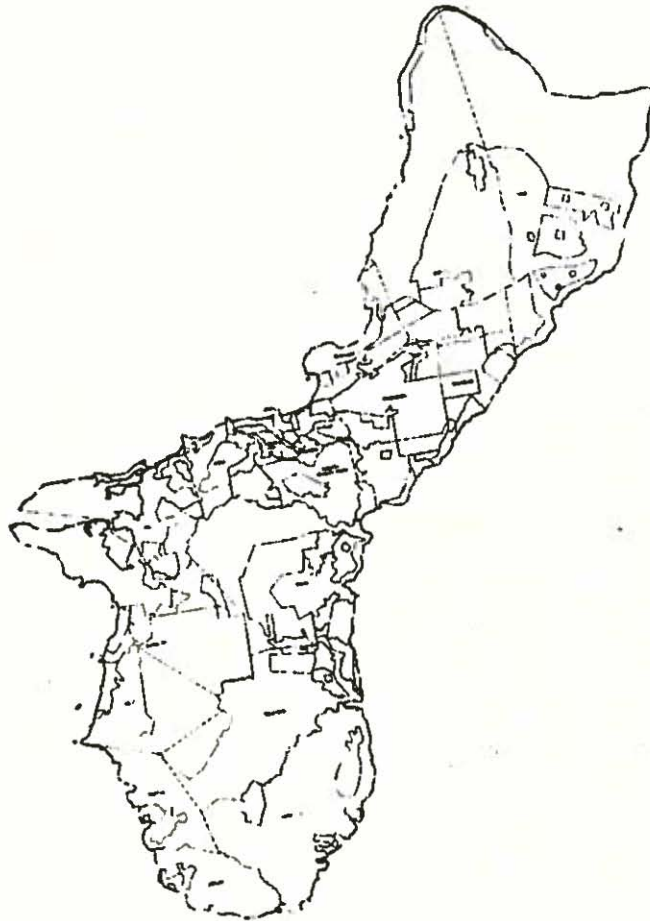


GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan



Informational Booklet

Established: March 21, 1990

Public Law 20-147



GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan

Informational Booklet

Table of Contents

- I. Guam Planning Council's Mission Statement
- II. Guam Planning Council's Goals & Objectives
- III. Guam Planning Council's Member Listing
- IV. Public Laws relative to the Guam Planning Council
 - A. P.L. 20-147 (Enabling Legislation)
 - B. P.L. 20-205 (Initial Funding Legislation)
 - C. P.L. 25-164 (FY 2000-2001 Budget, excerpts)
- V. Guam Planning Council's Rules & Regulations
- VI. Guam Planning Council's By-Laws
- VII. Components of Guam's Comprehensive Development Plan
- VIII. Guam Planning Council's Adjudication Process on Planning elements of Guam's Comprehensive Development Plan
- IX. Attorney General's Opinion relative to the Guam Planning Council
 - A. AG's Opinion dated November 6, 2000
 - B. AG's Opinion dated June 11, 1990
 - C. AG's Opinion dated April 19, 1990
 - D. AG's Opinion dated February 7, 1990

GUAM PLANNING COUNCIL

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I. Mission Statement

Guam Planning Council's Mission Statement

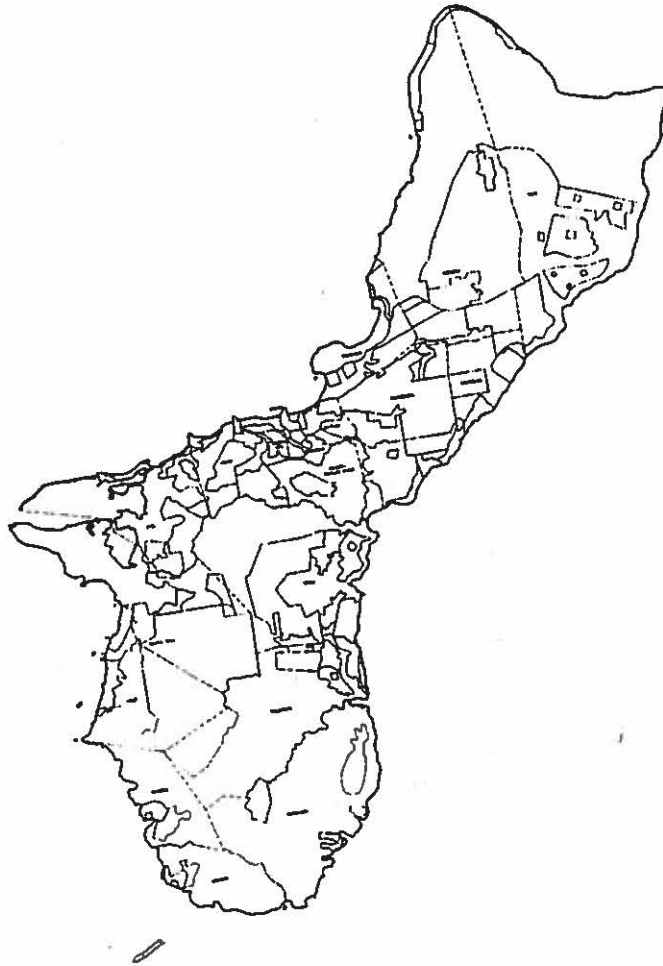
To develop and support a Comprehensive Development Plan for Guam that...

- Serves to guide the physical, social, and economic growth and development of the island;
- Reflects the goals and aspirations of the people of Guam as they relate to Land Use, Physical Infrastructure, Social Infrastructure, and Economic Development; and the quality and standard of living desired by the people;
- Expresses the policy requirements and directives sought by the people of Guam as a means of achieving rational and balanced physical and socioeconomic development that would protect and sustain the present and future livelihood of the island's people.



GUAM PLANNING COUNCIL

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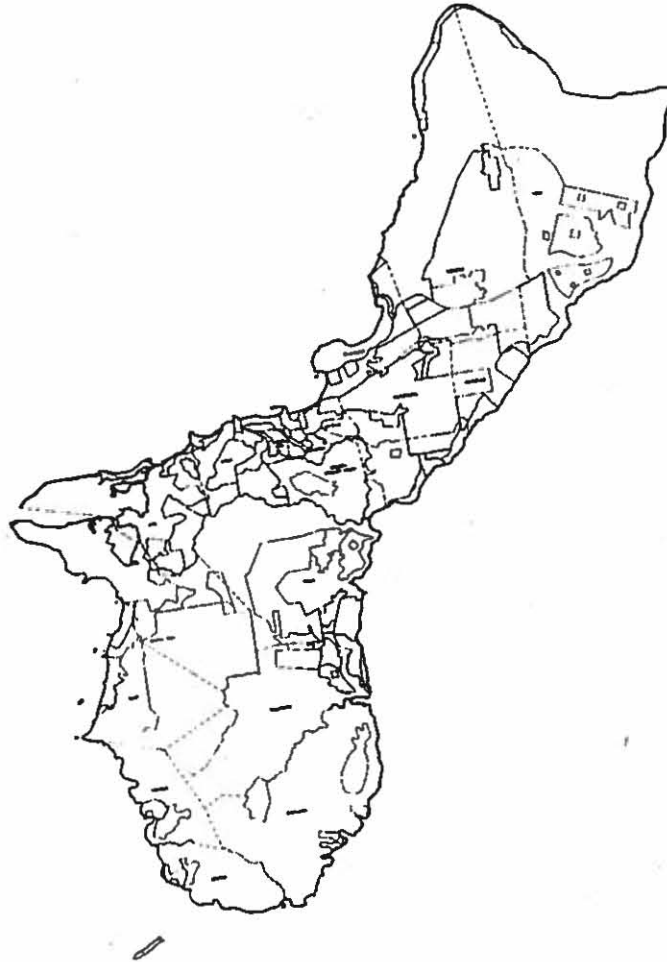
II. Goals & Objectives

Guam Planning Council's Goals and Objectives:

- I. Provide foresight, direction, and guidance in the development of a Comprehensive Development Plan for Guam as mandated by Public Law 20-147.
- II. Facilitate the development of Guam's Comprehensive Development Plan incorporating the four (4) major Components:
 - A. Land Use Component (Land Use, Public Facilities, Housing, Recreation, Seashore Reserves, Community Design, Public Buildings, Public Lands, Conservation, Safety (Hazard Mitigation), & Regulations)
 - B. Physical Infrastructure Component (Transportation, Public Facilities, Utilities, & Capital Improvements)
 - C. Social Infrastructure Component (Education, Health Services Support, Cultural Arts & Humanities, & Public Safety)
 - D. Economic Strategy Component (Economic Development, Integrated Communications, Finance, & Tourism)
- III. Incorporate the desires and aspirations of the people with respect to the future development of Guam – policies which evolve from sound strategic planning initiatives.
- IV. Advocate the development of policies that would channel the deployment of resources to:
 - A. Upgrade the quality of life for Guam's people;
 - B. Create conditions and opportunities whereby people fully participate and benefit at every level of social and economic activity;
 - C. Maintain balance and equity between development and the environment in order to preserve the unique culture, traditions and beauty of the island;
 - D. Optimize the use of resources to meet present and further infrastructure and suprastructure requirements of the people of Guam;
 - E. Develop and maintain infrastructure capacity at a level that could sustain future population, socio-economic and physical growth.
- V. Harmonize, improve and assist in implementing comprehensive activities at all levels of government and insure consistency of all comprehensive planning with Guam's Comprehensive Development Plan.
- VI. Provide technical assistance, administrative support, and planning information to the Council.
- VII. Plan, implement, and manage the annual budgetary needs of the Guam Planning Council and staff.
- VIII. Hold regular meetings to facilitate the communication process between consultants, Technical Advisory Committee, Council's staff, Council, and the public.
- IX. Prepare a progress report for the Governor's review before the last Monday in January of each year.

GUAM PLANNING COUNCIL

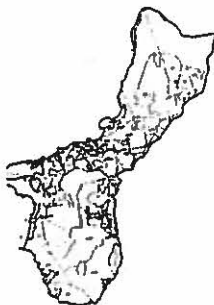
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III. Council Members' Listing

GUAM PLANNING COUNCIL

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Guam Comprehensive
Development Plan:
Land Use Plan
Community Design Plan
Transportation Plan
Regulations Plan
Public Facilities Plan
Public Lands Plan
Public Buildings Plan
Zoning Plan
Development Plan
Conservation Plan
Recreation Plan
City Plan
Tourism Plan
Development Policy Plan
Vital Improvement Plans
Policy Statements Plan
Other Planning Elements

Council Members:

MR. JESUS T. SALAS, Chairman

Administrator, Guam Environmental Protection Agency
Tel: 475-1622 Fax: 477-9402

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Director, Bureau of Planning
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HONORABLE EDUARDO B. CALVO

Senator, 26th Guam Legislature
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HONORABLE JOHNNY REYES

Mayor of Agat
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MS. BECKY LUJAN

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Guam Chamber of Commerce Representative (Duenas & Ass.)
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MR. RORY RESPICIO

Community-At-Large Representative (Dept. of Youth Affairs)
Tel: 734-2597 Fax: 734-7536

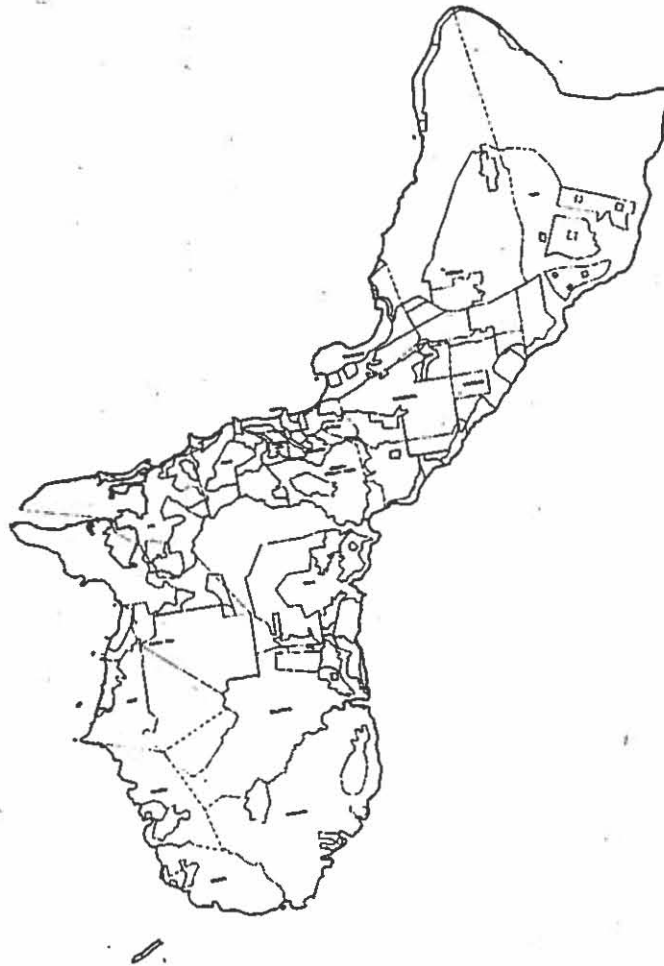
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GUAM PLANNING COUNCIL

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IV. Public Laws

- A. P.L. 20-147 (Enabling Legislation)
- B. P. L. 20-205 (Initial Funding Legislation)
- C. 25-164 (FY '00-'01 Budget, excerpts)

PUBLIC LAW 20-147

PUBLIC LAW 20-147

ACT ESTABLISHING THE PROCESS FOR COMPREHENSIVE
DEVELOPMENT PLANNING ON GUAM

AN ACT TO REPEAL AND REENACT CHAPTER II OF TITLE LXV OF THE GOVERNMENT CODE, AND TO REPEAL AND REENACT SECTION 13200 AND SUBSECTION (a) OF SECTION 48003 OF SAID CODE TO ESTABLISH THE PROCESS FOR COMPREHENSIVE DEVELOPMENT PLANNING IN GUAM.

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

Section 1. Chapter II, Title LXV, Government Code, is repeated and reenacted to read:

CHAPTER II.

COMPREHENSIVE PLANNING

62010. Legislative Findings. The Legislature recognizes that since the early 1960's, Guam has experienced population, economic and physical growth rates that are among the highest in the region; that Guam and her people have benefitted greatly from all levels of socio-economic and physical development which has thus far taken place but it is the desire of the people of Guam to sustain and encourage the development of the island in a manner that would foster greater economic opportunities and stability for Guam without adversely affecting the cultural, environmental, social and natural resources unique to the island; that without careful study of the types and scale of socio-economic development anticipated for Guam and her residents, there will continue to be an absence of foresight, direction and guidance present in the

current and future stages of development needed by Guam to sustain the desired standards and quality of living for its people; that to fully enjoy the benefits that can and would be derived from Guam's limited human and natural resources, development in Guam must be guided by a Comprehensive Development Plan that reflects the desires and aspirations of all who are guided by it; that a process for formulating Guam's Comprehensive Development Plan shall be established which shall identify the roles, authorities, responsibilities and processes involved in the formulation of the plan;

That there is a pressing need to establish policies which reflect the people's aspirations with respect to the future development of Guam - policies which evolve from sound strategic planning initiatives; policies that take into account all diverse elements of community needs and desires; policies that would channel the deployment of resources to meet the following goals and objectives:

1. To upgrade the quality of life for Guam's people;
2. To create conditions and opportunities whereby people fully participate and benefit at every level of social and economic activity;
3. To maintain balance and equity between development and the environment in order to preserve the unique culture, traditions and beauty of the island;
4. To optimize the use of resources to meet present and

future infrastructure and suprastructure requirements of the people of Guam;

5. To develop and maintain infrastructure capacity at a level that could sustain future population, socio-economic and physical growth.

62011. Legislative Intent. It is the intent of the Legislature (i) to integrate its policy-making efforts with public and private interest engaged in physical, social and economic development planning for the island; (ii) to establish a process and mechanism through which duly adopted policies of Guam are linked with all elements of governmental and non-governmental development planning and implementation activity, the island having experienced the ill-effects of fragmented and disjointed development efforts resulting from the absence of both an integrated planning process and a Comprehensive Development Plan that contain rational parameters for Guam's growth; (iii) that all planning efforts that occur in Guam, be they private or public, adhere and conform to the adopted policies, goals and objectives set forth in Guam's Comprehensive Development Plan; (iv) to ensure that the people of Guam are not subjected to unbridled and unmanageable growth that would threaten the benefits, comforts and privileges to which each Guam resident is entitled; and (v) that the formulation of the Guam Comprehensive Development Plan serve to guide the island's growth and development up to and through the Twenty-First Century.

The Legislature wishes to collectively draw input, participation and expertise from all segments of the community in the effort to establish comprehensive planning for Guam and to solicit the services of development planning experts from both the public and private sectors.

In its desire to establish short-range and comprehensive long-term development objectives for Guam, inclusive of but not limited to the areas of education, visitor industry, economic development, community development, health, transportation, communications, public safety, agriculture, taxation, culture, labor and human resources, recreation, environment, and political development, the Legislature hereby establishes strategies for initiating comprehensive planning for Guam and the formulation of the Guam Comprehensive Development Plan. These strategies shall be as follows:

- A. To determine the extent that Guam's land, water and human resources limit urban and rural development;
- B. To plan for the preservation of the natural charm and character of Guam within the framework of a growing population and modern technology;
- c. To establish specified areas of use within urban, suburban, rural, agriculture, conservation, industrial, and resort contexts;
- D. To provide a development pattern that enhances the comfort, convenience and economic welfare of the

individual;

- E. To prepare land-use capability criteria as a basis for real property evaluation that equalize the divergent qualities of location;
- F. To reappraise the extent of public, private and Federal land tenure in Guam and provide guidelines for relocation of inefficient or inappropriate uses;
- G. To plan for the development and extension of necessary infrastructure and transportation facilities;
- H. To plan for a high quality environment essentially free from pollution and with adequate and well-kept open space throughout Guam's varying activity centers;
- I. To prepare criteria of substandard neighborhoods and identify areas that meet these criteria;
- J. To recommend creative legislation regulating Guam's use of land for the protection of future generations.

Nothing in this Chapter is intended to limit the scope of any element or the areas of concern cited herein. However, it is the intention of the Legislature to fully integrate all planning elements and concerns within a viable development planning mechanism.

62012. Territorial Planning Council

- (a) Creation and Membership. There is hereby created within the government of Guam a Territorial Planning Council (the "Council") of twelve (12) members consisting of the

Director of Land Management, the Director of Planning, the Administrator of the Guam Economic Development Authority, the Director of Commerce, the General manager of the Guam Visitors Bureau, one (1) member of the Mayors' Council to be nominated by the Mayors' Council and appointed by the Governor, three (3) members of the Legislature, including one (1) minority member, each to be nominated by the Speaker and appointed by the Governor, one (1) member of the Chamber of Commerce appointed by the Governor with the advice and consent of the Legislature, one (1) member of the community at large appointed by the Governor with the advice and consent of the Legislature, and the Administrator of the Guam Environmental Protection Agency.

- (b) Chairperson. The Council shall select a Chairperson and Vice-Chairperson from among its members to preside over its affairs.
- (c) Executive Secretary. The Director of Planning shall be the Executive Secretary of the Council.
- (d) Procedures. The Council shall, pursuant to the Administrative Adjudication Law, adopt rules, procedures, and regulations to govern its meetings, hearings, business and affairs.
- (e) Fees. Members of the Council who are not public officials shall be compensated Fifty Dollars (\$50.00) per

meeting not to exceed One Hundred Dollars (\$100.00) per month.

62013. Council Responsibilities and Authority. The responsibilities and authority of the Council shall be:

- (a) Prepare Plan. To cause to be prepared, through the services of a consortium of both public and private experts possessing diverse planning experience and expertise, a comprehensive development plan (the "Plan"), which shall provide short and long-range guidance for the social, economic, infrastructure, suprastructure, and physical development of Guam, and which shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within Guam for residential, recreational, agricultural, commercial, industrial, and other uses completely serviced by an access and circulation network and infrastructure consistent with proper protection to enhance the quality of the environment and preserve Guam's natural beauty and historical heritage;
- (b) Assist Planning. To harmonize, improve and assist in implementing comprehensive planning activities at all levels of government;
- (c) Insure Consistency. To insure that the current planning programs and projects are consistent with the comprehensive development plan and the comprehensive

- program and financial plan (set out in the Executive Budget Acts) and the policies enumerated in this Chapter;
- (d) Rules. To adopt any necessary rules or regulations in accordance with the Administrative Adjudication Law and to exercise all other powers necessary and proper for the discharge of its responsibilities;
 - (e) Recommendations. To develop all elements of the comprehensive development plan for Guam, as described in 62020 of this Chapter, and to make detailed written recommendations to the Governor, including minority dissenting opinions, for approval, disapproval, revision, amendment or referral to specific agencies or groups for further study and review;
 - (f) Agreements. To enter into and carry out any agreement or agreements in connection with the provisions of this Chapter and to solicit assistance from public, private or Federal sources as required in the development planning process and which are not inconsistent with or contrary to the laws of Guam; and
 - (g) Annual Report. To deliver to the Governor on the last Monday of January of each year a written report of the planning program and progress.

62014. Support and Coordination for Comprehensive Planning. All agencies, departments, boards, commissions and other instrumentalities of the government of Guam shall review their

present statutory authority, administrative regulations and current planning policies and procedures to determine whether there is any duplication, any deficiencies or inconsistencies therein which prohibit or tend to prohibit integration, coordination and compliance with respect to the purposes and provisions of this Chapter and shall thereafter propose to the Council at a date determined by the Council such measures as may be necessary to bring their planning authority functions and programs into conformity with the intent, purposes, and procedures set forth in this Chapter. All master plans, development plans, long-range plans, and the like prepared by public agencies shall be submitted to the Council for processing as part of the comprehensive planning program. Emphasis will be placed on the continuing nature of the comprehensive plan program rather than a final completion of a single plan. The Council may assign, with concurrence of the director or other head of the agency involved, planning staffs or portions thereof of staff or line agencies who shall prepare portions of the plan under the supervision of the Bureau of Planning.

62015. Plan Review: Public Hearings. The Plan or any of its elements prepared by the various public agencies or any private entity, shall be submitted to the Council for review. Within forty-five (45) days following receipt of any such element or elements by the Council, the Council shall hold one (1) or more public hearings thereon. Announcements of such hearings shall be

printed in a newspaper of general circulation on Guam ten (10) days and one (1) day prior thereto. Summaries of the element or elements to be heard shall be prepared by the Council and submitted to appropriate news media.

62015.1 Plan Submission. Within thirty (30) days after the hearing of the Plan or any of its elements, the Council shall submit to the Governor its recommendation thereon including a summary of testimony at the hearing(s).

62015.2 Cooperation of Other Departments. Every department and agency of the government of Guam is hereby directed to render such assistance to the Council as the Council may require.

62016. Plan Adoption. The Plan or any of its elements received by the Governor from the Council shall be approved, disapproved or referred to the Council for further recommendation prior to approval. The Governor shall have sixty (60) calendar days to act on the Plan or any of its elements submitted; provided, however, that if no action is taken thereon within sixty (60) calendar days after submission, the Plan or any of its elements so submitted shall be deemed approved by the Governor. Within ten (10) calendar days of approval by the Governor, the Plan or any of its elements shall be submitted to the Legislature for adoption. The Legislature shall review and approve or disapprove the Plan or any of its elements within sixty (60) calendar days of its receipts. In the event of failure by the Legislature to act within such sixty (60) calendar day period, the Plan or any of its

elements so submitted shall be deemed approved.

62017. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning (the "Bureau"), which shall provide technical assistance, support and planning information to the Council and assist the Council in its efforts to integrate and coordinate all levels of development planning throughout the government of Guam. The administrator of the Bureau, who shall be designated Director of Planning (the "Director"), shall be appointed by the Governor with the consent of the Legislature, and shall be a person who, as a result of training, experience and attainments, is exceptionally well-qualified to analyze and interpret development trends and information of all kinds, to appraise and coordinate planning programs and supervise the execution of the responsibilities of the Council in accordance with the policies set forth in this Chapter. The Director shall be responsible for the administration of this Chapter and shall supervise the staff of the Bureau which, in addition to its regular duties, shall serve the Council.

62018. Same: Staff Organization. The staff of the Bureau shall be organized into such divisions, sections, or units as are sufficient to appraise, coordinate and assist in the preparation of long-range planning programs for the social, economic, infrastructure, and suprastructure development of Guam. Expertise, either singly or collectively, should be evident in such areas as community facilities, conservation, cultural development,

demography, economics, education, environment, finance, infrastructure, land utilization, natural resources, transportation, urban and rural design, utilities, and visitor industry. Preparation of planning elements not the duty and function of staff and line agencies, shall be the responsibility of the staff of the Bureau

62019. Powers of the Bureau. In the execution of its responsibilities under this Chapter, the Bureau is authorized to perform the following functions:

- (a) Grants. To apply for and accept grants, loans, contributions, appropriations and assistance from the Federal government and from any other sources, public or private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the Federal laws as it may deem reasonable and appropriate and which are not inconsistent with the purpose of this Chapter and the laws of Guam;
- (b) Contracts. To Contract for any professional services if such work or services cannot satisfactorily be performed by its employees;
- (c) Studies. To conduct, or cause to be conducted, investigations, studies, surveys, research and analysis relating to physical, human, social, and economic development of Guam and to publish the results thereof;

- (d) Policies. To develop and recommend territorial policies to foster and promote the improvement of planning activity and development quality;
- (e) Private Services. To utilize to the fullest extent possible, the services, facilities and information of public and private agencies and organizations and individuals in order that duplication of effort and expenses may be avoided;
- (f) Appraise Plans. To review, appraise and make such use as it sees fit of all existing plans, inclusive of the 1978 Kabales Na Planu Para Guahan, and those presently being prepared;
- (g) Data Bank. To develop an information system and data bank for the continual collection and storage of public information needed or utilized in the development plan process; and
- (h) Annual Report. To report to the Council and the Legislature of its annual progress and of its fiscal year activities.

62020. Content of the Plan. The Comprehensive Development Plan for Guam shall contain specific elements as follows:

- (a) Land Use. A land-use element together with the appropriate zoning recommendations supporting distribution, location and the extent of uses of land for housing, business, industry, agriculture, recreation,

- education, public buildings, open space, conservation and other categories of public and private uses of land, which include islands, reef and lagoon areas, and the sea within the territorial waters, inclusive of a statement of the standards of population and building density and building intensity for the various districts and other areas covered by the Plan, and regulatory criteria governing the use, development and subdivision of land;
- (b) Community Design. A community design element consisting of standards and principles governing the subdivision and development of land and showing recommended designs for community and neighborhood development and redevelopment, including sites for schools, parks, playgrounds and other community uses;
- (c) Transportation. A transportation element which would provide a comprehensive transportation and circulation system consisting of existing and proposed major routes, thoroughfares, highways, and collector streets; locations of rights-of-way, terminals, viaducts, and grade separating, port, harbor, aviation and mass transit lines, and related facilities, all of which are correlated with the land use element of the Plan;
- (d) Regulations. A regulatory element concerning parking facilities and building setback lines and the delineations of such systems on the land, a system of

street naming, housing and building numbering, and such other matters as may be related to the improvement of circulation of traffic;

- (e) Public Facilities. A public services and facilities element showing general plans for sewage, refuse disposal, drainage, and local utilities, and rights-of-way, easements, and facilities for them;
- (f) Public Lands. A public lands element that provides an inventory of all government of Guam and federal lands;
- (g) Public Buildings. A public buildings element identifying locations and arrangement of civic and community centers, public schools, libraries, police and fire stations, and other public buildings, including their architecture and the landscape treatment of their grounds;
- (h) Housing. A housing element consisting of standards and plans for elimination of substandard dwelling conditions, the improvement of housing, and the provision of adequate sites for housing;
- (i) Redevelopment. A redevelopment element for the elimination of unsafe or blighted areas, community redevelopment and the revitalization of housing sites, business and industrial sites, public building sites, and for the purposes authorized by law;
- (j) Conservation. A conservation element to guide the conservation, development, and utilization of natural

resources including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources which, as sub-elements, may also incorporate the following:

1. Reclamation of land and waters;
2. Flood control;
3. Prevention and control of pollution of streams and other waters;
4. Regulations of the use of land in stream channels and conservation areas;
5. Prevention, control, and correction of the erosion of soils, beaches, and shores; and
6. Protection of watersheds.

(k) Recreation. A recreation element establishing a comprehensive system of areas and public sites for recreation, including the following and, when practicable, their locations and proposed development;

1. Natural reservations,
2. Parks,
3. Parkways,
4. Beaches,
5. Reef and lagoons,
6. Playgrounds,
7. Historic and archaeological sites, and

8. Other recreation areas.

- (l) Safety. A safety element for the protection of the community from natural and man-made hazards including features necessary for such protection as evacuation routes, peak load water supply water requirements, minimum road widths, clearances around structures, geologic hazard mapping in areas of known geologic hazards;
- (m) Tourism. A visitor industry element which will establish cooperation and coordination between the public and private sectors to provide for steady and regulated growth within the visitor industry, while developing the industry in a manner that will continue to provide new business and job opportunities and steady employment for the people of Guam, and which will enable Guam's people to obtain job training and education geared for upward job mobility within the industry;
- (n) Development Policy. A short and long-range socio-economic development strategy to include policy, opportunities, and programs to address or alleviate problems concerning health services, manpower planning, employment opportunity, education, elimination of poverty, law enforcement, welfare, substandard housing, consumer protection, public revenue and expenditures, cultural heritage preservation, visitor industry, and the

like to include population characteristics and economic analysis with projections for each region and subregion of the island;

- (o) Capital Improvements. A short and long-range capital improvements program and projects to be derived from public and private input and compiled from schedules of proposed capital improvements submitted to the Council by each department, agency, division, board, commission, branch, and instrumentality of the government of Guam; and which shall provide recommendations and identify programs for the balanced development of the island's port, highway, communication, and public transportation facilities including, but not limited to, institutions of higher learning, health and welfare facilities, correctional institutions, elementary and secondary schools, electric power, water, telephone, sewer and other utility facilities;
- (p) Policy Statements. A statement of specific policies for at least each of the following general areas: Socio-economic and human resource development, natural resource development, environmental protection, historical, and cultural preservation, public safety, housing and community development, education, land-use and population growth, visitor industry, or in other areas deemed appropriate by the Council;

(g) Other Elements. Such additional elements dealing with other subjects, which in the judgement of the Council relate to the physical development of Guam.

62021. Plan Implementation and Financing. The Comprehensive Development Plan shall contain a schedule of programs and projects to be implemented annually. Funding for such programs and projects shall be identified in the Plan by the project's or program's principal or administering government agency or instrumentalities. Funding for programs or projects contained in the Plan which do not fall under the authority or responsibility of any particular instrumentality of the government of Guam shall be met by annual appropriation of the Legislature.

62022. Annual Budget. The Chairman of the Council shall prepare and submit the Council's first annual fiscal year budget to the Legislature within ninety (90) calendar days of the enactment of this Chapter, and thereafter shall submit its annual budgets prior to the end of each fiscal year. Such budget shall contain a financial breakdown of personnel, administrative and all operating costs to be incurred by the Council in the performance of provisions set forth in this Chapter. Said personnel expenditures shall be applied to the full staffing requirements of the Council as submitted to the Legislature by the Council.

62023. Master Plan Proposals. The Council shall proceed to develop proposals consisting of a scope of work and cost estimates for all elements of the Plan. The Council shall incorporate in its

annual budget submission to the Legislature the amount of financial resources needed to facilitate the objectives of this Chapter.

62024. Coordination of Effort. Any existing Committee, Commission, Task Force or body mandated to engage in planning for Guam or for particular areas or jurisdictions within Guam, shall seek to ensure that such planning efforts are provided the appropriate financial, human, technical and support resources necessary to accomplish any mandates or requirements of law relative to develop planning; provided, however, that such planning efforts are supportive of and consistent with the intent of this Chapter.

For purposes of this Chapter, all plans prepared by any agency or instrumentality of the government of Guam shall be circulated to other agencies or instrumentalities affected by such plan and to the Bureau for review and finalization not later than sixty (60) days prior to submission of the plan to the Council.

62025. Severability. If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Chapter are severable.

SECTION 2. Section 13200, Title XIV, Chapter III, Government Code, is repealed and reenacted to read:

"13200. Territorial Land-Use Commission. There is within the

government of Guam the "Territorial Land-Use Commission." The Commission shall be composed of seven (7) members to be appointed by the Governor by and with the advice and consent of the Legislature for a period of five (5) years; provided, however, that of the seven (7) members first appointed, one (1) shall serve for a term of one (1) year, two (2) shall serve for terms of three (3) years each, and the remaining four (4) shall serve for terms of five (5) years each, as designed by the Governor."

SECTION 3. Subsection (a) of Section 48003, Title XLV, Chapter I, Government Code, is repealed and reenacted to read:

"(a) "Commission" means Territorial Land-Use Commission."

*****BILL NO. 1060 WAS PASSED ON MARCH 7, 1990**

IT WAS SIGNED AS PUBLIC LAW 20-147 ON MARCH 21, 1990

PUBLIC LAW 20-205

PUBLIC LAW 20-205

AN ACT TO APPROPRIATE ONE MILLION SIX HUNDRED TWENTY-SEVEN THOUSAND TWENTY DOLLARS TO THE TERRITORIAL PLANNING COUNCIL FOR ITS FISCAL YEARS 1990 AND 1991 BUDGETS AND ESTABLISHING PROCEDURES FOR EXPENDING THE SAME (AND OTHER PURPOSES)

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

Section 1. Legislative findings. The Legislature, in establishing comprehensive development planning for Guam through Public Law 20-147, created the Territorial Planning Council ("the Council") and charged it with the task of formulating a comprehensive development plan for Guam; a plan which shall serve to guide the physical, social and economic growth and development of the island taking into account the unique but finite human and non-human resources of Guam; a plan which shall reflect the goals and aspirations of the people of Guam as they relate to development and the quality and standard of living desired by the people; a plan which expresses the policy requirements and directives sought by the people of Guam as a means of achieving rational and balanced physical and socioeconomic development that would protect and sustain the present and future livelihood of the island's people. The Legislature finds that § 62022 of Title LXV, Government Code of Guam, requires the Chairman of the Council to submit to the Legislature prior to June 18, 1990 an annual fiscal year budget containing a summary of personnel, administrative, contractual and all operating costs to be incurred by the Council in performance of its function and responsibilities. Further, the Legislature recognizes the need to support these types of master planning efforts, in particular focusing on land use planning as a matter of urgency, in order to achieve the goals and objectives set forth in Chapter II of Title LXV of the

Government Code.

Section 2. Such budget having been duly submitted, One Million Six Hundred Twenty-Seven Thousand Twenty Dollars (\$1,627,020) are appropriated from the General Fund to the Council to fund the Council's Fiscal Years 1990 and 1991 budgets.

Section 3. The transfer authority of the Governor as set out in §48 of Public Law 19-34 shall not apply to the funds appropriated in Section 2 of this Act.

Section 4. Funds appropriated in Section 2 of this Act shall be expended solely for the Council's fiscal year budgets and approved work program or programs.

Section 5. Preference shall be given to Guam-based and Guam-licensed entities or individuals with respect to any contractual, professional or technical expertise or services procured by the Council and funded by Section 2 of this Act.

Section 6. The Council is authorized to encumber any unspent funds in Fiscal Year 1990; provided, that such encumbrance or encumbrances result from a solicitation by the Council prior to September 30, 1990.

Section 7. Funds appropriated to the Council for contractual use or purposes as authorized in Section 2 of this Act shall be expended in accordance and compliance with the established rules and regulations for bidding and procurement of government of Guam contractual services and shall not in any instance be expended for personnel, equipment, materials, supplies or other non-contractual budget items not authorized herein.

Section 8. Funds for contractual purposes appropriated to the Council under Section 2 of this Act are authorized to be expended beyond Fiscal Years 1990 and 1991.

Section 9. The Director of the Bureau of Planning shall provide the Council with the administrative and logistical needs of the Council, and shall enter into contracts and initiate procurement actions as directed by the Council.

Section 10. The unclassified and other non-permanent positions identified in this section are hereby created within the Council and shall be funded together with other Council expenditures in the following manner:

	<u>FY1990</u>	<u>FY1991</u>
Personnel:	\$ 0	\$ 188,480
Executive Assistant,		
Administrative Assistant / Secretary		
Land Use Planner, Economist / Planner		
Social / Environmental Planner		
Messenger Clerk		
Personnel Benefits:	0	56,540
Equipment :	63,000	0
Computer / printer, copier, furniture		
Materials and supplies:	1,800	14,400
Stipends:	400	2,400
Contractual:	0	1,250,000
Baseline surveys, resource inventory		
data preparation, mapping, studies as required.		
Public information and education:	0	50,000
TOTAL	\$ 65,200	\$1,561,820

Section 11. Compensation for the Director of the Bureau of Planning shall be the same as that of the Director of Land Management, effective upon the passage of this Act.

NOTE: PUBLIC LAW 20-205 CONTINUES PAST THIS POINT, HOWEVER THE FOLLOWING SECTIONS DO NOT PERTAIN IN ANY WAY TO THE TERRITORIAL PLANNING COUNCIL, AND AS SUCH ARE NOT INCLUDED. BILL NO.1459 WAS PASSED 8/1/90 AND SIGNED AS PL 20-205 ON 8/20/90.

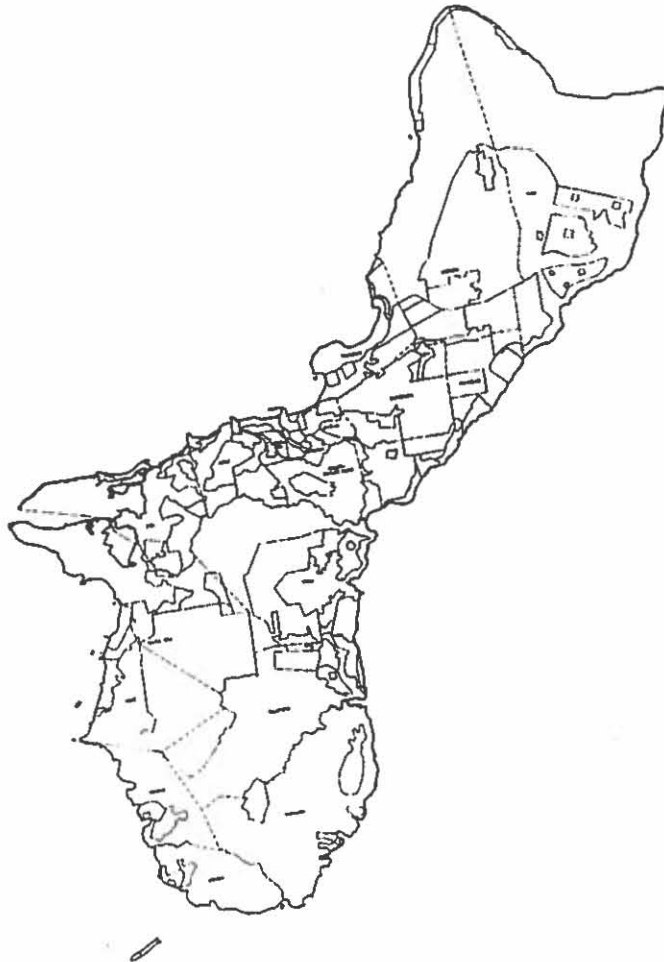
Guam Planning Council
FY2001 Supplemental Budget
filename: g:FY01SUPPL1860.WK4
Date: 10/22/00

	A	B	C	1 A+B+C Personnel Subtotal	E	F	G	H	I	J
Division/Program	Salary	Overtime	Benefits		Travel	Contractual	Supplies	Equip.	Misc.	Rental
Guam Planning Council - Administration	38,716	0	10,996	49,712	0	682	483	0	242	0
TOTAL	38,716	0	10,996	49,712	0	682	483	0	242	0

	A	B	C
	P.L. 25-164	Supplemental Budget	Variance
Attachment A - Personnel Services	44,188	49,712	(5,524)
Attachment A - Operating Expenses			
Travel	0	0	0
Contractual	674	682	(8)
Office Rental	0	0	0
Supplies	430	483	(53)
Equipment	0	0	0
Miscellaneous	239	242	(3)
Utilities	6,184	6,958	(774)
Capital Outlay	0	0	0
Attachment A - Operating Expenses	7,527	8,365	(838)
Total	51,715	58,077	(6,362)

GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan



V. Rules & Regulations

RULES & REGULATIONS
TERRITORIAL PLANNING COUNCIL

**REGULATIONS PERTAINING TO SUBMISSION, REVIEW AND ADOPTION
OF ELEMENTS OF THE COMPREHENSIVE DEVELOPMENT PLAN**

CHAPTER 1: Table of Contents

CHAPTER II	Legislative Authority
CHAPTER III	Definitions
CHAPTER IV	Plan Preparation
CHAPTER V	Plan Submission
CHAPTER VI	Plan Review
CHAPTER VIII	Plan Adoption
CHAPTER VIII	Plan Implementation
CHAPTER IX	Plan Update
CHAPTER X	Severability

CHAPTER II

Legislative Authority

These Rules and Regulations are promulgated pursuant to Chapter II, Title LXV, Section 62013 (d) of the Government Code of Guam (Public Law 20-147).

CHAPTER III

Definitions

3.1. "COUNCIL" means the Territorial Planning Council.

3.2. "PUBLIC MEETING" means a gathering of members of the public called together by an applicant for the purpose of obtaining input in the development of a plan.

3.3. "PUBLIC HEARING" means a gathering of members of the public called together by an applicant and the Council for the purpose of obtaining input on the approvability of a plan.

3.4. "PLAN" means any public document that specifies long-range actions to be taken by the government and its agencies in pursuit of identified goals and objectives. Such plan shall have a duration of more than one (1) year but shall not include physical construction plans.

3.5. "PLAN ELEMENT" means a component of the comprehensive development plan as specified in Section 62020 of the Government Code of Guam.

3.6. "ACT" means Public Law 20-147.

3.7. "COUNCIL STAFF" means those individuals employed to provide support to the Council, under the supervision of the Director of the Bureau of Planning.

3.8. "INCOMPLETE PLAN" means any plan that does not satisfy the requirements and concerns of the Council.

3.9. "APPLICANT" means any agency (including autonomous) of the Government of Guam that prepares plans defined in Section 3.4 and any private group or individual that requests the Council to include a plan that meets the definition of Section 3.4 as an element of the Comprehensive Development Plan.

CHAPTER IV

Plan Preparation

4.1. It is the policy of the Council that the public be afforded maximum opportunity to participate in the preparation of the Comprehensive Development Plan and elements thereof.

4.2. At least one public meeting shall be held at the start of the plan preparation process to obtain public input on the problems and issues to be addressed in the plan.

4.3. At least one public meeting shall be held to obtain public input in the identification of policies and recommendations to be contained in the plan.

4.4. No plan shall be submitted to the Council until the requirements of this section have been satisfied unless the applicant can demonstrate to the satisfaction of the Council that the plan was substantially complete before these rules and regulations took effect.

CHAPTER V

Plan Submission

5.1. Not later than thirty (30) calendar days after compliance with Section 62024 of the Government Code of Guam which provides for affected agency input, the plan and supporting documents shall be submitted to the Council via the Council's staff by the applicant.

5.2. Thirteen (13) copies of the following shall be submitted to the Council by the applicant:

- a. A synopsis of the plan;
- b. An attendance record where applicable for each public meeting;
- c. A synopsis of each public meeting to contain a summary of public input received;
- d. A listing of agencies which provided comments and a synopsis of agency responses;
- e. The entire plan.

CHAPTER VI

Plan Review

6.1. The Council recognizes that certain legally-mandated plans are already required to be heard publicly under the laws or regulations dealing with these plans. It is the Council's intent that hearing requirements be consolidated to reduce time and expenses while still affording maximum opportunity for public input.

6.2. Within 20 calendar days after receipt of the plan and supporting documents, the Council shall meet to discuss the plan and to determine whether or not public hearing(s) can be held on the plan.

6.3. Should the Council determine that the plan cannot be publicly heard, the Council shall deem the plan incomplete and return it to the applicant with a specific listing of the plan's deficiencies.

6.4. Should the Council determine that the plan can proceed to public hearing(s), the Council shall set the time(s), date(s) and location(s) of the hearing(s) and so notify the applicant. The Council shall announce the public hearing(s) by notifying the media and publishing advertisements in a newspaper of general circulation on Guam, ten (10) calendar

days and one (1) calendar day prior thereto. In no event shall the hearing(s) be held more than forty-five (45) working days after receipt of a complete plan by the Council.

6.5. One (1) Council member, as determined by the Chairman, shall preside at such hearing(s) to accept public input on the plan.

6.6. The applicant shall present the plan at the hearing(s) and shall field any questions on such plan.

6.7. The Council staff shall provide other support services as required.

CHAPTER VII

Plan Adoption

7.1. Within twenty (20) calendar days after the last public hearing on a plan, the Council shall meet to develop its recommendations to the Governor.

7.2. Within thirty (30) working days after the last public hearing on a plan, the Council shall submit detailed recommendations to the Governor, including minority dissenting opinions, for approval, disapproval, revision, amendment, or referral to specific agencies or groups for further study and review, and shall include a summary of testimony at the public hearing(s) or received in writing.

7.3. Action on the plan will be taken by the Governor and the Legislature as specified in Section 62016 of the Government Code of Guam.

CHAPTER VIII

Plan Implementation

8.1. The applicant shall be principally responsible for implementing an approved plan. Status reports on plan implementation shall be submitted by the applicant to the Council every six (6) months after plan approval by the Legislature. These reports shall specify the status of the projects identified in the plan; the status of actions taken by other agencies to implement recommendations contained in the plan; funding requirements to be accommodated by the applicant, other agencies or the Council; and any amendments required to the plan.

8.2. The Council, through its staff, shall be responsible for overseeing plan implementation to include coordination between the applicant and other agencies that possess responsibilities for implementing sections of the plan. The staff shall provide periodic reports to the Council during the regular meetings of the Council.

CHAPTER IX

Plan Update

9.1. All plans shall be updated three (3) calendar years after approval by the Legislature. Should circumstances warrant an earlier update, the Council shall so inform the applicant at the earliest possible time to allow the applicant to obtain necessary funding. The procedures specified in these Rules and Regulations shall be followed for developing, reviewing and approving plan updates.

CHAPTER X

Severability

10.1. If any part or section of these regulations is declared to be invalid by a court of law or administrative tribunal for any reason, the rest of these regulations shall not be affected thereby and shall remain valid and enforceable.



CHARLES P. CRISOSTOMO
Chairman,
Territorial Planning Council



ELIZABETH BARRETT-ANDERSON
Attorney General



PILAR C. LUJAN
SENATOR - LEGISLATIVE SECRETARY
CHAIRMAN - Committee on Judiciary and Criminal Justice



January 22, 1991

Mr. Charles Crisostomo
Chairman
Territorial Planning Council
P.O. Box 2950
Agaña, Guam 96910

Dear Mr. Crisostomo:

In response to your letter of January 16, 1991, please be informed that the Rules and Regulations regarding a Comprehensive Development Plan for the Territorial Planning Council became effective as of December 28, 1990.

Sincerely,


PILAR C. LUJAN
Legislative Secretary



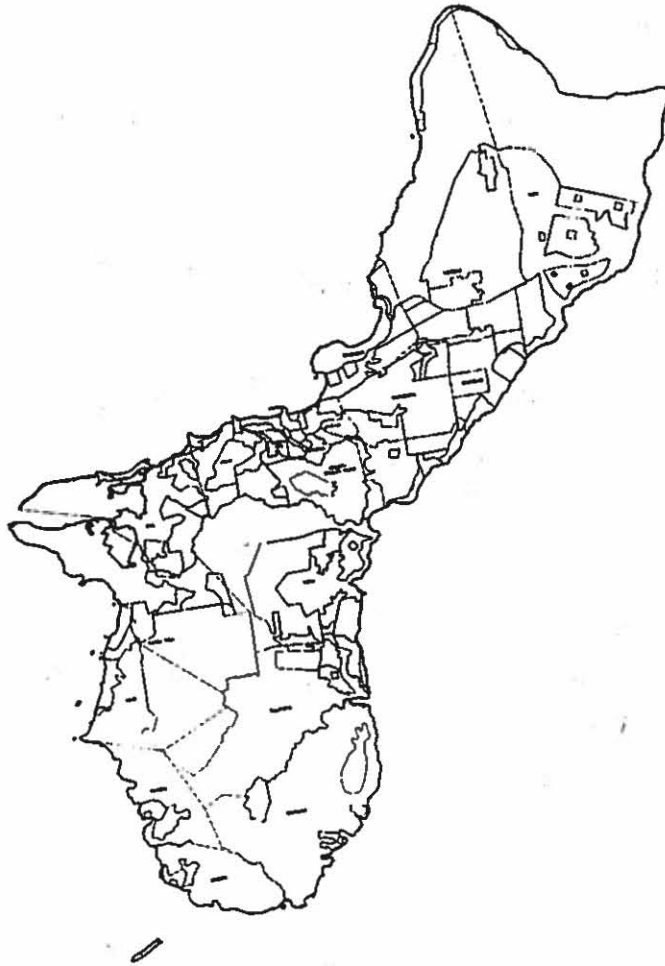
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JAN 30 1991


ATTORNEY GENERAL'S OFFICE

GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan



VI. By-Law

**BY-LAWS
TERRITORIAL PLANNING COUNCIL
GOVERNMENT OF GUAM**

ARTICLE I. AUTHORITY AND PURPOSE

Section 1. Authority. These By-Laws are promulgated under the authority of Section 62012(d) of Public Law 20-147.

Section 2. Purpose. The purpose of these By-Laws is to govern the meetings and proceedings of the Territorial Planning Council, acting pursuant to the Legislative authority mentioned above.

ARTICLE II. THE COUNCIL

Section 1. Official Name. The official name of the Council shall be the Territorial Planning Council.

Section 2. Official Address. The official address of the Territorial Planning Council shall be c/o Bureau of Planning, Government of Guam, Agana, Guam.

ARTICLE III. MEMBERS OF THE COUNCIL

Section 1. The council shall be composed of twelve (12) members consisting of the Director of Land Management; the Director, Bureau of Planning; the Administrator of the Guam Economic Development Authority; the Director of Commerce; the General Manager of the Guam Visitors Bureau; one (1) member of the Mayors' Council to be nominated by the

Mayors' Council and appointed by the Governor; three (3) members of the Legislature, including one (1) minority member, each to be nominated by the Speaker and appointed by the Governor; one (1) member of the Chamber of Commerce appointed by the Governor with the advice and consent of the Legislature; and one (1) member of the community at large appointed by the Governor with the advice and consent of the Legislature; and the Administrator of the Guam Environmental Protection Agency.

Section 2. In the absence of any member of the Council, such member may appoint a non-voting representative to attend meetings and to participate in discussions of the Council.

Section 3. Positions taken by any member on matters before the Council shall not be construed as committing the organization represented by the member to such positions.

Section 4. The Council may create subcommittees to assist in developing recommendations on any matter relating to the Comprehensive Development Plan. The Council or subcommittees may invite any individual or group to attend and participate in discussions before the Council.

Section 5. Members of the Council who are public officials shall receive no compensation as such for duties prescribed by Public Law 20-147. Members of the Council who are not public officials shall be compensated Fifty Dollars (\$50.00) per meeting not to exceed One Hundred Dollars (\$100.00) per month.

Section 6. Powers. The powers of the Council shall be vested in the members thereof. Such powers of the Council are defined under Public Law 20-147, and other laws as may be enacted by the Legislature.

ARTICLE IV. OFFICERS

Section 1. Regular Officers. Regular officers of the Council shall be Chairperson, Vice-Chairperson and Executive Secretary.

Section 2. Elections. The Chairperson and the Vice-Chairperson shall be elected by the members of the Council.

Section 3. Executive Secretary. The Director of the Bureau of Planning shall be the Executive Secretary of the Council. In the absence of the Executive Secretary, the Acting Director of the Bureau of Planning shall be the Executive Secretary of the Council without the power to vote.

Section 4. Terms of Office. The terms of office for the Chairperson, Vice-Chairperson and Executive Secretary shall be for the remainder of their terms in the capacities of the positions they hold.

Section 5. Vacancies. Should the offices of the Chairperson or Vice-Chairperson become vacant, the Council shall fill the vacancy by electing another Chairperson or Vice-Chairperson from among its members.

Section 6. Duties of Officers. The Chairperson shall preside at all meetings of the Council. At such meetings, the Chairperson shall submit such proper information and recommendations to the Council as the Chairperson may deem proper concerning the policies, administration, and other affairs of the Council.

The Chairperson shall sign all important documents and letters of the Council upon approval of the Council.

The Vice-Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In the case of the resignation or death of the Chairperson, the Vice-Chairperson shall perform such duties as are imposed upon the Chairperson until such

time as a new Chairperson is elected.

Section 7. The officers of the Council shall perform such other duties and functions as may from time to time be appropriately required by the Council or by the By-Laws.

ARTICLE V. MEETINGS

Section 1. Regular Meetings. Regular meetings of the Council shall be open and the date, time and location for such meetings shall be established by Resolution of the Council.

Section 2. Special Meetings. Special meetings shall be held at such times and places as the Council may determine, or may be called by the Chairperson at such time and place as the Chairperson may determine.

Notice of any special meetings must be given in writing to the members and the media at least 24 hours prior to the time of said meeting. Only business for which the special meeting was called may be transacted at such a special meeting.

Section 3. Quorum. Seven (7) voting members of the Council shall constitute a quorum for the purpose of conducting its business, exercising its powers, and for all other purposes.

Section 4. Voting. Every official act taken by the Council shall be adopted by a majority vote of those present but in no case shall an official act be adopted with less than six (6) affirmative votes.

Section 5. Order of Business. At all regular meetings of the Council, the following shall be the general order of business:

- (1) Notation of attendance

- (2) Approval of minutes not previously approved
- (3) Consideration of Old Business
- (4) Consideration of New Business
- (5) Miscellaneous matters
- (6) Adjournment

Section 6. Parliamentary Procedure. Parliamentary procedures set forth in Roberts' Rules of Order shall govern all meetings of the Council except as otherwise herein provided.

ARTICLE VI. AMENDMENTS

Section 1. These By-Laws may be amended by the Council at any regular meeting or any special meeting in accordance with Section 4 Voting.

Adopted on the 11th day of June 1990.

I certify that the foregoing is a true copy of the By-Laws of the Territorial Planning Council as promulgated, effective June 11, 1990. These By-Laws were in effect June 11, 1990 and continue in effect as of the date of this certification.


PETER P. LEON GUERRERO
Executive Secretary


CHARLES CRISOSTOMO
Chairman

GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan

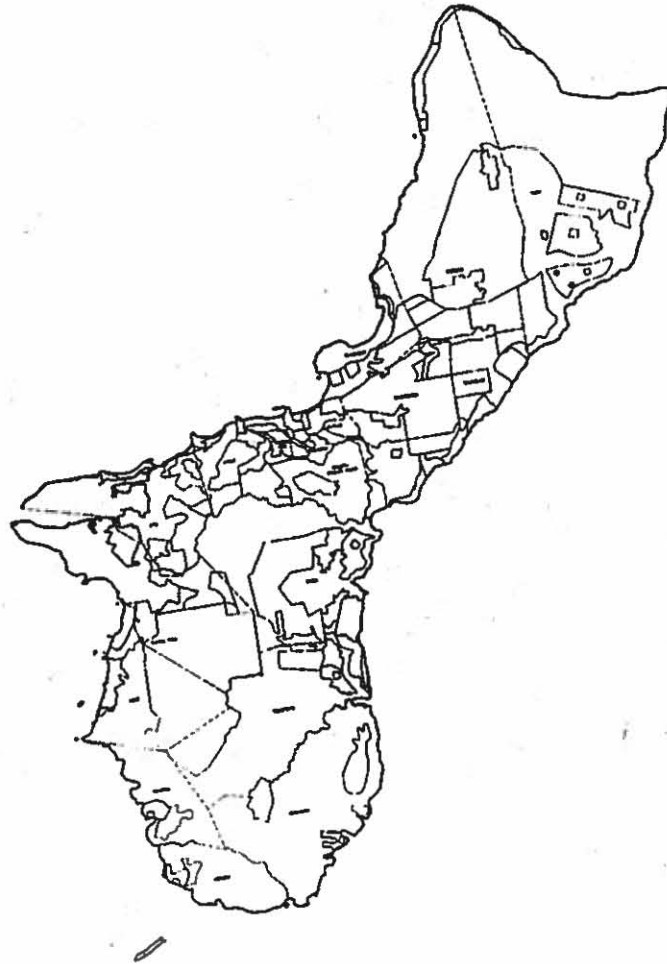


“Guiding Guam’s Future...through Comprehensive Planning!”

- ◆ **Land Use Components:** Land Use, Public Facilities, Utilities, Housing, Recreation, Seashore Reserves, Community Design, Public Buildings, Public Lands, Conservation, Safety (Hazard Mitigation), & Regulations
- ◆ **Physical Infrastructure Components:** Transportation, Public Facilities, Utilities, & Capital Improvements
- ◆ **Social Infrastructure Components:** Education, Health Services Support, Cultural Arts & Humanities,, & Public Safety
- ◆ **Economic Strategy Components:** Economic Development, Integrated Communications, Finance, & Tourism

GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan



VII. Components of Guam's Comprehensive Development Plan

GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan

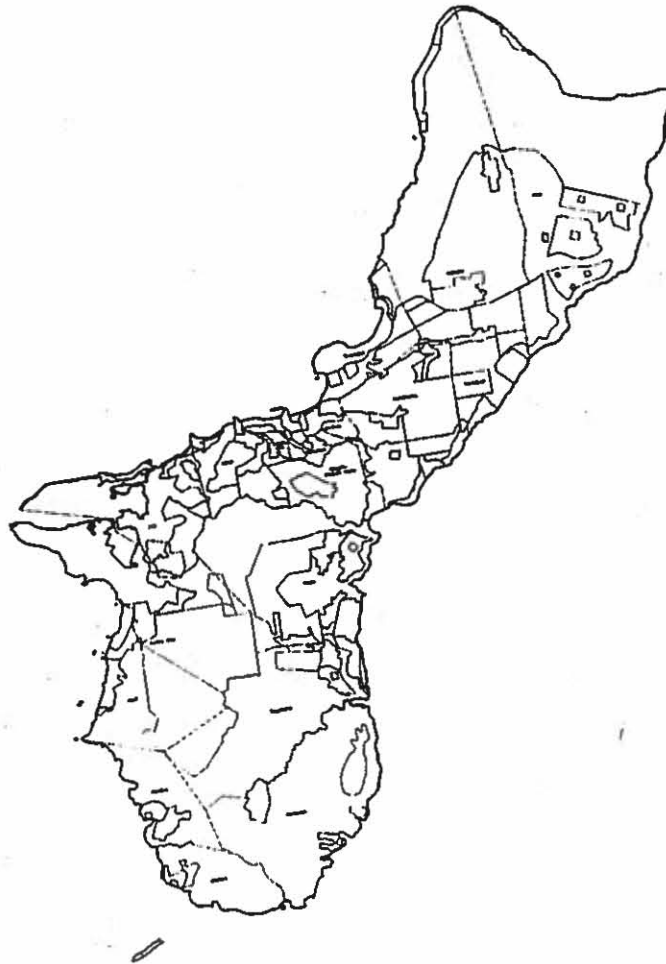


“Guiding Guam’s Future...through Comprehensive Planning!”

- ◆ **Land Use Components:** Land Use, Public Facilities, Utilities, Housing, Recreation, Seashore Reserves, Community Design, Public Buildings, Public Lands, Conservation, Safety (Hazard Mitigation), & Regulations
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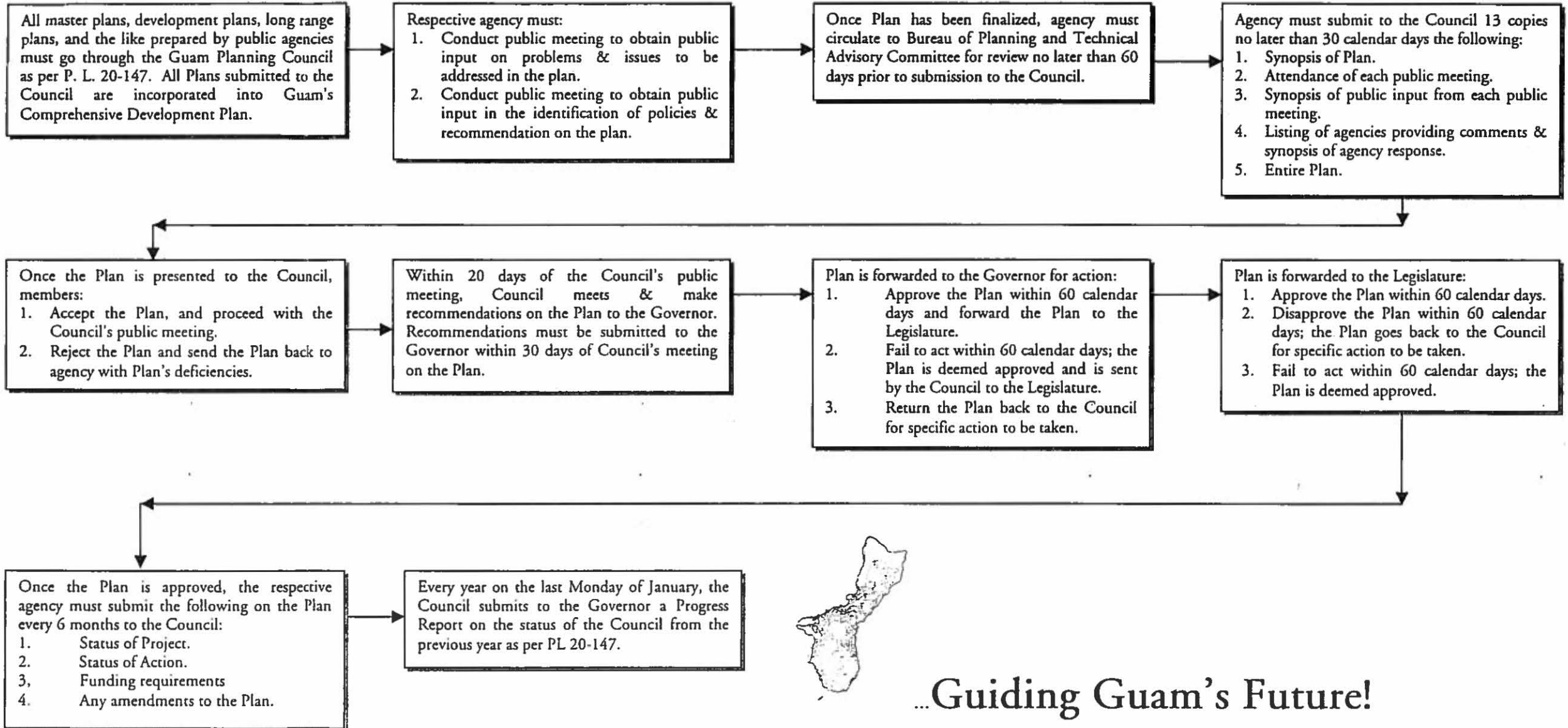
GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan



VIII. Adjudication Process on Planning Elements

Guam Comprehensive Development Plan Adjudication Process on Planning Elements



...Guiding Guam's Future!

GUAM PLANNING COUNCIL

Konsehelon Plinanehan Guahan



IX. Attorney General's Opinion

- A. AG's Opinion dated November 6, 2000
- B. AG's Opinion dated June 11, 1990
- C. AG's Opinion dated April 19, 1990
- D. AG's Opinion dated February 7, 1990

CARL T.C. GUTIERREZ
Maga'láhi
Governor

MADELINE Z. BORDALLO
Tiñente Gubeladora
Lt. Governor



JOHN F. TARANTINO
Hinirát Abugao
Attorney General

ROBERT H. KONO
Atkádí Sigundo
Chief Deputy

**Ufisinan Hinirát Abugao
Hagátña, Guáhan
Office of the Attorney General
Hagátña, Guam**

November 6, 2000

Memorandum (Opinion)

Ref: GPC 00-1100

To: Chairperson, Guam Planning Council

From: Attorney General *ML*

Subject: Statutory legislative review period applicable to the Guam Integrated Solid Waste Management Plan

Håfa Adai! We are in receipt of your memorandum of October 30, 2000, in which you request information on the applicable legislative review period for the Guam Integrated Solid Waste Management Plan.

REQUEST: Does the Guam Legislature have sixty days in which to review the Integrated Solid Waste Plan, as prescribed by 5 G.C.A. § 1206, or does the provision of the Administrative Adjudication Law (AAL) that allows ninety days determine the required review period?

ANSWER: The Guam Legislature has only sixty days in which to review and act upon the Integrated Solid Waste Plan. Section 9303 of the AAL does not apply.

STATEMENT OF FACTS:

On March 21, 1990 Public Law 20-147 repealed Guam's first comprehensive planning law (Chapter II, Title LXV, Guam Government Code (1974)) and codified it as 5 G.C.A. § 1200-1215 (1996 Update). This Act transformed the Central Planning Council into the Territorial Planning Council and charged it with the preparation of a comprehensive development plan or elements of such a plan.



Commonwealth Now!

Suite 2-200E, Judicial Center Building, 120 West O'Brien Drive, Hagátña, Guam U.S.A. 96910
Phone: (671) 475-3324 Fax: (671) 472-2493 E-mail: law@ns.gov.gu

Section 1206 required that the Council submit the plan or an element to the Governor, who would then have sixty days to review and approve, disapprove, or refer back to the Council.

Section 1206 provides as follows:

Within ten (10) calendar days of approval by the Governor, the Plan or any of its elements shall be submitted to the Legislature for adoption. The Legislature shall review and approve or disapprove the Plan or any of its elements within sixty (60) calendar days of its receipt. In the event of failure by the Legislature to act within such sixty (60) calendar day period, the Plan or any of its elements so submitted shall be deemed approved.

Section 1206 replaced Government Code Section 62016, which allowed the Legislature to adopt the plan by resolution. Section 62016 said nothing about any time period in which to adopt the resolution.

Public Law 20-147 is not the only act of the Legislature that mandates an executive agency to develop a comprehensive plan for the disposition of solid waste. Public Law 24-139 (February 7, 1998) repealed and reenacted sections of Article 1, Chapter 51, Title 10, Guam Code Annotated, entitled "Solid Waste Management." Section 51103 as amended by P. L. 24-139 authorizes the Guam Environmental Protection Agency (GEPA) to prepare and adopt a Solid Waste Management Plan pursuant to the Administrative Adjudication Law.

We understand that pursuant to Section 51103 of Title 10 GEPA did draft a solid waste management plan and that the Integrated Solid Waste Management Plan of the Guam Planning Council is with only minor modifications the plan produced by GEPA. The Guam Planning Council approved their plan on June 27, 2000 and submitted it to the Governor on June 29, 2000. The Governor reviewed it and submitted it to the Guam Legislature on August 25, 2000.

Finally, the sixty-day period allowed by Section 1206 is not the only period provided by Guam law for the Guam Legislature to review and approve a regulation or rule. Section 9303 of the Administrative Adjudication Law provides that every agency clothed with authority to make rules must file them with the Guam Legislature. Subsection (c) provides as follows:

(c) No rule shall be effective until after compliance with the provisions of this Section and ninety (90) calendar days have elapsed from the date of filing with the Legislative Secretary. The Guam Legislature may approve, disapprove or amend any rule within ninety (90) calendar days from the date of filing with the Legislative Secretary.

The Legislature has had ninety days only since the enactment of Public Law 24-27 in 1997. From 1980 until 1997 the Legislature had only a 45-day review period. Before 1980 the mere filing of a

regulation constituted the final step.¹

As noted above, on August 25, 2000 the Governor submitted the Guam Integrated Solid Waste Management Plan to the Guam Legislature. Sixty days elapsed on October 25, 2000. The Legislature took no action on the Plan during this period. The Council now requests legal advice on the applicable period during which the Guam Legislature must act upon the Integrated Solid Waste Management Plan.

DISCUSSION:

In enacting P. L. 20-147 the Guam Legislature sought to put in place a process that would produce a comprehensive plan respecting development on Guam that would assist the Legislature in carrying out its responsibilities for setting appropriate policy. The Legislature contemplated that at some point in time it would receive written plans that embodied the end result of a planning process.

The last sentence of Section 1206 embodies an intention that the findings and recommendations of the Planning Council would be the findings of the Legislature if it did not modify them within a definite period of time after receiving them.

The Council has two concerns. First, it is concerned that Section 9303 of the AAL may be applicable to the solid waste plan and that the Legislature therefore has until November 25, 2000 in which to review the plan. That is, the Council is concerned that the plan may be a "rule," which is the subject of Section 9303. The word "rule" means any "regulation, standard, classification, procedure or requirement of any agency designed to have or having the effect of law or interpreting, supplementing or implementing any law enforced or administered by it," 5 G.C.A. § 9107. In other words, the Council is concerned that the plan may in law be a rule and the general law on administrative rule-making may control the process whereby the planning documents become a special law.

The general AAL provision was enacted after the more special provision of Section 1206. The ninety-day period of Section 9303(c) has been the rule since 1997. The sixty-day period of Section 1206 has been the rule since 1990.

¹Section 9303(c) is the lineal descendant a line of statutory provisions that dealt with the final step in the evolution of an agency proposal into a binding law. It began with Public Law 9-69 (1967), codified as Guam Government Code 24201, which made the mere filing a regulation with the Secretary of Guam the final step. Public Law 12-41 (1973) substituted the Legislative Secretary for the Secretary of Guam. Public Law 13-40 (1975) repealed, inter alia, § 24201 but in enacting Section 24202(B) kept the mere filing with the Legislature Secretary as the final operative step. Public Law 15-132 (1980) amended 24202(B) and established itself a 45-day mandatory review period. The Compiler of Laws re-codified Section 24202(B) into 5 G.C.A. § 9303(b). Public Law 24-27 (1997) repealed Section 9303 and re-enacted it to allow the Legislature ninety calendar days in which to review and act upon a regulation.

We will assume without deciding that the Plan is a rule within the meaning of the AAL. Section 9303 and Section 1206 could be viewed as dealing with the same subject and thus be, in legal parlance, *in pari materia* (Latin for "in like matter"). Section 9303 could be viewed as dealing with rules in general and Section 1206 as dealing with a special kind of rule. Courts resort to other statutes dealing with the same subject only if the statute under consideration is ambiguous. No ambiguity is seen in Section 1206 with respect to the length of time that the Guam Legislature has in which to review and act upon a plan that the Governor has submitted to it.

The determining fact in the answer to this question is legislative intention. No case on point has been found and appeal must be made to well accepted principles of statutory construction. The principle applicable to this case provides that a special act prevails over a general act because the special act evidences what the Legislature intended. The order in time of the passage of a general and a special act on the same subject is immaterial. No evidence is seen that in the later passage of Public Law 24-27, the Legislature intended to override the earlier special provision establishing the sixty-day review period. This principle is discussed at length in 2B Sutherland, Statutory Construction § 51.05 (1992), with an exhaustive citation of cases.

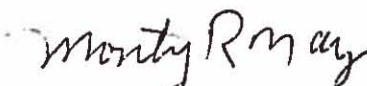
The second concern of the Guam Planning Council is that 10 G.C.A. § 51103 may be found applicable to the submission of the Integrated Solid Waste Management Plan and the Legislature therefore has ninety days in which to review the it. As noted, although this Plan is based upon the plan prepared by GEPA, this Plan is the product of the Guam Planning Council. It duly reviewed it and approved it on June 27, 2000. It was duly submitted to and reviewed by the Governor before being submitted to the Legislature. This plan is therefore the plan of the GPC and the sixty-day period of 5 G.C.A. § 1206 applies to this case. Pursuant to this statute, the Integrated Solid Waste Management Plan was finally approved by the operation of § 1206 on October 25, 2000.

This memorandum is issued as an official opinion of the Attorney General. For faster response to any questions that you may have about this letter, please use the above reference number in your correspondence.

Put Respetu.

OFFICE OF THE ATTORNEY GENERAL

By:



MONTY R. MAY

Assistant Attorney General

June 11, 1990

Memorandum (Opinion)

Ref: BOP 90-0628

To: Director, Bureau of Planning

From: Attorney General *EAD*

Subject: 1967 Master Plan and Central Planning Council

We are in receipt of your memorandum dated May 10, 1990 in which you requested the following:

REQUEST: Are the functions of the Territorial Planning Council the same as the Central Planning Council?

ANSWER: Yes.

STATEMENT OF FACTS:

Public Law 20-147 repealed and reenacted Chapter II, Title LXV of the Government Code and replaced the Central Planning Council (CPC) with the Territorial Planning Council (TPC). This office has written opinions (ref: DLM 89-1843; DPW 89-1844; BOP 90-0321) regarding the functions of the now defunct Central Planning Council with respect to other government code sections. The Director of the Bureau of Planning (BOP) is inquiring whether the functions described in these opinions for the CPC are now applicable for the TPC.

DISCUSSION:

The role of the old Central Planning Council was to review, advise, and coordinate planning activities in the territory of Guam. Additionally, the law provided that a long term comprehensive "Master Plan" be developed by the CPC.

In reviewing P.L. 20-147, we find that the TPC is invested with the same types of duties and responsibilities that the CPC had. The new law mandates that a comprehensive plan be created to update the 1967 Master Plan. Since there was no amendment to Section 18001.1 of the Government Code relating to the compliance with the Master Plan and since the responsibilities of the TPC are similar to that of the old CPC with respect to the Master Plan, we believe, the responsibilities of the CPC as outlined in previous AG opinions carry over to the TPC. We therefore reaffirm our previous opinions (ref: DLM 89-1843; DPW 89-1844 and BOP 90-0321) with respect to the newly created TPC.



Memo to BOP Direc
June 11, 1990
Page 2

This memorandum is issued as an opinion of the Attorney General
For a faster response to any inquiry about this memorandum,
please use the reference number shown.

OFFICE OF THE ATTORNEY GENERAL

By: *Robert H. Kono*
ROBERT H. KONO
Assistant Attorney General

Attachments

cc: Director, DLM
Director, DPW



GOVERNMENT OF GUAM
AGANA, GUAM 96910

April 19, 1990

Memorandum (Opinion)

Ref: BOP 90-0321

To: Director, Bureau of Planning

From: Attorney General *ED*

Subject: 1967 Master Plan

We are in receipt of your memorandum dated March 16, 1990, in which you requested information on the following:

REQUEST: To what extent is the 1967 Master Plan to be followed if the land uses in the Plan were not subsequently adopted by law?

ANSWER: See discussion.

STATEMENT OF FACTS:

The Bureau of Planning (BOP) recently learned that it was responsible for the 1967 Master Plan. The Director of BOP has requested an opinion on the extent to which the 1967 Master Plan is to be followed if the land uses proposed in the plan were not subsequently adopted by law. The Director points out that the land uses in the 1967 Master Plan do not match the zones in the zoning law which was enacted in 1952.

DISCUSSION:

Section 18001.1 of the Government Code provides in pertinent part:

Compliance with Master Plan.

Development and/or subdivision of all land and roads shall conform to that land use or road location delineated in the latest revision of the Territorial Master Plan, initially approved in April 1967.

(a) Construction on land designated for future road or public purposes, contrary to the use indicated in the Master Plan, shall not be authorized, irrespective of land ownership.



The statute is clear and unambiguous on its face. "Development and/or subdivision of all land and roads shall conform to that land use ... delineated with the latest revision of the Territorial Master Plan..." Since some land uses in the 1952 Zoning Law do not correspond with the 1967 Master Plan, the 1967 Master Plan will prevail in application over the 1952 Zoning Law when there is a conflict between the two. Where the 1967 Master Plan fails to address matters, the 1952 Zoning Law would still be applicable. With respect to delineated roads, the statute is clear here as well. Construction on land designated for future road or public purposes, contrary to the use indicated in the Master Plan, shall not be authorized, irrespective of land ownership." This being the case, if roads or public purposes are indicated for a given area under the 1967 Master Plan, construction on such land is not allowed.

Under P.L. 20-147, the Bureau has been given the mandate to create a Comprehensive Master Plan. The inadequacies experienced under the 1967 Master Plan are evident. Under the new law, these inadequacies are to be addressed with the appropriate input from all parties of interest. Until this is done, the current 1967 Master Plan is still in effect.

This memorandum is issued as an opinion of the Attorney General. For a faster response to any inquiry about this memorandum, please use the reference number shown.

OFFICE OF THE ATTORNEY GENERAL

By: *Robert H. Kono*
ROBERT H. KONO
Assistant Attorney General



GOVERNMENT OF GUAM
AGANA, GUAM 96910

February 7, 1990

Memorandum (Opinion)

Ref: DLM 89-1843
DPW 89-1844

To: Director, Department of Land Management
Director, Department of Public Works

From: Attorney General *EPD*

Subject: Territorial Planning Commission's Authority to
Delete a Master Plan's Easement

We are in receipt of opinion requests from both the Department of Land Management and Public Works in regards to the following:

REQUEST NO. 1: May the Territorial Planning Commission (TPC) delete an easement existing on an approved Territorial Master Plan?

ANSWER: No.

REQUEST NO. 2: What is the proper procedure to revise the Master Plan?

ANSWER: The revision must be presented to the Central Planning Council, discussed at a public hearing, and submitted to the Governor. Once approved by the Governor, the revision must be submitted to the Legislature for approval.

STATEMENT OF FACTS:

An applicant before the Territorial Planning Commission (TPC) has requested the deletion of a sixty foot right of way that exists on his property. The right of way is listed on a territorial master plan. Both of the Directors of the Department of Land Management (DLM) and Public Works (DPW) are inquiring if the TPC can delete the right of way, and if not, what is the proper method to allow for revisions.

DISCUSSION TO REQUEST NO. 1:

Section 18001.1 of the Government Code provides in pertinent part:

Section 18001.1. Compliance with Master Plan.
Development and/or subdivision of all land and roads
shall conform to that land use or road location

delineated in the latest revision of the Territorial Master Plan, initially approved in April 1967.

(a) Construction on land designated for future road or public purposes, contrary to the use indicated in the Master Plan, shall not be authorized, irrespective of land ownership. (Emphasis added)

Clearly, the Legislature has stated that any development of roads shall conform to that road location delineated in the Territorial Master Plan. Therefore, if the road is in an approved Territorial Master Plan, the TPC cannot delete the road.

DISCUSSION OF REQUEST NO. 2:

If an applicant or a department felt strongly about the road to request a deletion of a right of way on an approved Master Plan, the proper method would be to submit the proposed amendment to the Central Planning Council (CPC). The procedures are laid out in Section 62010 et seq of the Government. Briefly, a request to amend the Master Plan is submitted to the CPC. The CPC shall hold a public hearing. After the public hearing, the CPC shall submit its recommendation to the Governor for approval. Once approved by the Governor, it shall be submitted to the Guam Legislature for approval. There is no difference in a deletion amendment to the process.

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OFFICE OF THE ATTORNEY GENERAL

By: *Robert H. Kono*
ROBERT H. KONO
Assistant Attorney General

SUBJECT INDEX

PL – PUBLIC LAWS

RR – RULES & REGS

BL – BY-LAWS

AG – ATTORNEY GENERAL

Adoption			Definition (cont.)	
Plan adoption	PL §62016 RR Ch. 7		TLUC	PL Section 3
Agenda			Elections	
meeting	BL V:5		officers	PL §62021
Agreements			Financing	
Council	PL §62013 (f)		plan financing	
Amendments			Funding	
plan updates	RR 9.1		personnel	PL Section 10
by-laws	BL VI		equipment	PL Section 10
severability	RR 10.1		Contractual	PL Section 10
Annual Report			Govguam	
mandate	PL §62013(g)		departments	PL §62014
BOP	PL 62019(h)		coordination	PL §62015.2 PL §62024
Attorney General			Grants	
opinions	AG (all)		BOP	PL §62019 (a)
Budget			Implementation	
annual budget	PL §62022		plan	RR Ch.8 PL §62021
budget 90-91	PL Section 2		Legislative Authority	
master plan	PL §62023		council creation	PL §62012
Bureau of Planning			rules & regs	RR Ch.2
creation	PL §62017		Legislative Intent	
staff	PL §62018		description	PL §62011
powers	PL §62019		Master Plans	
Compensation			mandate	PL §62014 I
Fees	PL §62012(e)		proposals	PL §62023
Members	BL III:5		Meetings	
bop director	PL Section II		regular	BL V:1
Consistency			special	BL V:2
Mandate	PL §62013(c)		procedure	PL §62012(d) BL V:6
Contracts			Membership	
BOP	PL §6201(b)		general	PL §6201(a)
Council			council	BL III:1
name	BL II:1		absentee reps	BL III:2
address	BL II:2		Officers	
Data Bank			general	PL §6201(b)
BOP	PL §62019(g)		duties	BL IV:6-7
Definitions			vacancy	BL IV:5
rules & regs	RR Ch.3			
public law	PL Ch.2			

Officers (cont.)			Staffing	
executive sec.	BL IV:3, PL §62012(c)		budgeting	PL Section 10
terms	BL IV:4		Studies	
			BOP	PL §62019(c)
Plan(land use plan)			Subcommittee	
content	PL §62020		formation	BL III:4
Powers			Submission	
general	BL III:6		plan	RR Ch.5
authority	PL §62013		Time	
Preference			constraints	RR 6.2, 7.1 7.2, 9.1
contractual	PL Section 5		plan submission	PL §62015.1
Preparation			TLUC(Terr. Land Use Comm.)	
plans	PL §62013(a) RR Ch.4		creation	PL §13200 (Section 2)
Private Services			Transfer Authority	
BOP	PL §62019(e)		governor	PL Section 3
Procedure			Unspent Funds	
meeting	BL V:6		use	PL Section 8
Public Information			Voting	
budget	PL Section 10		meeting	BL V:4
Public Notice				
meetings	BL V:2			
public hearings	RR 4.2-4.3, 6.3-6.5 PL §62015			
Quorum				
meeting	BL V:3			
Recommendations				
council rec's	PL §62013(e)			
Representative				
absentee	BL III:2			
Representation				
general	BL III:3			
Responsibilities				
general	PL §62013			
Review				
plan	RR Ch.6			
Rules				
adoption	PL §62013(d)			
Signatures				
documents	BL IV:6			
Severability				
general	PL §62025			
general	RR 10.1			