

ZONE VARIANCE

TYPE OF VARIANCE REQUESTED:

<input type="checkbox"/> Use Variance	<input type="checkbox"/> Sign Variance		
<input type="checkbox"/> Density Variance	<input type="checkbox"/> Setback Variance	<u>Required</u>	<u>Current</u>
<input type="checkbox"/> Height Variance	<input type="checkbox"/> Right Side 8'-0' ft	_____ ft	_____ ft
<input type="checkbox"/> Parking Variance	<input type="checkbox"/> Left Side 8'-0' ft	_____ ft	_____ ft
	<input type="checkbox"/> Front 15'-0' ft	_____ ft	_____ ft
	<input type="checkbox"/> Rear 10'-0' ft	_____ ft	_____ ft

**TO: Executive Secretary, Guam Land Use Commission
c/o Land Planning Division, Department of Land Management
Government of Guåhan, P.O. Box 2950, Hagatna, Guåhan 96932**

The Undersigned owner(s)/lessee(s) of the following described property hereby request consideration for a Zone Variance, pursuant to Section 61616-61623, Article 6 (Administration & Enforcement), Division 2 (Regulations of Real Property Uses), Chapter 61 (Zoning Law), 21 GCA Real Property.

1. Information on Applicant:

Name of Applicant: _____ U.S. Citizen: Yes No

Mailing Address: _____

Telephone No.: Business _____ Home: _____

2. Location, Description and Ownership:

Subdivision Name: _____

Lot(s): _____ Block: _____ Tract: _____

Lot Area: Acres _____ Square Meters _____ Square Feet _____

Village: _____ Municipality: _____

Registered Owner: _____

Certificate of Title No.: _____ Recorded Document No.: _____

3. Current and Proposed Land Use:

Current Use: _____ Zoned: _____

Proposed Use: _____ Proposed Zone: _____

Master Plan Designation: _____

4. Attach a one page typed, brief and concise justification (letter format) explaining the compatibility of the proposed project with adjacent and neighborhood developments as they exist and the nature of variance request in accordance with **Guåhan Code Annotated 21 GCA, Chapter 61, Section 61617.**

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

ATTACHMENT: Section 61616 (Variance) – 61623 (Review by Municipal Planning Council) is attached for your information and guidance in preparing of your application and justification. For additional requirements, visit the Zoning Section, Land Planning Division.

ZONE VARIANCE

4. (Continuation):

- b. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;
- c. That the granting of Variance(s) will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located;
- d. That granting of such Variance(s) will not be contrary to the objectives of any part of the "Guåhan Master Plan" adopted by the Commission or Legislature; and
- e. That, as to Variance(s) from the restrictions of Section 61617, 21 GCA, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed and that such building shall not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammled use of the beach and its natural beauty.

5. Supporting Information. The following supporting information shall be attached to this application:

- a. **Site Plan required:** Plans, drawn to scale, showing dimensions and shape of lot; lot size; size and location of buildings; locations and dimensions of proposed buildings or alterations;
- b. 8 1/2" X 14" map, drawn to scale, showing existing zoning circled within 1000 feet radius from the subject lot's boundaries.
- c. 8 1/2" x 14" map, drawn to scale, showing all parcels and their uses within 750 feet radius circled from the subject lot's boundaries. The map shall also contained:
 - (1) Lot number of every parcel(s);
 - (2) Identify by name and use all existing activities on all parcels(s);
 - (3) All adjacent inclusive and exclusive easements and roads to the property, their widths, and condition of surfaces;
 - (4) The nearest location of all public utilities to the subject lot;
 - (5) Any natural or topographic peculiarities.
- d. 8 1/2" X 14" map, drawn to scale, showing all parcels within 500 feet radius of the subject lot's boundaries. Each parcel shall be identified with property lot number.
- e. The most recent survey map, certified and recorded in the Department of Land Management, showing the subject property;
- f. An initial comprehensive **Environmental Impact Assessment (EIA)** in accordance with Executive Order 90-10, or **FONSI** if acceptable to GEPA in place of an **EIA**.
- g. Additional information as required by the Guåhan Chief Planner.

Submit one set of the Application with all the supporting information listed above. Once the Application is reviewed and accepted, applicant must submit the required number of hard copies (32 sets) of the application and nine (9) copies of the Application in electronic format (example: in CD format, etc.)

- 6. Filing Fee: Seventy-Five Dollars (\$75.00)** filing fee for the first five pages, and \$.25 for any additional page, under Public Law 29-02, Chapter V, Part III (*Fees and Charges Assessed by the Department of Land Management*).

ZONE VARIANCE

7. **Required Signatures:** All legal owners/lessees of designated parcel shall sign form with name(s) typed or handwritten, signed and dated:

"I hereby certify that all information contained in this application and its supplements is true and correct. I also understand that any misrepresentation in this application shall void the entire submission. Further, that thirty-two (32) sets of the above listed required information is provided."

(Owner(s) or Lessee(s) and Date)

(Representative, if any, and Date)

THIS FORM SHALL NOT BE MAILED. APPLICANT OR REPRESENTATIVE SHALL SUBMIT IN PERSON, BY APPOINTMENT ONLY, TO THE LAND PLANNING DIVISION, DEPARTMENT OF LAND MANAGEMENT.

FOR OFFICIAL USE ONLY

Date Accepted: _____ Accepted By: _____

Date of Notice in Newspaper(s): _____

Date of Notice to Adjacent Property Owners: _____

Date of Public Hearing: _____

Filing Fee(s) Paid (\$ _____): Yes [] No [] Check [] Cash [] Other [] _____

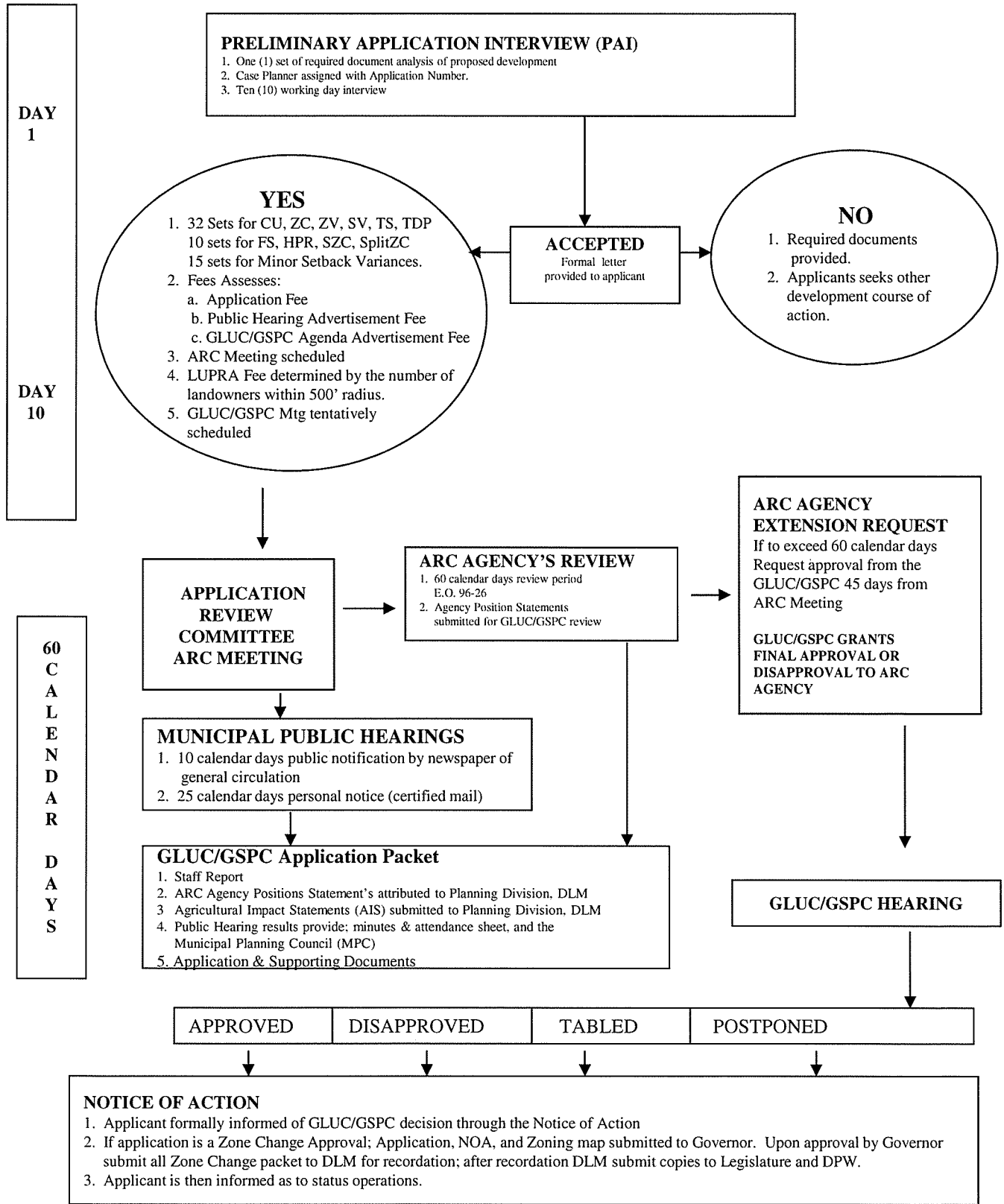
Receipt No.: _____ Application Number: _____

Date of GLUC Action: _____ Conditions: Yes [] No [] (See Below)

Conditions of Approval: _____

GLUC Resolution No.: _____ Date of Notice of Action: _____

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION APPLICATION PROCESS



DAY 1

DAY 10

60
C
A
L
E
N
D
A
R
D
A
Y
S

APPROVED DISAPPROVED TABLED POSTPONED

NOTICE OF ACTION

1. Applicant formally informed of GLUC/GSPC decision through the Notice of Action
2. If application is a Zone Change Approval; Application, NOA, and Zoning map submitted to Governor. Upon approval by Governor submit all Zone Change packet to DLM for recordation; after recordation DLM submit copies to Legislature and DPW.
3. Applicant is then informed as to status operations.

(No Smaller than 4 FT X 8 FT Sign Board)
NOTICE TO REZONE*

*1. Shall Occupy Two (2') Feet X Eight (8') Feet of the Sign Area

*2. Letters are to be Twelve (12") Inches High, Colored Red on a White Background

3. Sign Shall be Erected and Displayed in a Visible and Prominent Place on the Subject Site No Less than **Five (5) Days** after Application is filed with the Commission and Shall be Removed when the Commission Renders a Final Decision or Applicant Officially Withdraws the Application.

PUBLIC NOTICE

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A

ZONE VARIANCE

APPLICATION DESCRIPTION:

OWNER:

DEVELOPER:

LOT, BLOCK, TRACT, MUNICIPALITY:

PROPOSED ZONE VARIANCE:

DATE:

TIME:

PLACE:

PUBLIC HEARING:

GLUC MEETING:

Procedures for Placement of Mandatory Billboard for Public Notification

Effective Date: November 11, 2011

As Approved by the Office of the Guam Chief Planner

Division of Land Planning, Department of Land Management

The purpose for these following procedures is to clarify and standardize the requirement for the placement of public notice signs on the subject lots under review by the Guam Land Use Commission (GLUC) pursuant to 21GCA, Chapter 61, *Zoning Laws, Part 3, Changes of Zones, Section 61633, Hearing Dates-Notice (for Zone Change Requests)*; Article 3, Section 61303(c) *(for Conditional Use Permit Requests)*; Part 2, *Appeals & Review, Section 61619, Hearing Date-Notice (for Zone Variance Requests)*. Applicants are instructed to review the following steps and procedures and acknowledge its contents and responsibilities. (This document shall be entered as a mandatory information and part of the filed application packet)

A. SIZE DIMENSION AND SIGNAGE:

1. The Billboard shall maintain a dimension no smaller than 4 feet by 8 feet (as allowed in a standard-sized plywood board) with a **white background entirely**.
2. In that portion stating "**NOTICE TO REZONE***" shall be dominantly in English, shall use a letter font size no smaller than 12", and shall be in **red**. This portion of the sign shall take up no less than 2 feet by 8 feet and preferably on the upper half of the sign.
3. In that portion stating "**PUBLIC NOTICE**" shall be dominantly in English, shall use a letter font size no smaller than 8", and shall be in **red**.
4. In that portion stating "**AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A ZONE CHANGE**" shall be dominantly in English, shall use shall use a letter font size no smaller than 4-6", and shall be in **red**.
5. In that portion providing: **the title of the filed application; owner and name of the developer; the lot, block, and tract number of the subject lot; and the proposed change of zone, purposed variance, or proposed conditional use** regarding the application, shall be dominantly in English, shall use a letter font size no smaller than 4-6", and shall be in either **red or black**.
6. In that portion providing: **the Date and Time for each Public or GLUC Hearing** shall be dominantly in English, shall use a letter font size no smaller than 4-6", and shall be in either **red or black**.
7. **All characters and letters will be printed in legible and permanent media so as to prevent any possible degradation in material or context due to elements of nature.**

Applicant Initials _____

B. PLACEMENT AND MAINTENANCE OF SIGNAGE:

1. The applicant shall not be restricted to the placement of one billboard advertisement of public notice, but shall opt to place additional billboard as may deemed necessary to insure public notification in accordance with applicable statues is achieved and may be applicable at the recommendation of the Guam Chief Planner.
2. The Billboard shall be erected and displayed in a visible and prominent place on the subject site no less than **5 days after the application has been filed with the Guam Land Use Commission or Guam Seashore Commission, whichever is applicable and in accordance to applicable statute.**
3. Billboards shall be erected and in placed in a location within the subject lot(s) as to avoid any hindrance to pedestrian or vehicular travel. **The billboard shall not be used for the purpose of hindering public access within a Public Right-of-Way.**
4. When facing a roadway or in an area determined as the most obvious and visually accessible, such area where the billboard will be placed shall be free of any object, natural material, or any man-made or natural structure or form that would otherwise hinder visual access to the billboard. The applicant or his authorized agent shall be responsible for maintaining said area and sign for the duration of the application's review and assessment period and no later than **one day after the GLUC/GSPC has rendered a final decision.**
5. The applicant or his authorized agent shall be responsible for updating the billboard, particularly on **public hearing or GLUC/GSPC hearing dates.**

C. OFFICIAL STAMP DATE PROOF OF PUBLIC NOTIFICATION:

In an effort to insure timely public notification of public or GLUC hearing dates, times, and venue the applicant or his authorized agent shall perform the following:

1. Upon notification of a confirmed and scheduled public or Commission hearing date, the applicant or his authorized agent shall enter such date(s) on the billboard **no later than three days after being notified or as required under statute.**
2. For the purpose of insuring proof new information has been added to the sign within the required timeline, the applicant or his authorized agent shall either:
 - a. Obtain a **digital photograph of the billboard, obviously showing the entered date(s).** The digital photograph shall then be sent to the application case planner via email or other electronic media. The date received via email or other electronic media shall serve as the **date stamp proof** in accordance with part 1a of this instruction; or
 - b. Obtain a **still photograph of the billboard, obviously showing the entered date(s).** The photograph shall then be brought to the office of the application case planner, either personally or by electronic means (i.e. electronically scanned then sent by

Applicant Initials _____

Procedures for Placement of Mandatory Billboard for Public Notification (con't)

email, facsimile, etc). The case planner shall then receive the photo(s) as the date stamp proof of the hearing date in accordance with part 12a of this instruction (in the event a facsimile is used, the case planner shall use the date received in faxed copy as **the date stamp proof**; otherwise,

- c. When personally delivering the photo(s), the applicant or his authorized agent shall submit accordingly using the following form and context for the receipt and acknowledgement of **stamp date proof**.

<p>This is to acknowledge that the <u>applicant's or authorized agent</u> has submitted proof that dates pertaining the public hearing/Commission were entered in the mandatory Public Notice Billboard pursuant to Part C2a of the <i>Procedures for Placement of Mandatory Billboard Public Notification</i>.</p> <p>DATE NOTIFIED BY CASE PLANNER: _____</p> <p>DATE ENTERED ONTO BILLBOARD BY APPLICANT: _____</p> <p>CASE PLANNER ACKNOWLEDGED: _____</p> <p>GUAM CHIEF PLANNER ACKNOWLEDGED: _____</p>
--

***This document to have attached a copy of a sign sample.

I/We have been advised of my/our Case Planner of the requirements of the mandatory installation of a public notice sign as described above and that I am/we are responsible for its installation, maintenance, and updating of said sign as well meeting the requirements of all applicable statues relative to providing appropriate public notice of all applicable public meeting and/or hearing dates concerning my/our land use application as filed with the Division of Land Planning. I/ We understand that any failure to meet these requirements may prevent further processing of my/our application or revocation, thereof.

_____	_____	_____
APPLICANT'S NAME (PLEASE PRINT)	SIGNATURE	DATE

**21 GCA REAL PROPERTY
CH. 61 ZONING LAW**

§ 61616. Variances.

Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Chapter would occur from its strict literal interpretation or enforcement, the Territorial Land Use Commission shall have authority to grant such variances therefrom as may be in harmony with its general purpose and intent, so that the spirit of the law shall be observed, public safety secured, and substantial justice done, including the following:

- (a) Permit the extension of an existing or proposed conforming building or use into an adjoining more restricted zone for a distance not exceeding fifty (50) feet;
- (b) Permit a building or use (including automobile parking) on a lot immediately adjoining or across an alley from a less restricted zone, upon such conditions and safeguards as will tend to cause an effective transition from the less restricted to the more restricted zone;
- (c) Permit the addition, enlargement or moving of a nonconforming building or structure;
- (d) Permit such modification of the height regulations as may be necessary to secure an appropriate building or structure on a lot which has such physical characteristics or is so located with relation to surrounding development that it cannot be properly improved without such modification;
- (e) Permit such modification of the yard, lot width or lot area regulations or requirements as may be necessary to secure an appropriate building or structure on a lot which is of such size, shape or topography, or is so located in relation to adjacent property or improvements that it cannot be appropriately improved without such modification;
- (f) Permit such modifications on the lot area per dwelling unit (density) requirements as may be necessary to secure an appropriate development of a lot in keeping with its size and location;
- (g) Permit the modification or waiver of the automobile parking space or loading space requirements where such modification would not be inconsistent with the purposes of this Chapter;
- (h) Permit temporary buildings or uses for a period not to exceed two (2) years in undeveloped areas;
- (i) Permit the following uses in zones from which they are prohibited by this Chapter: governmental enterprises; public utilities and public service uses or structures; hospitals or institutions; or development of natural resources.
- (j) Permit the construction of buildings in violation of the restrictions of § 61504 of this Chapter;

- (k) Permit the owner of a lot in a rural zone to parcel therefrom one lot not less than ten thousand (10,000) square feet in area to be used for a single family residence, such variance to be conditioned upon a prohibition on any subsequent parcelling of the lot and that the parcelled out lot be served by water and power and a public road.
- (l) Notwithstanding other provisions within this Section, establish guidelines through resolution to permit the Director of the Department of Land Management, with advisement from the Guam Chief Planner, to utilize his discretion in approving minor yard setback variances specifically for single family residential dwellings or any accessory structure of a residential use which, at a minimum, satisfies the following requirements:
1. The variance is for not more than three (3) feet beyond the setback requirement of only one (1) yard (side, front, or rear) to allow the suitable location of a structure where practical difficulties exist due to special circumstances applicable to the building or property, including size, shape, topography, location or surroundings, depriving such property of privileges enjoyed by other property in the vicinity and under identical zoning classification consistent with the general welfare of the adjacent neighbors.
 2. The granting of the variance does not authorize a use or activity which is not authorized by the zone regulations governing the parcel or property.
 3. Water runoff from the roof line of any structure shall not encroach beyond the property line of a parcel.
 4. No encroachment onto an area engrossed by a grant of easement shall occur.
 5. Concurrence from the adjacent property owners located along the property line closest to the setback encroachment shall be obtained.
 6. Real property chattels or any transient residential accommodations including breakfast inns, motels or hotels are not considered as residential dwellings for the purpose of this Subsection.
 7. No other setback variance shall be granted by the Commission on the parcel affected by a grant of variance through this Subsection. The physical removal of any structure or a portion thereof approved through this Subsection shall void the restrictions imposed by this Subsection.

The Department shall notify all contiguous property owners of the proposed minor yard setback variance. Upon notification by the Department, the property owners shall have thirty (30) days to submit written objections to the Director.

SOURCE: GC § 17501. Subsection (k) added by P.L. 10-173 as (j) and renumbered by the Ed., GC (1974 Supp.) Subsection (l) added by P.L. 27-91:2.

§ 61617. Variance Requirements.

No variance shall be granted by the Commission unless it finds:

- (a) That the strict application of the provisions of this Chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law;
- (b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;
- (c) That the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and
- (d) That the grant of such variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature;
- (e) That, as to variances from the restrictions of § 61504 of this Chapter, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammelled use of the beach and its natural beauty. The above requirements need not apply to the types of uses specified in § 61616(i), and variances for such uses shall only be granted by the Commission where it finds that they are deemed essential or desirable to the public convenience or welfare, are in harmony with the various elements or objectives of the Master Plan, and will not be materially detrimental or injurious to the property or improvements in the immediate neighborhood.

SOURCE: GC § 17502.

§ 61618. Variance Application-Form and Contents.

An application for variance shall be filed with the Executive Secretary of the Commission upon a form and accompanied by such data and information as the Commission may prescribe.

SOURCE: GC § 17503.

§ 61619. Hearing Date-Notice.

Upon the filing of variance application the Commission shall fix a reasonable time for hearing the same and shall give notice thereof to the applicant and may give notice to any other parties in interest. All hearings shall be conducted in the affected municipality and shall be in accordance with the rules established by the commission, but any party in interest may appear in person, or by designated attorney or agent. At least one such hearing shall be conducted after six o'clock p.m.

SOURCE: GC § 17504 as amended by P.L. 20-217:3.

§ 61620. Decision by Territorial Land Use Commission.

If, from the facts presented with the application at the hearing, or by investigation by or at the instance of the Commission, the Commission makes the findings set forth in § 61617, it may grant the variance in whole or in part, upon such terms and conditions as it deems necessary to conform to the general intent and purpose of this law. If the Commission fails to make said findings, it shall deny the application. Each decision by the Commission authorizing a variance from the regulations herein established must be by resolution adopted by a majority of its membership, setting forth in writing the findings required by § 61617, except that no written findings shall be required in granting minor variances from the height, yard, lot width, lot area or lot area per dwelling unit requirements. The Commission shall make its decision on each variance application within a reasonable time and shall forthwith furnish a copy thereof to the applicant and to other parties in interest who have requested to be notified. Additional copies of the decision shall be filed in the records of the Department of Public Works. If the decision filed involves a variance granted by the Commission, said variance shall be the authority for the Director of Land Management to endorse and to issue any building permit or certificate of occupancy in conformance thereto and for the approval of any application for the approval of a required license.

SOURCE: GC § 17505.

§ 61621. Decision Final-Appeal.

The decision by the Commission on any variance shall be final, except that any party aggrieved by such decision shall be entitled to a judicial review thereof by application to the Superior Court within fifteen (15) days after the filing of the Commission's decision in the Department of Land Management and the Department of Public Works.

SOURCE: GC § 17506.

§ 61622. Jurisdiction.

The Superior Court of Guam shall have jurisdiction over all actions arising from the provisions of this Title.

SOURCE: GC § 17507. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

§ 61623. Review by Municipal Planning Council.

The Municipal Planning Council of each municipal district to be affected by a proposed variance shall review the request and express its opinion thereon by resolution adopted by a majority of its members, and submit such resolution to the Commission within twenty (20) days from the date of its public hearing thereon for the Commission's consideration thereof pursuant to § 61620.

SOURCE: § 61623 added by P.L. 20-217:4.