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DEPARTMENT OF
PUBLIC WORKS

TERRITORY OF GUAM, DEPARTMENT OF LAND MANAGEMENT
OFFICE OF THE RECORDER
INSTRUMENT NUMBER 464292

This instrument was filed for record on 20
Day of Dec, 1991, at 3:00 P.M. at Page
and duly recorded in Book _____, Recording Fee DE OFFICIO Voucher No. _____

Deputy Recorder

(Space above for Recordation)

TERRITORIAL LAND USE COMMISSION
DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

NOTICE OF ACTION

December 10, 1991

To: Agat Hilltop/Fujimoto International, Inc.
c/o Universal Jin Corporation and
Juan C. Tenorio & Associates, Inc.
P. O. Box 3477
Agana, Guam 96910

Case No. 90-067

The Territorial Land Use Commission, at its meeting on August 8, 1991

/ Approved / Denied
 / **Approved with Conditions** / Tabled

your request on Lot 195-1-3-NEW, Municipality of Agat for a:

/ **Zone Change** (including P.U.D.)** / Subdivision Variance
 / Zone Variance / Tentative Subdivision
 / Conditional Use / Final Subdivision
 / Wetland Permit / Re-subdivision
 / Determination of Policy Definition / Subdivision Definition
 / Seashore Clearance / Miscellaneous

Please submit this form with necessary plans to the appropriate agency. If request was tabled, approved with conditions or involved clarification, please see the conditions below for further details.

NOTATION: Zone Change request from "A" (Rural) and "R-1" (Single-Family Dwelling) to a "PD" (Planned Development) District in order to construct a 25-storey, 168-unit condominium structure; a five (5) to eight (8) storey, 110-room hotel structure; 12 separate single-storey hotel garden units; and six (6) structures of six (6) storeys each, containing 102 hotel units and 28 proposed condominium units; a 9,400 square feet commercial building to include a bank, a restaurant and various shops; a 7,000-square feet club building; parking structures; two (2) tennis courts and a swimming pool.

Agat Hilltop/Fujimoto Int'l, Inc.
c/o Universal Jin Corp. and J.C. Tenorio & Assoc., Inc.
Lot 195-1-3-NEW, Municipality of Agat
(Zone Change: TLUC/Approved with Conditions)

Case #90-067
December 10, 1991
Page 2 of 3


CONDITIONS: The application request approved by the Territorial Land Use Commission on August 8, 1991 with the following Department of Land Management, Division of Land Planning's recommendations and conditions:


1. That Fujimoto International, Inc., through its representative, has committed in contributing a total of Six Million Dollars (\$6,000,000) within the consortium to fund for a new sewer and water treatment plant and site. Site to be acceptable to Public Utility Agency of Guam (PUAG) and Guam Environmental Agency (GEPA);
2. That a quarterly status report on the sewer/water infrastructure be submitted;
3. That Applicant-Developer adopt a high school, GCC and UOG for training and other purposes for sustained post-development period;
4. That upon completion of project the Developer shall hire locally from the Agat-Santa Rita and Umatac area 95% of total employees to be hired for post-construction period, a minimum of 5% of total employees shall be in the management/supervisory level. If optimum employment in the Agat-Santa Rita and Umatac areas are reached, then recruitment from other areas on Guam is permitted utilizing the Department of Labor, the Agency for Human Resources Development (AHRD), and the Department of Vocational Rehabilitation (DVR) or other avenues to maximize local full employment;
5. That an Environmental Protection Plan be submitted and acceptable to the Department of Land Management (DLM) and GEPA;
6. That an Erosion Control Plan be submitted and acceptable to DLM and GEPA;
7. That the name of the development shall be "Hatdin Hilo' Okso Hagat" or acceptable to the Chamorro Language Commission;
8. That occupancy shall not be issued until the sewer/water treatment plant is complete and acceptable to PUAG and GEPA;
9. That Applicant-Developer adopt a park to be selected by Department of Parks and Recreation (DPR) and maintained in accordance with DPR's policies and guidelines;
10. That the Applicant-Developer submit an Archaeological Survey before construction;
11. That the development's architectural motif be of Chamorro, Pacific, and Spanish blend;
12. That the company forms a consortium for an infrastructure trust with present and future developers to address and develop the infrastructure of the Agat-Santa Rita and Umatac areas which would include Department of Public Works (DPW), GEPA, PUAG, and the Agat Mayor as Ex-officio Members;
13. That flora within the Agat-Santa Rita area, in particular within the property, be used for post-construction landscaping with the Landscaping Plan to be approved by the Territorial Planner;
14. That the roads leading to and from the development be improved to accommodate the increased traffic flow caused by the development;
15. That the Applicant-Developer provide 2:1 parking for each dwelling unit within the development;
16. That the Applicant-Developer comply with all DRC Agency requirements and conditions. (Development Review Committee's requirements and conditions attached.)

Agat Hilltop/Fujimoto Int'l, Inc.
c/o Universal Jin Corp. and J.C. Tenorio & Assoc., Inc.
Lot 195-1-3-NEW, Municipality of Agat
(Zone Change: TLUC/Approved with Conditions)

Case #90-067
December 10, 1991
Page 3 of 3


FELIXBERTO R. BUNCA, Jr.
Territorial Planner


F. L.G. CASTRO
Executive Secretary, TLUC


JESUS P. CRUZ
Chairman, TLUC

Case Planner: Joseph C. Santos/Jose Quinata, Jr. 

Attachments: (DRC Position Statements)


cc: Building Permits Section, DPW (Attn: Jesus Ninete)

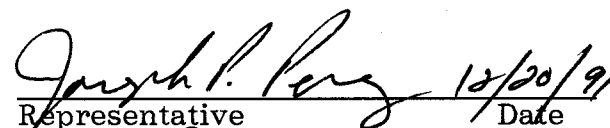
**** Approval by the Territorial Land Use Commission of a Zone Change DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor. (Ref: 21 GCA (Real Property), Chapter 6 (Zoning Law), Section 61634 (Decision by the Commission))**

=====

CERTIFICATION OF UNDERSTANDING

"WE, Joseph P. Perez / Joseph P. Perez understand
(Applicant & Representative, please print names)
and accept the conditions above as a part of the Notice of Action, and further agree to adhere to any and all conditions made a part of and attached to this Notice of Action as mandated by the approval of the Territorial Land Use Commission/Territorial Seashore Protection Commission."


Applicant 12/20/91 Date
Vice Pres.
UNIVERSAL JIN CORP.


Representative 12/20/91 Date
Vice Pres.
UNIVERSAL JIN CORP.



DIPATTAMENTON I KUMETSIO
DEPARTMENT OF COMMERCE

464292

GOVERNMENT OF GUAM
AGANA, GUAM 96910

OCT 19 1990

MEMORANDUM

To: Chairman, Territorial Land Use Commission
Chairman, Territorial Seashore Protection Commission

From: Director, Department of Commerce

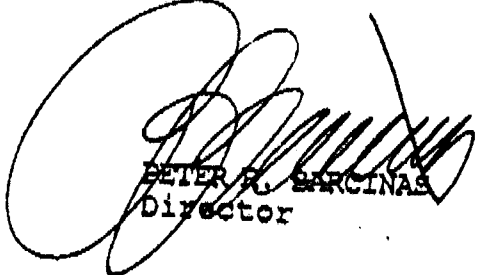
Subject: Position Statement: 111-90-06 ACAT Lot 195-1-3-NEW (Agat Hilltop
Gardens/Fujimoto Intn'l, Inc. c/o Univ. JIn Corp & Juan C. Tenorio Assoc
DRC Date: June 7, 1990 ZONE CHANGE: Construct 25-story, 168
unit condo, 110-room hotel &
commercial facilities.

We reviewed the application described above and submit the following statements.

A. Comments and Recommendations Concerning Agency-Mandated Functions:

Commerce recommends approval of the subject application provided all other agency requirements are adequately addressed.

B. General Comments:


PETER R. SARCINAS
Director

Applicant: Fujimoto International, Inc.
 DRC Date: 8-16-90
 Request: zone change: A/R-1 to PUD
 Lot Number: 195-1-3-New
 Village: Agat
 Proposed Use: hotel, 224 rooms; condominium, 196 units; commercial facilities; bank; restaurant & other amenities ("Agat Hilltop Gardens")



90-067

Position: The Bureau does not feel the requirement to demonstrate "public necessity" as per Section 17600 of the Zoning law has been adequately satisfied by the applicant. In addition, rezoning this property to PUD is not in the interest of the general public, but rather, a convenience to the developer. The applicant has stated that there is an increasing need for hotel rooms away from the Tumon area due to Guam's expanded tourism industry. There has been no information provided by way of studies or reports that indicate that there is a public need for additional hotel rooms or condominium units. The applicant has indicated that the proposed condominium units do not constitute "Low Cost Housing". The Bureau feels the applicant has not adequately justified the need for condominiums in this area.

Currently, the surrounding uses are predominantly single family dwellings with structures no more than two (2) stories in height. To allow a 25 story structure in this area would be detrimental to the character and lifestyle of the community. Moreover, the impact of the proposed 25 story condominium and 5-8 story hotel on the adjacent properties should be further addressed. There are currently no structures higher than three floors in Agat, and this proposed project is adjacent to single or two story family homes. Based on these reasons, the Bureau strongly objects to the proposed zone change.

Paul Lee
 Director, Bureau of Planning



DEPARTMENT
OF
LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910
DEC 13 11 38 AM '90

DEC 12 1990

MEMORANDUM

To: Director, Department of Land Management
From: Director, Department of Parks and Recreation
Subject: Position Statement

This is the Department of Parks and Recreation's position statement on the Zone Change Application for Lot No. 195-1-3-NEW, Agat; Agat Hilltop Gardens/Fujimoto International, Inc..

This position paper does not imply approval or disapproval of this proposed development by the department. The department has reviewed the above subject application and have the following conditions.

1. Follow DPR's Guidelines and Standards for Subdivisions and Planned Unit Developments in designing the parks and recreational facilities.
2. The standard preservation condition as outlined in the Memorandum of Understanding between DPR and the Territorial Land Use Commission shall apply.
3. Make improvements to the Nimitz Beach Park and the village of Agat's recreational facilities.
4. Comply with the Interim Hotel Zones Rules and Regulations, specifically in regards to Section V. Standards for Development Within a "H" Zone.

The developer or his appointed representative should stay in contact with DPR regarding these concerns.

[Handwritten signature]

790-067



GUAM ENVIRONMENTAL PROTECTION AGENCY

MAR 07 1991

D-107 HARMON PLAZA, 130 ROJAS ST., HARMON, GUAM 96911 TEL. NO. 646-8863/5 FAX: 646-9402
AHENSIAN PRUTEKSION LINA'LA GUAHAN

INTER-AGENCY MEMORANDUM

TO: Chairman, Territorial Seashore Protection Commission
Executive Secretary, Territorial Seashore Protection Commission

FROM: Administrator

SUBJECT: TSPC Agenda March 6, 1991 Special Meeting. Lot 311 Agat, (Nomura Enterprises of Guam, Inc. c/o Y.R. Segawa Development Consultant, Inc.) Taelayag Hagat Resort.

The Agency has reviewed the subject application with requests for seashore clearance approval to Clear underbrush and provide landscaping while avoiding large trees within the Territorial Seashore preserve.

The Agency position follows:

Our primary concern with this request is to avoid large scale impacts of clearing within the beach strand habitat contiguous with the subject lot boundary fronting the ocean. The Agency had provided comments to this effect as part of preliminary consultations with the applicant (4/6/90). Specifically mentioned were beach strand vegetation and trees.

Upon review of provided information and knowledge of this beach strand and intertidal zone we would have no objection at this time to the request if the following conditions are met.

EROSION CONTROL

We recommend the applicant not clear and/or grade underbrush in this area as part of general clearing and grading for construction. Regardless of expected erosion control methods and patterns of erosion we do not feel this activity is justified at this stage of the proposed project. The beach strand may serve as a buffer to erosion seaward of the project.



DEPT. OF LAND MGMT.
PLANNING DIV.
REC'D ON 5/9/91
TIME 12:05



GUAM ENVIRONMENTAL PROTECTION AGENCY

D-107 HARMON PLAZA, 130 ROJAS ST., HARMON, GUAM 96911 TEL. No. 646-8863/5 FAX: 646-9402
AHENSIAN PRUTEKSION LINA'LA GUAHAN

MAR 19 1991

INTER-AGENCY MEMORANDUM

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

FROM: Administrator

Subject: Lot 195-1-3-NEW, Agat (Hatdin Ogoso Hagat/Fujimoto
International, Inc. c/o Universal Jin Corporation
and Juan C. Tenorio and Associates, Inc.)
DRC 90-067

The Agency has reviewed the subject application with requests for a Zone Change from "A" (Rural) and "R-1" (Single Family Dwelling) zones to "PD" (Planned Development) district in order to construct a proposed 25 storey, 168 unit condominium structure; a five (5) to eight (8) storey, 110 room hotel structure; 12 separate single-storey hotel garden units; and six (6) structures of six (6) stories each, containing 102 hotel units and 28 condominium units; and a 9,400 square foot commercial building to include a bank, a restaurant and various shops; a 7,000 square foot club building; parking structures; two tennis courts and a swimming pool.

The Agency position follows:

We recommend the application be resubmitted to the DRC for revisions to the Master Plan to address the "PD" open space/structure requirements. This recommendation is in accordance to the verbal opinion rendered by the Attorney Generals Office with regard to the definition of open space as provided at the TLUC Special Meeting of March 7, 1991.

As a result of the clarification on the definition of open space, we feel there may be changes in the impacts to the environment by the proposed "PD".

DEPT. OF LAND MGMT.
PLANNING DIV.
REC'D ON 3/22/91
TIME 8:30
CDC



INTER-AGENCY MEMORANDUM
Chairman, TLUC
Executive Secretary, TLUC
March 18, 1991

MAR 19 1991

Thank you for the opportunity to comment

Fred M. Castro

CC: BOP Commerce DOA-DAWR
DPR DPW
CLC PUAG

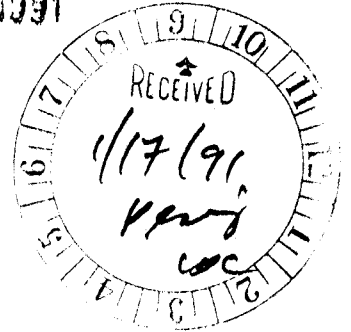
cc: Chrono
GEPA File
Randy's file
Gary's info
RSablan/mm 3/18/90

TO	INITIAL	DATE
Randy	RLS	3/18/91
Gary	GRS	3/18/91
Roland	RS	3-19-91
Fred	FR	3/19



464292

JAN 16 1991



Memorandum

To: Chairman, Territorial Land Use Commission

From: Director, Department of Public Works

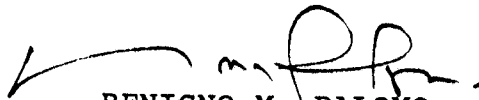
Subject: Lot No. 195-1-3-NEW, Agat (Agat Hilltop Gardens/
Fujimoto International, Inc. c/o Universal Jin
Corporation and Juan C. Tenorio & Associates, Inc.)

Request: Zone Change

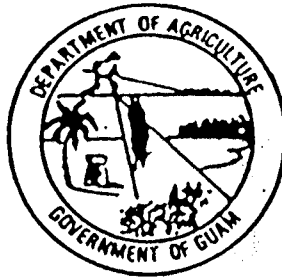
90-017

The Department recommends approval provided the applicant/owner complies to all applicable rules, regulations and Government Code of Guam.

The Department of Public Works may require additional information from the applicant(s).


BENIGNO M. PALOMO

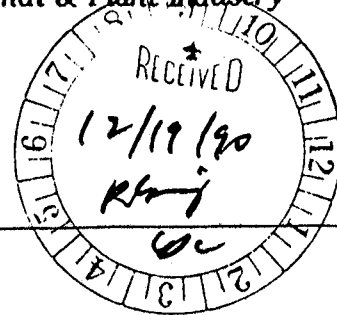
ANTONIO S. QUITUGUA
DIRECTOR



AGANA, GUAM 96910

Director's Office
Aquatic & Wildlife Resources
Agricultural Development Services
Forestry & Soil Resources
Animal & Plant Industry

734-3942/43
734-3944/45
734-3946/47
734-3948
734-3940/49



JOSE A.E. MANIBUSAN
DEPUTY DIRECTOR

December 12, 1990

DEPARTMENT
OF
LAND MANAGEMENT
DEC 18 1 11 PM '90

70067

Memorandum

To: Executive Secretary, Territorial Land Use Commission
Chairman, Territorial Seashore Protection Commission

From: Director of Agriculture

Subject: Request for Rezoning Lot #195-1-3-New from One-Family dwelling (R1) and Agriculture (A) to Planned Development (PD); Agat Hilltop Gardens

A. Comments and Recommendations Concerning Agency Mandated Functions:

Presently vacant and unused, this project site supports disturbed mixed forest over much of its area, maintains a wetland along the western side and is interspersed with a few open grassy areas. The topography of the land rises from a low coastal plain along the western boundary to the top of a low (55-foot) escarpment on the eastern boundary. The soil type found in the lower portions of the site, Inarajan Clay, is characterized as being poorly drained, with a high available water capacity and slow runoff and permeability rate. This type of soil is also characterized as having a seasonally high water table, and is subject to seasonal flooding. This soil type is not suited for homesite and other types of commercial development due to low soil strength and flooding, but it is considered suitable for both subsistence and commercial agriculture.

The wetland is dominantly vegetated by obligate wetland plants. This wetland area acts as a natural ponding basin for surface runoff from the upper areas of the project site, catching and holding all storm water that flows down the escarpment from above. This area is within a designated flood hazard zone and consequently there may be insurance restrictions on construction in this area. Serious consideration must be given to project design to eliminate possible impacts to the project as a result of flooding, and also to prevent project construction from exacerbating the flooding problem in adjacent areas. Reduction in size of the existing wetland will reduce its ability to handle stormwater runoff, which can be expected to increase greatly due to



Commonwealth Now!

the construction of the remainder of the resort in the upland areas. This could lead to increased flooding in adjacent areas as well as to reduction in ocean water quality due to an increase in silt laden freshwater discharge to the ocean.

The disturbed forest on the site contains several large trees and supports a fairly diverse understory plant community. These areas effectively retain soil, help maintain an adequate soil moisture level and support a variety of small animals and insects. Retaining as much of the forested area as possible would lessen the overall erosional impacts and add an immediate aesthetic value to the resort.

The removal of existing vegetation, changes in topography and water drainage and increases in nonpermeable surfaces will occur as this resort is developed. In order to reduce the probable negative impacts of this project, this Department recommends that the following changes be implemented before the rezoning for the Agat Hilltop Gardens project be approved:

1. The developer should retain as much of the forested area as possible, only clearing those areas required for development.
2. The size of the wetland currently found on the site be maintained and not reduced. Additionally, portions of this wetland should be designed with littoral zones supporting emergent, submergent and floating aquatic plant species. This will result in a wetland that is more beneficial to wildlife and waterbirds.
3. The 25-story tower be deleted and the project limited to only the terrace hotel and other hotel facilities that are currently proposed for the escarpment face and top. The entire coastal plain portion of the property should be retained in wetland for stormwater disposal and flood control.

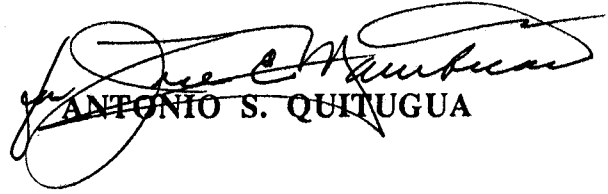
B. General Comments:

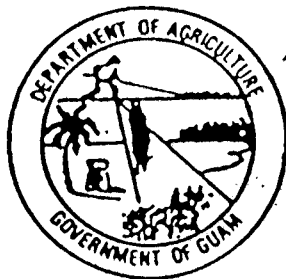
We note that the developer plans to not pave certain of the internal access roads and sidewalks, at least partially in an effort to meet the 70% open space requirement of the Planned Development zone that has been applied for. We question whether the future tenants of the proposed development will be satisfied with unpaved access roads and sidewalks, and also whether such can be constructed that are not susceptible to excessive erosion due to the steep terrain in the upper portions of the project site. It is highly likely that these access facilities must eventually be paved, which could require that the project receive a variance for usage density. We cannot support any zone change for projects that would still require variances in order to comply with the zoning law. In our opinion, strict compliance with the zoning law should be required of all projects for which a zone change is a prerequisite for the project to be constructed. Furthermore, we would point out that the non-paving of roads is contrary to §18001.1, Government Code, unless a variance has been granted by TLUC.

The 25-story condominium tower that is proposed will not be consistent with the general setting, which is rural/residential in nature. The tower will be visually obtrusive and may not be a desirable addition to the Agat skyline. Because of the low

464292

strength soils in the coastal plain area and the wetland conditions that prevail, construction of such a tower may not be practical without expensive engineering solutions, such as construction on pilings, and structural floodproofing measures.


ANTONIO S. QUITUGUA



JOSE A.E. MANIBUSAN
DEPUTY DIRECTOR

AGANA, GUAM 96910

90-667

December 12, 1990

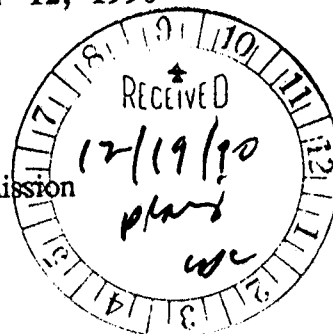
DEPARTMENT
OF
LAND MANAGEMENT
DEC 16 1 11 PM '90

Memorandum

To: Executive Secretary, Territorial Land Use Commission
Chairman, Development Review Committee

From: Director of Agriculture

Subject: Agricultural Impact Statement: Agat Hilltop Gardens



The Department of Agriculture has reviewed the proposal for the rezoning of Lot 1195-1-3-New from one-family dwelling (R1) and agriculture (A) to planned development (PD) and provides the following comments.

Lot 195-1-3-NEW comprises 11.21 acres and is located on the inland side of Route 2 across from Nimitz Beach Park and the Agat Marina. Presently vacant and unused, this parcel of land supports disturbed mixed forest over much of its area, maintains a wetland along the western side and is interspersed with a few open grassy areas. The topography of the land rises from a low coastal plain along the western boundary to the top of a low (55-foot) escarpment on the eastern boundary. The plan calls for the construction of a hotel on the top of the escarpment, several terraced hotel/condominium structures along the escarpment face, and a 25 story condominium tower on the coastal plain. The project as planned will require extensive modifications of the existing wetland in the coastal plain area of the site in order to construct the 25-story condominium tower and accessory structures.

The soil type found in the lower portions of the site, Inarajan Clay, is characterized as being poorly drained, with a high available water capacity and slow runoff and permeability rate. This type of soil is also characterized as having a seasonally high water table, and is subject to seasonal flooding. This soil type is not suited for homesite and other types of commercial development due to low soil strength and flooding, but it is considered suitable for both subsistence and commercial agriculture.

The wetland is dominantly vegetated by the obligate wetland plant *Phragmites karka*, and 50% of the wetland plants identified on-site are obligate species. Although the frequency of occurrence and the distribution of other obligates does not match that of the *P. karka*, their presence indicates that this area is wet for most, if not all, of the year. This wetland area acts as a natural ponding basin for surface runoff from the upper areas of the project site, catching and holding all storm water that flows down the escarpment from above. Most of this stormwater is disposed off naturally through percolation, evaporation, and transpiration by wetland vegetation. Presently some excess rainwater runoff from the site is actively discharged into the



ocean via the culvert under Route 2. If this project is approved, this culvert should be made deactivated prior to the initiation of any activities on this site which may lead to an increase in erosion. In any event, this culvert should probably be permanently deactivated in order that stormwater runoff be disposed of entirely on-site.

Reduction in size of the existing wetland will reduce its ability to handle stormwater runoff, which can be expected to increase greatly due to the construction of the remainder of the resort in the upland areas. This could lead to increased flooding in adjacent areas as well as to reduction in ocean water quality due to an increase in silt laden freshwater discharge to the ocean.

The western portion of the proposed project site is within a designated flood hazard zone and consequently there may be insurance restrictions on construction in this area. Because of this, a thorough review of the flood hazard area regulations (Admin. Rules and Regs. Subchapter D, Secs. 12233, 12234 and 12235) would be in order. Serious consideration must be given to project design to eliminate possible impacts to the project as a result of flooding, and also to prevent project construction from exacerbating the flooding problem in adjacent areas.

The disturbed forest on the site contains several large trees and supports a fairly diverse understory plant community. These areas effectively retain soil, help maintain an adequate soil moisture level and support a variety of small animals and insects. The removal of such vegetation results in cessation of ecological processes and may stimulate erosion. Retaining as much of the forested area as possible would lessen the overall erosional impacts and add an immediate aesthetic value to the resort.

We note that the developer plans to not pave certain of the internal access roads and sidewalks, at least partially in an effort to meet the 70% open space requirement of the Planned Development zone that has been applied for. We question whether the future tenants of the proposed development will be satisfied with unpaved access roads and sidewalks, and also whether such can be constructed that are not susceptible to excessive erosion due to the steep terrain in the upper portions of the project site. It is highly likely that these access facilities must eventually be paved, which could require that the project receive a variance for usage density. We cannot support any zone change for projects that would still require variances in order to comply with the zoning law. In our opinion, strict compliance with the zoning law should be required of all projects for which a zone change is a prerequisite for the project to be constructed.

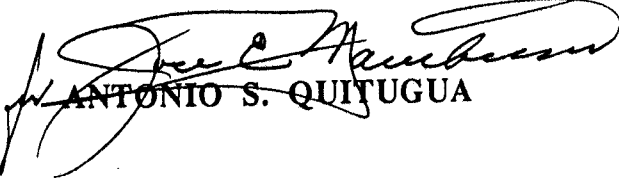
The 25-story condominium tower that is proposed will not be consistent with the general setting, which is rural/residential in nature. The tower will be visually obtrusive and may not be a desirable addition to the Agat skyline. Because of the low strength soils in the coastal plain area and the wetland conditions that prevail, construction of such a tower may not be practical without expensive engineering solutions, such as construction on pilings, and structural floodproofing measures.

Because of the impacts to both the immediate and adjacent environments that are likely to occur from this project, both during and after construction, if it is constructed as planned, this office recommends that the request for rezoning be denied.

In order to reduce the probable negative impacts of this project, this Department recommends that the following changes be implemented before the rezoning for the Agat Hilltop Gardens project be approved:

1. The developer should retain as much of the forested area as possible, only clearing those areas required for development.

2. The size of the wetland currently found on the site be maintained and not reduced. Additionally, portions of this wetland should be designed with littoral zones supporting emergent, submergent and floating aquatic plant species. This will result in a wetland that is more beneficial to wildlife and waterbirds.
3. The 25-story tower be deleted and the project limited to only the terrace hotel and other hotel facilities that are currently proposed for the escarpment face and top. The entire coastal plain portion of the property should be retained in wetland for stormwater disposal and flood control.


ANTONIO S. QUITUGUA