



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

DEC 27 2002

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 246 (COR), "AN ACT TO REZONE LOT NO. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURAL TO A COMMERCIAL ZONE", which was **signed** by the Governor into law as **Public Law No. 26-159**.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker

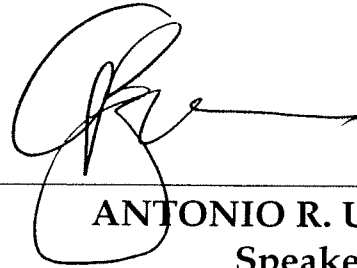
RECEIVED	LEGISLATIVE SECRETARY
By:	
Title: _____	
Date: 12/30/02	

01019

MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2002 (SECOND) Regular Session

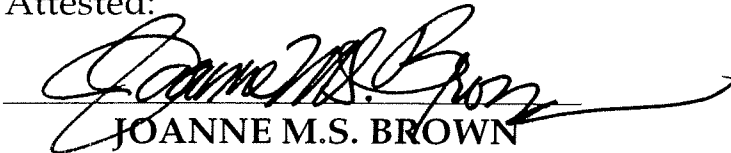
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Bill No. 246 (COR) "AN ACT TO REZONE LOT NO. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURAL TO A COMMERCIAL ZONE," was on the 24th day of December, 2002, duly and regularly passed.



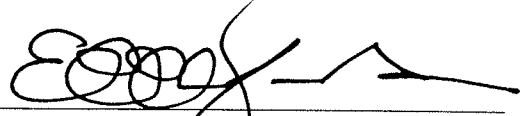
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 24TH day of DECEMBER, 2002,
at 10:00 o'clock P. .M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 12-27-02

Public Law No. 26-159

MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (First) REGULAR SESSION

Bill No. 246 (COR)

As amended.

Introduced By:

J. F. Ada
T. C. Ada
F. B. Aguon, Jr.
J. M.S. Brown
E. B. Calvo
F. P. Camacho
M. C. Charfauros
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. L. G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO REZONE LOT NO. 45-2-NEW-4, PITI
AND AGAT, GUAM FROM AN AGRICULTURAL
TO A COMMERCIAL ZONE.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that Mr. Joseph R. Roberto owns Lot Number 45-2-NEW-4, Piti and
4 Agat, Guam, containing an area of *approximately* eighty-seven thousand four
5 hundred fifty six (87,456) square feet, which is presently zoned for

1 agricultural use. Constructed on the subject property is a nine thousand six
2 hundred (9,600) square foot warehouse building. Previously, Mr. Roberto
3 received a variance for the use of the warehouse to store non-agricultural
4 products, granted through the then Territorial Land Use Commission. The
5 warehouse originally stored *solely* agricultural-related products.

6 *I Liheslaturan Guåhan* finds that surrounding Mr. Roberto's Agat lot are
7 currently numerous other lots being utilized, and are logically zoned, for
8 industrial and commercial uses. Surrounding businesses include a Shell
9 Guam, Inc. large oil refinery/storage facility, a Nissan used car lot, a Taco Bell
10 and a Pizza Hut. *I Liheslaturan Guåhan* further finds that the operation of a
11 commercial establishment on Lot Number 45-2-NEW-4, Agat, Guam, is
12 wholly consistent with the zoning and uses of surrounding lots, and would
13 *not* impose a nuisance or incompatible use with the adjacent properties.

14 **Section 2. Rezoning Mandate.** Lot Number 45-2-NEW-4 located in
15 municipality of Piti and Agat, Guam, containing an area of *approximately*
16 eighty-seven thousand four hundred fifty-six (87,456) square feet is hereby
17 rezoned from "A" (Agricultural Zone) to "C" (Commercial Zone).

18 **Section 3. Severability.** *If* any provision of this Law or its application
19 to any person or circumstance is found to be invalid or contrary to law, such
20 invalidity shall *not* affect other provisions or applications of this Law which
21 can be given effect without the invalid provisions or application, and to this
22 end the provisions of this Law are severable.

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 12/24/02

VOTING SHEET

Bill No. 246

Resolution No. _____

Question: Voted about engrossment.

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.					✓
BROWN, Joanne M. S.	111	✓			
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	1	✓			
CHARFAUROS, Mark C.					✓
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.					✓
UNPINGCO, Antonio R.	111	✓			
WON PAT, Judith T.	111	✓			

TOTAL

9 3 0 0 3

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Chairman:
**Committee on Power,
Public Safety and
the Judiciary**

Suite 5A • Sinajana Shopping Mall II
777 Route 4 • Sinajana, Guam 96926

Phone 1.671 472-3431
Fax 1.671 472-3433

15 November 2002

The Honorable Antonio R. Unpingco
Speaker
I Mina' Bente Sais Na Liheslaturan Guahan
155 Hessler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Power, Public Safety and Judiciary, to which was referred **Bill No. 246 (COR)**, "AN ACT TO REZONE LOT No. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURE TO A COMMERCIAL ZONE," does hereby report back with the recommendation **TO DO PASS**.

The Committee votes are as follows:

- 6 To Pass
- Not To Pass
- To The Inactive File
- Abstained
- 3 Off-Island
- 1 Not Available

A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

Joseph F. Ada
JOSEPH F. ADA

VOTING SHEET

BILL 246 (COR)

Committee on Power, Public Safety and the Judiciary

COMMITTEE MEMBER	RECOMMEND: TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE	Signature
Senator Joseph F. Ada, Chairman	✓					<i>Joseph F. Ada</i>
Senator Kaleo S. Moylan, Vice Chairman						
Speaker Antonio R. Unpingco						
Vice Speaker Larry F. Kasperbauer	✗					<i>Larry F. Kasperbauer</i>
Senator Tom C. Ada	✓					<i>Tom C. Ada</i>
Senator Eddie B. Calvo	✓					<i>Eddie B. Calvo</i>
Senator Felix P. Camacho						
Senator Mark C. Charfauros						
Senator Mark Forbes	✓					<i>Mark Forbes</i>
Senator Angel L.G. Santos	✓					<i>Angel L.G. Santos</i>

COMMITTEE REPORT

ON

BILL NO. 246 (COR)

COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY

“AN ACT TO REZONE LOT No. 45-2-NEW-4, PITI AND AGAT, GUAM FROM
AN AGRICULTURAL TO A COMMERICAL ZONE.”

COMMITTEE MEMBERS

Chairman: Joseph F. Ada

Vice Chairman: Kaleo S. Moylan

Ex-Officio Member: Antonio R. Unpingco

Lawrence F. Kasperbauer, Member

Thomas C. Ada, Member

Eddie B. Calvo, Member

Felix P. Camacho, Member

Mark C. Charfauros, Member

Mark Forbes, Member

Angel L.G. Santos, Member

COMMITTEE REPORT
COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY

BILL NO. 246 (COR)

“AN ACT TO REZONE LOT No. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURAL TO A COMMERICAL ZONE.”

I. PUBLIC HEARING

The Committee on Power, Public Safety and Judiciary held a public hearing on March 21, 2002 AT 10:00 a.m. to hear testimony on Bill No. 246 (LS) “AN ACT TO REZONE LOT No. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURAL TO A COMMERICAL ZONE.”

The hearing was called to order by Senator Joseph F. Ada, Chairman of the Committee on Power, Public Safety and Judiciary. Committee member Senator Tom Ada was present. Senators Judi Won Pat and Ben Pangelinan were also present.

Present to testify was Aaron Larson, who currently resides and operates his business on the lot in question and holds a 30-year lease to the property. Written testimony in support was submitted by Attorney Joseph L. Roberto, executor of the estate for Joseph R. Roberto, the owner of the property; by Isabel S. Haggard, Mayor of Piti; and Joseph Wesley, Mayor of Santa Rita.

II. TESTIMONY

AARON LARSON

Mr. Larson testified of his intent to expand his business and create new employment opportunities for residents of our island, provided he can secure the re-zone which bureaucratic confusion has prevented. He outlined the history of the property and the history of his attempt to re-zone the lot to conform with neighboring lots, a process that has gone on for more than 10 years. Mr. Larson also submitted volumes of documentation related to the re-zoning which are appended.

III. FINDINGS

The Committee finds that Bill No. 246 (COR) will make the use of Lot No. 45-2-NEW-4 consistent with the surrounding lots and consistent with the current and planned future use of the land, now granted under a land use variance. The Committee is satisfied that existing structures and infrastructure on the site are also consistent with current (variance-allowed) use and planned use. The Committee further finds that Guam will benefit from the planned \$700,000 investment into our economy and the 25 full-time jobs that will be created should Mr. Larson be allowed this rezone. The Committee further finds that Mr. Larson has spent more than 10 years attempting to clarify the proper land use of the lot and deserves an immediate redress of his difficulty. The Committee notes that no representatives of the Guam Planning Council, Bureau of Planning or Department of Land Management presented themselves to testify.

IV. RECOMMENDATIONS

The Committee on Power, Public Safety and Judiciary hereby reports Bill No. 246 (COR) with the recommendation ***TO DO PASS***.

Agenda
Public Hearing
March 21, 2002
10 a.m.
Legislative Public Hearing Room

Bill #	Sponsor	Description
213	F. P. Camacho J.F. Ada M.C. Charfauros	AN ACT TO ADD ARTICLE 7, CHAPTER 3 OF TITLE 16 OF THE GUAM CODE ANNOTATED, RELATIVE TO MOTORIST AND PEDESTRIAN SAFETY IN TUMON.
246	J.F. Ada	AN ACT TO REZONE LOT NO. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURAL TO A COMMERCIAL ZONE.
277	J.F. Ada	AN ACT TO REZONE LOT 27, BLOCK 10, DEDEDO MUNICIPALITY, FROM "R-1 (SINGLE FAMILY DWELLING)" TO "R-2 (MULTIPLE FAMILY DWELLING)."
182	F.P. Camacho	AN ACT TO AMEND §22.50 OF CHAPTER 22 OF GUAM CODE ANNOTATED TITLE 9 RELATIVE TO CUSTODIAL INTERFERENCE.
224	F.B. Aguon Jr.	AN ACT RELATIVE TO THE ESTABLISHMENT OF A "COMMUNITY FIREFIGHTER RESERVE PROGRAM" WITHIN THE GUAM FIRE DEPARTMENT WHICH SHALL PROVIDE A POOL OF TRAINED RESERVE FIREFIGHTERS TO AUGMENT THE DEPARTMENT'S NEEDS DURING EXTREME LOCAL EMERGENCIES TO INSURE PROPER AND EFFECTIVE SERVICE TO THE ISLAND COMMUNITY AND THE PEOPLE OF GUAM
261	F.B. Aguon Jr.	AN ACT TO ESTABLISH THE 'OFF-DUTY POLICE OFFICERS COMMUNITY SERVICE PROGRAM' TO ALLOW FOR THE PROVISION OF EXTENDED LAW ENFORCEMENT SERVICES TO THE PEOPLE OF GUAM, WHILE INSURING THE MAXIMUM VISIBILITY AND USE OF ON-DUTY UNIFORMED POLICE OFFICERS TOWARD PROVIDING THE PUBLIC SAFETY NEEDS OF THE ISLAND.
231	E.B. Calvo	AN ACT TO PROHIBIT THE GUAM POLICE DEPARTMENT FROM IMPOUNDING MOTOR VEHICLES FOR THE MERE FAILURE TO HAVE A CURRENT MOTOR VEHICLE REGISTRATION SO LONG AS THE DEPARTMENT OF REVENUE AND TAXATION DOES NOT OPERATE ITS STATUTORILY MANDATED MAIL ORDER VEHICLE REGISTRATION NOTIFICATION PROGRAM AND TO AMEND PARAGRAPH (c) OF SECTION 7171 OF TITLE 16 OF THE GUAM CODE ANNOTATED TO MAKE IMPOUNDMENT OF UNREGISTERED VEHICLES CONDITIONAL UPON THE EXISTENCE OF EXIGENT CIRCUMSTANCES THAT COMPOUND THE OFFENSE OF NON-REGISTRATION
232	J.T. Won Pat	AN ACT TO REPEAL AND REENACT SECTION 7171 AND TO REPEAL SECTION 7172, CHAPTER 7 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ANY VEHICLE OPERATING UPON ANY HIGHWAY ON GUAM WITHOUT THE REGISTRATION AND LICENSE FEE HAVING FIRST BEEN PAID AS REQUIRED.
243	J.T Won Pat L. Leon Guerrero	AN ACT TO AMEND SECTION 3401.1 (F) OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUING OF CITATIONS TO VIOLATORS OF ACCESSIBLE PARKING.

Agenda
Public Hearing
March 21, 2002
10 a.m.
Legislative Public Hearing Room

Bill #	Sponsor	Description
108	V. Pangelinan	AN ACT TO ADD A NEW SUBSECTION §1102(rr), AND A NEW §3346 TO TITLE 16, GUAM CODE ANNOTATED, TO AMEND §9502(a) OF TITLE 7, GUAM CODE ANNOTATED, AND TO ADD A NEW §7111 TO TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE YOUTH ACTIVITIES AND CRIME PREVENTION FUND, AND TO AUTHORIZING THE GUAM POLICE DEPARTMENT TO INSTALL AND OPERATE A AUTOMATED TRAFFIC SIGNAL MONITORING SYSTEM TO MONITOR, RECORD AND CITE DRIVERS NOT IN COMPLIANCE WITH TRAFFIC SIGNAL LIGHTS AT INTERSECTIONS.
206	V. Pangelinan L. Leon Guerrero	AN ACT TO CREATE THE GUAM POLICE DEPARTMENT ASSETS FORFIETURE FUND FOR THE EXCLUSIVE USE OF THE GUAM POLICE DEPARTMENT THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 79 OF PART II OF DIVISION 3 OF TITLE 10, GUAM CODE ANNOTATED AND OTHER PURPOSES.

Mina' Bente Sais na Liheslaturan Guahan
The 26th Guam Legislature

Mar. 21/02

The Office of
Senator Joseph F. Ada, Chairman

Committee on Power, Public
 Safety & the Judiciary

Bill No. 246
Public Hearing

WITNESS SIGN-IN SHEET

	PRINT NAME	Representing Self, Dept or Agency (pls specify dept or agency)	Telephone #	Mailing Address	Testimony	
					For	Against
1.	Aaron Larson				✓	
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

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4. LETTER FROM JOE WESLEY, MAYOR OF SANTA RITA
5. LETTER FROM FRANCIS M. DAYTON, U.S. ARMY CORPS OF ENGINEERS, GUAM REGULATORY BRANCH
6. LOCATION MAPS
7. BUILDING PERMIT
8. TERRITORIAL LAND USE COMMISSION MEETING ON 12/29/92
9. TERRITORIAL LAND USE COMMISSION MEETING ON 07/08/93
10. GUAM ENVIRONMENTAL PROTECTION AGENCY MEMORANDUM; DISSAPPROVAL FOR ALLEGED ILLEGAL FILL
11. GUAM ENVIRONMENTAL PROTECTION AGENCY; PERMITS & FIELD RECEIPTS

Hafa Adai Senators;

My name is Aaron Larson, and I humbly submit this testimonial letter endorsing the zone change legislation on BILL NO 246 (COR).

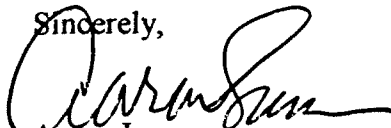
I am a resident of Guam, and have lived here for the past 20 years. For the past 10 years, have resided in Sumay. Guam is my home and I've built my business here. I met and married my wife, Heidi, and together we raise our 3 children on Guam. I vote and pay taxes here.

We live in Sumay, at our place of business. This is also the subject property the Bill is addressing for the zone change. My business and residence are a warehouse structure in which I transformed a portion of it to make a home for my family. In the early 1990's we applied for a zone change at the TLUC (*see attached meetings*). We were denied by the TLUC because, 1. illegal wetland fill and, 2. needed to demonstrate hardship. We have supporting documents wetlands were not illegally filled (see permits, field receipts, and support letter); and I believe hardship exists. Land use in the area is primarily commercial. The property to the southeast of the site is owned by Shell Guam Inc. and is fenced off and used as part of a large oil refinery / storage complex. A residence and Pizza Hut are located to the southwest. An insurance building and Taco Bell located to the west along Marine Drive. Also, Uncle Bob's Watering Hole and used car lot are located along the highway frontage. The fact is we are the only site in this area "left-out" as a commercial zone.

For the past 3 years, my business (a construction company) has been experiencing major loss as we try to survive Guam's failing economy. In order to stay afloat, my wife and I are preparing to start another business venture which we are hopeful will hedge us through these rough times. It will be a family restaurant/entertainment business that we believe the local residents, military families, and tourists will enjoy.

In order for me to build and operate the new business, I need a zone change. Now, I come before you asking for your approval of BILL NO 246 (COR). I need your help in keeping my dream of staying on Guam alive.

Sincerely,



Aaron Larson

Joseph L. Roberto, P.C.



Attorney and Counselor at Law

Guam Legislature

February 21, 2002

Dear Guam Legislature and other interested parties:

I have read and reviewed bill number 246COR regarding the re-zoning of Piti lot number 45-2-New-4. Please be advised that I am in wholehearted concurrence with this bill.

My knowledge of the property and review of the bill leads me to the sole conclusion that it is appropriate and desirable to have the property re-zoned from A-agriculture to C-commercial. The surrounding properties, including Shell Oil and refinery, the Nissan car lot, the Taco Bell, and the Pizza Hut are indicative of a commercial area. I look forward to the passage of bill number 246.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. Roberto", with a stylized flourish at the end.

Joseph L. Roberto, Esq.
Executor for the Estate for
Joseph Rufo Roberto

JLR/lm
enc: (0)

\\Cpu_0\cpu_0_c\WPWIN60\GUAM\Larsonltr6.wpd

3310 Henderson Mill Rd. Suite 204
jroberto@bellsouth.net
114-A South Main Street

◆ Atlanta, Ga. 30341 ◆
◆ Jonesboro, Ga. 30236 ◆

(770) 414-0313
Facsimile (770) 414-0810
(770) 603-1191



OFFICE OF THE MAYOR

Isabel S. Haggard, Mayor

P. O. Box 786 Hagåtña, Guam 96932 • Tel: (671) 472-1232/3 • Fax: (671) 477-2674 • E-mail: sabet@ite.net

September 10, 2001

TO WHOM IT MAY CONCERN:

I write this letter of recommendation on behalf of Mr. Aaron Larson, President of MSI, (Guam) Inc. I have known Mr. Larson for at least ten (10) years, doing business here in Piti. He is a man of his word, trustworthy and reliable. Further, he has lived on Guam for at least twenty (20) years and considers Guam his permanent home.

Given the status of our economy, we need to encourage a diverse business opportunity to our local people who make an effort to promote tourism here on Guam. With the business endeavor that Mr. Larson desires to accomplish, there is, without a doubt, that he will succeed.

Thank you for your attention and should you need additional information, please do not hesitate to contact this office.

Sincerely,


ISABEL S. HAGGARD



Village Flower
"Gardenia"

**OFFICE OF THE MAYOR
MUNICIPALITY OF SANTA RITA**

Ofisinaan I Mahot

P.O. Box 786 Hagåtña, Guam 96932

Honorable
Joseph C. Wesley
Mayor

March 21, 2002

TO WHOM IT MAY CONCERN:

Reference to Bill No. 246 an act to rezone Lot No. 45-2-NEW-4, Piti and Agat, Guam from Agricultural to a Commercial Zone.

As Mayor of the Municipality of Santa Rita, I fully support the rezoning of Lot No. 45-2-NEW-4, Piti and Agat.

The operation of a commercial establishment on this Lot is wholly consistent with the zoning and uses of surrounding lots, and would not impose a nuisance or incompatible use with the adjacent properties.

Respectfully,

A handwritten signature in black ink, appearing to be 'JOSEPH C. WESLEY', enclosed within a large, loopy oval scribble.

JOSEPH C. WESLEY
Mayor



Ancient Latte Stones

Office: (671) 565-4337/2514
Fax: (671) 565-3222 Pager: 720-2514



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HONOLULU DISTRICT
Guam Regulatory Branch
PSC 455, BOX 188
FPO AP 96540-1088

March 20, 2002

Guam Regulatory Branch

Mr. Aaron Larson
P. O. Box 8404
Tamuning GU 96931

Dear Mr. Larson:

This is reference to the fill material that was placed on Lot No. 45-2-New-4 Sumay to allow construction of the MSI warehouse.

I have reviewed our files and found that on February 27, 1987, I delineated the wetland boundary at this site. On March 19, 2002, I inspected the site and found that the existing fill is along the line I had delineated. Therefore, I concluded that all fill material was placed upland of the wetland boundary I delineated and there is no unauthorized wetland fill.

If you have any comments or questions concerning this matter, you may contact me at 339-2108.

Sincerely,

Francis M. Dayton
Guam Regulatory Branch

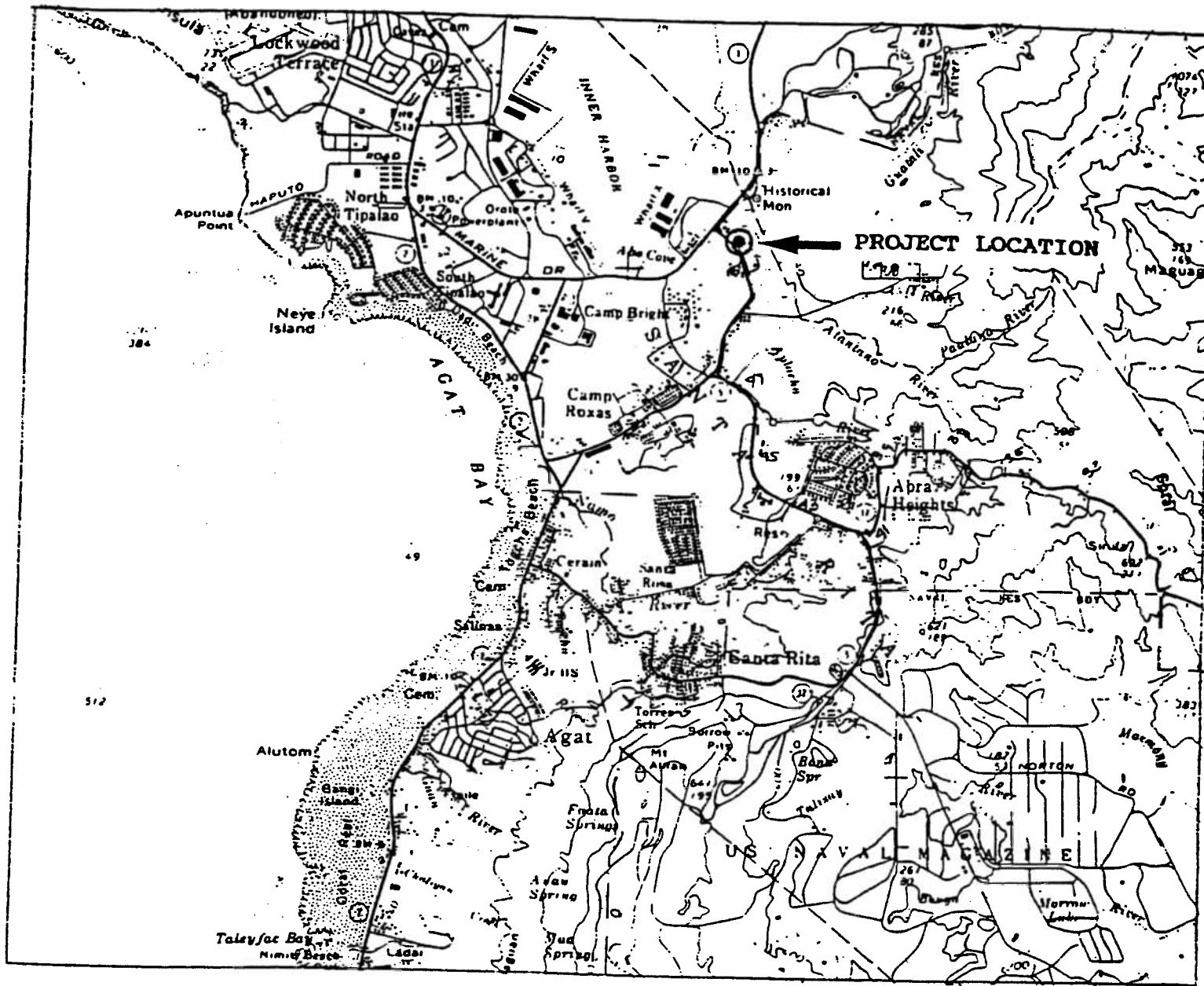
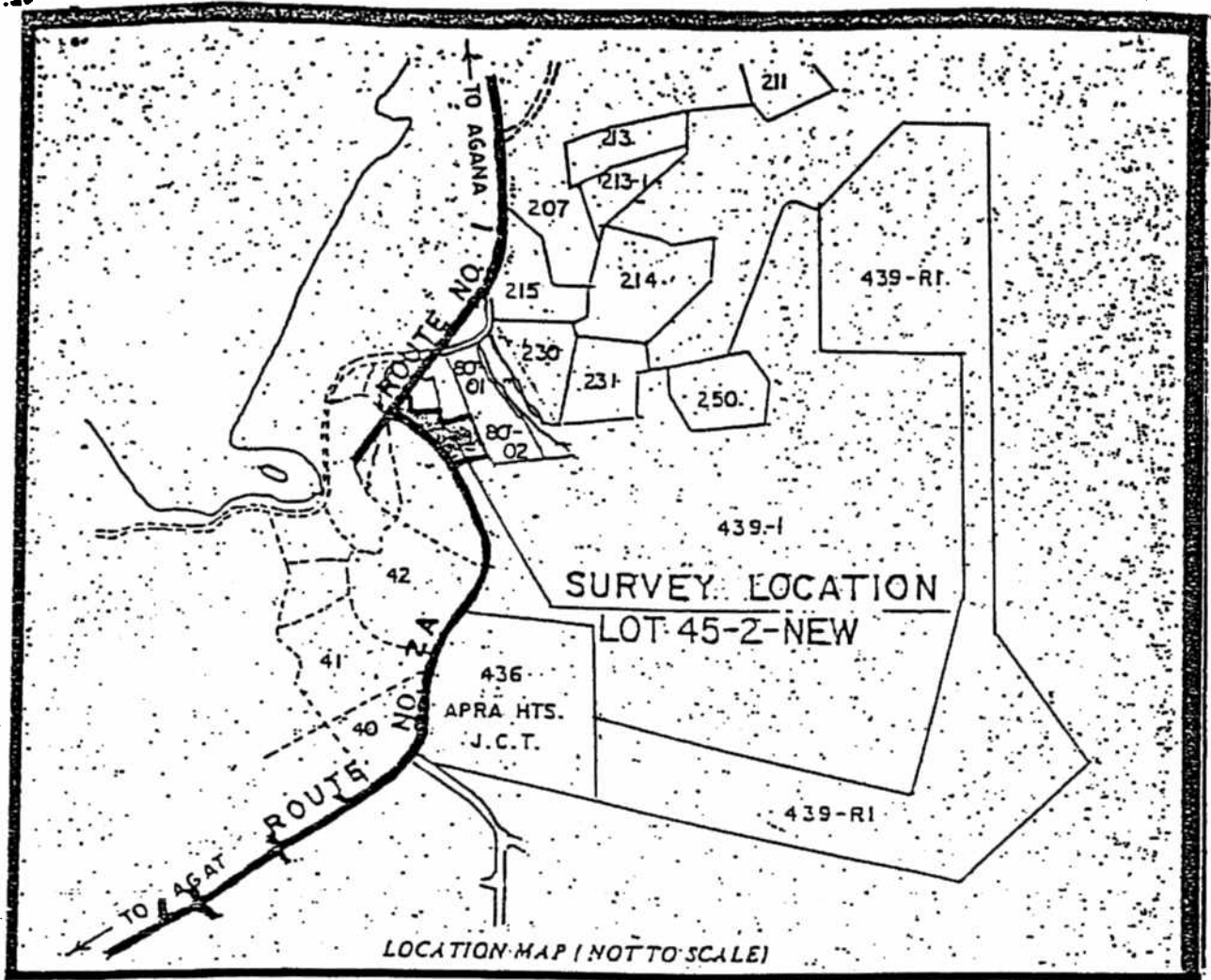


FIGURE 1 . PORTION OF USGS MAP OF GUAM SHOWING LOCATION OF PROJECT.



LOCATION PLAN

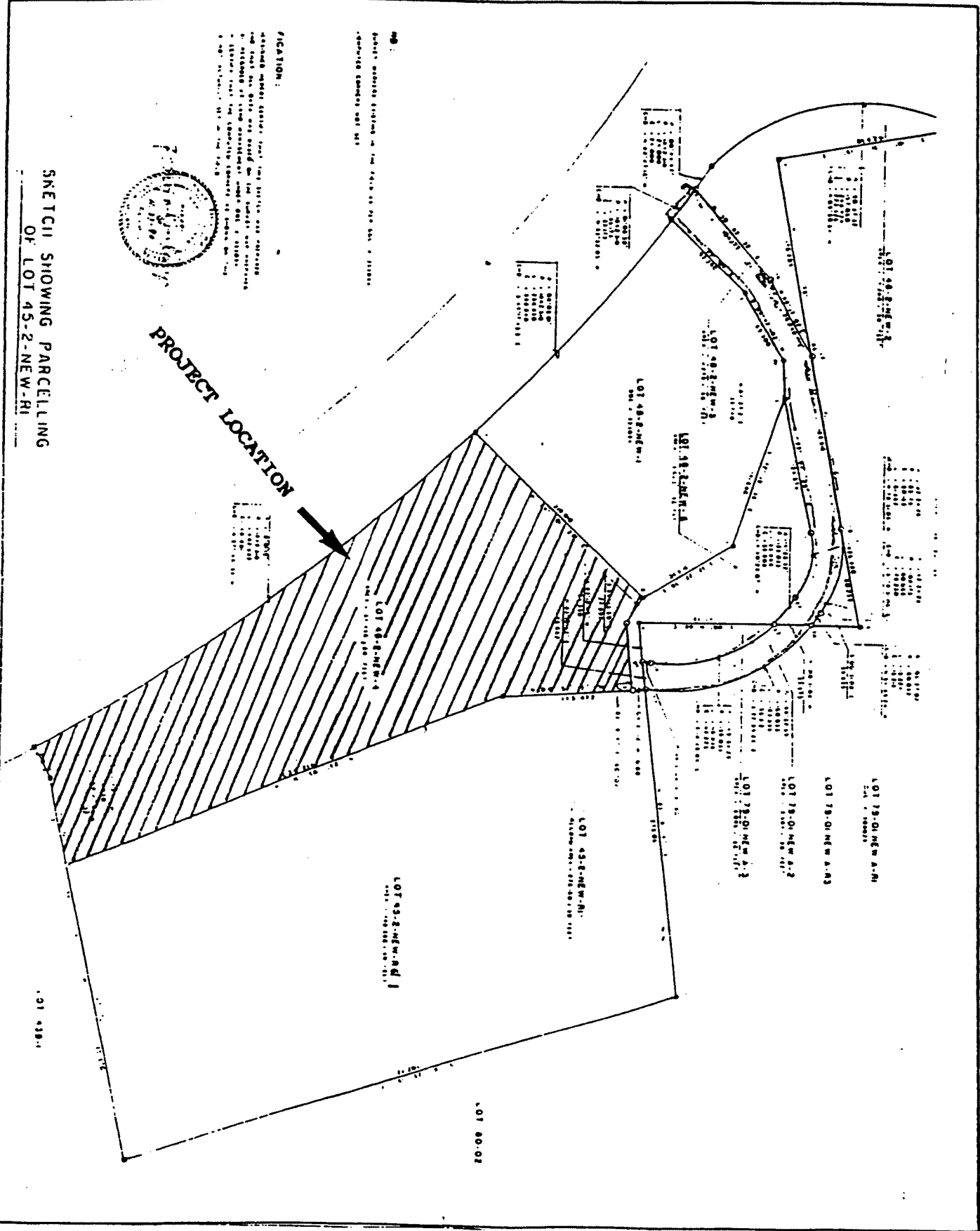


FIGURE 2 PROPERTY MAP SHOWING PARCELLING OF LOT 45-2-NEW-RI



OFFICE OF BUILDING PERMITS & INSPECTION

BUILDING SAFETY IS NO ACCIDENT



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 REGULATING BUILDING CONSTRUCTION OR USE.

DATE JUN 15 19 90 PERMIT NO. 6015

Applicant MANUFACTURING SYSTEMS INT'L Address BOX 8404 TAMUNING, GU 96911 1061

Permit To CONVERT FROM NEW OCCUPY (Contractor) (No.) (street) Number of (Contr's License)
Dwelling Units

At (Location) SUMAY, AGAT (Type of Improvement) No. (Proposed Use) WAREHOUSE

Between (ACROSS) ARMY RESERVES (No.) (Cross Street) And (BEHIND) NISSAN AUTO (Cross Street)

Tract No. Lot 45-2 NEW RI Block

Building is to be 80 Ft. Wide By 120 Ft. Long By Ft. In Height And Shall Conform In Construction

To Type VN Use Group M-1 Basement Walls Or Foundation CONCRETE

Remarks:

Area or Volume 9,600 SqFT

Owner AARON LARSON, VICE PRESIDENT (Signature)

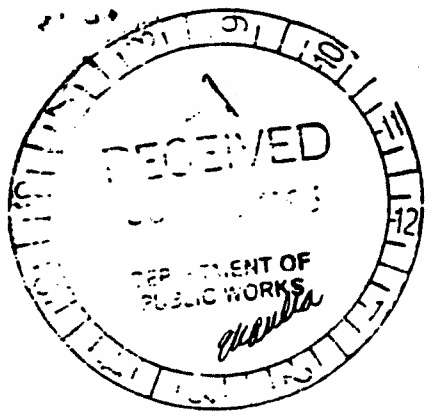
BOX 8404 TAMUNING, GUAM 96911 (Address) Building Official JESUS Q. NINETE, SR. 6/20/90

6/19/90

**TERRITORIAL LAND USE COMMISSION
(REGULAR)**

**December 29, 1992, Thursday
1:58 p.m.**

**Department of Land Management
Planning Division Conference Room
Market Wholesale Building, Maite**



MEMBERS PRESENT:

MR. JESUS P. CRUZ, Chairman

MS. PATRICIA LONG-DIEGO

MR. ROLAND FRANQUEZ

MR. RUFO LUJAN

MR. CARL PETERSON

MR. EULOGIO SANCHEZ

MR. F.L.G. CASTRO, Executive Secretary

MR. VANCE J.I. GUERENA, Legal Counsel

MR. WILLIAM Q. PEREZ, Acting Territorial Planner

**SUSAN L. CORBIN
TLUC/TSPC BOARD SECRETARY**

1 **II. OLD OR UNFINISHED BUSINESS:**

2 Zone Variance

3 ITEM NO. 1: 90-019; Lot 45-2-NEW-R1, Agat (Joseph Roberto c/
4 Tenorio & Associates, Inc.) Zone Variance for use to allow a multi-pur
5 warehouse to store agricultural equipment, accessories, supplies and constru
6 materials in an "A" (Rural) zone. (TLUC 1/17/92, Tabled) Case Planner: W
7 Perez

8 MR. PEREZ: (Reads Planning Staff Report dated December 10,
9 recommends approval with conditions; see Appendix "A".) For the Commiss
10 information, I believe there was a business license issued to the applicant or
11 subject lot where the "commercial" zone may have been erroneously indicate
12 the business license; however, there is an activity on-going on that site where
13 lot may very well turn commercial in the very near future.

14 MR. LUJAN: I would like to ask Staff how this was cleared through
15 Management given the fact that this is not an approved activity.

16 MR. PEREZ: I believe the application went through the regular process
17 but for an activity in the "agricultural" zone, but we certainly didn't indicate
18 "C" (commercial) zone for Revenue and Tax. That's why I believe it may
19 been.

20 MR. LUJAN: When was the license issued?

21 MR. PEREZ: The license was issued '91, January 1st -- of 1991.

1 MR. LUJAN: The application was accepted in 1990, so that in 1991 when
2 this came before Land Management for clearance, Land Management had
3 knowledge that this is an unpermitted or un-permissible activity.

4 MR. DAN WOOSTER (Representative): I actually brought this to Bill
5 attention because I knew nothing about it until a few weeks ago; they showed me
6 a copy of their property tax bill and it said "commercial zone" which surprised me
7 and I didn't know how long they had had it. I brought it to Bill. Bill thought
8 perhaps maybe the Legislature had rezoned it because they did rezone some
9 property directly to the south of there where there are warehouses now. But other
10 than that, we have no idea how that happened. It was not because of any action,
11 don't think, on the applicant's part even. I think he innocently went to get
12 a business license and it just went through.

13 MR. LUJAN: My question is directed at Staff.

14 MR. PEREZ: At this point and time, I can only say we have not signed
15 on any business license. This is a property tax statement that was given to us.
16 The point I was pointing out was the zoning designation in which we had nothing
17 to do with the zoning designation.

18 MR. LUJAN: Did I mishear you saying that they already have a business
19 license?

20 MR. PEREZ: This is a Manufacturing Systems International ...

21 MR. LUJAN: MSI; he transferred from Piti to over by the bomb holes
22 moved their facilities by the bomb holes over to this warehouse.

1 MR. WOOSTER: There was nothing in the warehouse two weeks
2 when I was there except for Mr. Roberto's cars.

3 MR. PEREZ: So, let me make a correction on my statement. This may
4 remain a property tax statement rather than a business license.

5 MR. LUJAN: (Explains the procedure for securing a business license

6 MR. WOOSTER: I brought that to Bill three weeks ago.

7 MS. DIEGO: Okay, three weeks ago, Bill -- ignorance is no defense
8 whatever has to be right, it has to be right, so it needs to be checked out, Bill,
9 we shouldn't be taking anymore precious time today to look into this so that
10 applicant can have all the answers he needs and that we can have all the answers
11 we need to move this thing one way or the other, because we're back to square
12 one. We need questions answered.

13 MR. LUJAN: This whole application is very confusing where we have
14 statements saying that they want to store agricultural equipment yet
15 March 27, 1991 letter, it clearly stated that the warehouse is to store material
16 not associated with agriculture. If that is the case, therefore, this should be
17 an application to rezone to an "M-1" because a warehouse for non-agricultural
18 related purposes is not permissible in the "A" zone. This is permissible in
19 "M-1" zone; move for disapproval.

20 MS. DIEGO: I'll second it.

21 MR. CHAIRMAN: It's been moved and seconded to disapprove
22 No. 1; discussion?

1 MR. LUJAN: I base my motion not on the confusion on the zoning of 1
2 property, but on the apparent attempt at deceiving the Commission.

3 MR. WOOSTER: In what way?

4 MR. LUJAN: That 3/27/91 letter stated that this is for a warehouse,
5 associated with agriculture.

6 MR. WOOSTER: That was before I got involved with the project.

7 MS. DIEGO: I want to voice my dissatisfaction to Staff. Three weeks
8 you received this communication, Bill. There's a lot of time to do the legwork
9 that's necessary that is important for us. It's certainly important to the applic
10 I don't ever want to see this happen again, please.

11 MR. CHAIRMAN: Ready on the motion? All in favor say "aye".

12 (Commissioners respond with "ayes".)

13 Mr. Lujan: Aye.

14 Ms. Diego: Aye.

15 Mr. Chairman: Aye.

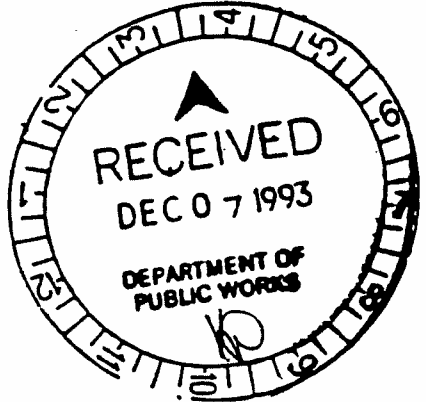
16 Opposed?

17 Mr. Peterson.

18 Mr. Sanchez.

19 Three (3) ayes; two (2) nyes.

20 (ITEM NO. 1: TABLED; MOTION DID NOT PASS FOR DISAPPROVAL)



ANTONY OF GUAM, DEPARTMENT OF LAND MANAGEMENT
OFFICE OF THE RECORDER

INSTRUMENT NUMBER 499826

This instrument was filed for record on 13

Day of Dec, 19 93, at 2:18 P.M.
and duly recorded in Book _____

Recording Fee De Office at Page _____
W/cher No. _____

[Signature]
Deputy Recorder

(Above Space for Recorder's Use Only)

COPY

TERRITORIAL LAND USE COMMISSION
(REGULAR MEETING)

July 8, 1993, Thursday
1:50 p.m.

Department of Land Management
Planning Division Conference Room
Market Wholesale Building, Maite

MARIE BORJA SALAS
TLUC/TSPC BOARD SECRETARY

1 //

2 //

3 **II. OLD OR UNFINISHED BUSINESS:**

4 **Zone Variance**

5 **ITEM NO. 1: Lot 45-2-NEW-R1, Agat (Joseph Roberto c/o Juan Tenorio**
6 **& Associates, Inc.) Zone Variance to allow a multi-purpose warehouse to store**
7 **supplies and construction materials in an "A" (Rural) zone. (TLUC Mtgs. 1/17/92 -**
8 **Tabled; 12/29/92 - Disapproved/Back to DRC; 1/14/93 - Tabled) (Application I**
9 **90-019) Case Planner: William Perez/JTA**

10 **MR. ANDERSON: (Reads Planning Division Staff Report dated July**
11 **1993 recommending disapproval with reasons stated; see Appendix "A".)**

12 **MR. JUAN TENORIO (Representative): With Dan Wooster, firm of Juan**
13 **Tenorio & Associates, representing Mr. Joseph Roberto, owner of the property at**
14 **building.**

15 **MR. LUJAN: We've got one agency objecting, another agency**
16 **recommending for disapproval on this application. We also have the Planning Staff**
17 **recommending for disapproval. GEPA also states that this activity is a violation of**
18 **law and that the wetlands was filled without a permit to construct the warehouse.**
19 **Unless anybody wants to discuss this any further, I'm ready to make a motion.**

20 **MR. CHAIRMAN: May we hear from the representatives to that question?**

21 **MR. WOOSTER: I understand the wetlands, from my knowledge of it,**

1 not an issue here. The wetlands were filled with fill from ammunition wharf w
2 the approval, I thought, of the Army Corp, and then maybe there was sor
3 overfilling and then it was removed, if I'm not wrong. I don't think the wetlan
4 is an issue here.

5 MS. DIEGO: According to GEPA, you filled the wetlands to build this ve
6 warehouse that exists today.

7 MR. WOOSTER: I think the wetlands were filled before the warehou
8 was built.

9 MS. DIEGO: That's not what GEPA says, though. And there isn't
10 document like what came in from Public Works that says this supersedes any othe
11 comment.

12 MR. WOOSTER: Why then did they get a building permit?

13 MS. DIEGO: That's a good question which is part of the discussion tha
14 we need to have it investigated by the Attorney General to see how this got to
15 where it is.

16 MR. TENORIO: Well, be that as it may, maybe the AG should be looking
17 around for that, but Mr. Chairman, we've been in this for three years, close to fou
18 years already. I don't understand why the project is a violation of the uses, a
19 violation of the intended purpose of this building, Mr. Roberto built this warehouse
20 getting all the necessary approval with the intention of providing storage for
21 agricultural products and materials and things like that and as it turns out, I guess,
22 his agricultural endeavors are not doing so well so he has decided to do something

1 else with it. The property is almost completely surrounded by commercial
2 already, you have a couple of pizza places and hamburger places and what
3 you. I think the issue, if there is a violation of the wetland, that is an issue
4 should be addressed with the AG's office and if there is such a fact, then I
5 wait for that, but I don't think speculation by GEPA that this was a violation of
6 wetland permit, the wetland should delay this project.

7 MR. WOOSTER: Another point I'd like to bring out is that this pro
8 came through right around the time where Executive Order 90-10 became i
9 effect requiring environmental assessment. We performed environmen
10 assessment which was acceptable to GEPA and our conclusion from
11 assessment was the stuff they proposed to store in the warehouse, build
12 materials, is actually less threat to the environment than some agricultu
13 materials that are allowed to be stored there, such as fertilizers, pesticid
14 herbicides, which they're within their right right now to fill the place w
15 herbicides which pose much more threat to the wetlands that are nearby that are
16 I don't see an environmental threat here.

17 MR. CHAIRMAN: I only have one question here -- on January 3, 199
18 GEPA is stating that they have not received the EIA in the past 10 months.
19 there any additional comments on GEPA here? I'm looking at the -- Decemb
20 26th.

21 MR. ANDERSON: December 2nd, 1992 is the last comment I receive
22 from them.

1 MR. CHAIRMAN: Oh, this is 1990. I'm looking...

2 MS. DIEGO: It's saying that they accepted the EIA statement with
3 significant impact, but they...

4 MR. WOOSTER: They accepted the EIA. GEPA will accept the EIA
5 complete.

6 MS. DIEGO: They accepted the EIA finding no significant impact will res
7 from the conversion of using the existing warehouse, however, we find
8 legitimate grounds to support the application request and therefore recomme
9 disapproval.

10 MR. WOOSTER: Yeah, you can accept the EIA without approving of th
11 project.

12 MR. ANDERSON: As I mentioned earlier when I was reading one of th
13 sections under the staff findings, I made a statement to the commission that if yo
14 required further clarification to let me know. On this section G of number 2, wher
15 I had stated that on December 10, 1992, the application was entertained for th
16 warehouse structure, and TLUC's position was to disapprove the applicant'
17 request. What occurred there was that there was some agencies that were in
18 support, there were some agencies that not in support and I had brought this up
19 sometime back on a different application, however, because the Commission was
20 at that time contemplating on acting unfavorably and there was several, I believe
21 at least two agencies that were in support, the 90-9 requirement was assumed
22 I guess at the time, to mean as long as the Commission's position is opposite of

1 what any agency is asking, whether it's to disapprove something they're approv
2 or whether it's to approve something the committee is disapproving, that it wo
3 still require the two week notification.

4 MS. DIEGO: That was the advise given to us from the Chief Planne
5 that time. He told us we had to do it that way.

6 MR. ANDERSON: Oh, okay. What had occurred was from that tir
7 rather than just being put back on the agenda within two to four weeks, which
8 the practice we've been doing since I've been on board in February, is
9 whatever reason, this took a lot longer and it's just now coming back on. I do
10 know that it'll help clear any of the discussion at all, but I thought that it mi
11 best that I try and explain that particular section in case it confused anybody.

12 MR. GUERENA: With respect to that first point, the Commission's I do
13 think is still laboring under the idea that they have to send back a disapproval
14 DRC. They don't do that.

15 MS. DIEGO: I never did in the beginning but the Chief Planner before sa
16 we had to do it.

17 MR. GUERENA: This question came to me. I don't know whether I wro
18 something formally or ...

19 MR. ANDERSON: There was one about a month or two ago that we we
20 taking the opposite position. The committee was recommending approval. Th
21 Commission was contemplating on recommending disapproval and that's when th
22 question came up and I believe, yes, you counselor, did say that it wasn

1 necessary, but this is a totally different and to avoid any confusion I thought
2 I should clarify that.

3 MR. CHAIRMAN: Any other comments, questions?

4 MR. WOOSTER: Do any of the members want to see pictures of the site?

5 MR. TENORIO: Mr. Chairman, I'd like to recommend that if there's
6 violation of the law with regards to the wetland, I think we should clear this.
7 this is innuendos, I think we should clear. One way or the other, no matter how
8 this Commission vote, I think we should clear that and I think I would like
9 suggest that the AG should take this up as a matter, investigate this thing
10 because I don't want to be associated with people that have violated the law
11 myself and we came here with the impression that there was no violation of the
12 law and I don't know if there's any recourse for us to go back to EPA to find out
13 where they got their information or not.

14 MS. DIEGO: Well I think the place you're gonna go is to your client, and
15 your client can either disclose that to you or not. I don't think it's innuendo when
16 GEPA is putting in black and white and I don't think GEPA or any government
17 agency makes statement on innuendo.

18 MR. TENORIO: Well I disagree with you.

19 MR. WOOSTER: This is the fifth or sixth time we've been here and this
20 is the first time -- we didn't talk about wetlands last time.

21 MS. DIEGO: And I remember the last time you were here -- no, it was a
22 motion to disapprove which was opposite of planning staff's recommendation and

1 the time and then we were told to go through a system that we really didn't I
2 to go through at that time.

3 MR. WOOSTER: The wetlands issue is sort of new to me. I've talked
4 Bob Anderson and I understand that there was something corny that went
5 before we got involved in the project and they removed some fill. They had gone
6 over something, long before the building was built.

7 MS. DIEGO: Well in addition to these discussions, a zone variance, you
8 asking for something that deviates from the strict letter of the law. What is
9 hardship?

10 MR. TENORIO: The hardship is that the farming industry over there in the
11 area is in a downtrend.

12 MR. WOOSTER: In the three years, his crop has been wiped out three
13 times.

14 MR. TENORIO: Pretty soon, they'll be building a supermarket all the way
15 around there, I mean, the way the trend is going it seems like -- and I think
16 agricultural industry is probably moving to the more south and central than so
17 and west, I think.

18 MS. DIEGO: Well that's kind of speculating, too, on what's gonna happen
19 in the economy and how the action's gonna go, but if there's no other hardship
20 he wanted to have an agricultural warehouse, but now the market seems to be
21 low, so now he wants to have a building materials warehouse, there are other
22 places designated as such for the island, and if in fact it does change market

1 commercial and more industrial in the future, which I probably believe a porti
2 that is going to, then that would be the appropriate time to submit the applica

3 MR. WOOSTER: Actually, we met with the Chief Planner and
4 indication was it maybe more appropriate to go for a zone change because
5 criteria is different.

6 MS. DIEGO: Then you can withdraw this application and resubmit it
7 way.

8 MR. WOOSTER: There's different criteria for evaluating a zone cha
9 than there is for a variance. A variance you have to demonstrate a hardship,
10 that and the other. A zone change, it's public need, it's evaluated different

11 MS. DIEGO: And if you want something that will be very permanent
12 may affect, you know..

13 MR. WOOSTER: And we're surrounded by commercial and industrial z
14 now.

15 MR. ANDERSON: I met with the two gentlemen about a week and a h
16 two weeks ago, and, in essence, Mr. Tenorio was asking what would be the b
17 alternative for application in this case. I explained to him that, understanding t
18 I am not necessarily trying to imply that I would support a zone change, but t
19 the proper application would be a zone change because it does have differ
20 criteria. The area is more conducive. However, I also suggested, that beca
21 they were already in the process, and that I could not read TLUC's mind, that th
22 may just wanna let this particular application ride its course.

1 MR. WOOSTER: If a negative vote doesn't affect our zone change, we
2 willing to let... you know.

3 MS. DIEGO: Come on Dan. What do you mean if a negative vote does
4 affect your zone change?

5 MR. WOOSTER: It doesn't affect another application.

6 MR. TENORIO: I think we'll take the friendly advice.

7 MS. DIEGO: I can't say that a negative vote is gonna affect -- if yo
8 application is as good as it will be for a zone change, it will survive the process
9 and you will be rewarded with the project that you need.

10 MR. WOOSTER: What do you do with the warehouse that's built? Yo
11 tear it down? Is that what you'd like Mr. Roberto to do?

12 MS. DIEGO: I want him to come into compliance, whatever that mean
13 for the zone reg.

14 MR. WOOSTER: I mean, he's really tried to play by the rules, whereas
15 you look up north there's agricultural warehouses full of H-2 workers, there's a
16 sorts of funny business going on, and by playing by the rules he's hurt himself

17 MR. TENORIO: What Dan is saying is if you want to look at the picture
18 recent picture, it's still vacant.

19 MR. WOOSTER: He's got his Thunderbirds in there.

20 MR. LUJAN: You mean EMI is not there anymore?

21 MR. WOOSTER: MSI. They don't plan to do manufacturing down there
22 They got out of the phone business.

1 MR. LUJAN: When they closed down their shop in Piti, that's and
2 Roberto property, huh? They moved to that warehouse.

3 MR. TENORIO: Yeah.

4 MR. WOOSTER: When I went down there it was empty, that's all I
5 say. I don't inspect it and I haven't been there in awhile.

6 MS. DIEGO: About 18 months ago I heard that the Port General Manager
7 was screaming that there's no warehouse space available on Guam. And it would
8 have been perfect for that area.

9 MR. TENORIO: Yeah, but I don't think we can do that with the present
10 zone.

11 MS. DIEGO: That's why I think zone change, I mean you have an opportunity
12 even as we speak today.

13 MR. TENORIO: Patti, can we, now let's settle this. Can we go then to the
14 Corps of Engineers and ask if there was a violation issue? Can we use the Corps
15 as the authority?

16 MS. DIEGO: No, and we can't grant you to do that.

17 MR. TENORIO: No, I mean other than EPA.

18 MS. DIEGO: We can't.

19 MR. LUJAN: No, these are two separate things all together. You have the
20 Corps who enforces federal law, and then we also have our own wetland
21 regulations. In fact if you read the regulation carefully, it says that you must
22 your wetlands permit first from TLUC before you even go to the federal.

1 MR. WOOSTER: All I'm saying is that to protect us, is that thi
2 happened long before we were involved in the project.

3 MR. LUJAN: Mr. Chairman, Mr. Wooster made a statement that this i
4 first time that they heard about the illegal wetlands fill. I'm reading from
5 December 10, 1992 notes and I brought this up at that meeting.

6 MR. WOOSTER: You did, then I'm wrong. I remember I talked to
7 Anderson about it, but it wasn't an issue before.

8 MR. LUJAN: Yeah, it was an issue. In fact the Department's ori
9 comments were very critical of this project. I'm surprised that it went fro
10 recommendation of disapproval to no objection and because it was fairly leng
11 I think it was 3 or 4 pages long, it dwelled on the wetlands issue.

12 MR. WOOSTER: That's one reason they subdivided off the wetlands
13 the original application.

14 MR. LUJAN: Also, Mr. Chairman, in response to farming, agriculture
15 Guam imports more produce than what it produces so that the -- farming is a g
16 income if you don't have adverse weather, but we're talking about events
17 occurred in 1991, 1992 and 1993, however, this application first came before
18 Commission in 1990 and in 1990, the applicant already indicated that h
19 intending on using this facility for other than agricultural related activity. For th
20 people who farm, if they'll tell you the truth, they make a lot of money.

21 MR. TENORIO: I think his operation down in Dandan is okay -- I d
22 know why he (inaudible) in the Piti area.

1 MS. DIEGO: I want you to understand that I don't think any of us
2 want anybody to tear down anything, but we do have to realize that we have
3 be fair for everything that fits the puzzle of what's good for the whole here
4 that's what we're trying to achieve, and I think zone change is better than zone
5 variance in this case.

6 MR. LUJAN: I would recommend that to M-1.

7 MS. DIEGO: If you want to withdraw that, you can choose to withdraw
8 that or if we take our vote...

9 MR. WOOSTER: All I'm just saying is that you'll take your vote and you
10 vote against it, that won't affect the zone change, I mean, the zone change would
11 be a separate application.

12 MS. DIEGO: Two different animals.

13 MR. LUJAN: Do you want to hear a disapproval or do you want
14 withdraw?

15 CHAIRMAN: Or do you want to officially withdraw?

16 MS. DIEGO: I think it would go on the records just for historic
17 information, it's up to you.

18 MR. TENORIO: Can we ask to table this again one more time and then
19 come back with a request, maybe to withdraw?

20 MR. WOOSTER: Or we could mail in the request if we do want
21 withdraw without wasting your time here at another meeting.

22 MS. DIEGO: It's too late, it's already been introduced, it's already been

1 agenda, it's already been advertised, we're entertaining it.

2 MR. CHAIRMAN: If we table this again, John, how many times?

3 MS. DIEGO: We'll have to see, if we table it again, it will die.

4 MR. WOOSTER: But if it dies, it's the same as withdrawing.

5 MS. DIEGO: Right, so we're going to be an expedient Commission.

6 MR. WOOSTER: You can kill it, it can die, or we can always withdraw

7 MR. TENORIO: Mr. Chairman, having now consulted with my client, I took

8 the step and the responsibility placed on me to withdraw this application on the

9 condition that we will submit an application for change of zone and then may

10 we can get GEPA's storage.

11 MR. WOOSTER: We can clarify this thing 'cause I thought that they

12 removed the violation fill. So how come they were never cited or...?

13 MS. DIEGO: Maybe they were waiting for action from us.

14 MR. CHAIRMAN: Thank you, John. Don't feel anything because whenever

15 you guys come back for rezoning, it will be a different situation than this one.

16 MS. DIEGO: Different elements to consider. Thank you.

17 MR. CHAIRMAN: Okay, John.

18 (ITEM NO. 1 - WITHDRAWN PERMANENTLY BY REP.)

GUAM ENVIRONMENTAL PROTECTION AGENCY

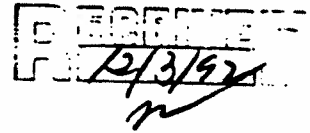


D-107 HARMON PLAZA, 130 ROJAS ST., HARMON, GUAM 96911 TEL. NO. 646-8863/5 FAX: 646-9402

AHENSIAH PRUTEKSION LINA'LA GUAHAN

RED M. CASTRO
Administrator

DEC 02 1992



WENNE M. BROWN
Deputy Administrator

INTER-AGENCY MEMORANDUM

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

FROM: Administrator

SUBJECT: Lot 45-2-NEW-4, Agat (Joseph Roberto c/o Tenorio &
Associates) TLUC 90-019.

The Agency has reviewed the subject application with a request for a use variance in order to convert an agricultural warehouse into a multi-purpose warehouse for the storage of building materials in an "A" (Agricultural) zone.

An Environmental Impact Assessment Report (EIA) was submitted to all DRC agencies in April of 1991 to satisfy the requirements of E.O. 90-10. The EIA is concise prompting the applicants claim that there will be no significant adverse environmental impacts from a change in uses.

The Agency position follows:

The EIA does not address or expound upon the Agency's contention that some portion of the wetlands on-site were filled to construct the warehouse or adjacent yard area. Subdividing the original lot designated as 45-2-NEW-R1 superficially separates wetland concerns from an after the fact warehouse.

The Agency has approved the EIA as per findings that no significant impact will result from the conversion of uses in the existing warehouse.

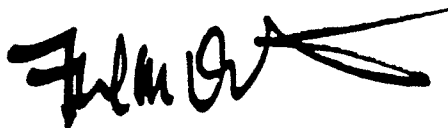
However, we find no legitimate grounds to support the application request and therefore recommend disapproval. Please refer to the Agency's position statement of Dec. 26, 1990, which should be a part of this project's case file.



TLUC 90-019

The Agency still contends that wetlands were filled to facilitate the construction of this warehouse.

Thank you for the opportunity to comment.

A handwritten signature in black ink, appearing to read 'Fred M. Castro', with a long horizontal stroke extending to the right.

Fred M. Castro

CC: BOP
PUAG
DOA (DAWR)



GUAM ENVIRONMENTAL PROTECTION AGENCY

POST OFFICE BOX 2999 AGANA, GUAM 96910. TELEPHONE: 646-8863/64/65

APR 23 1985

Mr. Harry Gutierrez
146 Gutierrez Street
Agana Heights, Guam 96910

Dear Mr. Gutierrez:

Re: Clearing and Grading Permit Clearance for
Lot No. 45-2-New-R1, located at Piti.
(GRPA Miscellaneous EPA Permit No. 2623)

You are hereby notified that the Guam Environmental Protection Agency has approved the proposed clearing and grading of the above lot(s), subject to the following conditions:

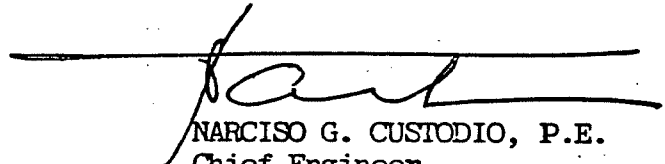
1. That clearing and grading will be done in strict accordance with Chapter 70 of the Uniform Building Code.
2. That necessary erosion and sedimentation control measures, in accordance with the Guam Erosion and Sediment Control Rules and Regulations (copy enclosed) shall be implemented on all problem areas during and after clearing and grading operation as directed by the GEPA Administrator or his authorized representatives.
3. That preventive measures (Dust Emission Control) for dust control such as installation of a temporary waterline or water truck must be provided prior to the start of the operation.
4. That clearing and grading activities must be discontinued when wind velocity is in excess of 20 MPH or the wind direction is such that dust emission are carried toward roadways or residences in the area.
5. That storage piles be stabilized by wetting, covering or equivalent methods, to control fugitive dust emission caused by wind erosion.
6. That vehicle travel areas be watered at frequent interval to suppress dust emission.

"ALL LIVING THINGS OF THE EARTH ARE ONE"

7. That clearing waste and other debris shall be removed after the operation and be dumped only at Ordot Landfill.
8. That all excavated materials not utilized as fill materials shall be removed immediately from the site.
9. That no structures or other improvements are authorized under this approval for clearing and grading.
10. That clearing and grading permit must be obtained by the applicant from the Department of Public Works, Building Permit and Inspection Section prior to commencing such work.

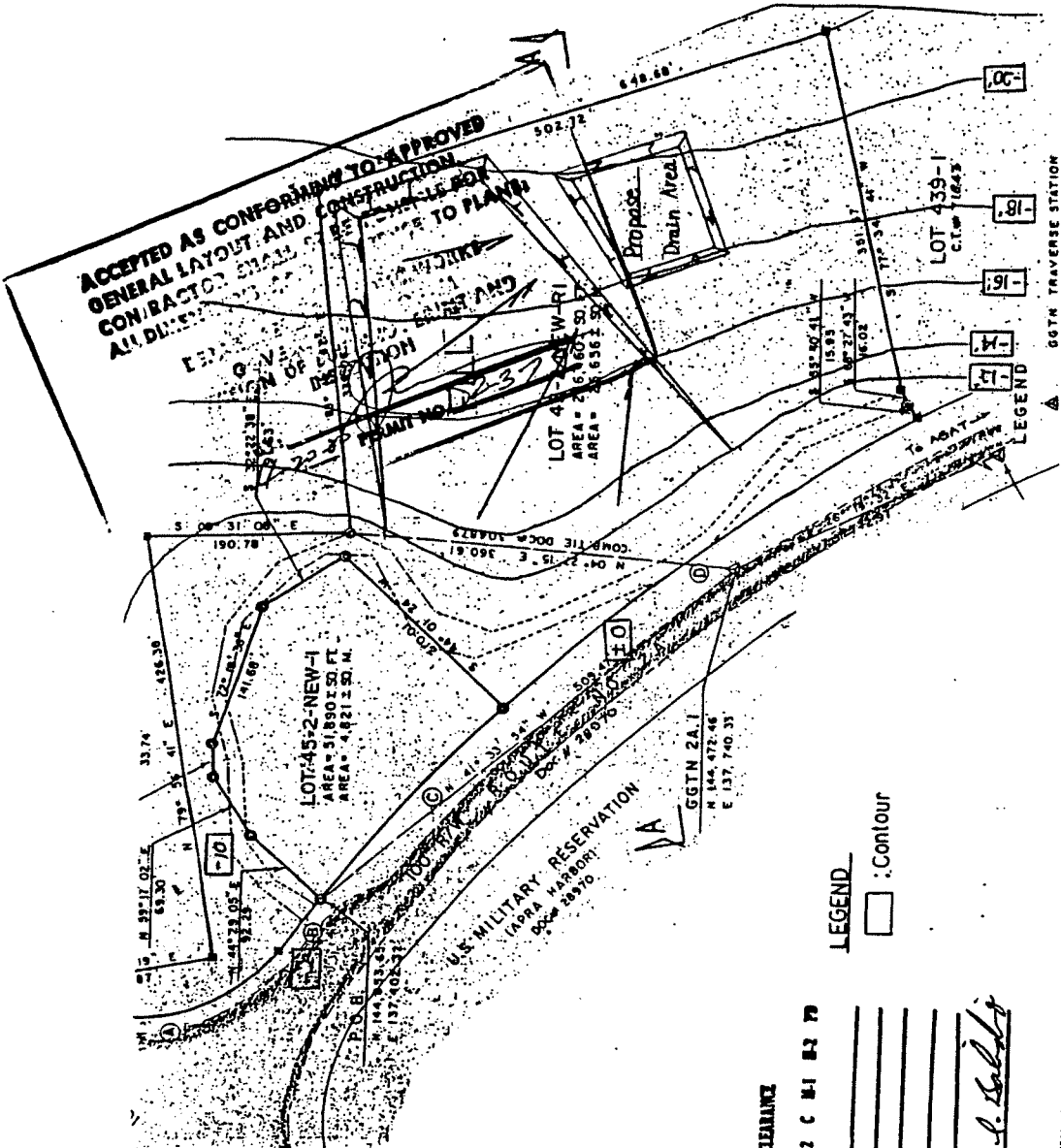
This approval constitutes an agreement and acknowledgment that the Holder will comply with all the Rules and Regulations of the Guam Environmental Protection Agency and the above conditions.

Sincerely yours,


NARCISO G. CUSTODIO, P.E.
Chief Engineer

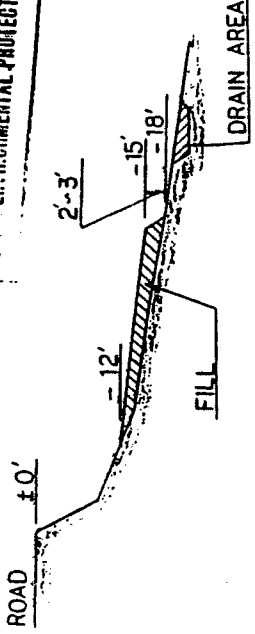
Enclosures

CC: Building Permit Section,
Dept. of Public Works



PLAN
NOT TO SCALE

CLEARING & GRADING PERMIT CLEARANCE
 NUMBER 2623 DATE 5/27/75
 APPROVED BY: [Signature]
 EPA OFFICER
 U.S. ENVIRONMENTAL PROTECTION AGENCY



BUILDING PERMIT CLEARANCE
 ZONING DISTRICT A-1 R-2 C M-1 B-2 P
 REMARKS:
 PROPERTY STATUS:
 [Signature]
 SIGNATURE
 DEPARTMENT OF LAND MANAGEMENT

SECTION A-A
 NOT TO SCALE

GRADING AND DRAINAGE PLAN

LEGEND

□ : Contour



FIELD RECEIPT
GOVERNMENT OF GUAM
DEPARTMENT OF ADMINISTRATION
AGANA, GUAM



4/23 / 19 85

NAME: Harry D. Gutierrez

ADDRESS: P.O. Box 3055

<u>Grading permit</u>		
<u># 2378</u>		
<u>(Grading)</u>		
<u>permit fee</u>	<u>\$ 30</u>	<u>-</u>
<u>Ch. no. 101-</u>		
TOTAL COLLECTED	\$ 30	-

3-100-5-2-303
 (Revenue Account Class No.)

[Signature]
 (Signature of Treasurer's Agent)

D.P.W.
 (Dept., Agency, or Fund)

FR 25- 173667

Form FCN-2-2-12
 Approved 7/55

Est. Quantity	Permit Fee	Fee Received.
Excav. Cu. Y.D. <u>- 0 -</u>	\$	\$ <u>30.00</u>
Fill Cu. Y.D. <u>- 600 -</u>	\$	By: Date:

Acres Overall Dimensions 351 x 510

Estimated Completion Date 7-25 19 85

air # local from

Maximo De Phone _____

Phone _____

Lez Blas Baico. phone 477 1756

Applicant HARRY D. GUTIERREZ

Application Revised By _____ Date _____ 19 _____

To the Applicant:
 Permission is hereby given to do the above work according to the conditions hereon and according to the approval plans and specifications pertaining thereto, subject to compliance with Chapter 70 of the U.B.C. No burning allowed on site unless a burning permit has been issued by the Fire Department.

Remarks: NOTE: CONDITIONALLY APPROVED AS PER LETTER DATED APRIL 23, 1985 (CEPA 1110 - PERMIT # 2603)

* NOT VALID WITHOUT PUBLIC WORKS APPROVAL

Issued by: [Signature] 4-23-85
 Building Official Dept. of Public Works

APPROVED BY: [Signature]
② NAIZONA OKTODIO, PE
 Guam Environmental Protection Agency
 CHIEF ENGINEER

[Signature]
 Department of Land Management 4/23/85

cc: for Maida Construction 477-1756
58



GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA LA GUAHAN
POST OFFICE BOX 2999 AGANA, GUAM 96910 TELEPHONE: 646-8863/64/65

WATER POLLUTION CONTROL PROGRAM
NOTICE OF VIOLATION

Date: February 17, 1987

PLEASE BE ADVISED THAT NOTICE OF VIOLATION IS IN EFFECT AS OF THIS DATE

TO: Owner/Contractor Joseph M. Roberto and Harry Gutierrez

Mailing Address c/o 146 Gutierrez Street, Agana Heights, Guam

RE: Grading Activities
(Name or description of building or structure)

ADDRESS: Lot No. 45-2-NEW-R1, located at Piti, Guam.

BLOCK NO. _____ LOT NO. _____ PERMIT NO. _____

I have inspected the above described structure and/or premises and have found the following violations:

Code and Section(s)	Violation(s)
SECTION ID	Soil Erosion and Sedimentation Regulations. Grading with-out Valid (Expired) Grading Permit.

Your immediate attention and cooperation are hereby ordered to:

- (X) Obtain permit(s) for the work performed as required by law within Ten (10) days from the date of notice.
- (x) Stop work. Please contact GEPA Staff as soon as possible, but no later than February 27 19 87 before doing any more work.
- () Start making corrections immediately and complete all work within _____ () days from date of notice. Please call the undersigned after corrections have been made.

IN VIEW OF THESE YOU ARE REMINDED THAT IF NO ACTION IS TAKEN WITHIN THE SPECIFIED TIME, THIS MATTER WILL BE REFERRED TO THE ATTORNEY GENERAL'S OFFICE AND GUAM CONTRACTOR'S LICENSE BOARD FOR APPROPRIATE ACTION. (PERSONS FOUND GUILTY OF ANY VIOLATIONS SHALL BE SUBJECT TO PENALTIES [\$1,000/DAY] IN ACCORDANCE WITH CHAPTER 47, SECTION 47111 TITLE 10 OF GCA).

SIGNED [Signature]
GERA ENFORCEMENT OFFICER

"ALL LIVING THINGS OF THE EARTH ARE ONE"

RECEIVED BY:

DATE:



GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAAN PRUTEKSION LINA LA GUAHAN

POST OFFICE BOX 2999 AGANA, GUAM 96910 TELEPHONE: 646-8863/64/65

Mr. Joseph Roberto
P.O. Box 1677
Agana, Guam 96910

FEB 19 1987

Dear Mr. Roberto:

RE: Grading Permit Clearance for Lot No. 45-2NEW
located at Sumay, Piti, Guam

(GEPA Erosion Control Permit No. 3049)

Pursuant to Section (I).(D). of the Guam's Soil Erosion and Sedimentation Control Regulations, your proposed grading of the above lot(s) has been approved subject to the following conditions:

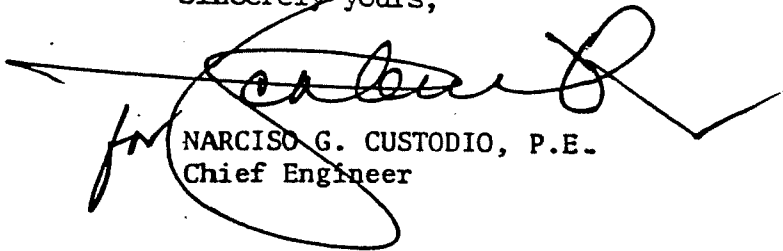
1. That grading will be done in accordance with the latest edition of the Uniform Building Code, Chapter 70.
2. That necessary erosion and sedimentation control measures shall be implemented on all problem areas during and after grading operation in accordance with Section (III) (A) of the Regulations as directed by the GEPA Administrator or his authorized representatives.
3. That all excess excavated materials and other debris shall be removed within thirty (30) days after the operation and be dumped at Ordot Landfill or to an alternate site acceptable by Guam EPA.
4. That preventive measures (Dust Emission Control) for dust control such as installation of a temporary waterline or water truck must be provided prior to the start of the operation.
5. That vehicle travel areas be watered at frequent intervals to suppress dust emissions.
6. That grading activities must be discontinued when wind velocity is in excess of 20 MPH or the wind direction is such that dust emissions are carried toward roadways or residences in the area.

"ALL LIVING THINGS OF THE EARTH ARE ONE"

7. That storage piles be stabilized by wetting, covering or equivalent methods, to control fugitive dust emission caused by wind erosion.
8. That no structures or other improvements are authorized under this approval for grading.
9. That this permit for grading is not valid without the approval of the Department of Public Works, Building Permit and Inspection Section.

Failure to comply with the above conditions and any provisions of the Guam's Soil Erosion and Sedimentation Control Regulations will subject the Holder to a fine of not to exceed One Thousand Dollars (\$1,000.00) per day in accordance with Section (V).(A.) of the regulation.

Sincerely yours,



NARCISO G. CUSTODIO, P.E.
Chief Engineer

CC: Building Permit Section,
Department of Public Works

FCN-2-2-13

FIELD RECEIPT

TREASURER OF GUAM
DEPARTMENT OF ADMINISTRATION
AGANA, GUAM

- USE TAX 1120
- GRT 1040
- EXCISE W-1
- OTHERS

NAME: <i>Joseph B. Roberto</i>		DATE: <i>2-19-87</i>
ADDRESS: <i>Piti</i>		
		\$
<i>Staking Permit</i>		
<i># 2670</i>		
<i>Staking Permit</i>		<i>\$ 192.00</i>
<i>Chro. 101-501</i>		}
<i>1264</i>		
Revenue Acct. No.	Period Covered	How Paid (Cash, m.o., etc.)
<i>3-100-5-2.303</i>		
		TOTAL
		<i>\$ 192.00</i>
SIGNATURE: <i>JBR</i>		FRI-1-190576
Signature and Title of Collector		



BUILDING SAFETY IS NO ACCIDENT



DIVISION OF BUILDING PERMITS & INSPECTION
APPLICATION AND PERMIT FOR CLEARING & GRADING

Permit Number 2670 2/19/87

Location			Eng. Soils Report	Est. Quantity	Permit Fee	Fee Received
District	Block	Lot	Date Filed:	Excav. Cu. Y.D.	\$	\$
<u>Piti (Sumay)</u>		<u>45-2 NEW</u>				<u>\$ 192.00</u>
				<u>6,000</u> Fill Cu. Y.D.	<u>\$ 192.00</u>	By: _____ Date: _____

located at Piti (Sumay)

Lot Area 25,656 S.M. Sq. Ft. Acres _____ Overall Dimensions 351 x 510

Description of Soil
Fill Material COAL
Existing Ground LOOSE SOIL

Estimated Starting Date 2/23/87 Estimated Completion Date 2/23/88

Remarks: DISPOSE OF COAL MATERIAL FROM ANIMAL WASTE PROJECT.

Owner Joseph R. Roberto Address P.O. Box 1677 HONUA Phone 477 8179

Engineer _____ Address _____ Phone _____

Contractor MARIONA GUST. CO. Address P.O. Box 21659 GUAM Phone 477-1756

Date of Application 2/19/87 Applicant _____

Application Revised By _____ Date _____ 19 _____
To the Applicant:

Permission is hereby given to do the above work according to the conditions hereon and according to the approval plans and specifications pertaining thereto, subject to compliance with Chapter 70 of the U.B.C. No burning allowed on site unless a burning permit has been issued by the Fire Department.

Remarks: * CONDITIONALLY APPROVED BY GUAM EPA AS PER ATTACHED LETTER DATED FEB. 19, 1987. (GEPA EROSION CONTROL PERMIT NO. 3049)

BUILDING PERMIT CLEARANCE * NOT VALID WITHOUT PUBLIC WORKS APPROVAL

For The Renewal permit issued on 4/23/85 for Backfilling of private property w/ coal material 2/19/87

Issued by: JESUS Q. NINETE, SR. Building Official Dept. of Public Works

W. Delgado 2-19-87 Guam Power Authority
MARCOS G. CUSTODI P.E. Guam Environmental Protection Agency CHIEF ENGINEER

Bill No. 246 (COR)
Introduced By:

J.F. Ada

12/24/02 3rd
12/24/02
12/26/01
J. F. Ada

AN ACT TO REZONE LOT NO. 45-2-NEW-4, PITI AND AGAT, GUAM FROM AN AGRICULTURAL TO A COMMERCIAL ZONE.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. I Liheslaturan Guåhan
3 finds that Mr. Joseph R. Roberto owns Lot No. 45-2-NEW-4, Piti and Agat,
4 Guam, containing an area of approximately eighty-seven thousand four
5 hundred fifty six (87,456) square feet, which is presently zoned for
6 agricultural use. Constructed on the subject property is a 9,600 square foot
7 warehouse building. Previously, Mr. Roberto received a variance for the
8 use of the warehouse to store non-agricultural products, granted through
9 the then Territorial Land Use Commission. The warehouse originally
10 stored solely agricultural-related products.

11 I Liheslaturan Guåhan finds that surrounding Mr. Roberto's Agat lot
12 are currently numerous other lots being utilized, and are logically zoned,

1 for industrial and commercial uses. Surrounding businesses include a
2 Shell Guam, Inc. large oil refinery/storage facility, a Nissan used car lot, a
3 Taco Bell and a Pizza Hut. *I Liheslaturan Guåhan* further finds that the
4 operation of a commercial establishment on Lot No. 45-2-NEW-4, Agat,
5 Guam, is wholly consistent with the zoning and uses of surrounding lots,
6 and would *not* impose a nuisance or incompatible use with the adjacent
7 properties.

8 **Section 2. Rezoning Mandate.** Lot No. 45-2-NEW-4 located in
9 municipality of Piti and Agat, Guam, containing an area of *approximately*
10 eighty-seven thousand four hundred fifty six (87,456) square feet is hereby
11 rezoned from "A" (Agricultural Zone) to "C" (Commercial Zone).

12 **Section 3. Severability.** *If* any provision of this Law or its
13 application to any person or circumstance is found to be invalid or
14 contrary to law, such invalidity shall *not* affect other provisions or
15 applications of this Law which can be given effect without the invalid
16 provisions or application, and to this end the provisions of this Law are
17 severable.

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Public notice

Public notice for the hearing of this bill was given during newcasts on K-57 radio and appeared in the public notices section of the Pacific Daily News.

MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (First) REGULAR SESSION

Bill No. 246 (COR)
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J. F. Ada 

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