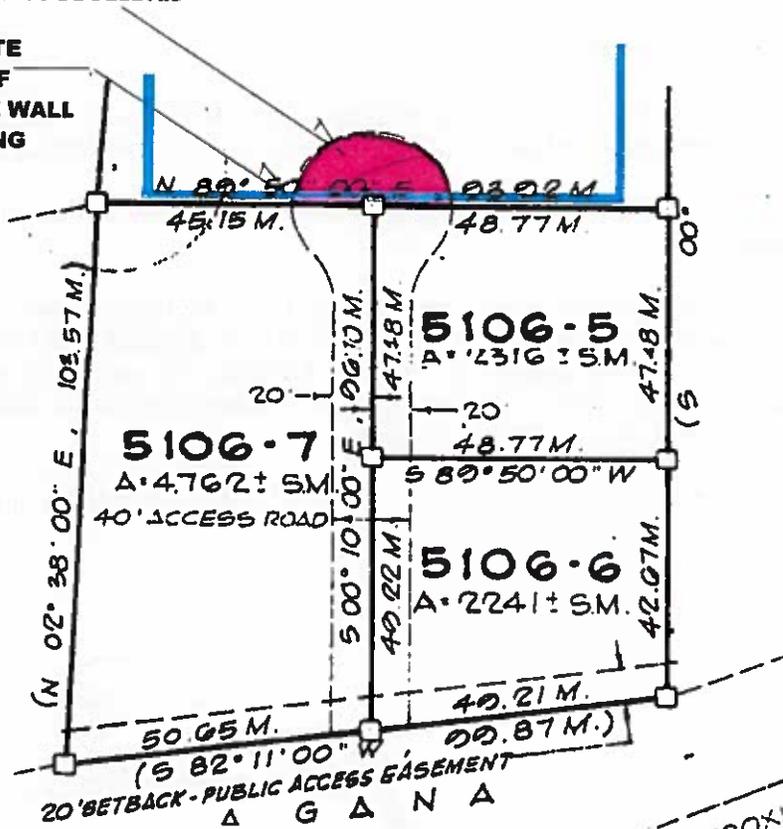
Johnston
Supply

ATTACHMENT 1



**CUL-DE-SAC
PORTION TO BE DELETED.**

**APPROXIMATE
LOCATION OF
WAREHOUSE WALL
ENCROACHING**



NOT TO SCALE



GUAM POWER AUTHORITY

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

December 22, 2015

RECEIVED

JAN 4 2016

Department of Land Management
Time 10:25 AM 1/4/16

MEMORANDUM

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

From: General Manager

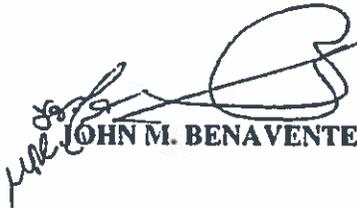
Subject: Lot 5107-R7, Municipality of Tamuning, (SJM Holdings); Subdivision Variance Application for Deletion of Portion of Cul-de-Sac. Application No. 2016-06

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

The applicants have proposed to delete a portion of the cul de sac that is currently designated as a Public Access and Utility Easement (PAUE). This PAUE is utilized by GPA heavy equipment for service delivery and maintenance of electrical facilities. The portion being presented for deletion will eliminate the effective turning radius for GPA heavy equipment vehicles, which will impair GPA's ability to maintain the lines effectively.

Consequently, GPA does not support the Subdivision Variance and deletion of a portion of the PAUE.

Thank you for the opportunity to review this application.


JOHN M. BENAVENTE, P.E.

W



Eddie B. Calvo
Governor

Ray Tenorio
Lt. Governor

Department of Parks and Recreation
Government of Guam
490 Chalan Palasyo
Agana Heights, Guam 96910
Director's Office: (671) 475-6296/7
Facsimile: (671) 477-0997
Parks Division: (671) 475-6288/9
Guam Historic Resources Division: (671) 475-6294/5
Facsimile: (671) 477-2822



Robert S. Lizama
Acting Director

William N. Reyes
Deputy Director

In reply refer to:
RC 2016-0040

January 8, 2016

RECEIVED

1/11/2016
via email
C

Memorandum

To: Executive Secretary, Guam Land Use Commission

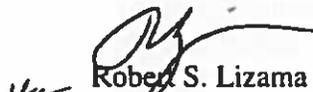
From: Director, Department of Parks and Recreation

Subject: Application 2016-06: SJM Holdings, Inc. request for a Subdivision Variance to delete a portion of a cul-de-sac that encroaches into Lot 5106-R7

We reviewed the subject undertaking for the applicant SJM Holdings, Inc. and have no objection to the approval of this Subdivision Variance Application. However, the decision to approve this application will be decided by the Department of Public Works and Department of Land Management.

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

Sincerely,


Robert S. Lizama
Acting Director



GUAM WATERWORKS AUTHORITY

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

RECEIVED

DEC 28 2015

Department of Land Management
Time 11:45 Int'l 11:0

WRB 12/28

RECEIVED

12/28/15 K/B

11:45 Int'l 11:0

MEMORANDUM

December 18, 2015

TO: Director, Department of Land Management

FROM: Greg P. Cruz, Acting General Manager 

SUBJECT: Position Statement on Subdivision Variance Application No. 2016-06 on Lot 5106-R7, in an "M1" (Light Industrial) Zone, in the Municipality of Tamuning.

APPLICANT: SJM Holdings, Inc.

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a subdivision variance to delete a portion of a cul-de-sac that encroaches into Lot 5106-R7, in an "M1" (Light Industrial) Zone, in the Municipality of Tamuning.

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

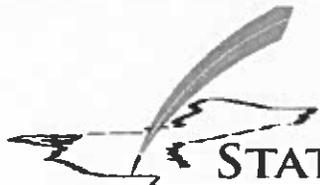
Given the information provided in the application and existing conditions observed in the field, the following is GWA's position on the subdivision variance application:

Page 2
GWA Position Statement
ARC Application No. 2016-06
Applicant: SJM Holdings, Inc.

Water and sewer mains are located along Finegayan Street more commonly known as Hamburger Road. The applicant stated that the existing structure on subject lot will "remain as is" and has identified their water meter and sewer cleanout to be on the front-side of the subject lot near Finegayan street. In the case that the applicant shall make new developments, GWA recommends coordination with the GWA Engineering Department well in advance of the building permit application submittal so that any existing water/sewer facilities are verified.

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

Eddie Baza Calvo
Governor of Guam

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



Ray Tenorio
Lieutenant Governor

Government of Guam
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Tel: (671) 472-4201/3
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William M. Castro
Director
James T. McDonald
Deputy Director

JAN 20 2016 RECEIVED

MEMORANDUM

To: Director, Department of Land Management

Attn: Division of Planning

From: Director, Bureau of Statistics and Plans

Subject: APPLICATION NO. 2016-06; LOCATION: 5106-R7, Harmon; APPLICANT: SJM Holdings, Inc.; PROPOSED USE: Subdivision Variance, continual light industrial use and deletion of a portion of a cul-de-sac.

RECEIVED
1/20/2016
Planning
MB/21
JAN 20 2016
Department of Land Management
Time Int'l

Buenas yan Hafa Adai! Applicant, SJM Holdings, Inc. is requesting a subdivision variance to delete a portion of a cul-de-sac that will not be used for its intended purpose on Lot No. 5106-R7 in the village of Harmon, municipality of Dededo. According to the Department of Land Management records there is no declaration of easement for the cul-de-sac on the property. The entirety of lot no. 5106-R7 includes the cul-de-sac portion. The request for deletion of the cul-de-sac on the subject lot will allow the necessary preservation and enjoyment of substantial property for the continuance of the commercial and warehouse operations on site. The subject property has an area of 158, 667 (±) square feet or a total of 3.64 (±) acres. The surrounding land uses are mixed uses of commercial and industrial. The subject lot is accessible from Route 1 that fronts the property.

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

- 1. Land Use.** The Guam Resource Environmental Assessment Tool (GREAT) Map viewer indicates the area is zoned for limited industrial. Additionally, the North and Central Guam Land Use Plan (NCGLUP) identifies the area as mixed use designation. One of the goals of the NCGLUP is to establish land use categories that provide for a mix of residential, commercial, civic, and industrial development to meet future population and employment needs.

Policy LU-1 (d) states: "The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments

08

incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

The Bureau finds that the proposed use is not in line with the NCGLUP's Mixed Use designation.

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

The Bureau is concerned that industrial activities would have an adverse effect to Guam's sole source aquifer. The applicant is advised to consult with the Guam Environmental Protection Agency (GEPA) to:

1.) Implement practices for managing industrial waste to avoid potential contamination and ensure long term protection pursuant to the "Resource Conservation and Recovery Act of 1976". Practices may include the following, but are not limited to:

- a. Keeping a spill kit close to where spills are likely and ensure all staff know how to use it;
- b. Mopping the workshop floor rather than hosing
- c. Surrounding storage areas with containment berms to control leaks or spills; and
- d. Employee training to manage waste and materials properly.

2.) Comply with an Aquifer Protection Review pursuant to the "Federal Safe Drinking Water Act," § 1424 and "Guam Safe Drinking Water Act," 10 GCA Chapter 53.

Additionally, the Bureau recommends the applicant 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. 17-87, and the Guam Water Resource Development & Operating Regulations.

3. **Stormwater Management.** The property does not have a layout or a drainage plan. Industrial activities can produce high concentrations of pollutants. Industrial sites

are classified as stormwater hotspots which is defined in the CNMI Guam Stormwater Management Manual as “a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxins than are found in typical stormwater runoff, based on monitoring studies.” The Bureau is concerned that activities generated from this industrial site may severely impair the water quality of the NGLA. According to “Stormwater Treatment Practice Criteria and Standards” chapter 2 in the CNMI Guam Stormwater Management Manual:

1. “...stormwater runoff from hotspots cannot be allowed to infiltrate into groundwater without prior water quality treatment.”
2. “...a greater level of stormwater treatment is needed at hotspot sites to prevent pollutant wash off after construction. This will involve preparing and implementing a stormwater pollution prevention plan (SWPPP) that involves a series of operational practices at the site that reduce the generation of pollutants from a site or prevent contact of rainfall with the pollutants.”

Therefore, should this application be approved and should the applicant expand operations, the Bureau recommends the applicant to consult with the GEPA on creating a SWPPP and install appropriate stormwater methods that will address runoff and hazardous waste.

4. **Low Impact Development (LID).** The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from parking stalls, driveways, and rooftops accelerate stormwater runoff. According to the National Oceanic Atmospheric Administration’s (NOAA) Coastal Change Analysis Program (C-CAP), impervious surfaces in this watershed classified as the Mataguac Spring-Frontal Pacific Ocean Watershed have increased by 5.17 percent from 2005 to 2011, while the total of 12.08 percent is impervious in this watershed. The analysis further identifies areas with impervious surface rates approaching or exceeding 12 to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent.

Should the applicant plan to expand operations, SJM Holdings is encouraged to implement LID practices such as permeable parking and walkways, grassed swales, island bio-retentions, and/or rain gardens onto the property as a means to reduce runoff and control erosion from their property. An electronic file of the guidebook Island Stormwater Practice Design Specifications is available at the Bureau’s, Guam Coastal Management Program (GCMP) office.

5. **Entrance/Exit.** The Bureau recommends the applicant to coordinate with the Department of Public Works (DPW) to determine appropriate ingress and egress as

well as proper parking configuration and dimensions. Additionally, the Bureau suggests the applicants to work with DPW to ensure all building codes and regulations mandated under 21 GCA Chapter 61 of "The Parking and Loading Space Regulations" and 21 GCA Chapter 67 of "The Building Code".

6. **Setbacks.** The Bureau recommends that proper setback requirements are followed and to include a perimeter or buffer area either through landscaping or fencing to ensure the minimum yard and lot areas is established for light industrial zones. The Bureau recommends the applicants to coordinate with the GEPA as stated in §61501 Minimum Yards and Lot Areas "(c) Lots over the aquifer. Lot sizes and set-back on properties above the aquifer shall be established by the Guam Environmental Protection Agency."
7. **Government Clearances.** The applicants are obligated to obtain appropriate government agency review and approval to ensure compliance.

Considering the growing concerns of flooding due to increased impervious surfaces, the applicants should be required to incorporate sustainable community development as specified in *Goal Land Use 2: Promote sustainable community development* of the NCGLUP on the property. SJM Holdings is encouraged to address the recommendations of this position statement if the application is approved.

The Bureau finds that the proposed subdivision variance is not in line with the NCGLUP; although, we have no objections. Moreover, the Bureau finds that activities of an industrial area may adversely affect the landscape and surrounding area if best management measures are not in place. Therefore, the applicant, SJM Holdings Inc. is advised to comply with the above numbered recommendations.

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


WILLIAM M. CASTRO

cc: GEPA
DPW
GWA
DPR
GPA

ATTACHMENT C



EDDIE B. CALVO
Governor

RAY TENORIO
Lieutenant Governor

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



MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
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Facsimile:
671-649-5383

January 21, 2016

MEMORANDUM

TO: Chairman and Commissioners, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: **Supplemental Staff Report – Request renewal / extension for a permanent term for a previously approved height/sign (Zone Variance) for existing operation of a 23-foot high, V-shaped free standing electronic(LED) billboard sign located on a (20'x20') portion of Lot 2021-1-1-2-1, in a commercial zone, Municipality of Tamuning, under Application No. 2012-30B; GLUC Meeting of January 28, 2016**

1. PURPOSE:

- a. **Application Summary:** The Applicants, Cherry Enterprises, Inc., is request renewal / extension for a permanent term for a previously approved height/sign (Zone Variance) for existing operation of a 23-foot high, V-shaped free standing electronic(LED) billboard sign located on a (20'x20') portion of Lot 2021-1-1-2-1, in a commercial zone, Municipality of Tamuning,
- b. **Legal Authority:** 21 GCA (Real Property), Chapter 61 (Zoning Law), Sections 6116 to 61623., Part 5 (Sign regulation and applicable subsections).

2. FACTS:

- a. **Location:** The lot and site is located along/fronting Marine Corps Dr., (Route No. 1) and across Bank Pacific. The site is approximately 150 feet south of the traffic light intersection of Marine Corps Drive and Governor Carlos Camacho road and Jalaguac Way in Tamuning (**See Attached Vicinity Map**)
- b. **Lot Area:** 1,043 square meters or 11,230 square feet (Portion of Leased area is 20'x20') or 400 square feet)
- c. **Present Zoning:** "C" (Commercial) Zone
- d. **Masterplan:** None

e. Previous Commission Actions(s):

- A. On March 28, 2013, the applicants, were granted approval by the Guam Land Use Commission (GLUC) for a Zone Variance for for a 23-foot V-shaped electronic (LED) sign on the above subject lot (see attached NOA). The approval was with the conditions that the applicants meet the conditions imposed by the Commission and comply with Application Review Committee. The project was completed and issued an Occupancy Permit by Department of Public Works on May 6, 2013 (**attached**). At the present time, the existing signage operates 24/7 as was approved by the commission.

(Note: The approval was subject to a review and renewal time within 2-years from date of issuance of Certificate of Occupancy (attached) ; (Expiration of the 2 year term was determined on issuance date of Certificate of Occupancy by DPW on January 7, 2014 and Expiration of January 7, 2016) in order to determine the benefit to the community and detrimental effect to traffic, usage as noted on the NOA CONDITIONS; During the period, and verified by a staff inspection, the applicants/operators have been complying to all ARC conditions and GLUC conditions and continues have good standing in the community of Tamuning.

- B. On December 10, 2015, RE: Application 2012-30B; Cherry Enterprises, Inc., a letter dated December 7, 2015, the Tamuning Municipal Planning Council and Mayor has been advised of the intention for renewal with copies of all reports and supporting documents. The Mayor of Tamuning submitted a letter of support to DLM Planning, with the Mayor supporting the request for renewal.

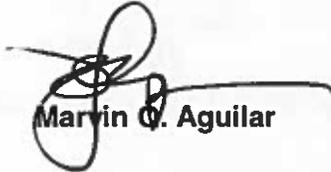
DISCUSSION:

- (1). The continued existence of the of the electronic signage appears to be acceptable to the surrounding community in that we have not received any complaints. In support of this activity, the Tamuning Mayor Louise Rivera has advise Planning Staff that a a letter was transmitted for the commission dated December 7, 2015. That she had stated the general welfare of the community has been enhanced with quality advertisement and providing public service announcements, public messages, awareness, and alerts that benefit the community and businesses island-wide and also by providing employment for residents. The applicants have been continuing in maintaining and keeping the premises clean and in and have been good business partners in assisting and supporting on special events for the community. Per status reports and meeting with the applicants, they have met with the Mayor, Guam Public Works/Highways, Guam Police, Fire Department, Homeland Security/Civil Defense for providing free public announcement on the electronic media. Mayor Rivera is fully supporting the electronic media sign. Based on reports, there are no adverse effects caused to traffic and surrounding community of Tamuning the last two years and that the applicants' existing activity has no negative impact with surrounding neighbors and the community as a whole.

Continuation of Supplemental Staff Report
Re: Request for Renewal – Application No. 2012-30B
GLUC Meeting of January 28, 2016
Page 2 of 3

(2) Results of our current inspection on January 18, 2016, planning staff found that the site and operation in good order, and the entire area is well maintained. The property is fenced within the premises security purposes. Traffic circulation is not obstructed near or at the site.

3. RECOMMENATION: It is our recommendation that the Sign Variance be renewed and operation allowed to continue. Based on the applicants letter, Tamuning Mayor's support and having complied to all GLUC NOA and ARC conditions, and contributing to the community, we further recommend the term be made permanent (without any time constraints on the approved variance or activity).



Marvin Q. Aguilar

Case Planner: Penmer C. Gulac, Planner IV
Attachments: Letter of Request for Renewal & Supporting Documents
Case No. 2012-30B; NOA's as noted



LOUISE C. RIVERA
Mayor



Office of the Mayor

Municipality of Tamuning-Tumon and Harmon



December 07, 2015

Mr. Richard De Vera
Cherry Enterprises Inc.
dba: Cherry Media Vision
P.O. Box 22017
Barrigada, Guam 96921

P. Golac 12/10/15
RECEIVED
Land Plan Div
Ref. GUC 2012-30

Hafa Adai Mr. De Vera,

It is with utmost pleasure that I write this letter of support for the proposal of your outdoor LED Screen Signage currently erected in our village of Tamuning.

The screens provide an additional medium for public awareness campaigns, public alerts as well as avenue for local businesses to assist in promoting their products and services.

By having a free standing digital sign, it will continue to help enhance the beauty of the surroundings as well as the quality of the advertisement which can provide an attractive advertising option, most especially in a time where technology is the key.

I fully support your effort in providing our Guam residents the opportunity to have a visually appealing option for delivering public messages and advertising. It will certainly benefit our community and businesses throughout the island.

We truly hope that you continue to assist our office for the betterment of our island community. Should you have any questions, please do not hesitate to contact me at 671-888-1540.

Sincerely,

LOUISE C. RIVERA, Mayor



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

Planner/Staff: *P. Avlae* Date of Request: *1/15/16*
 Date of Inspection: *1/18/16* Time of Inspection: *11:30 AM*

Project Name: *Cherry Enterprise, Inc; Ref. 2012-30*
 Lot Number: *2021-1-1-2-1* Municipality:

Description: *Signage - Electronic located on portion of lot 2021-1-1-2-1 fronting Marine Corps Dr. Tamuning*

Type of Inspection: Occupancy Site Other

Contact Person: *Rich Devera* Phone: *646-4000*

Findings: *Found the structure to be in good order, maintenance of site (clean); fencing is place. Totally well maintained all around, no land use violations noted on site. Has complied to all GMLC conditions.*

OCCUPANCY INSPECTION ONLY: IN COMPLIANCE NOT IN COMPLIANCE
Penney Avlae

ATTENTION: All inspection must be approved three (3) days in Advance by Guåhan Chief Planner.

Applicant:

P. Avlae
 Case Planner

Approved *[Signature]*
 Guåhan Chief Planner

December 1, 2015

To: Guam Land Use Commission
Ref: Notice of Action
Application No. 2012-30
Cherry Enterprises, Inc.

Fr: Cherry Enterprises, Inc.
c/o Richard De Vera – Proprietor
dba: Cherry Media Vision

R. Gu lae 12/8/15
RECEIVED
Land Planning Div

Greetings Prestigious Board Members,

I am requesting from the board for an extension and /or a removal of the timeline set in our Notice of Action with conditions. From the date of our full operational date of January 7, 2014 we have followed and executed the conditions set before us in order to conduct business with regard to the conditions set in our Notice of Action. Conditions are detailed below as well as corresponding reports for each condition.

1. Submit before the commission a letter of agreement between CEI and the government agencies engaged in protecting and encouraging public safety and welfare. Such agreement shall include public notifications from agencies to include but not limited to GPD, GFD, DPHSS, and the Tamuning Mayors Office. Notifications should include Amber Alerts, traffic conditions, public events, weather reports/warnings etc. Such notifications shall be prepared and advertised in the expense of CEI. Such notifications shall run 1/3 of every hour during peak hours (7a to 9p). Such report shall be submitted to the Guam Chief Planner no later than 60- working days from the date of recordation of the NOA. Such report shall be considered reportable item to the GLUC.

A letter was created and distributed to all agencies listed above plus Homeland Security and the Guam Environmental Protection Agency with regards to the services we offer. We have taken it a step further by contacting agencies via email and calling. Most notable

2. CEI shall be restricted from advertising products, services and industries engaged in practices that are generally considered immoral, depraved or degrading any associated society. This should include products, services and/or industry in promoting bad or unhealthy habits or habit forming.

Cherry Media Vision has strict guideline on ads placed on our medium. To date we have followed and exceeded the stipulated condition by not airing any ads containing the above aforementioned advisements.

3. Upon requesting for an extension or removal of the timeline, CEI shall submit to the Commission a report in support of the requested action. Such report shall include report of the existing or non existence of any adverse effect causes to traffic and surrounding community to include but not limited to an increase in traffic accidents and cause visual blight as determined by a degradation of harmonious co-existence with neighboring and/or commercial facilities. Evidence dissuading from such impacts shall be supported by appropriate agencies such as GPD on traffic and DPW on matters concerning highways, as well as any other positive attributes shall be endorsed by the Municipal Planning Council of Tamuning;

We have attained a report from GPD stating that there have been no increase and no traffic accidents or crashes reported due or caused from distractions of our LED Display. In speaking with DPW and requests for reports. There are no reports that have been documented of any harmful effects which may have caused adverse effects towards any highway projects directly in the area of the LED Display. DPW did not issue a report to us pending legal counsel review of said request and there were no reporting measures on their part to provide such requested information.

4. Proof of Compliance of all GLUC imposed conditions.

Proof of compliance can be found on above statements as well as on attached supporting documents.

5. Applicant shall provide the Guam Chief Planner a copy of the building permits and occupancy permits for the construction of any structures on the site;

Attached are supporting documents of imposed conditions by the GLUC.

6. A 6 foot perimeter fence be erected on the leased portion of the subject lot.

Attached are supporting documents of imposed conditions by the GLUC.

The past two years have been both a struggle and an enjoyable experience. A struggle in that with any new business as ours, garnering for a share of the already competitive market of advertising is tough for a relative new comer to the industry. Enjoyable in the fact that we have earned a place in our community as a valuable resource for delivery of information, notices, emergency announcements for Non Profit organizations and Critical GovGuam agencies.

As a community partner we have assisted in promoting various events for Non Profit Organizations that have contacted us. Most notably these listed –The First Lady's Rigalu Foundation, Soroptomists of Guam, GCASAFV- Guam Coalition Against Sexual Assault & Family Violence, Big Brothers Big Sisters of Guam, American Red Cross, Guam Memorial Hospital Volunteers Association, Lupus Awareness Group of Guam, International Women's Group of Guam, Red Ribbon Campaign, Association of Government Accountants Guam Chapter and the American Cancer Society Relay for Life. We continue our support of Non Profit Groups as an overall community partner.

Part of our GLUC Notice of Action is to provide GovGuam agencies a means to relay critical information to the masses. We have notified agencies through our initial letter and in some cases even contacted the agencies to gain information most notably typhoon Dolphin. We can act on our own by getting information through traditional means on special weather announcements, Amber Alerts or any critical information that needs to be disseminated to the public, but it's not our decision to do that. We need proper authorization from an official to certify us to air such information. That's where the difficulty lies. We ask the commission upon approval of removal or extension of our timeline. That a formal notice be given to critical agencies by the GLUC, that there are additional resources granted through your approval. That is available to them to disseminate critical Public Announcements, Notices and Emergency Information. We agreed to prepare the ad, we would just need the information and the authorization to do so.

In the two years that Cherry Enterprises, Inc. dba: Cherry Media Vision has been operating we have delivered on the GLUC Conditions of our Notice of Action. We humbly ask for the removal of the timeline or if need be an extension of another two years. In the event of a two year extension we ask that it be longer than a two year extension due mainly in part that the information was and is very difficult to obtain. A longer period would give more time for agencies to prepare for requests of such information pertaining to direct causes attributed to our industry.

Thank you and we look forward to your favorable response.

Best Regards,



Richard De Vera
Cherry Enterprises, Inc.
Dba: Cherry Media Vision



GOVERNMENT OF GUAM
HAGÁTÑA, GUAM 96932

GUAM POLICE DEPARTMENT
DIPATTAMENTON POLISIAN GUAHAN

November 30, 2015

From: D.B. San Nicolas
Statistician II
Planning, Research, and Development

P. Grlac 12/9/15
RECEIVED
Land & Planning Div

To: Richard Devera
Director
Cherry Enterprises

Subject: Driver Distraction, Bill Boards

Reference to your request for "Driver Distraction" in Tamuning, Marine Drive, by Horse and Cow; our research resulted in no crash motor vehicle traffic accidents reported in this area.

Our research included crash statistical reports such as the following;
"Crash Type by Driver Distracted Community", Tamuning
"Driver Distracted" data, "Other Outside the Vehicle"
"Number of Crashes"

No report(s) indicating "driver distracted outside the vehicle by bill boards.


DOLORES B. SAN NICOLAS
STATISTICIAN II



GOVERNMENT OF GUAM
HAGÁTÑA, GUAM 96932

GUAM POLICE DEPARTMENT
DIPATTAMENTON POLISIAN GUAHAN

November 30, 2015

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Statistician II
Planning, Research, and Development

To: Richard Devera
Director
Cherry Enterprises

*P-Gulac 12/9/15
can I pls
DL*

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"Crash Type by Driver Distracted Community", Tamuning
"Driver Distracted" data, "Other Outside the Vehicle
"Number of Crashes"

No report(s) indicating "driver distracted outside the vehicle by bill boards.


DOLORES B. SAN NICOLAS
STATISTICIAN II



December 3, 2015

Mr. Rich DeVera
Cherry Media Vision
P.O. Box 22017
Barrigada, Guam 96921

Hafa Adai Mr. DeVera:

On behalf of the Lupus Awareness Group of Guam ("LAGG"), it is my pleasure to write a letter in support of your outdoor LED Screen Signage in the village of Tamuning. LAGG has witnessed first-hand the positive impact your LED screen has provided our organization. Your LED screen signage has allowed our group to promote more awareness and outreach to our island community. We understand and support your efforts in assisting non-profit organizations such as ours and we commend your company's efforts. Cherry Media Vision is a valuable asset to our community and we thank you for your dedication to our island community and supporting our organization. We look forward to working with you and your company again.

Senseramente,

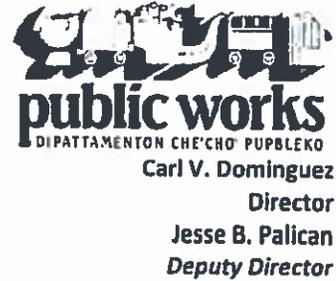
A handwritten signature in black ink, appearing to read "Alicia G. Roberto".

Alicia G. Roberto
LAGG Executive Board Member / Secretary



The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor



Carl V. Dominguez
Director
Jesse B. Palican
Deputy Director

TERRITORY OF GUAM

BUILDING PERMIT

CERTIFICATE OF OCCUPANCY

THIS CERTIFICATE ISSUED PURSUANT TO THE REQUIREMENTS OF SECTION 31033, BUILDING LAW TITLE XXXII, GOVERNMENT CODE OF GUAM CERTIFYING THAT AT THE TIME OF ISSUANCE THIS STRUCTURE WAS IN COMPLIANCE WITH THE VARIOUS CODES, REGULATIONS, BUILDING STRUCTURE OR USE.

Date: May 6, 2013 Permit No. B 13000 300

Applicant (Contractor): SAGANI B. BALLIUT Address: P.O. Box 12176 Tam. Gu

Contractor's License No.: 6869 Permit To Occupy

Units: _____ Story: _____ Proposed Use: SIGNAGE

Location: 866 S. Marine DR RT1 Zoning District: C

Lot No: 2021-1-1-2-1 Block No: _____ Tract No: _____

Construction Type: _____ Use Group: _____ Basement Walls of Foundation: Concrete

Remarks: To occupy LED Double Face Signage

Area or Volume: _____
Owner: CHERRY ENTERPRISE ✓ [Signature]
Print Signature

P.O. Box 22017 BARRIGANA Gu.
Address

Building Official: [Signature] 1-7-14
Mr. Joseph D. Guevara
Building Inspection & Permit Administrator

The Honorable
EDDIE BAZA CALVO
 Governor

The Honorable
RAY TENORIO
 Lt. Governor

public works
 DIPATAMENTON CHE CHO' PLIBLEAO
Carl V. Dominguez
 Director
Jesse B. Palican
 Deputy Director

**BUILDING INSPECTION AND PERMIT CERTIFICATION OF
 COMPLETION WITH PERMIT CONDITIONS AND COMPLIANCE**

OWNER: **CHERRY ENTERPRISE** SIGNATURE: *[Signature]*
 PERMIT NO. **B13000300** VILLAGE: **TAMUNING/HAGATNA**
 CONTRACTOR: **ISAGANI BALLYUT** USE OF BUILDING: **SIGNAGE**

Agencies indicated (checked below) must certify that the finished construction complies with that Agency's pre-stated permit conditions. Certification by all Agencies must be obtained before an Occupancy Permit can be issued by the Department of Public Works or before resumption of occupancy can be allowed.

AGENCY	DATE	AUTHORIZED SIGNATURE
<input checked="" type="checkbox"/> Department of Land Management Guam Environmental Protection Agency	17 Oct 13	<i>[Signature]</i> Subject to DPW's Permit Inspector Approval
<input checked="" type="checkbox"/> Guam Power Authority Guam Waterworks Authority	1/07/13	<i>[Signature]</i>
Fire Prevention Bureau		
Public Health and Social Services		
Department of Parks and Recreation		
DPW - Highway Division		
<input checked="" type="checkbox"/> Real Property Division	01/06/14	<i>[Signature]</i> *SUBJECT TO TAMUNING ON LAND 1987-1989, ART. 15 PEROR 1/10/14



GUAM POWER AUTHORITY
ATURIDAT ILEKTRESEDAT GUAHAN
 P.O. BOX 21868 Barrigada, Guam 96921-1868

For GPA Official Use Only

IR Control Number: _____
 Date Received: _____
 Received by: _____
 GPA Rep CSR, ENGR, or T/D (Print/Sign)
 Received by: _____
 GPA Field Crew (Print/Sign) Date

ORIGINAL

ELECTRICAL INSPECTION REPORT (To be completed by GPA)

Name of Applicant: CHERRY ENT INC DBA CHERRY MEDIA VISION

Account Number: 308831 S.O. / W.O. No: 1256839 / 404816 Class/Service: CON

Service Location: 866 S. MARINE DR. RT1

Mailing Address: PO BOX 22017 BARRIGADA GU 96921

Telephone No (Home): _____ (Work): _____ (Other): _____

Remarks: Media Sign

Prepared by: MILAGROS Date: 10/14/2013
 GPA Customer Service Representative, Print / Sign

The undersigned warrants to the Guam Power Authority and the Department of Public Works, that the work to be inspected is completed and does in every way comply with their Rules, Regulations, Codes and Standards of the departments governing metering and electrical wiring

The undersigned agrees, that should the inspection fail or does not meet the requirements in accordance with the Department of Public Works specifications, he/she shall be subject to a service charge before re-inspection is made.

ISALANI B. BALUYUT LIC 6869
 OWNER/CONTRACTOR - PRINT / SIGN

EMILIANO P. OMAN, JR - LIC # 109
 CONTRACTOR/MASTER ELECTRICIAN LINCENSE NO.

TO BE COMPLETED BY DEPARTMENT OF PUBLIC WORKS

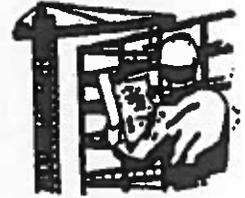
APPROVED DISAPPROVED DATE: _____

Remarks: _____

DPW Electrical Inspector (Print/Signature)	Badge No.	Date
<i>[Signature]</i>	13	7-19
DPW Building Inspector (Print/Signature)	Badge No.	Date
<i>[Signature]</i>		1
DPW Building Official (Print/Signature)	Badge No.	Date
<i>[Signature]</i>		

Received by
 IVAN SHIROMA
 1/7/14

copy up 5



BUILDING PERMITS AND INSPECTIONS SECTION
BUILDING INSPECTION SCHEDULE

BUILDING SAFETY
IS NO ACCIDENT

Owner: CHERRY ENTERPRISE Building Permit No: B1300300
 Contractor: SAGANI B. PALLYUIT Group/Type: _____
 Location & Lot No: TADUWILIG, Hagat, Halse & Co. Inc. Project
 Schedule Date: 01/10/14 Time: 10:00 Date In: 01/06/14 Received by: CG

BUILDING	ELECTRICAL	PLUMBING
<input type="radio"/> Pouring Footing <input type="checkbox"/>	Rough-in <input type="checkbox"/>	Rough-in <input type="checkbox"/>
<input type="radio"/> Floor Slab <input type="checkbox"/>	Finished <input checked="" type="checkbox"/>	Finished <input type="checkbox"/>
<input type="radio"/> Roof Slab <input type="checkbox"/>	Facilities <input type="checkbox"/>	Facilities <input type="checkbox"/>
<input type="radio"/> Walls <input type="checkbox"/>	Service <input type="checkbox"/>	Service <input type="checkbox"/>
<input type="radio"/> Frame <input type="checkbox"/>	Other <input type="checkbox"/>	Other <input type="checkbox"/>
<input type="radio"/> Relocation <input type="checkbox"/>		
<input checked="" type="radio"/> Other <input checked="" type="checkbox"/>		

REMARKS: Explain clearly, the work requiring inspection.

FINAL INSPECTION

Inspector: Mike T. Inspector: _____ Inspector: _____
 Date & Time: 01/10/14 10:00 Date & Time: _____ Date & Time: _____

[Signature]
 R.M.E. of Contractor / Owner / Telephone
888-2475

ENDORSEMENT BY GOVERNMENT INSPECTOR

I, certify that all work has been carried / has not been carried in compliance with the Building Law, Government of Guam Standards and Projects plans and specification.

Building Inspector <u>[Signature]</u> Date <u>1-7-14</u>	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Electrical Inspector _____ Date _____	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Plumbing Inspector _____ Date _____	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED

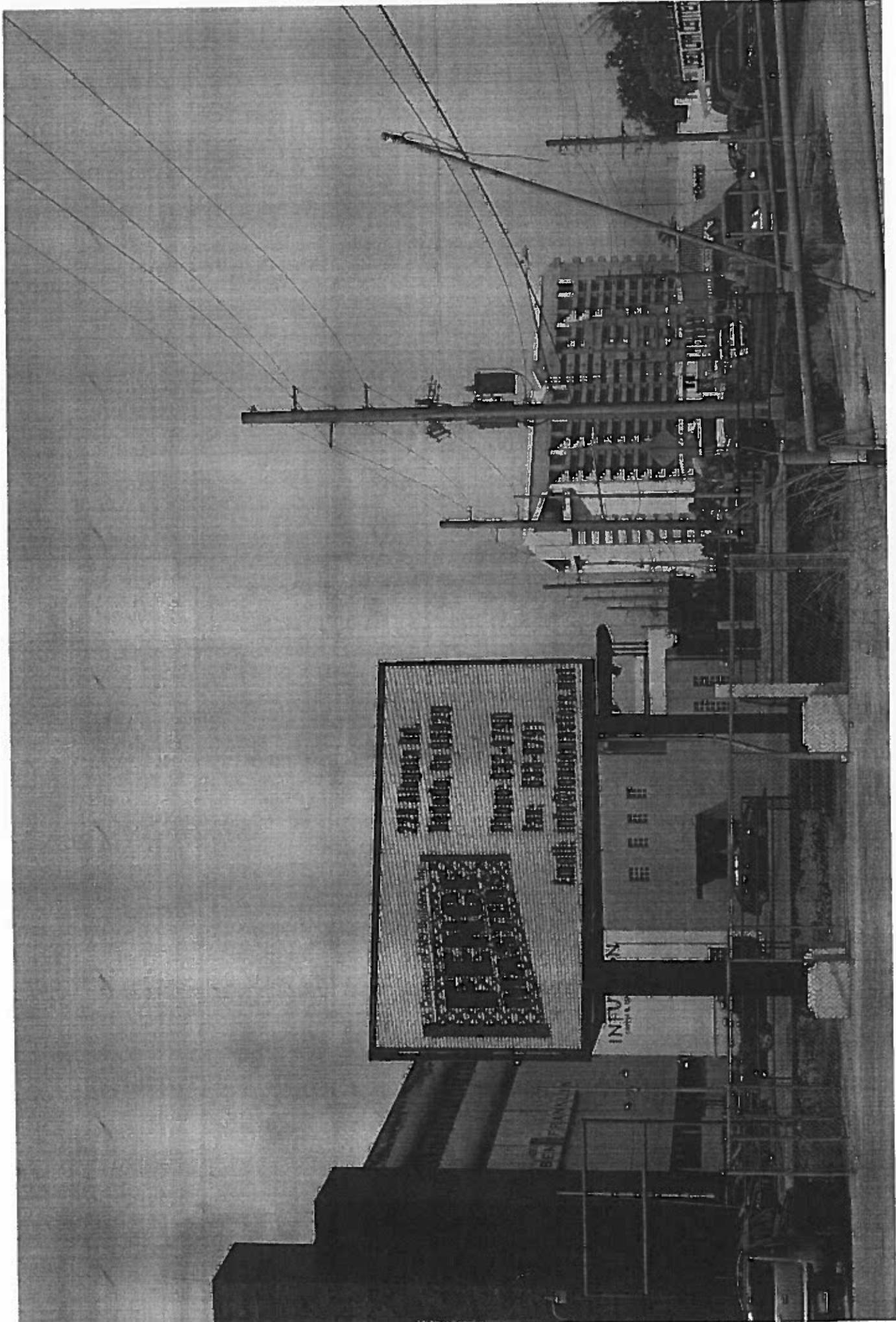
INSTRUCTIONS: This form is to be prepared in three (3) copies, at the building permit reception counter, at least 72 hours in advance

- 1. BUILDING INSPECTOR'S COPY
- 2. ELECTRICAL INSPECTOR'S COPY
- 3. OWNER'S COPY
- 4. BUILDING PERMIT RECEPTION COUNTER

Need a Business Loan?

Visit www.investigum.com
we can help. or call 647-4332 for details.





THE HOTEL
RESTAURANT

INFU

BELLEVILLE



September 5, 2013

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

RECEIVED
SEP 06 2013

Department of Land Management
Time: 4:40 In: [Signature]

SUBJECT: Letter of Agreement between Cherry Enterprises, Inc. dba: Cherry Media Vision to critical Government of Guam agencies to broadcast critical information. Notifications should include amber alerts, traffic conditions, public events, weather reports/warnings, etc. (GLUC App. # 2012-30)

Hafa Adai Sir,

Here are the signed and acknowledged letters from Cherry Enterprises, Inc. to the Government of Guam agencies listed in the requirements of our NOA. Please file them for future references for the GLUC. Thank you and if you should have any questions please feel free to contact us at the numbers below.

Best Regards,

A large, stylized handwritten signature in black ink, appearing to read "Richard De Vera".

Richard De Vera
President
Cherry Enterprises, Inc.
PO Box 22017
Barrigada, Guam 96921
Tel: 671.646.4000
Cell: 671.688.0025
Email: rich@cherryguam.com



July 1, 2013

Greetings and Hafa Adai,

My name is Rich De Vera, proprietor of Cherry Media Vision. We are a new LED Billboard company that will be erecting a two-sided LED Billboard sign in the municipality of Tamuning. Our sign will be located next to the Horse and Cow Restaurant and will be targeting north and south bound travelling commuters on Marine Corps Drive.

Part of our public service obligation is to provide available commercial time on our displays for critical GovGuam agencies that may utilize the allocated time on our displays to alert or communicate emergencies and updates at no cost to the agency. I would like to extend this to your agency to take part in this availability. Although our sign is not up and operational at the moment, we anticipate being in full operation by early October 2013.

Your agency will receive one :08 sec. static placement message that will be rotated in available time slots allocated for public service messages. If you would like us to place your message(s) on our media sign, please send us the information in the format detailed below:

- Artwork size should be 352 x 720 pixels.
- Use high resolution images in your artwork.
- Formats to use: JPEG, JPE, JPG, bitmap, gif, png.
- Artwork orientation (landscape).

Please email or fax us a signed confirmation of this letter for our records so that we register your agency or office into our database of GovGuam agencies.

Agency: Dept. Of Public Health

Contact Person and Title: Bertha Taijeron, Program Coordinator

Contact#'s: Ph: 735-7102 Fax: 7345910

Email Address: bertha.taijeron@dphss.guam.gov

Confirmed Acceptance Signature: Bertha A. Taijeron

**Please consider the environment before printing this letter. A digital copy for us is just as good. Email to info@cherryguam.com.*



July 1, 2013

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Agency: Tamuning Mayor Office

Contact Person and Title: Ken Santos - Vice Mayor

Contact#'s: Ph: 646-5211 Fax: 646-5210

Email Address: keam.fatuma.2013@gmail.com

Confirmed Acceptance Signature: [Signature]

RECEIVED

Tamuning - Tumor - Harmon
Mayor's Office

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July 1, 2013



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Agency: Guam Fire Department

Contact Person and Title: Lt. Edward C. Artero

Contact#'s: Ph: 642-3454 Fax: 642-2012

Email Address: edward.artero@gfd.guam.gov

Confirmed Acceptance Signature:  8/29/2013

**Please consider the environment before printing this letter. A digital copy for us is just as good. Email to info@cherryguam.com.*

Chery Media Vision. PO Box 6223 Tamuning, Guam 96932. Ph:/Fx: 671.646.4000
Email: info@cherryguam.com



July 1, 2013

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Agency: Guam Police Dept.

Contact Person and Title: AJ Balajadia P.I.O

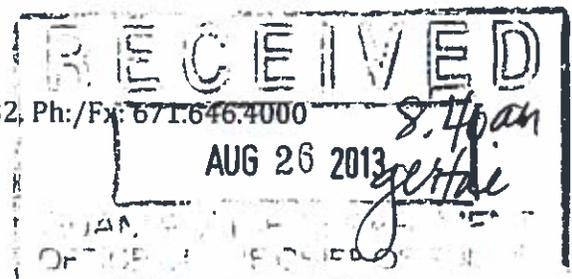
Contact#'s: Ph: 475-8498, 472-8911 Fax: 472-4300

Email Address: albert.balajadia@

Confirmed Acceptance Signature: _____

**Please consider the environment before printing this letter. A digital copy for us is just as good. Email to info@cherryguam.com.*

Chery Media Vision. PO Box 6223 Tamuning, Guam 96932, Ph:/Fx: 671.646.4000
Email: info@cherryguam.com





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Please email or fax us a signed confirmation of this letter for our records so that we register your agency or office into our database of GovGuam agencies.

Agency: Dept. of Homeland Security

Contact Person and Title: Alyssa Benito

Contact#'s: Ph: 475-9600 Fax: 477-3727

Email Address: alyssa.benito@ghs.guam.gov

Confirmed Acceptance Signature: _____

**Please consider the environment before printing this letter. A digital copy for us is just as good. Email to info@cherryguam.com.*



GUAM HOMELAND SECURITY
OFFICE OF CIVIL DEFENSE
www.ghs.guam.gov

Signature: [Handwritten Signature]

Date: 8/23/13

Chery Media Vision. PO Box 6223 Tamuning, Guam 96932. Ph: / Fax: 671.646.4000
Email: info@cherryguam.com



July 1, 2013

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My name is Rich De Vera, proprietor of Cherry Media Vision. We are a new LED Billboard company that will be erecting a two-sided LED Billboard sign in the municipality of Tamuning. Our sign will be located next to the Horse and Cow Restaurant and will be targeting north and south bound travelling commuters on Marine Corps Drive.

Part of our public service obligation is to provide available commercial time on our displays for critical GovGuam agencies that may utilize the allocated time on our displays to alert or communicate emergencies and updates at no cost to the agency. I would like to extend this to your agency to take part in this availability. Although our sign is not up and operational at the moment, we anticipate being in full operation by early October 2013.

Your agency will receive one :08 sec. static placement message that will be rotated in available time slots allocated for public service messages. If you would like us to place your message(s) on our media sign, please send us the information in the format detailed below:

- Artwork size should be 352 x 720 pixels.
- Use high resolution images in your artwork.
- Formats to use: JPEG, JPE, JPG, bitmap, gif, png.
- Artwork orientation (landscape).

Please email or fax us a signed confirmation of this letter for our records so that we register your agency or office into our database of GovGuam agencies.

Agency: Guam Environmental Protection Agency

Contact Person and Title: Tammy Jo Anderson Taft

Contact#'s: Ph: 671.300.4761 Fax: _____

Email Address: Tammyjoanderson.taft@epa.guam.gov

Confirmed Acceptance Signature: TammyJoAndersonTaft

**Please consider the environment before printing this letter. A digital copy for us is just as good. Email to info@cherryguam.com.*

Chery Media Vision. PO Box 6223 Tamuning, Guam 96932. Ph:/Fx: 671.646.4000
Email: info@cherryguam.com

Subject: Re: Cherry Media Vision

Date: Thursday, September 5, 2013 8:50:15 AM Chamorro Standard Time

From: Tammy Jo Anderson-Taft

To: Rich De Vera

Hafa Adai Rich.

Thanks so much for emailing me. We would love to provide public service announcements for your billboard. I will try to get artwork to you by next week.

I'm attaching the signed paperwork. Thanks for thinking of us.

Have a great day.

Tammy Jo

On Wed, Sep 4, 2013 at 8:02 AM, Rich De Vera <rich@cherryguam.com> wrote:
Hafa Adai Tami,

I hope all is well. I just wanted to take this opportunity to present to you a opportunity to relay critical information to the general public in an effective yet discreet way. We at Cherry Media Vision are launching the newest LED Billboard screen on Guam. In the attached letter is a confirmation for the offer. Please sign and email or fax back at your earliest convenience. If you should have any questions please feel free to call me at any time. Thank you and have a great day.

Regards,

Rich

Tammy Jo Anderson Taft
Public Information Officer - Guam EPA
TammyJoAnderson.Taft@epa.guam.gov
671.300.4752
671.988.7582 (c)
epa.guam.gov - [Guam EPA Facebook](#) - [Twitter](#)



LOUISE C. RIVERA
Mayor



Office of the Mayor
Municipality of Tamuning-Tumon and Harmon



December 07, 2015

Mr. Richard De Vera
Cherry Enterprises Inc.
dba: Cherry Media Vision
P.O. Box 22017
Barrigada, Guam 96921

Hafa Adai Mr. De Vera,

It is with utmost pleasure that I write this letter of support for the proposal of your outdoor LED Screen Signage currently erected in our village of Tamuning.

The screens provide an additional medium for public awareness campaigns, public alerts as well as avenue for local businesses to assist in promoting their products and services.

By having a free standing digital sign, it will continue to help enhance the beauty of the surroundings as well as the quality of the advertisement which can provide an attractive advertising option, most especially in a time where technology is the key.

I fully support your effort in providing our Guam residents the opportunity to have a visually appealing option for delivering public messages and advertising. It will certainly benefit our community and businesses throughout the island.

We truly hope that you continue to assist our office for the betterment of our island community. Should you have any questions, please do not hesitate to contact me at 671-888-1540.

Sincerely,

LOUISE C. RIVERA, Mayor



Island of Guam, Government of Guam
Department of Land Management Officer of the Recorder

File for Record is Instrument No. **850920**

On the Year 13 Month 04 Day 26 10:19

Recording Fee **DE-OFFICIO**

Lisa D. Mangar

(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

April 19, 2013
Date

To: **Cherry Enterprises, Inc.**
Represented by FC Benavente
#127 Bejong Street
Barrigada, Guam 96913

Application No. 2012-30

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

Approved Disapproved **Approved with Conditions**
 Tabled

your request on **Lot 2021-1-1-2-1, Municipality of Tamuning**, Guam, to allow erection of a twenty three (23'-0") feet tall free standing double faced LED billboard, with a total sign area coverage of 400 square feet on a 20'x20' portion of the subject lot in a "C" (Commercial) Zone.

NOTICE OF ACTION

Application No. 2012-30

Cherry Enterprises, Inc., Represented by FC Benavente
Lot 2021-1-1-2-1, Municipality of Tamuning
GLUC Meeting of: March 28, 2013
Date of Preparation of NOA : April 19, 2013.
Page 2 of 5

ZONING

/ Zone Change***

/ Conditional Use

XX / Zone Variance [Height & Area coverage]; To allow erection of a twenty three (23'-0") feet tall free standing double faced LED billboard, with a total sign area coverage of 400 square feet on a 20'x20' portion of the subject lot in a "C" (Commercial) Zone

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

NOTICE OF ACTION

Application No. 2012-30

Cherry Enterprises, Inc., Represented by FC Benavente
Lot 2021-1-1-2-1, Municipality of Tamuning
GLUC Meeting of: March 28, 2013
Date of Preparation of NOA : April 19, 2013
Page 3 of 5

APPLICATION DESCRIPTION: The Applicant, Cherry Enterprises, Inc., represented by FC Benavente, requests a Zone Variance for Height and Area coverage for a proposed erection of a twenty three (23'-0") feet tall free standing double faced LED billboard, with a total sign area coverage of 400 square feet on a 20'x20' portion of the subject lot in a "C" (Commercial) Zone.

CONDITIONS: The Guam Land Use Commission Approved the application to allow the erection of a twenty three (23'-0") feet tall free standing double faced LED billboard, with a total sign area coverage of 400 square feet on a 20'x20' portion of the subject lot in a "C" (Commercial) Zone with the following conditions:

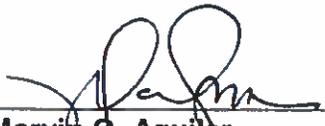
1. Submit before the Commission a letter of agreement between CEI and the government agencies engaged in protecting and encouraging public safety and welfare. Such agreement shall include public notifications from agencies to include but not limited to GPD, GFD DPHSS, and Tamuning Mayor's Office. Notifications should include ambers alerts, traffic conditions, public events, weather reports/warnings, etc. Such notifications shall be prepared and advertised in the expense of CEI. Such notifications shall run 1/3 of every hour during peak hours (7am to 9pm). Such report shall be submitted to the Guam Chief Planner no later than 60-working days from the date of recordation of the NOA. Such report shall be considered reportable item to the GLUC;
2. CEI shall be restricted from advertising products, services and industries engaged in practices that are generally considered immoral, depraved or degrading any associated society. This should include products, services and/or industry in promoting bad or unhealthy habits or habit forming;
3. This variance shall run for a period of two (2) years to which time when expired, such timeline will have an attached opinion of the Commission to consider any additional two year extension or to remove the timeline all together;
4. Upon requesting for an extension or removal of the timeline, CEI shall submit to the Commission a report in support of the requested action. Such report shall include report of the existing or non-existence of any adverse effect caused to traffic and surrounding community to include but not limited to an increase in traffic accidents and cause of visual blight as determined by a degradation of harmonious co-existence with neighboring and/or commercial facilities. Evidence dissuading from such impacts shall be supported by appropriate agencies such as GPD on traffic and DPW on matters concerning highways, as well as any other positive attributes shall be endorsed by the Municipal Planning Council of Tamuning;

NOTICE OF ACTION

Application No. 2012-30

Cherry Enterprises, Inc., Represented by FC Benavente
Lot 2021-1-1-2-1, Municipality of Tamuning
GLUC Meeting of: March 28, 2013
Date of Preparation of NOA : April 19, 2013
Page 4 of 5

- 5. Proof of compliance of all GLUC imposed conditions;
- 6. Applicant shall provide the Guam Chief Planner a copy of the building permits and occupancy permits for the construction of any structures on the site; and
- 7. A 6-foot perimeter fence be erected on the leased portion of the subject lot.



Marvin G. Aguilar
Guam Chief Planner, Acting

4/23/2013
Date



Lawrence S. Rivera
Acting Chairman, Guam Land Use Commission

4-25-13
Date

Case Planner: Penmer C. Gulac
Attachment(s): Findings of Facts
Cc: Building Permits Section, DPW (Attn: Bldg Official)

NOTICE OF ACTION

Application No. 2012-30

Cherry Enterprises, Inc., Represented by FC Benavente
Lot 2021-1-1-2-1, Municipality of Tamuning
GLUC Meeting of: March 28, 2013
Date of Preparation of NOA : April 19, 2013
Page 5 of 5

CERTIFICATION OF UNDERSTANDING

I/We _____ / ^{FC Benavente}
FC 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
[Signature] 4/25/2013
Signature of Representative Date

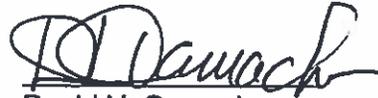
Signature of Applicant Date

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

Applicant(s) Date
[Signature] 4/26/2013
Representative Date

ACKNOWLEDGMENT

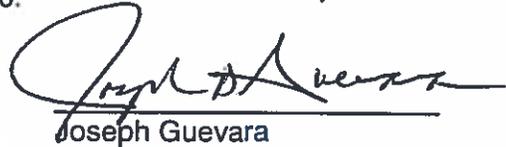
Filed with the Department of Land Management on the 26 day of April, 2013, in accordance with Title 21, GCA, Section 61620.



David V. Camacho
Acting Director of Land Management
or Designee

ACKNOWLEDGMENT

Filed with the Department of Public Works on the 26 day of April, 2013 in accordance with Title 21, GCA, Section 61620.



Joseph Guevara
For: Director, Department of Public Works or
Designee

=====

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

**DECISION GRANTING VARIANCE WITH FINDINGS
(Pursuant to Title 21, GCA, Section 61617 (a) through (e))**

GUAM LAND USE COMMISSION

WHEREAS, the following decision of the Guam Land Use Commission is made in accordance with Title 21, GCA, Sections 61616, 61617, and 61620, now therefore:

BE IT RESOLVED, THAT on the 28th Day of March, 2013, a hearing of the Guam Land Use Commission (GLUC) was held in accordance with notices duly issued to consider the application for a Zone Variance for signage (Height & area coverage) on Lot 2021-1-1-2-1, in the Municipality of Tamuning.

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

1. Mr. Lawrence S. Rivera, Chairman
2. Ms. Beatrice P. Limtiaco, Member
3. Mr. Roland Certeza, Member
4. Ms. Conchita D. Bathan, Member
5. Mr. Victor Cruz, Member

Appearing was: FC Benavente, the applicants' representative),

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

None in favor / against

After considering all statements and testimony presented by interested parties GLUC finds that the application, for **ZONE VARIANCE for Signage (height and area coverage)** is **GRANTED** on the following grounds: (Note : All five (5) sections should be answered)

a. THAT THE STRICT APPLICATION OF THE PROVISIONS OF TITLE 21, GCA, CHAPTER 61, RESULTS IN PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS INCONSISTENT WITH THE GENERAL PURPOSE AND INTENT OF THE LAW. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:

The variance request is for an increase in the height and sign face area. It is well known that fact that the Guam's sign laws have been on the books for over 40 years. While some sections of the laws have been modified, specifically in regards to political signs and placement on school bus stops, the laws have not responded to the prevailing advancement in design, usefulness, and popularity of new LED billboard signs. Ownership provides promotion and advertisement services and has worked diligently to prepare a design that works very well with the unique features of the property. The use of a single support column allows for continuation of street level sight planes, and the sign's location on the property allows placement of future use on the lot. Disallowing the free-standing sign height and face area variance will result in practical difficulty and unnecessary hardship inconsistent with the general purpose, spirit, and intent of the law. Therefore, the Commission, finds, that this and other approved land uses will result in unnecessary hardship inconsistent with the general purpose and intent of the law to the property.

Decision Granting Variance with Findings

- b. THAT THERE ARE EXCEPTIONAL CIRCUMSTANCES OR CONDITIONS APPLICABLE TO THE PROPERTY INVOLVED OR TO THE INTENDED USE THEREFORE THAT DOES NOT APPLY GENERALLY TO OTHER PROPERTY IN THE SAME ZONE. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:

The property and site is within a very high traffic commercial area which we call the Camacho-Jalaguac-Marine Corps Drive Intersection (CJM) area, making it ideal for placement of a free-standing LED billboard sign. The CMJ intersection commercial area, and in particular this property with its unique vacant open space frontage, makes it an exceptional location for placement of a free-standing sign LED billboard sign. This variance allows for reasonable expansion of the existing allowances of the existing zoning law. These circumstances do not apply to other properties in the same area. Therefore, the Commission finds that the neighboring land use is consistent with the proposed use that it does not apply to the other property in the same zone.

- c. THAT THE GRANT OF VARIANCE WOULD NOT BE MATERIALLY DETRIMENTAL TO THE PUBLIC WELFARE, OR INJURIOUS TO THE PROPERTY OR IMPROVEMENTS IN THE ZONE OR NEIGHBORHOOD IN WHICH THE PROPERTY IS LOCATED. THE FOLLOWING FACTS SUPPORT SUCH A FINDING:

The granting of the requested variance will allow the property owner, through a lease agreement, to have immediate use of this vacant property; being mindful that allowed building by law is three stories or 30 feet in height. The public is availed of new- paid and free promotional and advertising services. There will be new employment created by this activity as well as new taxes and power utility revenues generated. The propose variance for a free-standing sign will not be materially detrimental to the public welfare or injurious to the property of improvements in the neighborhood where the project is located. Therefore, the Commission finds the proposed use's demand on infrastructure is not expected to burden the existing customers in the neighborhood.

Decision Granting Variance with Findings

d. THAT THE GRANT OF SUCH VARIANCE WILL NOT BE CONTRARY TO THE OBJECTIVES OF ANY PART OF THE MASTER PLAN ADOPTED BY THE COMMISSION OR LEGISLATURE:

The Guam Master Plan as showing the Zoning Map allows the location of commercial uses in this area of Tamuning. This request is in reasonable accordance and will not be contrary to the objectives of any part of the plan of Tamuning area. Therefore, the Commission finds that, granting the variance will not be contrary to the objectives of any part of the Master Plan, with adherence to the zoning law, building code and building permitting processes.

e. THAT AS TO VARIANCES FROM THE RESTRICTIONS OF TITLE 21, GCA, SECTION 61504, THE PROPOSED BUILDING WILL SUBSTANTIALLY ENHANCE THE RECREATIONAL, AESTHETIC, OR COMMERCIAL VALUE OF THE BEACH AREA UPON WHICH THE BUILDING IS TO BE CONSTRUCTED, AND THAT SUCH BUILDING WILL NOT INTERFERE WITH OR ADVERSELY AFFECT THE SURROUNDING PROPERTY OWNERS' OR THE PUBLIC'S RIGHT TO AN UNTRAMMELED USE OF THE BEACH AND ITS NATURAL BEAUTY. FACTS WHICH SUPPORT THIS CONCLUSION ARE AS FOLLOWS:

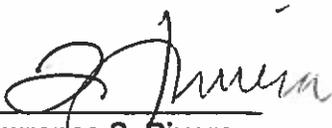
This section is not applicable as it is not within a shoreline property.

The members of the commission, after due consideration, voted to approve the application by granting the Zone Variance with conditions.

The vote of the members were as follows:

4 Ayes 0 Nays 1 Abstentions

This decision was adopted this 28th day of March 2013 and shall be filed with the Department of Land Management and the Department of Public Works as mandated under Title 21, GCA, Section 61616 to 61617 and 61501.



Lawrence S. Rivera
Acting Chairman, GLUC