



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
P.O. BOX 10000
AGANA, GUAM

JUL 10 1992

**REFER TO
LEGISLATIVE SECRETARY**

The Honorable Joe T. San Agustin
Speaker, Twenty-First Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

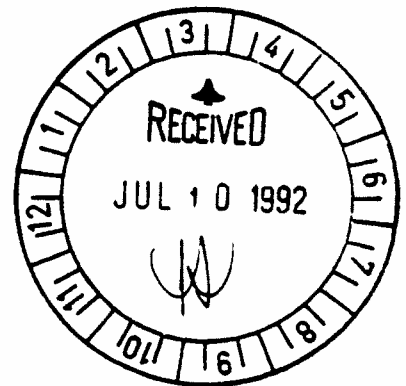
Transmitted herewith is Bill No. 720, which has been designated as
Public Law 21-115.

Sincerely yours,

JOSEPH F. ADA
Governor

210874

Attachment



Commonwealth Now!



Twenty-first Guam Legislature

155 Hesler St.
Agaña, Guam 96910

Tel. (671) 472-3461

Fax: (671) 477-1715

July 9, 1992

The Honorable Joseph F. Ada
Governor of Guam
Office of the Governor
Agana, Guam 96910

Dear Governor Ada:

Transmitted herewith is Substitute Bill No. 720, which was overridden by the Twenty-First Guam Legislature on July 6, 1992, notwithstanding your objections.

Sincerely yours,

A handwritten signature in cursive script that reads "Pilar C. Lujan".

PILAR C. LUJAN

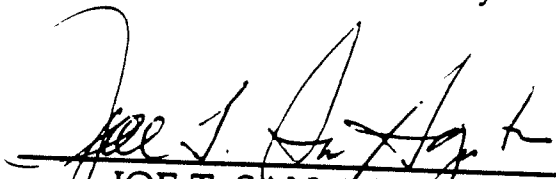
Legislative Secretary

Enclosure

TWENTY-FIRST GUAM LEGISLATURE
1992 (SECOND) Regular Session

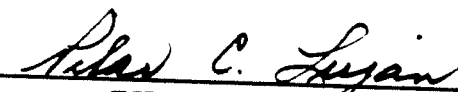
CERTIFICATION TO THE GOVERNOR OF PASSAGE OF AN ACT

This is to certify that Substitute Bill No. 720 (LS), "AN ACT TO REZONE LOTS NOS. 2025-1-1-8 AND 2025-1-1-7, SITUATED IN TAMUNING, FROM MULTI-FAMILY RESIDENTIAL (R-2) TO COMMERCIAL (C)," returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 6th day of July, 1992, agree to pass said bill notwithstanding the objection of the Governor by a vote of two-thirds or more of all the members thereof, to wit: by a vote of fifteen (15) members.




JOE T. SAN AGUSTIN
Speaker

Attested:



PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 9th day of July, 1992,
at 5:05 o'clock P.M.



Assistant Staff Officer
Governor's Office

Public Law No. 21-115

TWENTY-FIRST GUAM LEGISLATURE
1992 (SECOND) Regular Session

Bill No. 720 (LS)

As amended and substituted by the
Committee on Housing, Community
Development, Federal and Foreign
Affairs and as further substituted by
Committee on Rules

Introduced by:

F. R. Santos
E. P. Arriola
J. P. Aguon
M. Z. Bordallo
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
D. Parkinson
J. T. San Agustin
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
E. R. Dueñas
E. M. Espaldon
M. D. A. Manibusan
M. J. Reidy
M. C. Ruth
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO REZONE LOTS NOS. 2025-1-1-8 AND 2025-
1-1-7, SITUATED IN TAMUNING, FROM MULTI-
FAMILY RESIDENTIAL (R-2) TO COMMERCIAL (C).

1

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2

Section 1. Legislative statement. The assistance of the Legislature has

1 been requested by Sam Byung Han for a rezoning of property he is leasing in
2 Tamuning. The request for the rezoning is the result of a series of problems
3 which were permitted to continue and which, if unresolved, would prevent
4 Mr. Han from opening his building for its intended commercial uses. This
5 would result in the unnecessary loss of time and money to Mr. Han. As a
6 result of the rezoning of both sides of Marine Drive to Commercial, the
7 property was rezoned so that a portion of Lot No. 2025-1-1-8 is split-
8 zoned: Multi-family Residential and Commercial. This places the parcel in
9 an untenable situation where it cannot be used for either Commercial or
10 Multi-family Residential purposes because the division renders both halves
11 inadequate for their zoned purposes.

12 The Department of Public Works has advised Mr. Han that completion
13 of his building can only be permitted if the zoning of the lots is uniform.
14 However, the Legislature finds that when the building clearances were
15 issued, the problem should have been noted and Mr. Han told to proceed with
16 corrective measures prior to the issuance of building clearances and permits.

17 The consensus of the Legislature is that this situation should not be
18 permitted to continue and that Mr. Han should not be made to suffer any
19 economic loss as a result. The surrounding area is heavily commercialized
20 and, in view of this, the Legislature finds that the rezoning would not be
21 incompatible with the surrounding land uses, would not overburden the
22 infrastructure so as to make it undesirable and would definitely provide
23 public benefits.

24 **Section 2. Lots rezoned.** Lots Nos. 2025-1-1-7 and 2025-1-1-8, each
25 said to contain an area of 5663.72 square meters, situated in Tamuning,
26 Dededo, owned by Mrs. Maria Castro Ada and leased by Mr. Sam Byung

1 Han, are hereby rezoned from Multi-family Residential ("R-2") to
2 Commercial ("C").



27-4/5

**COMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
FEDERAL AND FOREIGN AFFAIRS**
TWENTY-FIRST GUAM LEGISLATURE
163 Chalan Santo Papa
Agaña, Guam 96910

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3415
Fax: (671) 477-3048

May 8, 1992

The Honorable Joe T. San Agustin
Speaker, 21st Guam Legislature
155 Hesler St.
Agana, Guam

Dear Mr. Speaker,

The Committee on Housing, Community Development, Federal and Foreign Affairs, to which was referred **BILL NO. 720: An Act to rezone certain lots in Tamuning from Multi-Family Residential (R-2) to Commercial (C)** has had the same consideration and herewith reports its recommendation **TO DO PASS** as amended and substituted by the Committee. The Committee votes were as follows:

TO DO VOTE	-8-
TO DO NOT PASS	-0-
TO REPORT OUT ONLY	-2-
OFF ISLAND/NOT VOTING	-0-

Sincerely yours,

F.R. Santos

**COMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
FEDERAL AND FOREIGN AFFAIRS
TWENTY-FIRST GUAM LEGISLATURE
163 Chalan Santo Papa
Agaña, Guam 96910**

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3415
Fax: (671) 477-3048

COMMITTEE REPORT

o n

BILL NO. 720

*An Act to to rezone certain lots in Tamuning from Multi-Family
Residential (R-2) to Commercial (C)*

May 5, 1992

**COMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
FEDERAL AND FOREIGN AFFAIRS**

TWENTY-FIRST GUAM LEGISLATURE

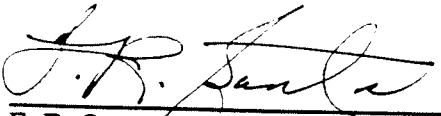
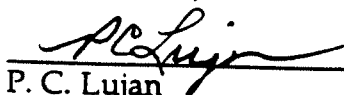

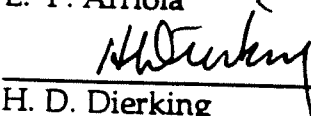
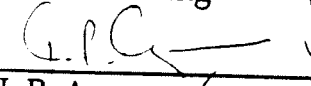
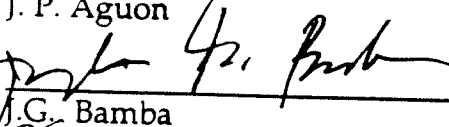

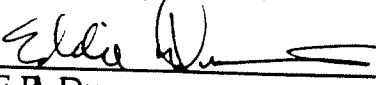
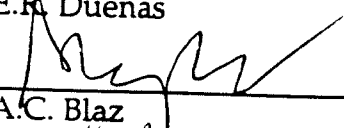
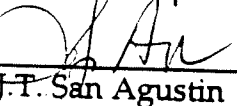
163 Chalan Santo Papa
Agaña, Guam 96910

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3415
Fax: (671) 477-3048

VOTE SHEET

BILL NO. 720: *An Act to rezone certain lots in Tamuning from Multi-Family Residential (R-2) to Commercial (C).*

Senator	To Do Pass	To Do Not Pass	Report Out Only	Not Voting
 F. R. Santos	✓			
 P. C. Lujan	✓			
 E. P. Arriola	✓			
 H. D. Dierking	✓			
 J. P. Aguon			✓	
 J.G. Bamba	✓			
 M.D.A. Manibusan	✓			
 E.R. Duenas	✓			
 A.C. Blaz	✓			
 J.T. San Agustin			✓	

TWENTY FIRST GUAM LEGISLATURE
SECOND REGULAR (1992) SESSION

Bill No. 720

As amended and substituted by the
Committee on Housing, Community Development,
Federal and Foreign Affairs.

Introduced by:

F.R. Santos



AN ACT TO REZONE LOTS NO 2025-1-1-8 AND
2025-1-1-7, SITUATED IN TAMUNING, FROM
MULTI-FAMILY DWELLING (R-2) TO
COMMERCIAL (C).

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:
3

4 SECTION 1. LEGISLATIVE STATEMENT. The
5 assistance of the Guam Legislature has been requested by Mr.
6 Sam Byung Han for a rezoning of property he is leasing in
7 Tamuning. The request for the rezoning is the result of a
8 series of problems which were permitted to continue and
9 which, if unresolved, would prevent Mr. Han from opening
10 his building for its intended commercial uses. This would in
11 the unnecessary loss of time and money to Mr. Han. As a
12 result of the rezoning of 100 feet on both sides of Marine
13 Drive, to Commercial (C) zone, property was rezoned so that a
14 portion of Lot No. 2025-1-1-8 is split zoned Multi-Family
15 Dwelling (R-2) ad Commercial (C) at the same time. This

1 places the parcel in the untenable situation where it cannot
2 be used as either Commercial (C) or Multi-Family Dwelling (R-
3 2) because the division renders both halves inadequate for
4 their zoned purposes.

5 The Department of Public Works has advised Mr. Han
6 that completion of his building can only be permitted if the
7 zoning of the lots are uniform. However, the Legislature finds
8 that when the building clearances were issued, the problem
9 should have been noted and Mr. Han told to proceed with
10 corrective measures prior to the issuance of building
11 clearances and permits.

12 The Legislature is of the consensus that this situation
13 should not be permitted to continue and that Mr. Han should
14 not be made to suffer any economic loss as a result. The
15 surrounding area is heavily commercialized and, in view of
16 this, the Legislature is of the consensus that the rezoning
17 would not be incompatible with the surrounding land uses,
18 would not overburden the infrastructure so as to make it
19 undesirable and would definitely provide public benefits.

20 **SECTION 2. LOTS REZONED.** Lots No. 2025-1-1-7 and
21 2025-1-1-8, each said to contain an area of 5663.72 square
22 meters, situated in Tamuning, owned by Mrs. Maria Castro
23 Ada and leased by Mr. Sam Byung Han, is hereby rezoned
24 from Multi-family Dwelligs (R-2) to Commercial (C).

TWENTY FIRST GUAM LEGISLATURE
SECOND REGULAR (1992) SESSION

Bill No. 720

Introduced by:


F.R. Santos

AN ACT TO REZONE LOTS NO. 2025-1-1-8
AND 2025-1-1-7, SITUATED IN TAMUNING,
FROM MULTI-FAMILY DWELLING (R-2) TO
COMMERCIAL (C).

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2

3 **Section 1. Legislative Statement:** The assistance of the
4 Guam Legislature has been requested by Mr. Sam Byung Han for
5 a rezoning of his property in Tamuning, upon which he is
6 building a commercial building with an estimated cost of
7 \$673,380 an for which the Department of Public Works has
8 assessed a permit fee of \$4,226.48. The request for the rezoning
9 is the result of a series of problems which were permitted to
10 continue and which, if unresolved, would prevent Mr. Han from
11 opening his building for its intended commercial purposes. This
12 would result in the unnecessary loss of time and money to Mr.
13 Han who, in the opinion of the Committee on Housing,
14 Community Development, Federal and Foreign Affairs, is but a
15 victim of circumstances. As a result of the rezoning of 100 feet
16 on both sides of Marine Drive, to Commercial (C), Mr. Han's

1 property was rezoned so that a portion of Lot No. 2025-1-1-8 is
2 zoned Multi-Family Dwelling (R-2) while the other portion is
3 zoned Commercial (C). This places the parcel in the untenable
4 situation where it cannot be used as either a Commercial (C) or a
5 Multi-Family Dwelling lot because the division renders both
6 halves inadequate for their zoned purpose.

7 The Department of Public Works has advised Mr. Han that
8 completion of his building can only be permitted if the zoning of
9 the lots are uniform. However, the Legislature finds that when
10 the building clearances were issued, the problem should have
11 been noted and Mr. Han told to proceed with corrective measures
12 prior to the issuance of building clearances and permits.

13 The Legislature is of the consensus that this situation should
14 not be permitted to continue and that Mr. Han should not be
15 made to suffer any economic loss as a result. The surrounding
16 area is heavily commercialized and, in view of this the
17 Legislature feels that the rezoning would not be incompatible
18 with the surrounding land uses, would not overburden the
19 infrastructure so as to make it undesirable and would definitely
20 provide public benefits.

21 **Section 2. Lot Rezoned.** Lots No. 2025-1-1-7 and
22 2025-1-1-8, each said to contain an area of 5663.72 square
23 feet, situated in Tamuning, and owned by Mr. Sam Byung Han, is
24 hereby rezoned from Multi-Family Dwelling (R-2) to Commercial
25 (C).

**COMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
FEDERAL AND FOREIGN AFFAIRS**
TWENTY-FIRST GUAM LEGISLATURE
163 Chalan Santo Papa
Agaña, Guam 96910

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3415
Fax: (671) 477-3048

COMMITTEE REPORT

on

BILL NO. 720

An Act to Rezone certain lots in Tamuning from Multi-Family Residential (R-2) to Commercial (C) and to correct an administrative oversight.

May 4, 1992

COMMITTEE FINDINGS

- The Committee finds that the rezoning of Lots No. 2025-1-1-8 and 2025-1-1-7, from Multi-Family Residential (R-2) to Commercial (C), as requested by Mr. Sam Byung Han, is the action necessary to correct an acknowledged administrative oversight on the part of the Planning Division of the Department of Land Management. *It should be noted that the parcels are being leased on a long term basis by Mr. Han from Mrs. Maria Castro Ada.*
- The Committee, after reviewing the records and interviewing employees of the Departments of Land Management and Public Works, finds that Mr. Han:
 - *did, in fact, follow all procedural regulations required for the approval of building plans and issuance of a building permit;*
 - *did, in fact, on two separate occasions prior to the issuance of any zoning clearances and building permits, provide the information necessary for the Planning Division of the Department of Land Management to accurately determine the zoning of the properties; and*
 - *did, in good faith, perform all that is required by the regulatory agencies for the issuance of approvals and clearances, as is evidenced by the*

approval and clearance signatures appearing on the building documents..

- The Committee finds that Mr. Han did, *in good faith and upon reliance on the law* as such law was administered by the regulatory departments and agencies, perform all that is required for the issuance of approvals and building clearances and that *on this reliance, Mr. Han proceeded to invest a substantial amount of money in the construction of the building in accordance with the approvals by the various regulatory agencies*

- The Committee finds that the Department of Land Management's Planning Division had two separate occasions and opportunities to determine the correct zoning for the lots contained in the Han application and that the fact that the second and final clearance was approved without further question indicates that the application and plans were not scrutinized as closely as they should have been, thus resulting in the administrative oversight.

- The Committee finds no evidence of any wrong doing on the part of Mr. Han or any employee of the government of Guam and that any error in designating or notation of the accurate zoning of the lots was simply an oversight, albeit controversial.

- The Committee was informed in an interview with key personnel of the Department of Land Management, namely the senior management official of the Planning Division and the case planner to whom the Han applications

were assigned, that had Mr. Han been required to submit a zone change application to the TLUC, the Division would recommend approval based on the following:

- the applicant's adjacent lots were previously rezoned by the TLUC. (It should be noted that in this first case, Mr. Han submitted his TLUC application after he was informed by Land Management's Planning Division that the parcels for which clearance was being requested required a zone change)

- the application for the lots presently in controversy would be substantially and substantively the same as covered by Mr. Han's application and approval by the TLUC for the rezoning granted in 1987.

- The Committee finds that Mr. Han's approach to the Guam Legislature is basically for the sake of expedition as his building is already under construction and any delays, stop work orders or other construction stoppages would be costly. However, it should be noted that the Department of Land Management has stated to the Committee that the resolution of the problems associated with the two parcels requires legislation.

- The Committee finds that the normal processing and time needed for the TLUC to act on an application could be anticipated to cause unreasonable delays and stoppages. Because the administrative oversight was no fault of Mr. Han's, the Committee finds it unreasonable that the government could or would cause such costly delays and stoppages.

- The Committee finds that this problem is not unique to Mr. Han; that there are other instances where lots were split zoned and the owners were unaware. In several of these instances, the Legislature was asked to resolve the situation by rezoning the property to its highest and best use.

- In the final analysis, the Committee finds that:

- Mr. Han's request, in light of statements from the Planning Division of Land Management, is not unreasonable, in that he initiated the construction of his building only after securing the necessary clearances and building permits;

- Mr. Han's request is not unreasonable in that the building is located in an area where several commercial buildings are already located and the new building would not be incompatible with its surroundings;

- the Department of Land Management's administrative oversight was not intentional;

- had Mr. Han been accurately informed of the zoning discrepancy he would have adhered to established procedures as he did with the first commercial structure he built; and

- Mr. Han's request of the Legislature is to correct the oversight of the administering and regulatory agency of the government in as expeditious and economical a manner as possible. It should be noted that the stoppage of work on the building is costing Mr. Han a considerable amount of money in lost time and interest payments.

• The final question to be considered by the Legislature is who shoulders the responsibility for the problem created by granting the zoning clearance for the two lots in controversy and what action should be taken, if any. Clearly, Mr. Han should not be penalized for a governmental oversight. Because of the highly commercialized character of the area in which Mr. Han's building is located, it is not difficult to understand why it was possible for an administrative oversight to occur.

• The first question has been answered with the transmittal from Land Management's Division of Planning which characterizes the zoning clearance initially granted as an administrative oversight. In such a case, Mr. Han should not be penalized for placing total reliance on the clearance granted by Land Management because who better to know the zoning of a parcel of land than those directly responsible for the administration of the zoning code.

The second question, "what to do?" becomes more difficult:

• If the Legislature decides not to take action and leave the parcels zoned that way they are, it will be difficult for work on Mr. Han's building to continue to completion. This undoubtedly would result in severe financial losses to Mr. Han. Because Mr. Han relied on Land Management's zoning clearance, and, in fact, so did the Department of Public Works, as evidenced by the granting of the building permit

based on the clearances granted by Land Management and other regulatory agencies, the final question becomes who should bear the financial responsibility for Mr. Han's losses? If there is no evidence or proof of improprieties and if the zoning clearance is the result of an administrative oversight, if the government forces a work stoppage which results in heavy financial losses to Mr. Han, it appears that the government would be responsible and liable for those losses and, quite possibly, for punitive damages.

• In light of the foregoing, the Committee recommends that the zone change requested by Mr. Han be granted and that he be permitted to continue his building

PUBLIC HEARING

The Committee on Housing, Community Development, Federal and Foreign Affairs, to which was referred Bills No. 720, conducted a public hearing on said measure on January 30, 1992 in the Legislative Public Hearing Room, at 9:00 A.M. Committee members present at the hearing were:

- Sen. Francisco R. Santos, Chairman
- Sen. Pilar C. Lujan, Vice Chair
- Sen. John P. Aguon
- Sen. Herminia D. Dierking
- Sen. Elizabeth P. Arriola

- Sen. Anthony C. Blaz
- Sen. Marilyn D.A. Manibusan
- Sen. Edward R. Duenas
- Sen. Doris Flores Brooks

TESTIMONIES PRESENTED

Appearing before the Committee were:

- Mr. Sammy Byung Han, building owner
- Mr. William Ashe, property owner
- Mr. Frank Castro, Director, DLM

The Bureau of Planning submitted testimony against the provisions of the proposed legislation based on Planning's standard objections to any rezoning measures, namely, that all rezonings should be submitted through the Territorial Land Use Commission and the Development Review Committee.

TESTIMONY OF MR. SAMMY HAN

Mr. Sammy Han informed the Committee that he had secured the two parcels for which he is requesting rezoning, through a long term lease with Mrs. Maria Castro Ada, the owner of record of the two parcels. Mrs. Ada's son, Mr.

Tommy Ada, confirmed that the property belonged to his mother and that the property was being leased to Mr. Han. Mr. Ada noted that neither he nor his mother objected to the zone change if such change is what is needed for the maximum utilization of the property.

Mr. Sammy Han testified that he approached the Legislature because he was informed that there was no way the TLUC could handle the problem in an expeditious manner which would enable the containment of costs associated with long delays. (Mr. Han also informed the Committee that he would not have approached the Committee and would have utilized the TLUC process, as he did in previous instances, to secure a zone change in order for him to build his other commercial building.

Complying with building regulations, Mr. Han submitted his plans and a request for zoning clearance to the Department of Land Management's Planning Division. The initial zoning clearance was granted with instructions to Mr. Han to submit more specific plans and drawings. Upon submittal of the required plans and drawings the final clearance was granted. With reliance on the zoning clearance granted, Mr. Han initiated the process to secure a building permit. Had the zoning clearance not been granted, Mr. Han would have been required to apply to the TLUC for a zone change. Because of the zoning clearance, application to the TLUC and DRC review was not required nor necessary.

After securing the necessary Land Management clearances, Mr. Han proceeded to obtain his building permit from DPW. The building permit was granted on reliance of the zoning clearance granted by Land Management. Mr. Han proceeded with the construction of the building upon receiving the building permit from DPW.

It was during one of the regular inspections by DPW that Mr. Han was informed that the work on the building would have to stop and he would have to secure a zone change because a portion of one of the lots and the entire second lot on which the building was being built was zoned Multi-Family Residential (R2) and not Commercial (C) as indicated by the zoning clearance from Land Management.

In a quandry, Mr. Han sought legal and land use consultant advice on what approach to take. He was informed that it would be difficult for the TLUC to grant a zone change after the fact and that the best approach to this problem would be through the Legislature. Mr. Han approached the Committee chair on this matter and a public hearing was scheduled.

After the public hearing, the Committee conducted research on the matter and arrived at the following conclusions:

- it appears that there were no attempts to circumvent or by-pass the zoning regulations.
- it appears that the problem was simply an oversight or simple mistake of those responsible for zoning clearances.

- a review of the DPW permitting records indicate that all procedures were followed as if the zoning clearances were accurate; while a review of the DLM records indicate that the clearance may have been given in mistake for a previous clearance given Mr. Han by the TLUC.

TESTIMONY OF MR. WILLIAM ASHE

Mr. William Ashe testified against the rezoning of the two parcels being leased by Mr. Han. Mr. Ashe informed the Committee that he is the owner of a lot contiguous and behind (in relation to Marine Drive) the lots in controversy. The property owner stated that when the construction of the commercial building began, he questioned the Department of Land Management as to when there would be a hearing on rezoning the property. The gentleman noted that he informed Land Management that he would object to the rezoning and to the building of a commercial structure on the property. (It was not ascertained as to whether Mr. Ashe was informed that there would be no public hearing on a zone change as the parcels and building plans had already received a zoning clearance from the Planning Division.)

Mr. Ashe noted that his objections to the rezoning of the property was that the use of the property for commercial purposes would cause a great deal of congestion, particularly vehicular traffic, in the area. He noted that he was of the

opinion that the structure was being built on the right of way and easement for other property owners.

(In reviewing the TLUC records of the rezoning process for Mr. Han's other parcels it was noted that Mr. Ashe did not file any objections to the rezoning of the contiguous lots for the same purposes as the rezoning is being requested for Lots No. 2025-1-1-7 and 2025-1-1-8.)

TESTIMONY OF MR. FRANK CASTRO, DIRECTOR, DLM

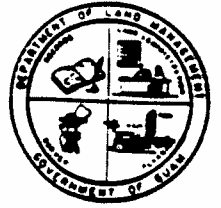
Mr. Frank Castro, Director of Land Management, though earlier deferring to the decision of the Legislature in this zoning matter, informed the Committee that he would look into the matter of how the zoning clearance was granted on both the initial and then the final application and submission. Mr. Castro noted to the Committee that he could not respond at that moment but that he would submit a response to the Committee after performing research into the matter.



DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON TANO')

GOVERNMENT OF GUAM
P.O. BOX 2950
AGANA, GUAM 96910

TEL: (671) 475-LAND/FAX: (671) 477-0883



JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

F. L.G. CASTRO
Director

March 11, 1992

JOAQUIN A. ACFALLE
Deputy Director

Honorable Francisco R. Santos
Chairman
Committee on Housing, Urban Development,
Federal & Foreign Affairs
Twenty-First Guam Legislature
155 Hessler Street
Agana, Guam 96910

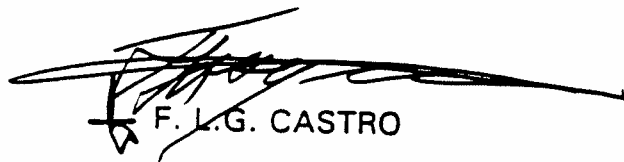
Re: Department's Letters of 01/31/92 and 02/03/92

Dear Senator Santos:

As explained in my letters of January 31 and February 3, 1992 (enclosed) relative to Bill 720 on the re-zoning of Lots 2025-1-1-7 and 2025-1-1-8 in Tamuning from "R-2" (Multi-Family Dwelling) to "C" (Commercial) zone is to correct the deficiencies caused by the construction of the structure on the said lot through an oversight of the government permitting process.

Should you have additional questions, please do not hesitate to call my office.

Sincerely,


F. L.G. CASTRO

Enclosures





OFFICE OF THE DIRECTOR
DEPARTMENT OF LAND MANAGEMENT
P. O. Box 2950
GOVERNMENT OF GUAM
AGANA, GUAM 969

Telephone Number: (671) 475-5263

Telecopier Number: (671) 477-0883

TELECOPIER INFORMATION PAGE

Please deliver to: Senator Frank Santos

From: F. L.G. CASTRO

Their Telecopier Number: 477-3048

Total pages including this page 2

NOTICE: If you do not receive legible copies of all the pages, please call back as soon as possible: (671) 475-5263 and ask for sender.

Sent by: CATHY

ON: 03 FEB 92

Time Sent: 11:15 am

RE: To amend the word ALTERNES contained in the last sentence of DLM Findings #3 in the letter dated January 31, 1992

COMMENTS

Pls. confirm receipt. Original & attachments will follow.



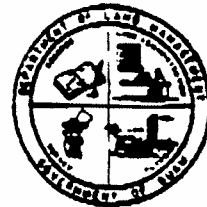
DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON MANMANEHAN TANO')

GOVERNMENT OF GUAM

P.O. BOX 2950

AGANA, GUAM 96910

TEL: (671) 475-1AND/FAX: (671) 477-0883



JOSEPH F. ADA
Governor

F. L.G. CASTRO
Director

FRANK P. BLAS
Lieutenant Governor

JOAQUIN A. ACFAJLE
Deputy Director

February 3, 1992

Honorable Francisco R. Santos
Chairman, Committee on Housing and
Urban Development, Federal and Foreign Affairs
Twenty First Guam Legislature
Agana, Guam 96910

RE: To Amend the word ALTERING contained in the last sentence of DLM Findings #3 in the letter dated January 31, 1992

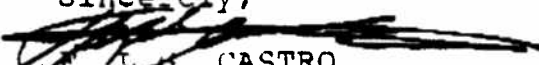
Dear Senator Santos:

In my efforts to provide quick and accurate information relative to the recent public hearing on Bill 720, in which I outlined Mr. William Ashe's complaint and the resulting findings of my staff. I would like to direct your attention to DLM Findings No. 3, page 2, of the report on Line 12; "Furthermore, an attached copy of the Building Permit and Plan Review shows an altering of the Lot Number to include 2025-1-1-7."

This particular wording was used at the outset because of its apparent inclusion on the permit manually versus the type-written portions of the document. However, during a recent meeting with the director of Public Works and the Acting Governor, I wish to convey to you Honorable Senator that the insertion was made by the typist of the Building Permits Section in order to reflect the Lot Numbers contained in the Application with the permits.

I regret the implications that any wrongful intent or willful fraud was committed by any agency or individual. The proper word should have been "corrected" to reflect the action taken by the agency. As such, the information I have provided are true and correct to the best of knowledge provided by my staff.

Sincerely,


F. L.G. CASTRO
Director, Department of
Land Management



**DEPARTMENT OF LAND MANAGEMENT
(DIPARTAMENTON MANGGEMAN TANO')
GOVERNMENT OF GUAM
P.O. BOX 2950
AGANA, GUAM 96910**



JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

F. L.G. CASTRO
Director

JOAQUIN A. ACVALLE
Deputy Director

January 31, 1992

Honorable Francisco R. Santos
Chairman, Committee on Housing and Urban Development;
Committee on Federal and Foreign Affairs
Twenty-First Guam Legislature
155 Hessler Street
Agana, Guam M.I. 96910

Re: Reply on Request for Information Regarding the January 30, 1992
Legislative Public Hearing on Bill 720

Dear Senator Santos:

During the January 30, 1992 public hearing held at the Legislative Building relative to Bill 720 on the rezoning of Lot 2025-1-1-7 and 2025-1-1-8 for Mr. San Byunhan from "R-2" to "C" zone your Committee asked for an explanation regarding Mr. William Ashe's testimony. Mr. Ashe testified against the rezoning due mainly to a complaint filed with the Department of Land Management on December 13, 1991 citing numerous alleged violations of the Zoning Law and other land use laws. The following is the findings of facts:

Mr. Ashe's Complaint:

1. Mr. Ashe's complaint (Attachment 1) was that the business currently operating as Tamuning Plaza Hotel has increased in commercial activities thereby creating insufficient parking for the activities.
2. The structure is straddling lots thereby creating a Zoning Law setback violation.



Honorable Senator Santos

**Re: Reply on Request for Information Regarding the January 30, 1992
Legislative Public Hearing on Bill 720**

January 31, 1992

Page 2

3. No Territorial Land Use Commission (TLUC) approval was given to authorized the increase intensity of the Tamuning Plaza Hotel.
4. No Territorial Land Use Commission (TLUC) approval was given to authorized the setback variance of the new structure on Lots 2025-1-1-7 and 2025-1-1-8.

DLM Findings:

Upon receipt of Mr. Ashe's complaint a Case Planner, Mr. James Cruz, was assigned to answer the inquiries and resolve the issues. Mr. Cruz's investigation lead to several conclusions:

1. Lot 2025-1-1-8, by TPC zone changed action of August 7, 1987 had been rezoned to Commercial while Lot 2025-1-1-7 is an R-2 zone. With this in mind, Mr. Ashe's testimony before the Legislature on January 30, 1992 that both of the said lots are within an R-2 zone is incorrect.
2. The activities within Tamuning Plaza Hotel are well within the legal use of the building as approved by the former Territorial Planning Commission in January 25, 1989 to allow for a three (3) storey hotel, commercial activities and office spaces. The parking requirements for this TPC approved development was within and still is in compliance with the Zoning Law Parking Regulation.
3. The new commercial office structure was issued a building construction permit on October 17, 1991 by the Department of Public Works to construct a two (2) storey commercial building on Lots 2025-1-1-7 and 2025-1-1-8 (Attachment 2). However, the Department of Land Management only cleared off on the building construction for Lot 2025-1-1-8 which is zoned "C" Commercial (TPC Zone Changed August 7, 1987). In addition, the Department of Land Management requested for additional information as shown on the Application for Building Permit & Plan Review (Attachment 3) in order to ascertain the validity of the property map (Attachment 4). To date, the Contractor, K-I Construction Company has not submitted an officially recorded property map. Furthermore, an attached copy of the Building Permit & Plan Review shows an altering of the Lot Number to include 2025-1-1-7.

Honorable Senator Santos

**Re: Reply on Request for Information Regarding the January 30, 1992
Legislative Public Hearing on Bill 720**

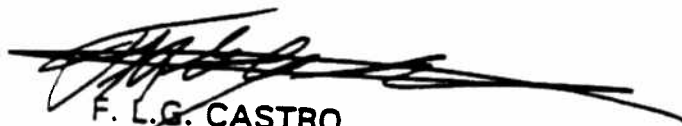
January 31, 1992

Page 3

3. As shown on the January 25, 1989 TPC Minutes, an approval was given to authorize the hotel, commercial activities and office spaces which provided sufficient parking. Furthermore, for all hotel applications, a parking requirement for busses is applied prior to the TPC authorizing the approval of this type of land use application.

Accordingly, the Department of Land Management contends that Mr. Ashe's complaints were addressed to the incorrect agency and that the issue of the new structure on Lots 2025-1-1-8 and 2025-1-1-7 and traffic circulation issue should be addressed by the Department of Public Works for clarification and enforcement of any alleged violations.

In conclusion, Bill 720 to rezone the property from "R-2" to "C" is to correct the deficiency caused by the construction of the structure on 2025-1-1-7.



F. L. G. CASTRO

Director

Department of Land Management

Attachments

February 3, 1992

Honorable Francisco R. Santos
Chairman, Committee on Housing and
Urban Development, Federal and Foreign Affairs
Twenty First Guam Legislature
Agana, Guam 96918

RE: To Amend the word ALTERING contained in the last
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January 31, 1992

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"Furthermore, an attached copy of the Building Permit and
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I regret the implications that any wrongful intent or willful
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by the agency. As such, the information I have provided are
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Sincerely,

F. L.G. CASTRO

Director, Department of

Attachment



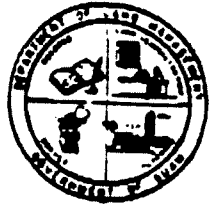
DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON TANO')

GOVERNMENT OF GUAM

P.O. BOX 2950

AGANA, GUAM 96910

TEL: (671) 475-LAND/FAX: (671) 477-0883



JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

F. L.G. CASTRO
Director

March 11, 1992

JOAQUIN A. ACFALL
Deputy Director

Honorable Francisco R. Santos
Chairman
Committee on Housing, Urban Development,
Federal & Foreign Affairs
Twenty-First Guam Legislature
155 Hessler Street
Agana, Guam 96910

Re: Department's Letters of 01/31/92 and 02/03/92

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As explained in my letters of January 31 and February 3, 1992 (enclosed) relative to Bill 720 on the re-zoning of Lots 2025-1-1-7 and 2025-1-1-8 in Tamuning from "R-2" (Multi-Family Dwelling) to "C" (Commercial) zone is to correct the deficiencies caused by the construction of the structure on the said lot through an oversight of the government permitting process.

Should you have additional questions, please do not hesitate to call my office.

Sincerely,


F. L.G. CASTRO

Enclosures



Office of the Mayor

MUNICIPALITY OF TAMUNING - TUMON
GOVERNMENT OF GUAM
c/o Mayor's Council of Guam
P.O. Box 786 Agana, Guam 96910
Phones: 646-8646 / 646-5211

4-1-92
RECEIVED
11:06

ALFREDO C. DUNGCA
MAYOR

March 31, 1992

TERESITA C. BORJA
VICE-MAYOR

The Honorable Francisco R. Santos
Chairman
Committee on Housing, Urban Development
Federal & Foreign Affairs
Twenty-First Guam Legislature
Agana, Guam 96910

Re: Rezoning of Lots 2025-1-1-7 and 2025-1-1-8

Dear Senator Santos:

We are writing to you in hopes of receiving your utmost assistance.

We were approached by Mr. Sam Han who had requested a rezone of the above-mentioned lots from Multi-family Dwelling (R2) to Commercial Zone (C).

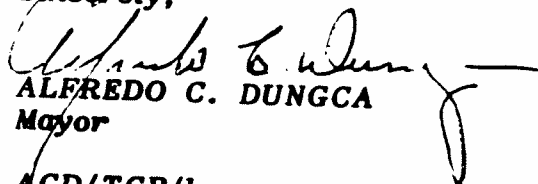
Senator, four (4) months has passed and nothing as of yet has been done to show the expedition of rezoning, as it was an oversight of Building Permit and Land Management's part, we surely can not go and have the building demolished due to an agency's mistake.

Please find attached copies of letters and other pertinent information regarding the above matter.

We would like at this time to request that rezoning be granted so that Mr. Han can continue his business.

Thanking you in advance for your expeditious response. If you should need further information, please do not hesitate to contact us at the above-mentioned numbers.

Sincerely,


ALFREDO C. DUNGCA
Mayor


TERESITA C. BORJA
Vice-Mayor

ACD/TCB/lmw

cc: Governor Joseph F. Ada
Mr. Sam Han
Chrono File

Attachments



DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON TANO')

GOVERNMENT OF GUAM

P.O. BOX 2950

AGANA, GUAM 96910

TEL: (671) 475-LAND/FAX: (671) 477-0883



JOSEPH F. ADA
Governor

F. L.G. CASTRO
Director

FRANK F. BLAS
Lieutenant Governor

March 11, 1992

JOAQUIN A. ACPALLE
Deputy Director

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Chairman
Committee on Housing, Urban Development,
Federal & Foreign Affairs
Twenty-First Guam Legislature
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Should you have additional questions, please do not hesitate to call my office.

Sincerely,

F. L.G. CASTRO

Enclosures



OFFICE OF BUILDING PERMITS & INSPECTION

TERRITORY OF GUAM BUILDING PERMIT

DATE OCTOBER 17, 1991 PERMIT NO. 3729

Applicant K-I CONSTRUCTION CO, Address 123957, TAMUNING

Permit To NEW CONSTRUCTION 2 (Type of Improvement) (No.) Story 2 Number of Dwelling Units 4 (Contr's 4678e)

At (Location) OFFICE (Proposed Use) Zoning District C

Between TAMUNING (Cross Street) And _____ (Cross Street)

Tract No. _____ Lot _____ Block _____

Building is to be 29 Ft. Wide By 135 2025-1-18/7 Ft. Long By 20 Ft. In Height And Shall Conform In Construction

To Type II Use Group B-2 Basement Walls Or Foundation CONCRETE

Remarks: _____

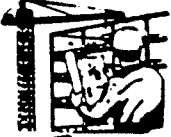
Area or Volume 7,830 SQ. FT. Estimated Cost \$ \$673,380.00 Permit Fee \$ \$4,226.48

Owner HAN SAM B.
1680,
AGANA

Building Official [Signature]
DIRECTOR OF PUBLIC WORKS



BUILDING SAFETY IS NO ACCIDENT



APPLICATION FOR BUILDING PERMIT & PLAN REVIEW
 DIVISION OF BUILDING PERMITS, SUBDIVISION & INSPECTION

Application Number: 2827

Permit Number: _____

TO BE FILLED OUT BY BUILDING PERMIT STAFF ONLY

V. PLAN REVIEW RECORD

Plans Review Required	Date Plans Started	Date Plans Approved	Comments
Architectural		10/10/91	APPD
Structural		10/10/91	APPD
Mechanical/Plumbing		2-6-91	
Electric		7/28/91	APPD
Hydraulic	9/21/91	10/10/91	SEE DEFINITION ✓ OK
Highway Encroachment			
Rights of Way			
Traffic Engineering			

VI. ZONING PLAN EXAMINATION RECORD

District: _____
 Use: _____
 Front Yard: _____
 Side Yard: _____
 Rear Yard: _____ Side Yard: _____
 Notes: _____

VII. APPROVAL BY OTHER AGENCIES (Route as Indicated)

Agency	Date	Signature	Comments
Land Management, Zone	6/7/91	APPD	
Contractor's License Board			
Public Health			
E.P.A.	9/16/91	APPD	OK
Public Utilities			
Guam Power Authority			
Fire Prevention Bureau			
Guam Telephone Authority			
GHURA	8-21-91	M. Clemente	

Permission is hereby given to the above work according to conditions hereon and according to approved plans and specifications pertaining thereto, subject to compliance with the Uniform Building Code and Government Code of Guam.

VIII. VALIDATION

Building Permit Number: 2727
 Building Permit Issued: 11/17 19 11
 Approved Valuation: 673,200
 Plan Checking fee: 1,600.00



**APPLICATION FOR PERMIT & PLAN REVIEW
DIVISION OF BUILDING PERMITS**

IMPORTANT: Applicant must complete all items in sections I, II, III, IV

Application Number: 2027
Permit Number: _____

I. LOCATION OF BUILDING

Location TANJUNING Lot 2025-1-1-A/7 Zoning District C
 Between _____ (Cross Street) and _____ (Cross Street)
 Subdivision _____ and Block _____ Lot Size 171 x 171

II: TYPE AND COST OF BUILDING

A. Type of Building
 New Building
 Foundation Only
 Shell Only
 Fence Wall
 Retaining Wall
 Other _____
 Add
 Alter
 Repair
 Demolished
 Reconstructed
 Relocated
 Group Occupancy 1-270A Type of Construction SI Foundation _____
 Dimension of Building 21' x 171' x 171'

B. Ownership
 Private (individual, corporation, non-profit institution, etc.)
 Public (Federal, State, or Local Government)

C. COST

Cost of Improvements _____
 electrical _____
 plumbing _____
 heating, air conditioning _____
 other (elevator, etc.) _____

Nonresidential - Describe in detail proposed use of buildings, e.g., food processing plant, machine shop, laundry building at hospital, elementary school, secondary school, college, parochial school, parking garage for department store, rental office building, office building at industrial plant. If use of existing building is being changed, enter proposed use.
Proposed Commercial Building for Office Use

TOTAL COST OF IMPROVEMENT \$ 200,000

D. PROPOSED USE - (For "Wrecking" most recent use)

Residential
 One family
 Two or more families
 Enter No. of Units _____
 Garage
 Carport
 Other (specify) _____
 Transient hotel, motel, or dormitory
 Enter No. of Units _____

Non-Residential
 Amusement, Recreational
 Church, other religious
 Industrial
 Parking garage
 Service station, repair garage
 Hospital, institutional

Office, bank, professional
 Public utility
 School, library, other educational
 Stores, mercantile
 Tanks, towers
 Other (specify) _____

III. SELECTED CHARACTERISTICS OF BUILDING

for new buildings and additions, complete Parts E - K, for wrecking, complete only Part I, for all others skip to IV.

E. Principal Type of Frame

Masonry (wall bearing)
 Wood frame
 Structural steel
 Reinforced concrete
 Other (specify) _____

F. Type of Sewage Disposal

Public Sewer
 Private (septic tank, etc.)

G. Type of Mechanical

Yes No Central Air Conditioning
 Yes No Will there be an elevator?

H. Type of Water Supply

Public Supply
 Private (well, cistern)

Total square feet of floor area, all floors, based on exterior dimensions
17930 SF
 Total land area, sq. ft.
14499 sq. ft.

J. Number of Off-street Parking Spaces

Enclosed _____
 Outdoors _____

K. Residential Buildings Only

Number of bedrooms _____
 Number of Bathrooms } Full _____
 } Partial _____

IV. IDENTIFICATION

	Name	Mailing Address - Number, street, city, and state	ZIP Code	Telephone
1. Owner or Lessee	SAM R. WAN	P.O. Box 1620 Agaña, Guam	96910	69-6-0312
2. Contractor	K-1 CONSTRUCTION	Unit # 417 7th St. Agaña, Guam		
3. Architect or Engineer	Antonio C. Herrera	#120		

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

DECEMBER 24, 1991

SENATOR FRANCISCO R. SANTOS
CHAIRMAN
COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT
FEDERAL AND FOREIGN AFFAIRS
TWENTY-FIRST GUAM LEGISLATURE
155 HESLER ST. AGANA, GUAM

DEAR SENATOR SANTOS:

I, SAM BYUNG HAN RESPECTFULLY REQUEST YOUR ASSISTANCE IN THE REZONING OF LOT NOS. 2025-1-1-7 AND 2025-1-1-8 FROM MULTI-FAMILY DWELLING R-2 TO COMMERCIAL.

THE PURPOSE OF THIS REQUEST IS TO COMPLETE THE CONSTRUCTION OF A COMMERCIAL BUILDING AND REQUIRED PARKING FACILITIES ON THE SAID LOT. ALTHOUGH BUILDING PERMITS HAVE BEEN SECURED FOR SAID PROJECT, ONLY A PORTION OF THE PROPERTY (LOT NO. 2025-1-1-8) IS PRESENTLY ZONED COMMERCIAL. IN ORDER TO FACILITATE THE COMPLETION OF SAID PROJECTS, I HAVE BEEN ADVISED BY PUBLIC WORKS THAT FULL ZONING OF THE LOTS ARE NECESSARY.

I AM ENCLOSING HERewith A MAP THAT WOULD HOPEFULLY CLARIFY THE ASSISTANCE I NEED. AS YOU WILL NOTE, LOT NO. 2025-1-1-8 IS PRESENTLY ZONED COMMERCIAL IN PART AND IT WAS ON THIS BASIS THAT THE BUILDING PERMIT AND AUTHORIZATION TO CONSTRUCT WAS GRANTED. ONLY AFTER THE COMMENCEMENT OF THE CONSTRUCTION WORK WAS THE DISCREPANCY BROUGHT TO MY ATTENTION BY THE SAID AUTHORITIES.

SHOULD YOU REQUIRE ANY ADDITIONAL INFORMATION ON MY PART, KINDLY CONTACT ME AT 646-4271.

IN THE MEANTIME, I HOPE THAT YOU WILL BE ABLE TO TAKE THIS REQUEST UNDER CONSIDERATION.

SINCERELY YOURS,


SAM BYUNG HAN

TWENTY FIRST GUAM LEGISLATURE
SECOND REGULAR (1992) SESSION

Bill No. 720

Introduced by:


F.R. Santos

AN ACT TO REZONE LOTS NO. 2025-1-1-8
AND 2025-1-1-7, SITUATED IN TAMUNING,
FROM MULTI-FAMILY DWELLING (R-2) TO
COMMERCIAL (C).

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2

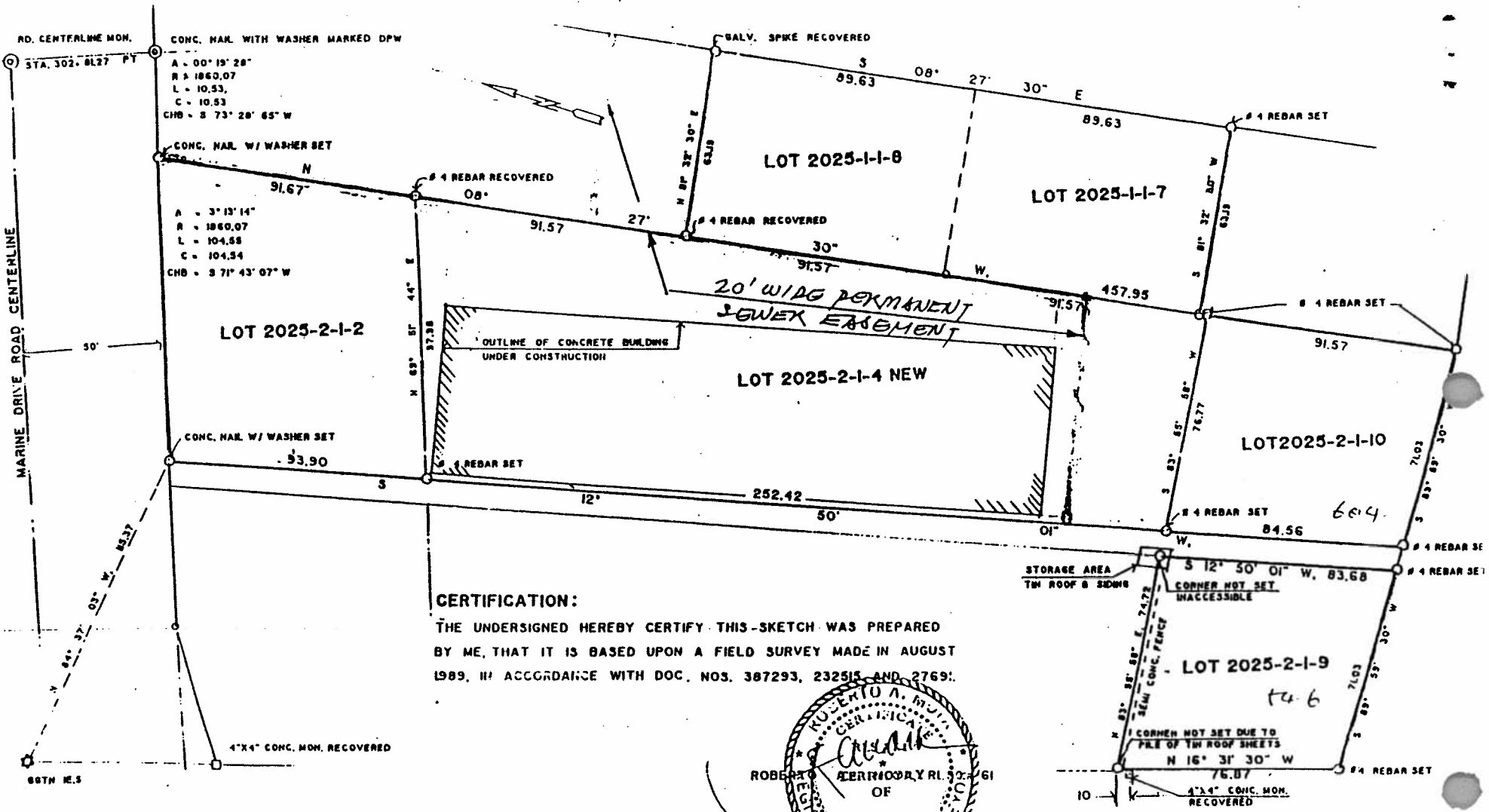
3 Section 1. Legislative Statement: The assistance of the
4 Guam Legislature has been requested by Mr. Sam Byung Han for
5 a rezoning of his property in Tamuning, upon which he is
6 building a commercial building with an estimated cost of
7 \$673,380 an for which the Department of Public Works has
8 assessed a permit fee of \$4,226.48. The request for the rezoning
9 is the result of a series of problems which were permitted to
10 continue and which, if unresolved, would prevent Mr. Han from
11 opening his building for its intended commercial purposes. This
12 would result in the unnecessary loss of time and money to Mr.
13 Han who, in the opinion of the Committee on Housing,
14 Community Development, Federal and Foreign Affairs, is but a
15 victim of circumstances. As a result of the rezoning of 100 feet
16 on both sides of Marine Drive, to Commercial (C), Mr. Han's

1 property was rezoned so that a portion of Lot No. 2025-1-1-8 is
2 zoned Multi-Family Dwelling (R-2) while the other portion is
3 zoned Commercial (C). This places the parcel in the untenable
4 situation where it cannot be used as either a Commercial (C) or a
5 Multi-Family Dwelling lot because the division renders both
6 halves inadequate for their zoned purpose.

7 The Department of Public Works has advised Mr. Han that
8 completion of his building can only be permitted if the zoning of
9 the lots are uniform. However, the Legislature finds that when
10 the building clearances were issued, the problem should have
11 been noted and Mr. Han told to proceed with corrective measures
12 prior to the issuance of building clearances and permits.

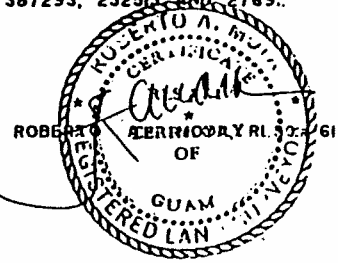
13 The Legislature is of the consensus that this situation should
14 not be permitted to continue and that Mr. Han should not be
15 made to suffer any economic loss as a result. The surrounding
16 area is heavily commercialized and, in view of this the
17 Legislature feels that the rezoning would not be incompatible
18 with the surrounding land uses, would not overburden the
19 infrastructure so as to make it undesirable and would definitely
20 provide public benefits.

21 **Section 2. Lot Rezoned.** Lots No. 2025-1-1-7 and
22 2025-1-1-8, each said to contain an area of 5663.72 square
23 feet, situated in Tamuning, and owned by Mr. Sam Byung Han, is
24 hereby rezoned from Multi-Family Dwelling (R-2) to Commercial
25 (C).



CERTIFICATION:

THE UNDERSIGNED HEREBY CERTIFY THIS SKETCH WAS PREPARED BY ME, THAT IT IS BASED UPON A FIELD SURVEY MADE IN AUGUST 1989, IN ACCORDANCE WITH DOC. NOS. 387293, 232515 AND 27691.



RETRACEMENT SURVEY

LOT NOS. 2025-1-1-8, 2025-1-1-7, 2025-2-1-2, 2025-2-1-4 NEW, 2025-2-1-10 AND 2025-2-1-9
 SCALE = 1" = 40'

TWENTY FIRST GUAM LEGISLATURE
SECOND REGULAR (1992) SESSION

JAN 10 '92

Bill No. 720 (LS)

Introduced by:

F.R. Santos

AN ACT TO REZONE LOTS NO. 2025-1-1-8
AND 2025-1-1-7, SITUATED IN TAMUNING,
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14 not be permitted to continue and that Mr. Han should not be
15 made to suffer any economic loss as a result. The surrounding
16 area is heavily commercialized and, in view of this the
17 Legislature feels that the rezoning would not be incompatible
18 with the surrounding land uses, would not overburden the
19 infrastructure so as to make it undesirable and would definitely
20 provide public benefits.

21 **Section 2. Lot Rezoned.** Lots No. 2025-1-1-7 and
22 2025-1-1-8, each said to contain an area of 5663.72 square
23 feet, situated in Tamuning, and owned by Mr. Sam Byung Han, is
24 hereby rezoned from Multi-Family Dwelling (R-2) to Commercial
25 (C).