

DEVELOPMENT CONTROL BOARD

AGENDA

Agenda for a meeting of the Development Control Board to be held on Thursday, 13th January 2022 at 9:00 AM at the District Administration Conference Room, District Administration Building, Cayman Brac.

1st Meeting of the Year

DCB/01/22

Capt. Ashton Bodden	-	Chairman
Mrs. Zanda McLean	-	Deputy Chairman
Ms. Carol Busby	-	Member
Ms. Elsie Kynes	-	Member
Mr. Delano Lazzari	-	Member
Mr. Miguel Martin	-	Member (Ex Officio)
Mr. Jason McLaughlin	-	Member
Ms. Andrea L. Stevens	-	Executive Secretary/Planning Officer

INDIVIDUALS APPEARING BEFORE THE DEVELOPMENT CONTROL BOARD

NAME	REASONS	TIME	ITEM	PAGE
Stan Stoctan (applicant)	Antenna	9:45am	7.02	23
John Doak (applicant)	Peppercorn Investments	10:30am	6.01	6
Matthew Wight (applicant)	Peppercorn Investments	10:30am	6.01	6
Naul Bodden (applicant)	Peppercorn Investments	10:30am	6.01	6
Michael Alberga (applicant)	Peppercorn Investments	10:30am	6.01	6
Daphne Berger (objector)	Peppercorn Investments	10:30am	6.01	6
Peter & Ronda Schmid (objector)	Peppercorn Investments	10:30am	6.01	6
	Peppercorn Investments	10:30am	6.01	6
	Peppercorn Investments	10:30am		
	Peppercorn Investments	10:30	6.01	6
	Peppercorn Investments	10:30am	6.01	6

NAME	REASONS	TIME	ITEM	PAGE
------	---------	------	------	------

1.0 CONFIRMATION OF MINUTES

1.01 Minutes DCB/13/21

1.02 Minutes DCB/14/21

2.0 ROUTINE MATTER

2.01 **TORTUGA PALMS, CBC BLOCK 102A PARCEL 271 (F21-0590) (P21-1224) (\$196,875)**

Application for a house.

Facts:

Location:	South Side West Road
Parcel Size:	.27 ac (11,761 sq ft)
Proposed Use:	Residential
Building Size:	1,575 sq ft
Bldg Footprint:	1,575 sq ft
Required Parking Spaces:	2
Proposed Parking Spaces:	2

Agency Comments:

National Conservation Council:

“The Department notes that the majority of the subject parcel is primary dry shrubland and forest habitat, as shown in figure 1 below. Therefore it is recommended that native vegetation should be retained where possible (especially in the 20ft setback area from the base of the Bluff) by limiting the clearing of the parcel to the development footprint. This also allows for incorporating native vegetation into the landscaping scheme. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a cost-

*effective and sustainable choice for landscaping. The Department also notes that Sister Island Rock Iguana (*Cyclura nubila caymanensis*) and Tropicbird (*Phaethon lepturus*) nesting points have recently been recorded nearby as well as Booby Bird (*Sula leucogaster*) nesting on the coast nearest the subject parcel. For this reason the development should not install any lighting that shines up towards the Bluff face to reduce the risk of impact on nesting Tropicbirds.*

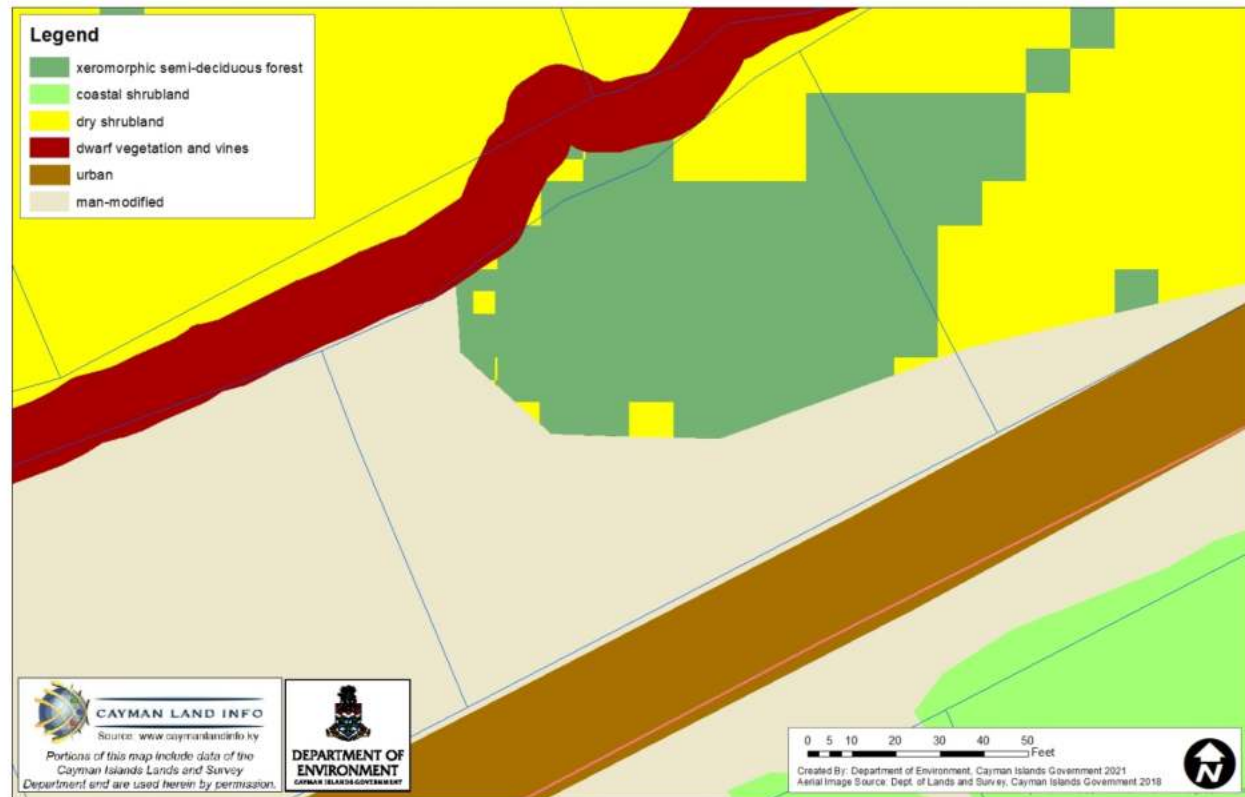


Figure 1: A habitat classification map showing the subject parcel (DOE 2021).

Planning Analysis:

The applicant proposes a house with a living room, kitchen & bathroom. All typical requirements are met.

Recommendation: Consider the comments of the NCC. If planning permission is granted, it should be subject to the following conditions:

Conditions (1-5) must be completed prior to the start of construction:

- 1) The applicant shall obtain approval of construction details from the Building Control Unit.

- 2) The applicant shall obtain plumbing approval from the Building Control Unit.
- 3) The applicant's Electrician shall obtain electrical approval from the Building Control Unit.
- 4) The applicant shall obtain a liquefied gas permit from the Building Control Unit (if applicable).
- 5) The confirmation of the Planning Office must be obtained, in writing, verifying compliance with the conditions described above prior to the start of construction.

The applicant will be reminded that all inspections shall be conducted and approved prior to occupancy of the buildings.

The applicant will be advised that this approval is in effect for five (5) years only and will expire if a building permit is not issued during this time. If the applicant wishes to reinstate the approval after this period, a new application must be submitted to the Planning Department along with required fees.

2.02

DAVENPORT DEVELOPMENT LTD, LCE BLOCK 86A PARCEL 24 (LC-F21-0591) (LC-P21-0026) (\$1,037,200)

Application for two (2) houses and pool.

Facts:

Location:	Guy Banks Road
Parcel Size:	.78 ac (33,976 sq ft)
Proposed Use:	Residential
Building Size:	5,186, sq ft
Bldg Footprint:	2,322 sq ft
Required Parking Spaces:	4
Proposed Parking Spaces:	4
Site Coverage:	6.8%

Agency Comments:

National Conservation Council:

"The application site is adjacent to a marine reserve (a Marine Protected Area). The site is occupied by coastal shrubland. Native vegetation should be retained wherever possible. It is best suited for the conditions of the site, requiring less maintenance and making it a cost-effective choice.

We note and support that the development has included a wash-through ground floor as a climate change resiliency measure."

Planning Analysis:

The applicant proposes two (2), three (3) storey houses and a pool. Each house will be 2,593 sq ft in size. All typical requirements are met.

Recommendation: Consider the comments of the NCC. If planning permission is granted, it should be subject to the following conditions:

Conditions (1-5) must be completed prior to the start of construction:

- 1) The applicant shall obtain approval of construction details from the Building Control Unit.
- 2) The applicant shall obtain plumbing approval from the Building Control Unit.
- 3) The applicant's Electrician shall obtain electrical approval from the Building Control Unit.
- 4) The applicant shall obtain a liquefied gas permit from the Building Control Unit (if applicable).
- 5) The confirmation of the Planning Office must be obtained, in writing, verifying compliance with the conditions described above prior to the start of construction.

The applicant will obtain approval of the pool from the Department of Environmental Health.

The applicant will be reminded that all inspections shall be conducted and approved prior to occupancy of the buildings.

The applicant will be advised that this approval is in effect for five (5) years only and will expire if a building permit is not issued during this time. If the applicant wishes to reinstate the approval after this period, a new application must be submitted to the Planning Department along with required fees.

3.0 MATTERS ARISING

4.0 MINOR MATTERS

5.0 SUBDIVISIONS OF LESS THAN TWENTY LOTS

6.0 NEW APPLICATIONS

6.01

PEPPERCORN INVESTMENTS LTD, LCE BLOCK 86A PARCELS 18 & 20 (LC-F21-0292) (LC-P21-0015) (\$34,000,000)

Application for a beach resort and wellness spa.

Facts:

<i>Location:</i>	Wonder Lane
<i>Parcel Sizes:</i>	1.10 ac (Parcel 20) 2.20 ac (Parcel 18)
<i>Proposed Use:</i>	Beach Resort
<i>Building Size:</i>	43,136 sq ft
<i>Bldg Footprint:</i>	35,350 sq ft
<i>Site Coverage:</i>	24.6%
<i>Required Parking Spaces:</i>	77
<i>Proposed Parking Spaces:</i>	49
<i>Notices & Newspaper Ads:</i>	Objections received.

Agency Comments:

National Conservation Council:

“Background

In July 2021, the Applicant (Peppercorn Investments) submitted a planning application for 8 single and two-storey accommodations comprising 12 two-bed units, 6 three-bed units arranged as 6 garden courtyards, swimming pool, restaurant, beach bar and kitchen, administration building with gym and wellness centre, gardens and driveways, pathways and parking areas for cars and bicycles, 4 cabanas, 6 courtyard cabanas and entrance gateway, LPG tank and sewage treatment plant and associated back of house facilities. In total, there were 42 bedrooms within the planning application.

At the same time, the Applicant submitted a coastal works application for 19 overwater bungalows and a new dock. Therefore across the two applications, there were 61 bedrooms proposed.

A letter accompanying the planning application dated 7 July 2021 stated:

“On behalf of the Applicants, Peppercorn Investments Ltd, we herewith attach an application for planning permission to replace and improve the existing “Sunset Cove” resort facilities at Kingston Bight, Little Cayman at 86A Parcels 18 and 20. The resort will also include 19# overwater bungalows and a new dock for which permission is concurrently being sought for Coastal Works Licences. The CWL application has been submitted at today’s date.

The 19# Overwater Bungalows will provide an exceptional visitor experience for Caymanian families and Visitors to the Cayman Islands and will compliment the land based courtyarded accommodations also being proposed. The applicant is committed to delivering the most sustainable and Green resort in the Cayman Islands.”

Initially, site plans were submitted with the planning application showing both the land-based development and the overwater bungalows. The proposed overwater bungalows are a precedent-setting development, being substantial, habitable infrastructure over Crown-owned seabed in a Marine Reserve (a Marine Protected Area under the National Conservation Act). Given that current practice is for matters seaward of the Mean High Water Mark (MHWM) to be determined by Cabinet and matters landward of the MHWM to fall under the jurisdiction of either the Central Planning Authority (CPA) or the Development Control Board (DCB), it was clear that the Cayman Islands Government as a whole needed to agree on and establish an approval process that would allow for a robust assessment of the project, especially as the overwater bungalows require careful consideration of appropriate safeguards (to the environment, to life safety, to development control) and regulatory mechanisms.

Therefore, on 1 August 2021 a meeting was held with the Department of Environment (DoE), the Department of Planning, the Ministry of Environment, the Ministry of Planning and Crown counsel. Based on the advice of Crown counsel, the outcome of this meeting was that the Applicant would be required to apply for planning permission for the entire development (overwater bungalows and land-based structures), on the basis that section 2 of the Development & Planning Act (2021) defines land as including “land covered by water” therefore making it a legal requirement for planning permission to be sought.

The Planning Department was tasked with contacting the Applicant to relay this position. After which the Applicant responded on 1 September 2021 stating,

“We are in receipt of your email dated 20th August 2021 regarding our client’s 7th July 2021 application to the Development Control Board for a boutique resort in Little Cayman at Kingston Bight Block 86A Parcels 18 and 20. Being in receipt of the untimely request, we write to notify you that the Applicant is seeking Legal Counsel regarding this very unusual and first of its kind stance that has been taken in response to our Coastal Works Permit application and request for submission to DCB in regards to the over-water element of our client’s proposed project.

We confirm that the landside proposals were submitted on 7th July, reviewed and accepted on 29th July in line with the Planning Department's guiding advice and procedural recommendations. At the time of our client's application we included drawings for the Overwater component for the DCB's background information and reference.

The 20th August email letter from the Director Planning, appears to suggest an unlimited precedent is being set.

Subject to our client's advice, we confirm that any application to DCB for the overwater component would be made as a distinctly separate submission as there is no basis for the overwater application to be combined with the on land proposals.

In the interim, however, the above procedure should have no bearing on our client's current application to DCB for the on land element as submitted and we look forward to confirmation that the application is not being withheld and seek confirmation of the date upon which the application will be heard by the DCB."

The Department of Planning wrote to the Applicant on 13 September 2021 stating,

"Your client's desire to proceed with the current application, the land-based component only, is noted, and we will proceed with arrangements for a hearing by the DCB at the 12th of October meeting. To facilitate this hearing, please upload revised drawings removing all references to any proposed development seaward of the HWM."

The Department of Planning wrote to the Department of Environment at the same time stating, "I have now heard back from the applicant for the LC Hotel project via their agent JDA. They are keen to have the DCB proceed with consideration of the application for the land-based component whilst they consider their position as to applying for planning permission for the overwater aspect of the project. After consulting with the DCB Chair, we are proceeding to schedule the current application for consideration at the 12th of October meeting."

On 20 September 2021, the DoE was notified through the Online Planning System (OPS) that revised plans had been submitted, which now removed the overwater

bungalows. The DoE was requested to provide its comments, on behalf of the NCC, by 23 September 2021, giving a review period of 3 days, which is an unreasonable timeframe to be expected to review the application. After submitting comments to publish in the agenda for the DCB meeting outlining the unreasonable timeframe, the Department of Planning recirculated the plans and provided the DoE with a 21 day review period (the standard review period).

The Need to Consider the Development as a Whole

The Applicant has resubmitted plans with the overwater bungalows omitted from the plans but no other changes made to the application. The DoE has now been instructed to review these plans as the overwater bungalows are 'for reference only' and a 'prospective linked future development.'

It is clear to the DoE that the Applicant continues to pursue permission for both the land-based components and the overwater bungalows together on the basis that:

- The original application and letter dated 7 July 2021 clearly stated the two proposals were linked developments for which 'permission is concurrently being sought'.*
- In pre-application discussions, the Applicant indicated that the proposed density of the land-based resort was only viable with overwater bungalows.*
- The coastal works application has not been withdrawn and remains under consideration by Cabinet.*

Should the Applicant withdraw the coastal works application, then the proposed approach of applying for the land-based development in isolation would be reasonable and appropriate. The approach taken by the Department of Planning does not allow a comprehensive review of consideration of the effects of the entire project. Fundamentally, the DoE does not consider that these new plans indicate a commitment from the Applicant to pursue a development of a land-based hotel resort only. The full project still includes overwater bungalows and approving this development is planning on a piece-meal basis. Trying to 'slice up' and separate parts of the project to avoid a comprehensive review of the likely impacts of the project as a whole is contrary to best practice.

Coastal Works Application

In February/March 2021, the Applicant met with the DoE to discuss the overwater bungalows development and the need for an Environmental Impact Assessment (EIA). It became evident to the DoE that the proposed development raised issues which go beyond the remit of an EIA. In the absence of a

development plan for the Sister Islands or any policy framework for this type of infrastructure, there had not been a national conversation on the acceptability or appropriateness of this type of development for the Islands. Furthermore, the existing approval frameworks e.g. coastal works and planning permission do not adequately deal with this type of infrastructure e.g. a one-off Royalty for use of Crown land may not be the appropriate financial structure for this type of develop. A meeting was convened to solicit input from the relevant governmental stakeholders with expertise or a regulatory role in considering this type of development infrastructure. At this meeting were members of the DoE, the Department of Tourism, the Ministry of Commerce, Planning and Infrastructure, the Ministry of Health, Environment, Culture and Housing, Lands and Survey and the Department of Planning. The consensus was that this type of infrastructure should not be permitted in Marine Protected Areas. This was relayed to the Applicant who indicated they felt differently and chose to submit a Coastal Works Application and Planning application concurrently.

The Department of Environment reviewed the Coastal Works Application and submitted the Coastal Works Review on 20 August 2021 to the Ministry of Sustainability and Climate Resiliency. The review is available on our website (<https://doe.ky/sustainable-development/coastal-works/coastal-works-reviews/>)

Our recommendation on the application was refusal, stating:

“The Department strongly recommends this application for refusal based on the principle of prohibiting the construction and establishment of habitable structures in a Marine Protected Area. A project such as this would ordinarily trigger the requirement for screening to determine the need for an EIA. While the Department has written an EIA Screening Opinion which recommends an EIA and submitted it to the National Conservation Council for consideration, it is the DoE’s strong view that it would not be beneficial or logical for the Applicant to do an EIA for a project which is fundamentally unacceptable due to its location and would be unacceptable regardless of the results of the EIA.

Therefore, the Department is urging Cabinet to refuse permission for this coastal works application based on the impacts outlined in this review and the endorsement of the Department of Tourism, Department of Lands & Survey, Department of Planning, Ministries of Planning & Environment that habitable structures should not be permitted in Marine Protected Areas. However, if Cabinet is minded to accept the principal of overwater bungalows in a Marine Reserve, the Department very strongly recommends that an Environmental Impact Assessment is undertaken to thoroughly assess the potential impacts of the

proposed project. Such an EIA would need to cover both the land and marine-based components of the proposed project.”

This Planning Application

Set within the above context, and despite the DoE considering the approach contrary to best practice, the DoE must now provide a review of the planning application being taken to the DCB.

Ecological Impacts

The land is mostly man-modified; however, the site is known Sister Island Rock Iguana nesting habitat. The Sister Islands Rock Iguana (SIRI) is a species which is “protected at all times” under Schedule 1 Part 1 of the National Conservation Law and is also listed as critically endangered on the IUCN Red List. Jackhammering and operating heavy machinery is not safe for nesting iguanas. Construction works not only disturb the physical iguana nesting habitat but heavy machinery and associated works can crush or bury iguanas and their nests. Care would need to be taken during construction, particularly during the clearing and filling of the site and the laying of foundations to avoid the burying of iguanas or their nests. The main nesting season for the SIRI is from 1st May – 1st September yearly.

We have included recommended conditions to safeguard nesting iguanas, especially during this period. The excavation of the cistern and other foundations will likely result in a large quantity of sand. This sand is a key component of what makes the application site an important nesting area for SIRIs. We recommend that any excavated sand is retained on-site.

Socio-economic Impacts

There is no Development Plan for Little Cayman to guide the appropriateness of development on the island. The emerging National Tourism Plan (2018-2023) states that for Little Cayman, the Vision Statement is, “to sustainably grow and diversify the Island’s tourism industry in a manner that preserves and celebrates the unique character of the island and its natural resources, enhances the business environment and quality of life for residents, and delivers a diverse range of high quality visitor experiences.”

It also states, “While participants in Little Cayman highlighted many of the same issues raised in Cayman Brac, the most significant challenges expressed are centred on destination management, along with the need for growth in investment and number of visitors, to support improvements in the provision of basic

services, increased access, better resource management, and strategies for reducing high operating costs.

Their primary objectives in seeking to promote more investment and increases in the numbers of visitors are

- To sustainably grow the number of visitors and visitor related services, to support infrastructure and other basic services improvements that would make Little Cayman a more attractive place to live and visit, and to grow the local workforce and reduce the need to import labour.*
- Improve destination management, including beach, road, marine resource and solid waste management, feral cats and mosquito control, to promote sustainable growth of tourism and of the local population.*
- Promote investment that is targeted to investors that will seek to maintain a balance between growth and preserving the unique character of the island, which is a primary driver of visitor demand, and to grow and diversify the product offer and the market base, to support more convenient and affordable access.”*

It is believed that, at 42 bedrooms for land-side component, this development would become among the largest hotels in Little Cayman. There are likely to be significant adverse impacts onto socio-economics due to the pressures on the infrastructure of Little Cayman. The Proposed Development may not be sustainable for Little Cayman (e.g. flight capacity, places for employees to live, waste generated) nor in line with the tourism product for Little Cayman.

Setbacks

The setbacks are indicated from ‘the Apparent High Water Wash Line 13 October 2020’. There are two existing buildings on the site which are to be used as precedents for distance to the sea. Behind these existing buildings a pool, pool deck, restaurant and gazebo are proposed. These structures are all within a 75 ft setback to the wash line, with the existing bar as close as 12 feet to the wash line. The resulting effect is that the Applicant will have a small beach, with the majority of the potential beach area being occupied by hard structures.

Furthermore, we note that there are no design features, such as a wash through ground floor or positioning of the building on elevated pilings to help mitigate against the effects of sea inundation on the proposed dwelling. Given climate change predictions for the region and the increasing prevalence of coastal erosion associated with inappropriately sited development, either on the active beach or too close to the Mean High Water Mark. Furthermore, it does not seem

practical for a hotel resort to limit the size of the beach from the outset. The DoE does not support the coastal setback based on the current design of the proposed development. It is strongly recommended that the design be revised to move the structures as far back from the beach as possible to give the largest area possible.

There is no Zoning or Development Plan for the Sister Islands. Appendix 2 of the Development Plan 1977 states, “8. In the case of hotel development care should be taken to keep the natural amenities including beach and shore available for the public.”

Summary

The DoE maintains its position that the principle of the acceptability of the overwater bungalows should first be established through Cabinet’s determination of the coastal works application. Should Cabinet be minded to grant approval, the in-water and land-based components should be screened for an EIA. In advance of this determination the planning application should be held in abeyance.

Therefore, in the exercise of powers which have been conferred through express delegation by the National Conservation Council, pursuant to section 3(13) of the National Conservation Act (2013), and on the basis of the above information, under Section 41(5)(a) of the NCA, the Director of DoE therefore respectfully directs that the following condition be imposed by the Development Control Board or Department of Planning, as part of any agreed proposed action for planning approval:

- *All construction materials shall be stockpiled a minimum of 50 ft from the Apparent High Water Wash Line.*

This condition is directed to prevent run-off and debris from entering the Marine Protected Area causing turbidity and impacting sensitive marine resources.

Additionally, it is recommended that the DCB require the following conditions of approval should planning permission be granted:

- *A walkover survey shall be conducted, as agreed by the DoE, prior to commencing works on-site to ensure that no iguanas or nests are present.*
- *There shall be no mechanical clearing, heavy equipment, construction work or stockpiling of construction materials outside of the parcel boundaries.*

- *There shall be no construction work which involves excavation, filling or laying of foundations from 1st May – 1st September to avoid crushing or causing harm to nesting iguanas and their nests.*
- *Any sand excavated during construction works shall remain on-site.*
- *Any cats, dogs or pets on the property shall be contained or leashed at all times to avoid causing inadvertent harm to iguanas.*

A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Development Control Board/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013)."

Department of Environmental Health

The application is recommended for approval with the understanding that the following must be submitted for review and approval:

Solid Waste Facility:

This development requires (1) 8 cubic yard container with 3 times per week servicing.

Table 1: Specifications for Onsite Solid Waste Enclosures

Container size (yd3) Width (ft) Depth (ft) Height (ft) Slab

Thickness (ft) Requirements

8 10 10 5.5 0.5 Water (hose bib), drain, Effluent Disposal well; guard rails

NOTE:

The drain for the enclosure must be plumbed to a garbage enclosure disposal well as per the Water

Authority's specifications. Contact development.control@waterauthority.ky for deep well details.

Water Supply:

The applicant must submit the source of water and sanitation process for the water that is being collected and stored in the cistern.

Wellness Centre:

The applicant must submit the layout of the wellness centre and spa for review.

Swimming Pool:

A swimming pool application must be submitted to DEH for review and approval prior to constructing the pool.”

Fire Service

The Fire Service has stamped the site plan “Approved for Planning Permit only.”

Water Authority

“The Water Authority’s requirements for the proposed development are based on the understanding that parcels 18 & 20 will be combined. The comments are as follows:

Wastewater Treatment and Disposal

The Water Authority strongly advises that no direct sewage shall be discharged in the ocean or surrounding beach. All sewage shall be conveyed and treated properly in a approved aerobic treatment unit.

The developer, or their agent, is required to submit an Onsite Wastewater Treatment Proposal, per the attached Form, which meets the following requirements. Water Authority review and approval of the proposed system is a condition for obtaining a Building Permit.

- The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer’s guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 9,795 US gallons per day (gpd), based on the following calculations.*

<i>BUILDING</i>	<i>UNITS/BLDG</i>	<i>GPD/UNIT</i>	<i>GPD/BLDG</i>	<i>GPD</i>
<i>Six Boutiques</i>	<i>2 Bdrms/ 3 Bdrms</i>	<i>225/300</i>	<i>750</i>	<i>4,500</i>
<i>Restaurant</i>	<i>1410 sq. ft</i>		<i>2,520</i>	
<i>18 Overwater Bungalows</i>	<i>1 Bdrms/2Bdrms</i>		<i>150/225</i>	<i>150/225</i>
	<i>2,775</i>			
<i>TOTAL</i>			<i>9,795 GPD</i>	

- *Treated effluent from the ATU shall discharge to an effluent disposal well-constructed by a licensed driller in strict accordance with the Authority's standards. Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4'5" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

Grease Interceptor Required

A grease interceptor with a minimum capacity of 1,500 US gallons is required to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the ATU.

Water Supply:

Please be advised that the proposed development site is outside the area served by public water supply. The developer will be required to utilize an alternate water source; i.e., cistern or well.

If there are questions or concerns regarding the above, please email them to: development.control@waterauthority.ky “

Letter from Applicant:

“ We are in receipt of the below from Dept of Environmental Health re the above captioned project and herewith attach our drawings revised to respond and respect the items raised by DEH, namely:

1. Solid Waste Facility: The location of the enclosure does not meet DEH requirements, particularly the access to the enclosure. a) The service vehicles shall be able to enter and exit the site without having to reverse onto the highway. The enclosure shall be located away from overhead power lines and other protrusions that can cause electrical shock, injury, or other difficulties during servicing. A vertical clearance of at least 15 feet is required over the entire approach to and from the enclosure. A minimum straight approach of 50 feet should be provided directly in front of the facility to allow the vehicle sufficient area to back out of the facility. A turn around or separate exit that allows the truck to move forward rather than backwards is required. A minimum backup

distance of 50 feet is required for any maneuver and must be in a straight line. The driveway shall be constructed to withstand trucks weighing up to 62,000 lbs.

See attached site plans which illustrate the garbage pick up solution.

2. Water Supply: The applicant must submit the source of water and sanitation process for the water that is being collected and stored in the cistern.

This will be confirmed prior to the submission for building permits

3. Wellness Centre: The applicant must submit the layout of the wellness centre and spa for review.

The wellness centre is an exercise gym and massage facility which will be submitted at the time of the permit submission

4. Swimming Pool: A swimming pool application must be submitted to DEH for review and approval prior to constructing the pool.

Details of the swimming pools will be provided as part of the permit submissions.”

The following information was also submitted from the applicant:

“On behalf of Peppercorn Investments Ltd, thank you for your 16th November 2021 letter of invitation to attend the 14th December 2021 meeting of the Development Control Board at 10.45am to be held at the District Administration Building, Cayman Brac.

We reconfirm that the following persons representing the Applicant for the above captioned application will be in attendance and we look forward to your invitation to attend via Zoom per your invitation letter advice.

Matthew Wight, Naul Bodden, Michael Alberga, John Doak all of whom will be at same venue.

For the avoidance of doubt and any misunderstandings, we take this opportunity to reconfirm that the application for planning permission that is submitted for the consideration of the development Control Board comprises the buildings and structures proposed to be built upon Block 86A 18 and 20 upon the lands there and comprises 12# two bedroom cottages, 6# three bedroom cottages, a reception building with wellness spa, a restaurant, a beach bar, swimming pool and 6# small pools, the renovation of an existing beach bar, kitchen and other existing facilities, thatched pavilions and huts, water storage cisterns, driveways, footpaths and associated works and mechanical facilities for the proposed boutique resort. Emphatically, the proposal to be considered by the DCB on 14th December 2021 does NOT include for overwater or inwater bungalows and the replacement of the existing dock.

We also wish to bring to the attention of the Development Control Board a number of matters that have occurred since the application was submitted to the Planning Department via OPS in July 2021 and attach a summary response. We would be grateful if this letter and responses can be included in the agenda for the 14th December 2021 DCB meeting.

In addition to the architect's renderings that are included in this response we invite the members of the Development Control Board and others to visit this video link that provides impressions of the proposed resort:

Letters of Objection:

Letter of Objection #1 from Peter Schmid & Ronda S. Schmid

"My Wife and I are joint Owners of Block & Parcel(s) 86A45 & 86A46 in Little Cayman, in close proximity to the Parcels for which the Planning and Coastal Works applications have been made.

We are objecting to the project because;

We are not satisfied with the information available thus far as it pertains to the handling of Sewage from the proposed 19 Cottages to be built over Water according to the site drawing provided.

We are not satisfied with the information provided regarding the production of potable Water for this development. (The basis of the objection is that we are familiar with the unpleasant smell that is a by-product of the RO process and this project is located upwind of our property.)

Further, based on the assumption that this project will likely become a Strata plan and that the Developer(s) may separate from the entity at some point, what assurances can they give us that the two above mentioned installations will be maintained in a serviceable condition with no risk of surrounding areas and Waters becoming contaminated, particularly with leaking sewage?

We request an opportunity to hear, or receive written, responses to the above concerns from the Developers."

Letter of Objection #2 from Daphne Hackley Johnson Berger

"We are the owners of 70 Wonder Lane, locally referred to as Yellow Bird Cottage on Little Cayman Island. We are neighbors to Kingston Bight, and would like to voice in the strongest of terms our opposition to the construction of overwater bungalows.

Our family has been going to Little Cayman for 37 years, and we have watched it evolve and grow. We know the island, and those who have long been part of the community. We treasure the island and its unspoiled beauty.

The development proposed at Kingston Bight concerns us greatly.

For years we have been expecting Kingston Bight to be developed, and we welcome its development. We ourselves are in the hotel business with numerous hotels in New Orleans and Nashville. We are not opposed to a retreat suitable to the island spirit.

We are vehemently opposed, however, to the construction of overwater bungalows, or an overwater building (not including a standard dock) of any sort.

South Hole Sound is the Queen's Bottom—it belongs to none of us, which is to say that it belongs to all of us. But, truly, it belongs to the turtles, and the stingray and the bonefish, and the sharks—all of whom rely on this delicate ecosystem in order to flourish. It is this wildlife that must be preserved at all costs—not just for the sake of preserving nature and something that is beautiful and unspoiled, but also for the sake of preserving the very thing that attracts people from all around the world to Little Cayman—its pristine marine life.

It feels shortsighted to allow for the corruption of this habitat in order to suit one development. Yes, the development of Kingston Bight might be good for the Cayman Islands in that it contributes to the growth of the economy, but should that marine life be spoiled down the line, the pristine marine life that once made Little Cayman a Crown Jewel of the Caribbean will no longer exist, and Little Cayman will truly be nothing special.

The South Hole Sound was made into a Marine Park in order to protect against developments exactly like this. We very much hope that this protection stands.

Apart from the negative impact overwater bungalows would have on marine life, we as neighbors have other concerns. The plans as drawn have a dock that extends over 500' long. The Southern Cross Club dock by comparison extends around 120' I believe, and that is a very substantial dock. This dock as proposed would have a negative impact on our view and our experience at our property. It would negatively impact our privacy.

Around 14 years ago, our Dad finally was able to construct the dock of his dreams. Like all of his projects, he had it built sturdy and strong. He designed it well, and believed it to be the best constructed dock on the island at the time of its

construction. It was short and stout, with steel reinforced cement piling construction and sat 5' off the water. One year later, Hurricane Paloma came, and our dock, along with many others on the island, was wiped out.

What will happen when the next big Hurricane comes? Then we will be talking about debris not just in the way of dock planks, but actual building debris, and sewage and electrical systems. This debris will corrupt our beaches and our water. It is not fair to force us to take on the risk of what may happen to these bungalows in the event of a hurricane. As we have seen time and again, it is the elements that sit over the water that get washed away with the storms, and there is no reason to think that a bungalow would fair much better than a dock.

Lastly, no matter how well constructed, leaks happen. Sewage leaks happen in big cities, where infrastructure is built out and oversight is much more secure. So they can just as easily and probably more easily happen in bungalows on a small remote island. When sewage leaks, there are severe consequences, not just to the environment, but to how people think about their surroundings.

To share a personal story: Three years ago, there was a construction project happening on the street outside our lovely home in New Orleans. The work was being done by the city to repair some of the city's drainage. One day, brown pieces started appearing in my children's bathtub during their bath time. We had no idea what it was. Our house started to smell rancid. We thought perhaps it was a gas leak. We brought in someone to take a look at our gas, and instantly he knew—we had a sewage leak. The water I had been bathing my children in for weeks was sewage. The construction team that was meant to be fixing the city's drainage, had busted a sewage pipe, which somehow led to my children's bathtub. This in a place with so much oversight. It took them weeks to repair it. But by then, between the visual of my children bathing in sewage week and after week, and the smell that permeated throughout our house—the damage was done. We had to move. There was no getting over that experience.

Should sewage leak into these pristine waters, in this sacred lagoon, it would change how people feel about it forever. Sewage is a nasty and tainted thing. There is no development that could ever be worth running the risk of tainting these waters.

Should these developers be permitted to build overwater bungalows to any extent, a new precedent would be set and, as a developer, I have no doubt that others would follow suit. Everything we treasure about Little Cayman is at stake in this decision. For, where one developer succeeds, others will soon follow. And then,

everything will have changed. We urge you to protect what makes Little Cayman special—its unspoiled marine life. This pristine, unspoiled marine life no longer exists in Grand Cayman, and that begins and ends with development in the name of economic growth”.

Planning Analysis:

The application consists of 12, two (2) bedroom houses, 6, three (3) bedroom houses, a reception building with wellness spa, a restaurant, a beach bar, seven (7) pools, the renovation of an existing beach bar, kitchen and other thatched pavilions & huts.

Notices & Newspaper Ads

Objections received.

Site Coverage:

Cottages (Ground Floor)

2 bedroom unit	949 sq ft
2 bedroom unit	949 sq ft
3 bedroom unit	1,058 sq ft
Verandas	1,233 sq ft
<u>Cabana</u>	<u>136 sq ft</u>

Total Ground Floor	4,325 sq ft	X 6 groups=	25,950 sq ft
--------------------	-------------	-------------	--------------

Reception/Administration (Ground Floor)	4,067 sq ft
Restaurant	1,410 sq ft
Cabanas	1,420 sq ft
Beach Bar	1,078 sq ft
Maintenance	499 sq ft
<u>Kitchen</u>	<u>926 sq ft</u>
Total ground floor sq footage	35,350

Total sq footage of parcels:	143,748 sq ft
Overall Site Coverage	35,350/143,748 = 24.6%

Parking (8 ft 6 in x 16 ft with 22 ft turning space):

18 residential units x 2 parking spaces	=	36 spaces
Kitchen & Restaurant 2,336 sq ft /200	=	11.68 spaces
Reception/Administration 8001 sq ft/300		26.67 spaces
Beach Bar 499 sq ft /200	=	2.495 spaces
Total standard parking spaces required		76.85 spaces
Total standard parking spaces proposed	=	49 spaces

The Development Control Board typically requires a minimum of two (2) parking spaces per residential unit.

Minimum parking requirements for other uses (kitchen, restaurant, reception/administration & beach bar are based on Development and Planning Regulations (2020 Revision) Sec. 8.

Parking spaces along Wonder Lane have inadequate turning area to avoid reversing into the road.

The site plan also shows golf cart parking, scooter parking and bicycle racks.

Setback Requirements:

Typical setback requirements are met.

Recommendation: Consider the comments of all government departments, the applicant and objectors. If planning permission is granted, it should be subject to the following conditions:

Conditions (1-5) must be completed prior to the start of construction:

- 1) The applicant shall obtain approval of construction details from the Building Control Unit.
- 2) The applicant shall obtain plumbing approval from the Building Control Unit.
- 3) The applicant's Electrician shall obtain electrical approval from the Building Control Unit.
- 4) The applicant shall obtain a liquefied gas permit from the Building Control Unit (if applicable).
- 5) The confirmation of the Planning Office must be obtained, in writing, verifying compliance with the conditions described above prior to the start of construction.

The applicant will be reminded that all inspections shall be conducted and approved prior to occupancy of the buildings.

The applicant will be advised that this approval is in effect for five (5) years only and will expire if a building permit is not issued during this time. If the applicant wishes to reinstate the approval after this period, a new application must be submitted to the Planning Department along with required fees.

7.0 OTHER MATTERS

7.01 DEBORAH TRUCHAN, LCW BLOCK 83A PARCEL 112 (LC-F21-0603) (LC-P21-0027) (\$5000)

After the fact application for a shed.

Facts:

Location:	Gazebo Lane
Parcel Size:	.34 acres (14,810 sq. ft.)
Existing Use:	Residential

Planning Analysis:

The after the fact application is for a 12 ft 14 ft shed. All typical requirements are met.

Recommendation: Grant planning permission subject to the following conditions:

Conditions (1-2) must be completed prior to the start of construction:

- 1) The applicant shall obtain approval of construction details from the Building Control Unit.
- 2) The confirmation of the Planning Office must be obtained, in writing, verifying compliance with the conditions described above prior to the start of construction.

The applicant will be reminded that all inspections shall be conducted and approved prior to occupancy of the buildings.

The applicant will be advised that this approval is in effect for five (5) years only and will expire if a building permit is not issued during this time. If the applicant wishes to reinstate the approval after this period, a new application must be submitted to the Planning Department along with required fees.

7.02 STAN STOCKTON, CBC BLOCK 101E PARCEL 54 (CB-F21-0061) (CB-P21-0022)

Proposed antenna.

Facts:

Location:	Distant Cl (Off Lime Lizard Way)
Parcel Size:	.65 acres (28,314 sq. ft.)
Existing Use:	Residential
Setbacks:	All typical setbacks are met.
Notices:	No objections received.

History:

On the 26th January 2016 (DCB/02/16) the DCB approved a 1,004 sq ft house at the subject parcel.

On the 8th March 2021 (DCB/03/21) the DCB approved an after the fact 60 ft antenna.

On the 31st May 2021 (DCB/07/21) it was resolved to adjourn the application to invite the applicant to a future meeting.

Planning Analysis:

The applicant proposes a 90 ft antenna. Typical setbacks have been met.

The applicant is scheduled to appear via Zoom at 9:45 AM.

Recommendation: Discuss.

7.03 PARADISE REALTY & PROPERTY MANAGEMENT, CBW BLOCK 102A PARCEL 194 (CB-F21-0565) (CB-P21-0066) (\$3600)

After the fact application for clearing.

Facts:

Location:	South Side West Road
Parcel Size:	.67 ac (29,185 sq ft)
Existing Use:	Vacant

Agency Comments:

National Conservation Council:

“The application site is located within an area that is of critical importance for Brown Booby seabirds and is in close proximity to the Sister Islands Rock Iguana plateau, as shown in Figure 1. Both the Brown Booby (Sula leucogaster) and the Sister Islands Rock Iguana (Cyclura nubila caymanensis) are listed in Part 1 of Schedule 1 of the National Conservation Act, 2013 as being “protected at all

times”. The application site was man-modified with secondary coastal shrubland habitat. Secondary growth can still provide valuable ecological benefits such as providing habitat and food for wildlife.

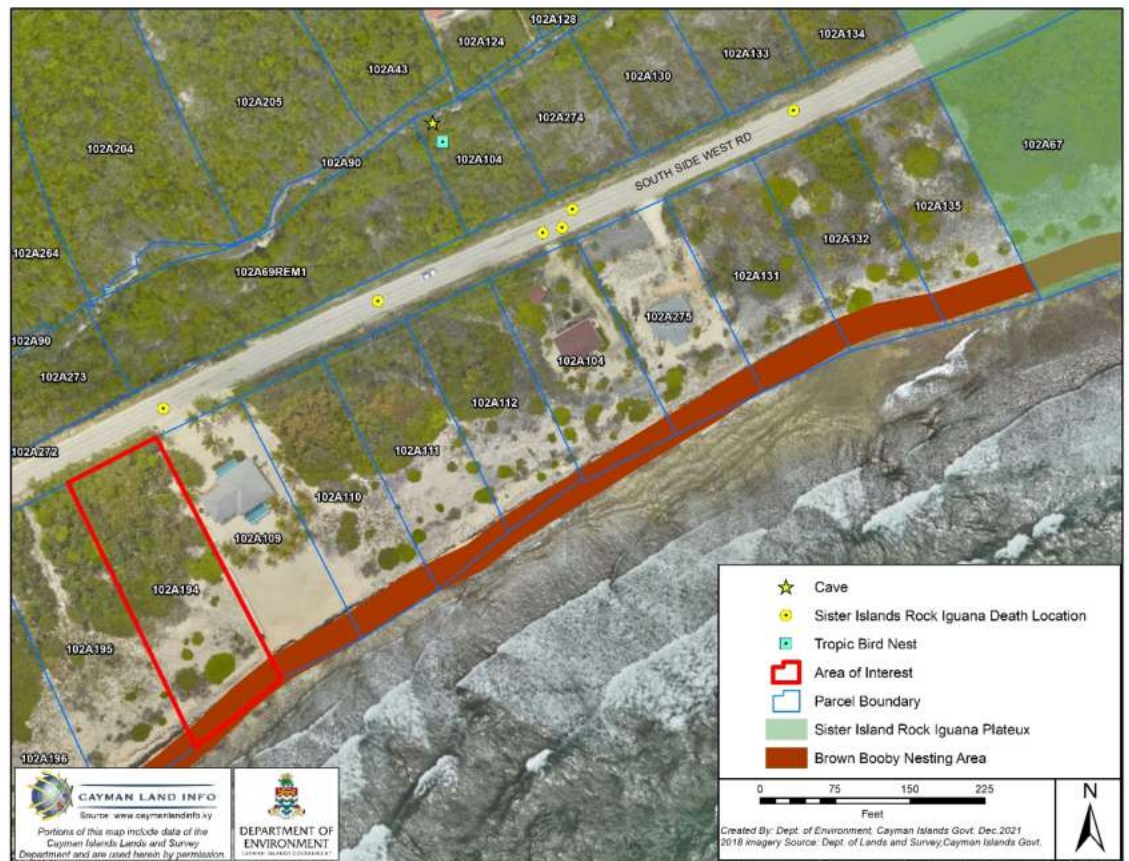


Figure 1: LIS 2018 aerial imagery showing application site outlined in red

Whilst this application seeks permission to remove Sea Grape trees along the road frontage, a site visit conducted on 30 November 2021 (a week after receiving the application for review) revealed that the site had been completely cleared except for a couple of palm trees, as shown in figure 2.



Figure 2: Photo showing application site (Source: DOE, 30 November, 2021)

This is another example of the ongoing trend of site clearing and site preparation works commencing prior to the grant of Planning Permission. This removes the opportunity for reviewing agencies to provide constructive comments and feedback on best management practices and recommendations for retention of ecologically valuable flora or how to mitigate impacts to endemic and protected fauna, which ultimately may prove beneficial to the landowners and wider area. Additionally the frequency of these occurrences potentially indicates that the requirement to make an after-the-fact application, and pay the associated fees, is an inadequate deterrent.

From an environmental perspective, the DoE does not support the speculative clearing of land, without planning permission having been secured for development on the land, as ecological valuable vegetation/habitat is increasingly becoming fragmented or loss. Therefore, without any proposal for development, the DoE would have recommended that that the application is held in abeyance and to encourage the applicant to submit proposals for land clearing along with their proposals for development as there may be varying recommendations for vegetation retention depending on the form and nature of the development being

proposed. It would have also been recommended that land is not to be cleared until development has been approved and is imminent to allow sites to continue to provide habitat and ecosystem services. Retaining vegetation provides benefits to the property owner and the surrounding area.

The unauthorized clearing occurred on a site which is of critical importance for Brown Booby nesting; their nesting season typically runs from December to August, thus the works could have potentially impacted nesting resulting in the inadvertent take of a Part 1 protected species of the National Conservation Act. If the applicant had awaited approval, the DoE would have recommended measures to safeguard against any accidental take of the part 1 protected species.

It is also important to note that the Sister Island Rock iguana prefer bare glades for nesting and given the proximity of the iguana plautex, the wholesale clearing of the land without development will likely attract iguanas to use the site for nesting and could potentially creating issues for when the applicant actually decides to build on the site.

If the Development and Control Board (DCB) is minded to grant permission for the after the fact clearing, then it is strongly recommended that any future development application be the subject of a separate consultation with the National Conservation Council especially in relation to the mitigation of impacts to any Part 1 of Schedule 1 protected species which are highly likely to utilize the site as a nesting ground. “

Planning Analysis:

The applicant originally applied to clear a small portion of the lot at the main road. Before the application could be considered by the Board the lot was cleared.

Recommendation: Discuss.

7.04

TRAVIS KOOPMAN, CBW BLOCK 94D PARCEL 34 (CB-F21-0633) (CB-P21-0076) (\$1,000)

After the fact application for a container.

Facts:

<i>Location:</i>	Private easement from West End East Road
<i>Parcel Size:</i>	.92 ac (40,075 sq ft)
<i>Existing Use:</i>	Vacant
<i>Proposed Use:</i>	Storage

Agency Comments:

National Conservation Council:

The application site is man-modified and is immediately adjacent to a Marine Protected Area (Marine Reserve) as shown in Figure 1.

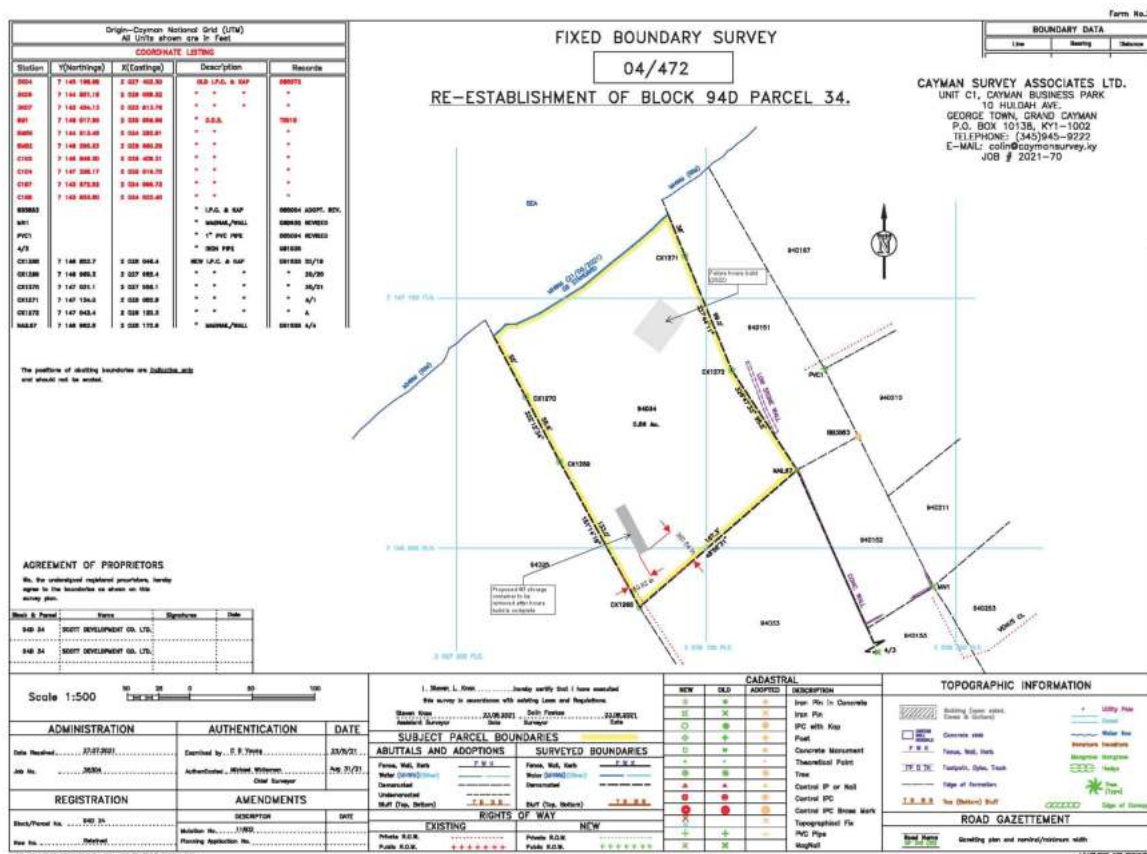


Figure 1: LIS 2018 aerial imagery showing application site outlined in red

Given the climate change and sea-level rise predictions for the region, the DoE typically recommends that minimum coastal setbacks are adhered to or exceeded wherever possible to reduce impacts to beach profiles and improve climate resiliency of development projects. Therefore, given the climate change impacts and that site is located on an exposed coastline, we are encouraged to see that the

applicant has maximized coastal setbacks and placed the container as close to the road as possible.

In addition, it is noted from the plans submitted (see Figure 2) that there is reference to a future house which is to be situated close to the mean high water mark. We would urge the applicant to take this opportunity to consider revising the location of the house significantly further landward in order to maximize coastal setbacks. It can also be designed to incorporate climate change resilience features.



Recommendation: Approve.

8.0 ENFORCEMENT

8.01 After the fact clearing, CBC Block 102A Parcel 69 Rem 1 (Santos)

8.02 After the fact clearing, CBC Block 102A Parcel 22 (Connor)

8.03 After the fact clearing & toilet block, (Scott Development Co)

8.04 After the fact clearing, CBC Block 105A 82 (Schweiger)

8.05 After the fact fence, CBC Block 98D Parcels 26, 27, & 22 (EE Holdings)

9.0 MATTERS FROM THE PLANNING DEPARTMENT

10.0 DCB MEMBERS INFORMATION /DISCUSSION