

# Central Planning Authority

**Minutes** of a meeting of the Central Planning Authority held on August 3, 2016 at 10:00 a.m. in the Conference Room, 1<sup>st</sup> Floor, Government Administration Building, Elgin Avenue.

**17<sup>th</sup> Meeting of the Year**

**CPA/17/16**

**Mr. A. L. Thompson (Chairman) (except 2.3) (left at 1:10)**

**Mr. Robert Watler Jr. (Deputy Chairman) (except 2.2, 2.5) (Acting Chairman 2.3)**

**Mr. Edgar Ashton Bodden (absent)**

**Mr. S. T. (Tommie) Bodden**

**Mr. Dalkeith Bothwell (absent)**

**Mr. Joseph Coe**

**Mr. Ray Hydes (except 2.5)**

**Mr. Trent McCoy**

**Mr. Rex Miller**

**Mr. Eldon Rankin**

**Mr. Selvin Richardson**

**Mr. Fred Whittaker (except 2.5, 2.7)**

**Mr. Haroon Pandohie (Executive Secretary) (apologies)**

**Mr. Ron Sanderson (Acting Executive Secretary)**

- 1. Confirmation of Minutes**
- 2. Applications**
- 3. Development Plan Matters**
- 4. Planning Appeal Matters**
- 5. Matters from the Director of Planning**
- 6. CPA Members Information/Discussions**

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**APPLICANTS THAT APPEARED BEFORE THE CENTRAL PLANNING AUTHORITY**

<b>APPLICANT NAME</b>	<b>TIME</b>	<b>ITEM</b>	<b>PAGE</b>
Vincent Ebanks (BES)	10:30	2.1	4
Roger & Lisa Small (BES)	11:00	2.2	10
Coriander Ltd. (KA)	11:30	2.3	14
Anorey Kazakova (CS)	1:00	2.4	30

**1.0 CONFIRMATION OF MINUTES**

**1.1 Confirmation of Minutes of CPA/16/16 held on July 20, 2016.**

Moved: Selvin Richardson

Seconded: Eldon Rankin

**Confirmed**

## **2.0 APPLICATIONS**

### **APPEARANCES (Items 2. 1 TO 2. 4)**

#### **2. 1 VINCENT EBANKS Block 3D Parcel 104 (F16-0102) (P16-0376) (\$280,000) (BES)**

Application for four (4) apartments.

**Appearance at 10:30**

#### **FACTS**

<i>Location</i>	Conch Point Road, West Bay
<i>Zoning</i>	<b>BR/R</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	11,761.2 sq. ft.
<i>Building Size</i>	2,100 sq. ft.
<i>Density</i>	14.8
<i>Allowable Density</i>	20
<i>Building Coverage</i>	17.9%
<i>Parking Coverage</i>	29.6%
<i>Total Site Coverage</i>	47.5%
<i>Proposed Parking</i>	8
<i>Required Parking</i>	6

#### **BACKGROUND**

July 20, 2016 (**CPA/16/16; Item 2.4**) - CPA adjourned the application to invite the applicant to appear before the Authority to discuss concerns with the application in regard to the lot size, deficient setbacks, deficient width of parking spaces, insufficient turning radii and non-functional parking reverse areas.

**Decision:** It was resolved to adjourn the application, **for the following reason:**

1. The applicant is required to submit revised plans showing the proposed building changed from four apartments to a duplex.

#### **AGENCY COMMENTS**

Comments from the Chief Environmental Health Officer, Water Authority and National Roads Authority are noted below.

#### **Chief Environmental Health Officer**

*"The following comments are submitted with respect to the above application:*

*The Department has no objections to the proposed with the understanding that the following will be provided on completion.*

- *An enclosure that meets the Department Standards and five garbage bins no larger than – 32gal must be provided. "*

### **Water Authority**

*Please be advised that the Water Authority's requirements for this development are as follows:*

#### **Wastewater Treatment:**

- *The developer shall provide a septic tank with a capacity of at least 1,500 US gallons for the proposed apartments. The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools.*
- *All treated effluent shall be discharged into a disposal well; the invert level of the discharge pipe shall be at least two feet above the high water level in the well. The effluent disposal well shall be constructed prior to installation of the septic tank, in order to establish the flow line from the building sewer stub-out, through the septic tank, to a discharge invert level of at least two feet above the high water level in the disposal well.*
- *Disposal wells shall be constructed by a licenced driller in strict accordance with the Authority's standards. Minimum required depth of borehole and length of grouted casing are site-specific and are obtained by licenced drillers before pricing or constructing an effluent disposal well.*

#### **Water Supply:**

*Please be advised that the proposed development site is located within the Cayman Water Company's (CWC) piped water supply area.*

- *The developer is required to notify the Cayman Water Company without delay, to be advised of the site-specific requirements for connection.*
- *The developer shall provide water supply infrastructure per CWC's specification and under CWC's supervision."*

### **National Roads Authority**

*"As per your memo dated April 22nd, 2016 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

#### **Boundary Plan 12**

*The above parcel is affected by BP 12, please have applicant show and respect said BP.*

### ***Road Capacity Issues***

*The impact of the proposed development onto Conch Point Drive is considered to be minimal.*

### ***Access and Traffic Man Issues***

*Two-way driveway aisles shall be a minimum of twenty-two (22) ft. wide.*

*Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of twenty-two (22) ft.*

*A six (6) foot sidewalk shall be constructed on Conch Point Drive, within the property boundary, to NRA standards.*

*Tire stops (if used) shall be place in parking spaces such that the length of the parking space is not reduced below the sixteen (16) feet minimum.*

### ***Stormwater Management Issues***

*The applicant is encouraged to implement state-of-the-art techniques that manage stormwater runoff within the subject parcel and retain existing drainage characteristics of the site as much as is feasible through innovative design and use of alternative construction techniques. However, it is critical that the development be designed so that post-development stormwater runoff is no worse than pre-development runoff. To that effect, the following requirements should be observed:*

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.*
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.*
- Construct a gentle ‘hump’ at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Conch Point Drive. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*
- Curbing is required for the parking areas to control stormwater runoff.*
- Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

*At the inspection stage for obtaining a Certificate of Occupancy, the applicant shall demonstrate that the installed system will perform to the standard given.*

*The National Roads Authority wishes to bring to the attention of the Planning Department that non-compliance with the above-noted stormwater requirements would cause a road encroachment under Section 16 (g) of The Roads Law (2005 Revision). For the purpose of this Law, Section 16(g) defines encroachment on a road as*

*"any artificial canal, conduit, pipe or raised structure from which any water or other liquid escapes on to any road which would not but for the existence of such canal, conduit, pipe or raised structure have done so, whether or not such canal, conduit, pipe or raised structure adjoins the said road;"*

*Failure in meeting these requirements will require immediate remedial measures from the applicant. "*

**LETTER FROM APPLICANT**

*"I am seeking permission for a Rear set back of 10'-0" and Lot Size Variance on my property Block 3D Parcel 104 (9825 sq.ft.) to construct four (4) one (1) bedroom apartments a total of 2100 sq.ft.*

*The land is zone Beach Resort/ Residential which require me to have a minimum lot size of 1/2 acre (21780 sq.ft.) to constructed these apartments so i am short 11955 sq.ft.*

*This land wasn't subdivided by developer it was handed down from generations, I didn't know that i need a minimum of 1/2 acre to do the apartments that i dream of doing as a means of supplementing my income.*

*I purchased this property in my early twenties with intention to reside in one of the apartment while renting the others either short or long term. Having 3 one bedroom apartment make it easier to rent and maintain in this slow economy.*

*There are property in the area which has apartments on them that had variance granted to them to constructed I am under the minimum density requirement which is 20 Units / 60 Bedrooms per acre. My design work out to be (4 Units / 4 Bedroom)*

*I look forward to a favorable reply from your department in due course"*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for four (4) apartments, 1-storey to be located on Conch Road, West Bay

**Zoning**

The property is zoned Beach Resort/Residential and the Department would offer comments on certain specific issues addressed below.

## **Specific Issues**

### **a) Suitability**

In accordance with Regulation 15(2)(d) of the Development and Planning Regulations (2015 Revision), apartments are permissible in suitable locations. The surrounding land uses in the area are apartments, single-family dwelling houses and vacant properties. Other than the lot size, In terms of density the proposal is in keeping with existing densities of apartments in the area. The Department would offer the following information of the nearby apartments in the area.

- Birch Tree Hill Apartments on Block 3D Parcel 136 on Conch Point Road and Twinflower CT.
- Paradise Point Apartments on Block 3D Parcel 121 next to the proposal.
- Apartments on Block 3D Parcel 56 on Conch Point Road.

### **b) Lot Size/Density**

The property is registered at 0.27 acres or 11,761 sq. ft. In accordance with Regulation 15(4)(a)(iii), the minimum lot size for apartments is 0.50 acres or 21,780 square feet. Additionally, part of Conch Point Road travels through the subject parcel and that portion of BP 12 equates to 1,752 sq. ft., further reducing the effective area of the parcel to 10,009 sq. ft.

It should be noted that of the three properties noted above that are developed with apartments, 3D 136 is 0.52 acres and would comply with the required lot size; 3D 56 is 0.2569 acres and would not comply with the required lot size; and 3D 121 is 0.4580 acres and would not comply with the required lot size. It is noted, however, that in regard to 3D 121, the Authority granted a lot size variance for the apartments on May 17, 2006. In this instance, the subject lot is significantly undersized and the Authority must determine if there is sufficient reason and exceptional circumstance to warrant allowing the required lot size variance. The applicant has submitted a letter in support of the variance, but refers principally to an economic justification, no land use planning related matters.

The Department would note that the proposal does comply with maximum density requirements: four (4) apartments are proposed and five (5) could be allowed; 4-bedrooms are proposed and 16 could be allowed.

### **c) Site Layout**

- A corner of the building has a rear setback of 10'-4", the septic tank has a rear setback of 11'-1" and the required setback is 20'.
- Turning radii for the sidewalk is less than 15', shown at 5'.
- Parking spaces width 8' vs 8'-6".
- Turning areas for parking spaces not functional.

## **SUPPLEMENTARY ANALYSIS**

The plans have not been revised as the applicant was invited to appear before the Authority.

At 10:30am, Vincent Ebanks appeared as the applicant and Granville Williams appeared as his agent. There was discussion regarding certain matters as follows:

- The site is 11,764 sq. ft. in size and the required minimum is 21,780 sq. ft.
- The parking spaces are 8; wide instead of the required 8'-6" and there is insufficient turning area and driveway radii
- The proposal does not comply with certain setback requirements
- NRA will be taking some of the land for the public road which will reduce the size of the lot, but the applicant can't be penalized for that reduction
- A duplex would be a better fit for the land
- The applicant's personal financial situation which led to the application for four (4) apartments so he could live in one unit and rent out the others
- There are six (6) apartments on a nearby site, but that lot is almost 20,000 sq. ft. in size.
- The possibility of purchasing some land to the rear of the site in order to increase its size.
- The applicant's view that this is what he wants and there must be something the Authority can do to help.

**2. 2 ROGER & LISA SMALL Block 27B Parcel 80 (F16-0126) (P16-0494) (\$298,800) (BES)**

Application for a dwelling house.

**Appearance at 11:00**

**Robert Watler Jr. declared a conflict and left the meeting room.**

**FACTS**

<i>Location</i>	Sea Wind Close
<i>Zoning</i>	LDR
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	38,332.8 sq. ft.
<i>Building Size</i>	1,992 sq. ft.
<i>Building Coverage</i>	1.9%

**BACKGROUND**

June 22, 2016 (**CPA/14/16; Item 2.15**) - CPA adjourned the application, for the following reasons:

1. Pursuant to Regulation 8(13)(d), the applicant must notify the owner of 27B 81 of the request for a setback variance.
2. Subsequent to the expiration of the notification period required in condition 1), the applicant is invited to appear before the Authority to discuss concerns of the application in regard to setbacks and the location of the 3 storey house on the canal side of the lot.

**Decision:** It was resolved to adjourn the application, **for the following reason:**

1. The applicant is required to submit revised plans showing the proposed building with a maximum of two storeys.

**APPLICANT LETTER**

*“Further to the application submitted to build a Three Storey House on Block 27B Parcel 80, we hereby request for a 150sq. ft. setback variance of which requires a 20 ft. minimum setback from the boundary in a Low Density Residential Zone.*

*We would appreciate your consideration for this variance request on the following basis:*

- A. *Under Regulation 8(11) (f) of sub regulation (10). We’d like to present the following point for consideration:*
  - 1) *The proposed structure will enhance the site condition hence it will increase the land value of the neighboring vacant parcel.*

B. *Under Regulation 8 (13)(b), the characteristics of the proposed development are consistent with the character of surrounding area and the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare. We'd like to present the following points for consideration:*

- 1) *The Parcel of land has a total area of 38,336 sq. ft. and extends across the road. The area of the remaining land that our client is proposing to build on 4008 sq. ft. and is oddly shaped due to a large cut out of approximately 1500 sq. ft.*
- 2) *We are now on the process of designing a 5,000 sq. ft. house on the larger part of the parcel. This will be the main house and the smaller structure will be a Guest House. The clients want to build the Smaller House to be able to live in while the Main House is being built. Similar to the project we did for a client on 27B 82, 2 lots away from this lot.*
- 3) *We are proposing a rear setback of 15'-2" instead of a prescribed 20'. This 15'-2" setback is measured to the large cut out that is part of the Canal/ Boat Basin.*

*If you require additional information or further clarification, please don't hesitate to contact us at the numbers & e-mail below. Thank you and God bless."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a dwelling house (1,992 sq. ft.) to be located on Sea Wind Close.

As submitted, the applicant is proposing a dwelling house on the canal side of the property which is approximately 5,117.32 sq. ft.

### **Zoning**

The property is zoned Low Density Residential. The Authority is being asked to consider the specific issues addressed below.

### **Specific Issues**

#### **a) Setbacks**

The wall of the proposed house is setback 15' from the canal inlet, with a 10' setback for the balconies. The stairs are setback 6' from the edge of the canal inlet. The required setback is 20'. The proposed septic tank is 9.5' from the front property line instead of the required 20'. The Authority is being asked to assess if there are sufficient reasons and circumstances to grant the required variances.

In accordance with Regulation 8(11) of the Development and Planning Regulations (2015 Revision), the Authority may grant permission for a setback to be located at a lesser distance than that prescribed in paragraphs (a) to (h) of subregulation (10), having regard to-

- (a) the elevation of the property and its environs;
- (b) the geology of the property;
- (c) the storm/beach ridge;
- (d) the existence of a protective reef adjacent to the proposed development;
- (e) the location of adjacent development; and
- (f) any other material consideration which the Authority considers will affect the proposal.

Regulation 8(13)(b) and (d) of the Development and Planning Regulations (2015 Revision) states that...

(13) Notwithstanding subregulations (1), (2), (5), (7) and (9) and regulations 9(6), (7) and (8), 10, 12, 13, 14 and 15, the Authority may grant planning permission to carry out development that

does not comply with all or any of those provisions if the Authority is satisfied that -

(b) there is sufficient reason to grant a variance and an exceptional circumstance exists, which may include the fact that -

(i) the characteristics of the proposed development are consistent with the character of the surrounding area;

(ii) unusual terrain characteristics limit the site's development potential; or

(iii) the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare;

(d) in the case of an application where lesser setbacks are proposed for a development or a lesser lot size is proposed for a development, the adjoining property owners have been notified of the application.

**b) Lot Size on Canal**

The lot size on the canal of the subject property is approximately 5,117.32 sq. ft. The Authority is being asked to consider the potential scale and massing impact of the house given the area of the site.

**SUPPLEMENTARY COMMENTS**

The plans have not been revised as the applicant was invited to appear before the Authority. The applicant has now submitted a letter in support of the requested variances and reference is made in that letter to approval being granted for a similar project 2 lots away on 27B 82. The Department has reviewed the plans for that file and it is noticeably different. In that situation, the parcel is not split by the road so there is no small portion on the canal as there is in the subject application.

At 11:00am, Roger Small appeared as the applicant and Darrel Ebanks and Maryann Villanueva appeared as his agents. There was discussion regarding certain matters as follows:

- It appears to the Authority that this portion of the property was meant for a boat house or similar
- The applicant has a disabled son and this house is intended for him
- The Authority's concern that a three storey house is inconsistent with the area
- There were two smaller, two storey buildings approved on the canal side of two other lots in the subdivision
- The Authority needs to be assured that the building does not have a continuous facade or elevation exceeding 25'

**2.3 CORIANDER LTD. Block 7D Parcel 4 (FB89-0469) and (F16-0063) to (F16-0081) (\$19.5 million) (KA)**

Application for nineteen (19) houses, nineteen (19) pools, clubhouse with a pool, retaining wall/boundary wall, shoreline modification for beach and seawall.

**Appearance at 11:30**

**A.L. Thompson declared a conflict and left the meeting room. Robert Watler Jr. sat as Acting Chairman.**

**FACTS**

<i>Location</i>	South Church Street, North of Windsor Village, George Town
<i>Zoning</i>	<b>BR/R</b>
<i>Notice Requirements</i>	Objectors
<i>Parcel Size</i>	4.24 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Residential

**BACKGROUND**

**May 10, 2000** – The Authority granted permission for forty two (42) apartments.

**CPA/01/06; Item 2.4** – The Authority granted permission for seventy four (74) apartments, pool, fence and seawall.

**CPA/38/08; Item 2.7** – The Authority granted permission for fifty one (51) apartments, pool and seawall.

**CPA/11/16; Item 2.1** - The Authority considered an application for a twenty (20) lot subdivision, nineteen (19) houses, nineteen (19) pools, clubhouses with pool, retaining wall and boundary wall, shoreline modification for beach and seawall. The application was adjourned to give the applicant an opportunity to submit revised plans that comply with the minimum lot size requirement and the minimum front, rear and side setback requirements.

**CPA/15/16; item 2.1** – The Authority resolved to adjourn the application, **for the following reasons:**

- 1) The applicant shall submit a revised site plan showing:
  - a) the edge of the iron shore matching the high water mark as surveyed on October 10, 2015 and shown on Fixed Boundary Survey 51/980;
  - b) the internal drive aisles with a minimum width of 22 feet; and
  - c) the sidewalk along South Church Street located entirely within the boundary of the subject parcel.

- 2) The applicant shall submit details of how the proposed beach will be constructed, including a topographic cross section.
- 3) The applicant shall submit elevation and cross section plans for the proposed retaining walls.

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

Conditions (1-4) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system). The treatment system must be labelled as either a septic tank or an aerobic wastewater treatment system, whichever is applicable.
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.gov.ky](http://www.planning.gov.ky)) under Policy Development, Policy Drafts.*

In addition to Permit requirements, conditions (5-6) listed below shall be met before a Permit can be issued.

- 5) Construction drawings for the proposed wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 6) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes. **The plan shall also provide details of how the beach will be created while preventing runoff into the sea and the plan must detail the source of the sand to be used to create the beach.**

- 7) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Additionally, once construction has started, condition (9) shall be complied with before a final Certificate of Occupancy can be issued.

- 9) The construction drawings for the proposed swimming pools shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.

The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level, [i.e. two feet (2') above the Vidal Bench Mark].

Provision shall be made for the **removal of solid waste**, including **construction and demolition waste**, from the site on a regular basis during the construction period.

The applicant shall provide adequate number of **sanitary facilities during the construction stage**.

The applicant is reminded that the proposed development is subject to compliance with all relevant Laws, including, but not limited to, the Public Health Law, Fire Brigade Law, Water Authority Law and Roads Law.

To prevent potential delays and save money, the applicant may wish to coordinate with the following agencies prior to commencing any construction: **Caribbean Utilities Company, a Telecommunication Company of your preference and the Cayman Water Company and/or the Water Authority - Cayman**.

### **AGENCY COMMENTS**

Comments from the Department of Environment, Chief Environmental Health Officer, Chief Fire Officer, Water Authority and National Roads Authority are noted below.

#### **Department of Environment**

*“Further to a review of the above referenced application, the Department of Environment (DOE) provides the following comments for consideration.*

#### ***Setbacks from Mean High Water Mark***

*The application site is located on a coastline which has waves overtopping the ironshore even under relatively benign sea conditions. This occurs due to the low*

lying ironshore, the presence of deep water close to shore and the relatively exposed nature of this section of coastline. It is therefore important to ensure that the development is designed such that it is appropriately positioned in order to minimise impacts arising from inclement weather, particularly during storms and hurricanes. The vegetation line seen on aerial imagery of the site clearly shows the extent of inundation which occurs on a regular basis. The proposed properties situated closest to the shoreline are within this area of inundation.

Having geo-referenced the site layout, we note that the position of the proposed seawall at the southern portion of the site (south of the proposed pool) does not comply with the 50 ft setback. See Figure 1 (the green shaded area delineates the 50 ft buffer from the applicant's MWHM survey).



**Figure 1: Site Layout & 50 ft buffer from MWHM**

Given the vulnerability of this area to wave energy, the DoE strongly recommends that, as a minimum, coastal setbacks are adhered to in accordance with the Development & Planning Regulations (2015 Revision) and preferably that the footprint of the properties is moved further back to coincide with the line of vegetation with the incorporation of wash through floors into the design of the proposed properties closest to the sea.



**Figure 3: Turbidity arising from creation of artificial beach at Casa Luna development site (LIS, 2013)**

### **Creation of a beach**

*Given the shortage of natural beach sand on the island and the wave climate in this location, the Department is concerned that the creation of an artificial beach in this location is unsustainable. The sand is highly likely to wash into the sea and need to be re-nourished on an ongoing regular basis. This raises concerns with regard to finding a source of beach quality sand and the creation of sedimentation and turbidity within the Marine Park arising from sand washing into the sea.*

*The issues surrounding this are most notable from the Casa Luna development on South Church Street which resulted in chronic sedimentation in the Marine Park and resulted in numerous complaints from the public and watersports sectors.*

*The DOE strongly recommends that should the CPA be minded to approve the application, it should only be on the condition that the source of sand for the creation and maintenance of the beach is identified prior to approval. Furthermore, that the creation of a beach shall only be granted for a temporary period (possibly 12 months) to allow for monitoring of run-off and sand washing into the Marine Park.*

### **Stormwater Management/Run-off into Marine Park**

*The body of water offshore from the development is a Marine Park. Best Management Practices should be used to ensure that no waste materials enter the water. All materials used in construction should be kept away from the water to avoid leaching into the sea by rain or surf conditions.*

*The DOE recommends that a stormwater management plan be developed for the development and the plan should ensure that stormwater should not be allowed to drain directly into the sea.”*

### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

- The Department has no objections to the proposed in principle,*
- Drawings and specifications on all swimming pools must be submitted for review and approval,*
- For such a complex the Department is also recommending that Mechanically Serviced containers be utilized.”*

### **Chief Fire Officer**

*“Please provide us with the location of the required fire hydrant/deep well as required by the local Fire Code. Additionally, if the entry gate is not maned 24/7 it will require a SOS system to be installed.”*

### **Water Authority**

*“Please be advised that the Water Authority’s requirements for the proposed development are as follows:*

#### ***Wastewater Treatment:***

- The developer shall provide an on-site aerobic wastewater treatment system of a design certified (NSF/ANSI Standard 40 or equivalent) as capable of achieving effluent quality standards of 30 mg/L Biochemical Oxygen Demand (BOD5) and 30 mg/L Total Suspended Solids (TSS).*
- The treatment capacity of the system shall be at least 8,000 US gallons per day (gpd).*
- The developer, or their agent, is required to submit a proposal per the attached Onsite Wastewater Treatment Proposal Form. The developer is advised that Water Authority review and approval of the system, is required as a condition for obtaining a Building Permit.*

#### ***Water Supply:***

*The proposed development site is located within the Water Authority’s piped water supply area.*

- The developer shall contact Water Authority’s Engineering Services Department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the public water supply.*
- The developer shall submit plans for the water supply infrastructure for the development to the Water Authority for review and approval.*
- The developer shall install the water supply infrastructure within the site, under the Water Authority’s supervision, and in strict compliance with the approved plans and Water Authority Guidelines for Constructing Potable Water Mains.*

*The Authority shall not be held responsible for delays and/or additional costs incurred by the developer due to the developer's failure to provide sufficient notice to the Authority."*

### **National Roads Authority**

*"As per your memo dated March 21st, 2016 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

#### **Gate**

*The proposed gate at the entrance needs to be set back a minimum of 3 car lengths from the road in order to allow enough stacking.*

#### **Road Capacity Issues**

*The impact of the proposed development onto South Church Street is considered to be minimal.*

#### **Access and Traffic Management Issues**

*One-way driveway aisles shall be a minimum of twelve (12) to sixteen (16) ft wide.*

*Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of twenty-two (22) ft .*

*A six (6) foot sidewalk shall be constructed on South Church Street, within the property boundary, to NRA standards. Please have applicant revise.*

*Tire stops (if used) shall be place in parking spaces such that the length of the parking space is not reduced below the sixteen (16) feet minimum.*

#### **Stormwater Management Issues**

*The applicant is encouraged to implement state-of-the-art techniques that manage stormwater runoff within the subject parcel and retain existing drainage characteristics of the site as much as is feasible through innovative design and use of alternative construction techniques. However, it is critical that the development be designed so that post-development stormwater runoff is no worse than pre-development runoff. To that effect, the following requirements should be observed:*

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.*
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.*
- Construct a gentle 'hump' at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto South Church*

*Street. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*

- *Curbing is required for the parking areas to control stormwater runoff.*
- *Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

*At the inspection stage for obtaining a Certificate of Occupancy, the applicant shall demonstrate that the installed system will perform to the standard given. The National Roads Authority wishes to bring to the attention of the Planning Department that non-compliance with the above-noted stormwater requirements would cause a road encroachment under Section 16 (g) of The Roads Law (2005 Revision). For the purpose of this Law, Section 16(g) defines encroachment on a road as*

*"any artificial canal, conduit, pipe or raised structure from which any water or other liquid escapes on to any road which would not but for the existence of such canal, conduit, pipe or raised structure have done so, whether or not such canal, conduit, pipe or raised structure adjoins the said road;"*

*Failure in meeting these requirements will require immediate remedial measures from the applicant."*

## **LETTERS FROM APPLICANT**

### **Letter #1**

*"Plans have been submitted for the property referenced above showing a proposed development of 19 detached single family homes, plus 1 amenities building.*

*Even though the lot is zoned for Beach Resort/Residential, allowing for a larger development with higher buildings and greater density, the developer has opted to develop a project of single family homes, which is more in line with the surrounding communities. In order to make the project feasible, we are requesting a variance to build 19 homes, instead of the 18 allowed by code*

*We wish to thank the CPA for taking the time to consider this request. Please feel free to advise of any further clarification that we might be able to provide in relation to this request."*

### **Letter #2**

*"Please see below for our responses to the objection, in case you would like to include it in your report:*

#### **a) High Water Mark setback:**

*Given the fact that the iron shore jogs in and out, we have taken an average of the*

high water mark line, and have proposed our seawall 50' from this average line, which complies with the required setback. This condition was described to the Director of Planning at our meeting, and it is in accordance with the seawalls located at the adjacent properties. (these existing seawalls obviously do not jog in and out to follow the shape of the iron shore)

**b) Density**

The development is located in a Beach Resort/Residential zone. This means that the lot could be developed as follows:

Hotel: 65 rooms per acre @ 4.2 acres = 4 story, 273 Room hotel

Condo: 25 units per acre @ 4.2 acres = 4 story, 105 Apartment complex

Cottages: 8 units per acre @ 4.2 acres = 33 units

We strongly believe that any of the above described options would have a much greater impact on the adjacent community than the 19 single family homes we are proposing. We believe our development would be an enhancement to the neighboring community, while keeping in line with the density of existing projects around it.

**c) Lot size:**

Similar argument as above, adding the fact that anything less than 19 homes would not make sense financially. To be able to develop 19 homes, plus the roads and amenities and utilities required, most of the lots need to be smaller than the required 12,500 s.f. (but this is a technicality, as the reason why this is an issue is because of our decision to subdivide, which is described in greater detail below)

**d) Rear and Side setbacks:**

While some of the homes encroach into the rear and side setbacks of their individual lots, this happens only because of the subdivision. If we would opt to do a Strata, without subdividing the lots, then no setbacks would be encroached upon. We have opted to subdivide the development to enhance the privacy of each home owner, as well as provide them with a deeded parcel. (additional arguments may be presented here with regards to –for example- the reduction of common areas, which would require a higher maintenance fee, etc, etc)

**e) Site coverage:**

Any of the potential development described on item 2 above would be allowed a 45% site coverage. Our project proposes 25%. In addition, while most of the homes go beyond the maximum site coverage for their individual lot, the project as a whole does not. The overall site coverage allowed is 25%, which is what we are proposing. In essence, the perception of lot coverage and density from the neighboring community will be what's allowed per code. (and certainly a lot less than 45%)

Please let me know if you have any questions or comments.”

## **OBJECTIONS**

### **Letter #1**

*“I write in response to the Notice of Application for Planning Permission I have received, a copy of which Notice I attach.*

*Having inspected the application in question, it would appear that the application is not in accordance with the provisions of the Development and Planning Regulations as regards high water mark setback, density, lot size, front and rear and side setbacks and maximum site coverage.*

*In the circumstances, I wish to object to the application.”*

### **Letter #2** (email from same objector for Letter #1)

*“It appears that the initial application in connection with Block 7D, Parcel 4 for a 20 lot residential strata with 19 houses, which did not comply with the minimum lot size requirements and minimum front, rear and side setbacks, as per the Development and Planning Regulations, has now been withdrawn but that the Applicant for permission has decided to proceed with the 19 houses (your e-mail to me of 30th May 2016).*

*I don't know whether the 'new' application complies with the relevant lot size and set back requirements, the high water mark set back requirements, density and maximum site coverage requirements but to the extent that it doesn't, my objection remains.*

*The initial application also sought permission for a retaining wall and boundary wall, shoreline modification and a sea wall and the shoreline modification was at least in part in connection with a proposed beach and it appears that the new application has also been made on the basis of there being shoreline modification, a sea wall etc.*

*The minutes I have seen in connection with the CPA's 11th May 2016 meeting only mentions this aspect of the initial application in the briefest of terms, whereas at the meeting on 11th May 2016 the Applicant's agent made several submissions in this regard. He said that there is an existing beach at Parcel 4, which I don't believe to be the case and although the minutes record the fact that the Applicant's agent mentioned “opening the [ironshore] inlet a bit” they do not record the fact that it was mentioned that you could simply walk into the sea from the inlet and that the elevation from the ironshore to the sea bed was “about a foot” and that it went “from 3' to zero feet”, which I don't believe to be the case either.*

*The minutes for the CPA's 11th May 2016 meeting do record the concerns raised by the Department of Environment as regards the proposed shoreline development; the extent of inundation, the fact that the coastal setbacks are not in accordance with the Regulations and the fact that the creation of a beach in this location is unsustainable. In particular, the DoE 's concerns reference the Casa Luna development further along the coast on South Church Street and how*

*the creation of an artificial beach there “resulted in chronic sedimentation in the Marine Park”.*

*I accept that possible inundation of properties closest to the sea at this location may be of more concern to the purchasers of those properties than anyone else but the evident impact to the adjacent Marine Park of another artificial beach along South Church Street should be of concern to anyone who is concerned about Cayman’s environment.*

*Therefore, in addition to objecting to any development that is not in accordance with the provisions of the Development and Planning Law and its Regulations, I also object to the shoreline modification and the creation of an artificial beach at this location.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for nineteen (19) houses, nineteen (19) pools, clubhouse with a pool, retaining wall/boundary wall, shoreline modification for beach and seawall. The parcel is located off South Church Street, George Town.

### **Zoning**

The property is zoned Beach Resort Residential and while the proposed use is a permitted use per Regulation 15, the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Lot Size**

The applicant decided to withdraw the application for the twenty (20) lot subdivision and continue with the nineteen (19) houses and ancillary structures on one parcel. This would satisfy the requirement to meet the minimum setback requirements. However, the proposal would still not meet the minimum lot size requirement as the maximum permitted number of houses on 4.24 acres would be eighteen (18) houses and the applicant is proposing nineteen (19). The applicant would require a lot size of 190,000 square feet for 19 houses and the subject site is 184,694 square feet in size.

#### **b) Type of Use**

Regulation 15(2) of the Development and Planning Regulations (2015 Revision) states the following development is permitted in the Beach Resort/Residential zone (BR/R)

- 1) (a) detached and semi-detached houses

The Department has no major concerns with the proposed use of the site for nineteen (19) houses and clubhouse as the Authority has previously granted permission for a more intensive development comprising seventy four (74) apartments in 2006.

**c) Residential Appearance**

Regulation 15(1) states that development will generally be permitted in the BR/R zone if it has the appearance of residential development in scale and massing. The Department is of the view that proposed development would comply with this Regulation as the proposed development is for houses.

**d) Amenity/Standard of Accommodation**

Regulation 15(5) states that the Authority shall ensure that development in the BR/R zone provides a high standard of accommodation, amenity and open space, and that there are outdoor facilities, including pools, gardens, patios and landscaping. The Department is of the view that the proposed development complies with this Regulation.

**e) Setbacks from High Water Mark**

Section 8(10) states in the Beach Resort Residential zone, where the shoreline is ironshore, the minimum setback shall be 50' from the High Water Mark. In this instance, the shoreline includes some narrow inlets so at the closest point the proposal would be approximately 27' from the high water mark. The Department of Environment has raised concerns with the proximity of the development to the High Water Mark and their comments are noted above. The applicant states they have used the average of the high water mark line and proposed the seawall 50' from the average line. The Authority should assess if a variance should be granted for this setback, particularly given the comments raised by DOE.

**f) Driveway width**

The proposal includes one way traffic flow with a 20' driveway. The Department is concerned that several of the houses located in the southern portion of the development will want to exit from the entrance. The Department would recommend that the driveway be widened to 22' which would accommodate two-way traffic. Also, a 22' wide driveway will make the guest parking spaces more functional.

**g) Sidewalk location**

A portion of the sidewalk is located in the South Church Street road reserve. The Department would recommend that the entire sidewalk should be within the applicant's property boundaries.

**h) Site Grades**

Due to the existing sight grade sloping from 9' by the main road, to 3' by the waterfront, the applicant is proposing to level the site to 9', which means a retaining wall will be constructed along the ocean front and sides of the parcel. This is typical of most waterfront development within the area. However, the Authority should note there would be a 9' high retaining wall along the side with a 4' fence above.

**i) Modification to Shoreline**

The Authority should note the applicant's request to modify the shoreline to create a beach on the ironshore. The proposal would be in front of the proposed clubhouse and would only be a small portion of the waterfront, approximately 50' wide. The DOE have provided details on a similar application for a man made beach on the Casa Luna site which did not have positive results. They recommend the beach only be approved for one year. Their comments are noted above.

**j) NRA Comments**

The NRA has recommended the entrance gates be setback further from the main road to allow space for more than one car to pull off the road to wait for the gate to open. The applicant would like to keep the current design. The Department does not see the need to increase the depth of the vehicle loading space.

**d) Objectors Concerns**

The objector is still objecting to the proposal and has been invited to attend the CPA meeting.

**SUPPLEMENTARY ANALYSIS**

At CPA/15/16; item 2.1, the Authority resolved to adjourn the application to allow the objector one more opportunity to appear and to give the applicant an opportunity to submit revised plans to address the following:

- 1) The applicant shall submit a revised site plan showing:
  - a) the edge of the iron shore matching the high water mark as surveyed on October 10, 2015 and shown on Fixed Boundary Survey 51/980;
  - b) the internal drive aisles with a minimum width of 22 feet; and
  - c) the sidewalk along South Church Street located entirely within the boundary of the subject parcel.
- 2) The applicant shall submit details of how the proposed beach will be constructed, including a topographic cross section.
- 3) The applicant shall submit elevation and cross section plans for the proposed retaining walls.

The applicant has now submitted revised plans that comply with the requested changes to the site plan. The applicant has also submitted details of the beach construction, including a cross-section, as well as a cross-section of the boundary retaining walls. It is recommended that the Authority review these plans to ensure their satisfaction with them.

The Authority is reminded that the minimum required setback from the high water mark for ironshore in the Beach Resort/Residential zone is 50'. Based on the revised site plan, the following setback variances would be required:

- Building A2 is setback 43' to the manmade inlet
- the pool for Building A2 is setback 32' to the manmade inlet
- the pool for Building A4 is setback 42' to an inlet
- the main amenity pool is setback 42' from an inlet
- the retaining/sea wall travelling parallel with the shore has minimum setbacks ranging between 15' and 25'

As noted in the original planning analysis, the Authority must determine if there is sufficient reason and exceptional circumstance to warrant allowing the lesser setbacks.

At 11:30am, Mike Stroh appeared on behalf of the applicant. The objector advised the Department of Planning that he would not be attending today's meeting. The objectors written concerns are on record and the Authority is of the view that the application can be considered in his absence without there being any procedural error or breach of natural justice. There was discussion regarding certain matters as follows:

- Mr. Stroh explained the details of the proposed shoreline modification to create a small beach area. He advised that from the edge of the water inland for about 5' there is currently sand on top of the ironshore. They want to begin at that 5' point and go inland to the retaining wall and remove a maximum of 18" of ironshore and replace it with sand.
- The Authority noted that since they are not going seaward of the high water mark then a coastal works license will not be required.
- The Authority noted the comments from DOE regarding the potential problem with the man made beach at Casa Luna. Mr. Stroh explained that the photograph provided by DOE is misleading as it was taken during the construction phase. There is no problem there now and it has been an absolute success.
- Mr. Stroh explained the need for variances from the high water mark are due to the many natural and manmade inlets and fissures in the iron shore. It is their view that the setbacks as proposed are reasonable and will not be detrimental to anyone in the area.
- Mr. Stroh explained that a variance was being sought for the lot size to allow 19 houses instead of 18. It is their view that the variance is very minor and compared to the number of apartments that could be placed on the site, such a small variance is very reasonable. Also, the lot used to be larger, but Lands and Survey required land to be set aside for the road when the fixed boundary survey was being processed.

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of the high water mark setback and lot size, which are addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed application does not comply with the minimum required lot size per Regulation 15(4)(a)(i) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area. In this regard, the adjoining property to the south, 7D 30, is 3.82 acres in size and there are 36 apartments located on that site. The subject parcel is larger than 7D 30, at 4.24 acres, and the proposed development is for only 19 houses. Given the characteristics of the adjacent development, it is the Authority's view that the subject parcel is more than adequate in size for 19 houses.
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare. In this regard, it should be noted that the applicant was required to serve notice of the application to land owners within a 300' radius and this attracted one objector who failed to demonstrate how the project and associated lot size and setback variances would be materially detrimental to his interests.
3. The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10) of the Development and Planning Regulations (2015 Revision). Pursuant to Regulation 8(11), the Authority may grant permission for a setback to be located at a lesser distance than that prescribed having regard to certain factors. In this instance:
  - Per sub-regulation 8(11)(d), the proposed setbacks from the high water mark are consistent with similar setbacks on adjacent developments located at 7D 30, 7C 7, 86 and 103 and will not detract from the ability of adjacent land owners to enjoy the amenity of their lands.
  - The shoreline retaining wall requires a setback variance and the Authority is of the view that per sub-regulation 8(11)(f) this is reasonable as it will offer additional protection from storm surge. Additionally, the protection provided by the retaining wall is an important matter which will mitigate the slightly deficient high water mark setbacks required for two of the nineteen houses and house pools and the common amenity pool, which is consistent with the intent of sub-regulations 8(11)(c) and (d).
  - Per sub-regulation 8(11)(f), the Authority is of the view that it is unreasonable to require the minimum setback from every small inlet and fissure along the ironshore, especially when the setback variance is only required for two houses, two house pools and the common amenity pool.

The Authority is of the view that the intent of the required setback is being maintained.

- Finally, per 8(11)(f) the Authority is of the view that the proposed high water mark setbacks will not be materially detrimental to persons in the area nor will they detract from the ability of adjacent land owners to enjoy the amenity of their lands and the area.

4. The Authority has considered the agency comments as follows:

Department of Environment – The Authority disagrees with the position regarding the setbacks from the high water mark for the reasons outlined above. A condition of approval requiring a construction operations plan will address the details of beach construction and source of sand. Also, a condition of approval will require the submission of a storm water management plan.

Water Authority- These are technical matters addressed through conditions of approval and through the building permit process.

National Roads Authority – The Central Planning Authority disagrees with the NRA in relation to the location of the driveway gates and views the proposed locations as acceptable. The remaining comments have been addressed by the submission of a revised site plan

Fire Officer – no comments are required

Environmental Health – no comments are required

5. The Authority is of the view that no objections have been raised that would warrant refusing permission, more specifically:

- The proposed development complies with density, site coverage and front and rear setback provisions.
- The issue of the high water mark setbacks and lot size are addressed above. Additionally, it is noted that the objector has not demonstrated how the granting of lot size and setback variances would be detrimental to his interests, he only states that he objects to them being granted.
- The Authority is of the view that the beach creation will not have a negative impact on the sea and conditions of approval have been imposed to address this issue in more detail.

**2. 4 MR. ANOREY KAZAKOVA Block 13B Parcel 83 (FA83-0407) (P16-0578) (\$120,000) (CS)**

Application for change-of-use from a house to a pre-school.

**Appearance at 1:00**

**FACTS**

<i>Location</i>	Slate Drive, West Bay Beach South
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	Objectors
<i>Parcel Size</i>	1 acre
<i>Current Use</i>	House
<i>Proposed Use</i>	Preschool
<i>Building Size</i>	2,413.89 sq. ft.
<i>Building Coverage</i>	4%
<i>Existing Parking</i>	4
<i>Proposed Parking</i>	24

**BACKGROUND**

December 9, 2015 (**CPA/25/15; Item 2.3**) - The Central Planning Authority resolved to refuse planning permission for a change-of-use from a house to pre-school for the following reasons:

1. Pursuant to Regulation 9(3) of the Development and Planning Regulations (2015 Rev.), commercial uses may be permitted in a residential zone subject to you posting two newspaper advertisements of the proposal, “and there are no objections, from an adjacent owner...and lodged within 21 days of the final advertisement, which the Authority regards as raising grounds for refusing such permission.”

In this instance, the Authority is of the view that there are objections which the Authority regards as having raised grounds for refusing permission, specifically:

- The subject site is not an appropriate location for a pre-school as the intensity of use, including vehicular/pedestrian traffic and general human activity, will not be consistent with the character of the surrounding low density area and this will detract from the ability of the neighbouring land owners to enjoy the amenity of the area.
- The Authority reviewed the existing land uses in the area and noted that all of the parcels along Marbel Drive and the off-shoot roads have either been developed for residential purposes or are vacant and the vast majority of the lots are developed with single family dwellings. The Authority does not accept your argument that the presence of St. Mathews Residences on West

Bay Road can in a reasonable manner be seen as representing that character of the area. It appears clear that the Marbel Road neighbourhood was designed for residential purposes and there is a reasonableness to expect that the lots will be developed in that manner with a resultant intensity of use which is consistent with the surrounding neighbourhood.

**Decision:** It was resolved to refuse planning permission, **for the following reasons:**

1. Pursuant to Regulation 9(3) of the Development and Planning Regulations (2015 Rev.), commercial uses may be permitted in a residential zone subject to the applicant posting two newspaper advertisements of the proposal, *“and there are no objections, from an adjacent owner...and lodged within 21 days of the final advertisement, which the Authority regards as raising grounds for refusing such permission.”*

In this instance, the Authority is of the view that there are objections which the Authority regards as having raised grounds for refusing permission, specifically:

- The subject site is not an appropriate location for a pre-school as the intensity of use, including vehicular/pedestrian traffic and general human activity, will not be consistent with the character of the surrounding low density area and this will detract from the ability of the neighbouring land owners to enjoy the amenity of the area.
  - The Authority reviewed the existing land uses in the area and noted that all of the parcels along Marbel Drive and the off-shoot roads have either been developed for residential purposes or are vacant and the vast majority of the lots are developed with single family dwellings. It appears clear that the Marbel Road neighbourhood was designed for residential purposes and there is a reasonableness to expect that the lots will be developed in that manner with a resultant intensity of use which is consistent with the surrounding neighbourhood.
2. The applicant commented that recently a pre-school had been granted planning permission in a residential neighbourhood and that that is sufficient reason to allow the proposed pre-school in the subject location. The applicant was referring to CPA/10/16; item 2.3. The Authority takes the view that each application must be considered on its own merits and like applications should be treated in a like manner. The Authority is of the view that there are distinct differences between the subject application and the application approved at CPA/10/16; item 2.3. The latter application was on a smaller scale and was very much residential in character. There were only three parking spaces and a typical driveway for a house. There was a small play area that would be typical for a house and garbage would be collected via typical garbage bins for a house. The subject application includes 4 staff parking spaces and a very large parking area with 20 parking spaces and a full circular driveway devoted

solely for the pre-school. There is a very large play area and garbage would be collect via a commercial looking concrete garbage enclosure. Additionally, the application of CPA/10/16; item 2.3 is located in the midst of residential subdivisions with hundreds of houses and will cater principally to those neighbourhoods. As such, the traffic directed to the pre-school is already travelling within those subdivisions so any additional impact is quite minimal. Conversely, the subject application is situated within a very small neighbourhood and will be attracting a noticeable amount of traffic from outside of that neighbourhood. For these reasons, the Authority is of the view that the subject application has a commercial character versus the residential character that was represented through the application approved at CPA/10/16; item 2.3.

### **AGENCY COMMENTS**

Comments from the Water Authority are noted below.

#### **Water Authority**

*“Please be advised that the Water Authority’s requirements for this development are as follows:*

*The existing development is connected to the West Bay Beach Sewerage System (WBBSS).*

- *The developer shall notify the Water Authority’s Engineering Department at 949-2837, extension 3003 as soon as possible to determine any site-specific requirements for connection; i.e., direct or indirect connection of the addition to the WBBSS. Plans for the connection shall then be submitted to the Engineering Department for approval.*
- *The developer shall notify the Water Authority’s Customer Service Department at 814-2144 to make application for sewerage service changes.”*

### **OBJECTIONS**

#### **Letter #1**

*“I am hereby object to the above-mentioned proposed NEW MUSIC PRESCHOOL on Marbel Drive, as owner of 13B 85.*

*I have lived in Marbel Drive for 41 years, which I have enjoyed tremendously and would like to continue enjoying for many more years to come with your help by not approving this Music PreSchool. In order for this Music Preschool to be granted it will require a change of use of the land from Low Density Residential to Institutional/Commercial. I object to such a proposal. Several owners have tried since as far back as 1996 to change the use of the land or apply for apartments and the Board has always respected the Marbel Drive Homeowners and maintained the area as Low Density Residential. It was found that these proposals were unsuitable and did not fit in with the area as well as increased traffic issues. I have raised my children here and now my children have also*

*invested here and built their homes. After all those years , my grandchildren are still enjoying this beautiful and quiet neighborhood. I trust you will take into consideration my concerns and love I have for trying to protect my beautiful and peaceful neighborhood. Otherwise our Right to a continued Peaceful enjoyment of our homes will diminish and our properties will be devalued.*

*Marbel Drive has always been “single family dwelling homes” as it is a low density residential neighborhood. It will depreciate the value of our homes once single family dwelling homes are mixed with a Music Preschool. Due to the fact that there will be increased traffic there will be more noise and pollution. All of the existing owners have placed their investments here. Please allow us to keep our neighborhood for what it has been for so many years “single family dwelling homes.” There will be potentially more accidents as parents are dropping off and picking up children. A parking lot never provides enough spaces and there is always spill over effect on the road, and in this case the busy West Bay Road. Additionally, the playground is directly next to the West Bay Road. If a car comes through the fence it will land directly in the playground.*

*A similar sized property in Marbel Drive was purchased by Edgewater Development in the last couple of years and completed a full renovation on the property and resold it for a handsome price. This renovated home compliments the area and we have gained a wonderful new neighbor. I would be grateful if the owner would consider something mindful of the neighbors, the homes, and the zoning that the area is intended for. There are enough preschools in the near vicinity in Commercially zoned areas. This is not such and should be refused.*

*I take this opportunity to thank the Board in advance and trust you will take my points of objection and all of the other Homeowners into consideration and not grant approval for these Apartments.”*

Letter #2 (received from two different objectors)

*“I hereby object to the proposed new Private Music Preschool as the joint proprietor of 13B 218 and 219. I own two homes on Marbel Drive, one directly next to the proposed Music Preschool and the other home where my husband and I live with our 3 sons. In the home that I own (that is directly next to the proposed Music Preschool) I have a lovely family with 2 children renting on a long term lease. This is surely going to be a nuisance to them with the noisy playground and constant traffic entering and exiting the premises. The proposed Music Preschool building overlooks the pool area of my rental home and with musical instruments and noisy classrooms it will surely take away from the enjoyment of the families use of the home. Additionally, despite the Marbel Drive residents objecting to an apartment complex that proposal was successful. It has been sold already and the new owners have began construction. This will be excessively busy with traffic at the top of the road and throughout the rest of Marbel Drive.*

*Marbel Drive is a low density residential neighborhood with children playing outside and families biking and walking. I would ask that the Board not allow a change of use of this area to allow such a proposal to go through. It will definitely affect the valuation of the homes and enjoyment of the residents and*

homeowners. Increased traffic will endanger the community and form a nuisance as spill over parking occurs from parents in a haste to drop off and collect their children. As it will be a preschool parents will be coming and going throughout the day and there will a constant flow of traffic. There is only one exit from Marbel Drive and it is already difficult to exit. I also noted that the staff will reside at the school. This will enable them to extend the school hours to all hours of the evening.

Crime is on an increase and petty thieves will have an easy target with a school full of instruments and equipment. Dueto the high traffic it will be difficult for the long time homeowners and residents to know who is a visitor and who is a stranger. This poses a real threat to the community.

There are 3 other nurseries within the area, one in Seven Mile Plaza, one at the Anglican Church, and the other by Kirk Supermarket. Those other Preschools are in Commercial sites and not in a residential neighborhood. Marbel Drive is a little gem right in the middle of West Bay Road that maintains a peaceful and quiet enjoyment for the homeowners and residents. It is completely not suited for such a proposal. Additionally, having a playground directly next to West Bay Road poses a great danger for small children playing.

I kindly ask that you note an objection separately for each of my properties, namely 13B 218 and 219. I appreciate your attention to this matter.”

#### Letter #3

“I have not been formally notified of the application of North International Group Ltd. regarding Block 13B 83 & 84 but as a resident of the neighbourhood off Marbel Drive I wish to register my objection to the proposed development.

The Marbel Drive area is zoned low density residential and it would be unfortunate to rezone it for commercial use as it is a neighbourhood of families with children and pets and it is quiet and safe.

As this property is on the corner of Marbel and the West Bay Road traffic issues are a real concern. A business would create heavy traffic use and would greatly increase the risk of accidents.

Unless some significant changes are made, the building is a regular home and is certainly not sound proof. There is no doubt that loud music would permeate the area disturbing the peace.”

#### Letter #4

“I am hereby, object to the above-mentioned proposed NEW MUSIC PRESCHOOL on Marvel Drive, as owner of 13B 21.

I was raised in Marbel Drive and have since invested in property in the neighbourhood and vehemently object to the proposed music school which will require a change of use of the land from Low Density Residential to Insitutional/Commercial and completely change the dynamic of the neighbourhood.

*Marbel Drive has always been "single family dwelling homes" as it is a low density residential neighbourhood. It will depreciate the value of our homes once single family dwelling homes are mixed with a Music Preschool. Due to the fact that there will be increased traffic there will be more noise and pollution. All of the existing owners have placed their investments here. Please allow us to keep our neighborhood for what it has been for so many years "single family dwelling homes." There will be potentially more accidents as parents are dropping off and picking up children. A parking lot never provides enough spaces and there is always spillover effect on the road, and in this case the busy West Bay Road. Additionally, the playground is directly next to West Bay Road. If a car comes through the fence it will land directly in the playground.*

*I take this opportunity to thank the Board in advance and trust you will take my points of objection and all of the other Homeowners into consideration and not grant approval for these Apartments."*

Letter #5

*"I am hereby object to the above-mentioned proposed NEW MUSIC PRESCHOOL on Marbel Drive, as owner of 13B 21.*

*I object to the proposed music school as it will require a change of use of the land from Low Density Residential to Institutional/Commercial and completely change the dynamic of the neighbourhood, increased traffic, noise, pollution, potentially more accidents as parents are dropping off and picking up children and a parking lot never provides enough spaces and there is always spillover effect on the road, and in this case the busy West Bay Road. Additionally, the playground is directly next to the West Bay Road. If a car comes through the fence it will land directly in the playground.*

*I take this opportunity to thank the board in advance and trust you will take my points of objection and all of the other homeowners into consideration and not grant approval for these apartments.*

Letter #6

*"Although I have not been informed my neighbours have passed on the proposed plans for the above property on Marbel Drive/Slate Drive.*

*This property has been vacant since Hurricane Ivan although it has been kept maintained on the outside. Since the owner Mr. Webb passed on we haven't known what was going to happen to it.*

*The reasons for objecting to this development are:*

**Traffic**

*Its at a juncture where the speed limit changes from 40 mph to 25 mph is a slow School ahead sign being erected on West Bay road, this will cause more confusion.*

*Even though this property has entrances on two streets, they still have to get in and out of West Bay Road, having numerous cars dropping off children at the same time doesn't bear thinking about.*

### **Safety**

*Having a pre-school right on West Bay Road even though it is fenced in doesn't seem safe you need eyes in the back of your head to watch children 24/7 I would have one to get out on the main road.*

### **Market**

*To my knowledge there are three pre-schools within a few hundred yards of this proposed school, in Seven Mile shops, by Kirk Market and St. George's behind Cox Lumber. These are all off the main road. Do we really need another.*

### **Right to Peaceful Enjoyment of Home**

*I am a Senior citizen and have enjoyed living on Marbel Drive, I have good neighbours, they are family units, children, parents, grandparents. We have the odd problem with kids on go carts cutting through the dyke roads racing, but that doesn't happen often.*

*I really hope this can be settled amicably, although we would all love to see this old house occupied again, we would be much happier with a family unit.”*

### **Letter #7 (received from two different objectors)**

*“I intend to herein state my objection to the above mentioned proposed development. I feel that there are several serious considerations and issues that must be addressed by the Central Planning Authority in regard to this matter.*

#### **1. Zoning issues:**

*This proposal requires a change of use of land from Low Density Residential to institutional or Commercial.*

*There are no changes to the original application and the Music School was not successful in their original application.*

#### **2. Traffic Flow:**

*Increased congestion at the intersection of West Bay Road and Marbel Drive as well as Slate Drive and West Bay Road. Slate Drive being the road leading to the School's rear parking lot.*

*Drop off and pick up of children of various ages at various times of the day and evening.*

*In summary, I would like to point out that this is a residential area. The families and the individuals who live here want to build a community that is safe, peaceful and a place to call home.*

*Industrial development - as outlined in the application does not fit that that community vision. I am confident that the Central Planning Authority, will take in consideration the adverse effect this project would have on our community.”*

Letter #8

*“I am the owner of 9 Marble Drive (corner of Derby Link and Marbel Drive) and I wish to formally object to the proposed building of the Private Music Pre-School at the entrance of Marble Drive, on Block and Parcel 13B83, 13B84, 13B98*

*I am objecting on several grounds.*

*Firstly is the change of character of the area.*

*It is a solely private residential area with no overt businesses (exceptional perhaps those operating office space within their own homes). Make the change to a business zone will be adverse to the residential nature of the area. Diversity is a usually considered a good thing. there are several areas around the Marbel Drive community that already cater to the business community. Introducing yet another business zone will reduce the current level of diversity in the area.*

*Secondly is the matter of increased traffic conditions and associated ramifications.*

*I have been informed that there are currently several other pre-school businesses in the area. This would suggest that the local area is already saturated for the supply of pre-school requirements. As such clients would be driving in from further afield and creating an increased traffic density in the area. The very nature of a pre-school will mean that the times of greatest impact will coincide with the highest traffic flow in the area. In addition to which there is no convenient turning point in this area, there will be increased traffic along Marbel Drive - including parking which will be to the detriment of foot traffic (there is no footpath in the area). Clients are also likely to be parking temporarily along West Bay Road itself on the verge of the road. The condition of the road is already such that there is regular flooding (as well as at the entrance into Marbel Drive itself) and parking on the unpaved, dirt verge will exacerbate erosion and associated muddiness of the region. All of this will encourage clients to park further out into the road itself (on both Marbel Drive and West Bay Road) increasing the risk to other road users of all kinds.”*

**LETTER OF SUPPORT:**

*“We are writing in support of the proposed Music Pre-School on Block 13B 83 (& 84 13E 98.)*

*We feel that a quality Preschool with an outdoor play area will enrich the lives of the children in our neighborhood, and will increase the family friendly environment and perhaps even increase the value of our homes in the area.*

*We are concerned with the growing number of high-density condos that are being constructed in the area, thus prefer this proposed preschool which will service the children of our neighbourhood while remaining low density residential in appearance and basic function.*

*It seems to be a common occurrence for Preschools in Grand Cayman to be in residential areas and the traffic impact from the pre-school on Marbel Drive would be minimal as the entrance to the parking would be situated on Slate Drive.*

*We look forward to what this lovely little school can add to our community.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for change-of-use from a house to a pre-school.

### **Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Previous CPA Decision**

The plans submitted with the current application are identical to the plans submitted with the application that the Authority refused on December 9, 2015 (CPA/25/15; item 2.3). The Authority must determine if any conditions have changed in the past 8 months which would lead the Authority to a different determination of the application than that of CPA/25/15; item 2.3.

At 1:00pm, Andrey and Inna Kazakova appeared as the applicants. Sean Evans appeared as their agent and Sholom Pewzner appeared in support of the application. Pat Bazell-Taylor and Barbara Wylie appeared as objectors. There was discussion regarding certain matters as follows:

- No changes have been made to the proposal from when it was previously considered in 2015.
- Mr. Evans referenced a recent CPA decision to approve a pre-school in Bonnie View Estates. The Authority noted that each application is considered on its own merits and one decision in one location does not mean that there will be the same decision for a different application in a different location. The Authority advised that the application in Bonnie View was residential in character while the current application is more commercial in nature.
- Mr. Kazakova’s view that they have more support for the application than previously. Mr. Pewzner noted that he believes the school will be good for the area and will serve the needs of person in the area.
- An objector noted that nothing has changed with the application from before. There is now a pedestrian crossing on West Bay Road near Marble Dr and it makes it difficult to see to get onto the road. She stated that she doesn’t see the need for a pre-school in this neighbourhood.
- Another objector stated that the Authority needs to ensure the character of the area remains the same. She stated that the supporter of the application has only lived there for 1 year, but she has been there 40 years and has a vested interest in preserving the character of the area.
- Mr. Evans noted that there are only 4 parking spaces using Marble Dr that the remaining traffic will be on Slate Dr.

- Mrs. Kazakova noted that they only want a pre-school, no other commercial uses. They feel it will be a benefit for the area and it won't bring crime into the area. The school is for toddlers so there won't be any more noise than a regular home. There won't be a summer camp, that is for older children. There will be 6 staff and 40 children.
- Mr. Evans noted that they put the play area between the house and West Bay Road to minimize the noise coming into the neighbourhood.
- The Authority queried if the children would be coming from the neighbourhood. Mrs. Kazakova replied that about 60% would come from this area. Mr. Evans also advised that the children will come from about a 500' radius. The Authority noted that the pre-school that was approved in Bonnie View was in a subdivision with about 300 homes so it would be serving that area. The current application is in a neighbourhood of only 20 lots so traffic will be brought into the subdivision from outside rather than from within the subdivision.
- Mr. Pewzner stated that there is no quality pre-school in the area and that families from places like Cocoplum will use it.
- The Authority queried why the applicant did not appeal the previous decision. Mr. Evans explained that they missed the appeal deadline so they thought they would try to get more support and apply again. Mrs. Kazakova noted that they had two letters of support for the first application and one for this application.

The Authority considered the application and determined that planning permission would be refused for the following reasons:

1. Pursuant to Regulation 9(3) of the Development and Planning Regulations (2015 Rev.), commercial uses may be permitted in a residential zone subject to the applicant posting two newspaper advertisements of the proposal, *“and there are no objections, from an adjacent owner...and lodged within 21 days of the final advertisement, which the Authority regards as raising grounds for refusing such permission.”*

In this instance, the Authority is of the view that there are objections which the Authority regards as having raised grounds for refusing permission, specifically:

- The subject site is not an appropriate location for a pre-school as the intensity of use, including vehicular/pedestrian traffic and general human activity, will not be consistent with the character of the surrounding low density area and this will detract from the ability of the neighbouring land owners to enjoy the amenity of the area.
- The Authority reviewed the existing land uses in the area and noted that all of the parcels along Marbel Drive and the off-shoot roads have either been developed for residential purposes or are vacant and the vast majority of the lots are developed with single family dwellings. It appears clear that the Marbel Road neighbourhood was designed for residential purposes and there is a reasonableness to expect that the lots will be developed in that

manner with a resultant intensity of use which is consistent with the surrounding neighbourhood.

2. The applicant commented that recently a pre-school had been granted planning permission in a residential neighbourhood and that that is sufficient reason to allow the proposed pre-school in the subject location. The applicant was referring to CPA/10/16; item 2.3. The Authority takes the view that each application must be considered on its own merits and like applications should be treated in a like manner. The Authority is of the view that there are distinct differences between the subject application and the application approved at CPA/10/16; item 2.3. The latter application was on a smaller scale and was very much residential in character. There were only three parking spaces and a typical driveway for a house. There was a small play area that would be typical for a house and garbage would be collected via typical garbage bins for a house. The subject application includes 4 staff parking spaces and a very large parking area with 20 parking spaces and a full circular driveway devoted solely for the pre-school. There is a very large play area and garbage would be collect via a commercial looking concrete garbage enclosure. Additionally, the application of CPA/10/16; item 2.3 is located in the midst of residential subdivisions with hundreds of houses and will cater principally to those neighbourhoods. As such, the traffic directed to the pre-school is already travelling within those subdivisions so any additional impact is quite minimal. Conversely, the subject application is situated within a very small neighbourhood and will be attracting a noticeable amount of traffic from outside of that neighbourhood. For these reasons, the Authority is of the view that the subject application has a commercial character versus the residential character that was represented through the application approved at CPA/10/16; item 2.3.

## **2.0 APPLICATIONS**

### **REGULAR AGENDA (Items 2. 5 TO 2. 16)**

#### **2. 5 SEAFIRE RESORTS LTD. Block 11B Parcel 87 Rem 1 (F01-0155) (P16-0632) (P13-0608) (\$100,000) (CS)**

Application for change-of-use of an apartment to a sales office.

**Robert Watler Jr, Ray Hydes and Fred Whittaker declared conflicts and left the meeting room.**

#### **FACTS**

<i>Location</i>	Esterley Tibbetts Highway, West Bay Beach North
<i>Zoning</i>	<b>H/T</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	1.43 acres
<i>Current Use</i>	Condominiums
<i>Proposed Use</i>	Sales Office
<i>Building Size</i>	1,654 sq. ft.

#### **BACKGROUND**

September 18, 2013 (**CPA/20/13; Item 2.3**) - The Authority granted planning permission for condominiums and hotel on Block 11B Parcel 83.

**Decision:** It was resolved to grant planning permission **for 24 months only, subject to the following conditions:**

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 3) No later than 24 months from the date of this decision, the applicant shall submit a subsequent change of use application to convert the sales office back to an apartment.

The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

#### **APPLICANT LETTER**

*“Our client requests the Central Planning Authority’s favourable consideration to grant planning permission to temporarily change the use of one of the ground*

*floor apartments in the Kimpton Seafire Condominium Tower as a Sales Lounge and Office.*

*The Sales Lounge would operate under a temporary change of use until the Condominium opens, allowing the Sales Team to move in prior to the issue of COs for the apartments, to get fully operational and better understand the condominium's long term needs.*

*The parking requirements for a 1,654 sf Sales Lounge would require 6 spaces @ 1:300. 1.5 parking spaces are already provided by virtue of the condo unit being occupied by the Sales Office. Another 1.5 spaces are available due to the combination of two apartment units which are already under contract. This leaves a requirement for 3 additional spaces which would not be required until the last two units get their Certificates of Occupancy. The parking quota is shown on the site plan.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting modify planning permission to change an approved apartment unit to a real estate sales office.

### **Zoning**

The property is zoned Hotel Tourism and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Parking**

The change-of-use from an apartment to a 1,654 sq. ft. sales office will require an additional 4 parking spaces (5.5 for the sales office less the 1.5 provided already for the apartment leaves a balance of 4 additional required). No parking spaces are being proposed as the applicant states this office space will be used only until the condominiums opens. The Authority should determine if additional spaces are required.

#### **b) Time period**

The applicant has indicated that this is a temporary change of use until the apartments open, but there is no specific time frame stated. It is not clear if the intent is for the office to remain open until the first apartment receives a certificate of occupancy or until the last one is occupied. The Authority should determine if a temporary time frame is appropriate or if the proposal should be considered a permanent change of use and when the applicant wishes to revert the space back to an apartment, they would be required to submit another change of use application.

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of the number of parking spaces, which is addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed application does not comply with the minimum required number of parking spaces per Regulation 8(1)(vii) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size/additional site coverage/lesser setback as follows:
  - a) The use is temporary and will be used by Seafire staff and the parking for staff has already been accommodated through the overall parking requirement for the hotel and apartments; and
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

**2. 6 JOHN HAZARD Block 33B Parcel 268 (FB82-0359) (P16-0637) (\$40,000) (EJ)**

Application for a swimming pool.

**FACTS**

<i>Location</i>	Water Cay Road in Rum Point
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	15,743 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Swimming Pool

**BACKGROUND**

**April 16, 2007** - The Department granted administrative approval for a 2-storey detached one-car garage with upper bedroom and bathroom.

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss a concern with the application regarding the setback from the canal.

**LETTER FROM APPLICANT**

*“We write on behalf of our client, John Hazard, with regards to the following variance;*

- *A rear setback less than the required 20ft – The applicant is requesting a variance for a swimming pool to be built 7ft 4in. from the rear property line.*

*We request permission for the proposed development as shown on the drawings provided and humbly give the following reasons:*

- 1. The proposed location is the only suitable one on the property due to the location of the existing dwelling.*
- 2. Of equal importance, the proposed design ensures that the high aesthetic and scenic views in the immediate surroundings of the community will not be diminished.*
- 3. The adjacent properties were notified by registered mail and there have been no objections to date.*
- 4. We strongly feel that the proposed pool will be unobtrusive and not impose any hardship on any neighbors, nor would serve to detract from any of the neighbors' quality of life or property value.*

*We look forward to your favorable response to this variance request.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is seeking permission for a swimming pool.

### **Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Canal setback variance**

The applicant is seeking a setback variance from the Authority for the proposed swimming pool which is proposed at 7' from the edge of the canal instead of the required 20'. The applicant has submitted a letter in support of the variance request and the Authority must determine if there is sufficient reason and exceptional circumstance to allow the lesser setback. It should be noted that there is one other pool on the canal further to the south of the subject property that appears to have a setback of about 14' from the canal.

**2. 7 ADRIEN BRIGGS Block 33E Parcel 142 (F16-0049) (P16-0196) (P16-0197) (P16-0198) (P16-0199) (\$614,250) (BES)**

Application for dwelling house, garage/maid's quarter, swimming pool and cabana.

**Fred Whittaker declared a conflict and left the meeting room.**

**FACTS**

<i>Location</i>	Water Cay Road, Rum Point
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.74 acres
<i>Building Size</i>	3,759 sq. ft.
<i>Building Coverage</i>	16.2%
<i>Proposed Parking</i>	3
<i>Required Parking</i>	1

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Additionally, once construction has started, condition (3) shall be complied with before a final Certificate of Occupancy can be issued.

- 3) The construction drawings for the proposed swimming pool shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.

The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level, [i.e. two feet (2') above the Vidal Bench Mark].

## **LETTER FROM APPLICANT**

*"On behalf of our client, we are writing this letter to humbly request a variance to grant an approval for an application of the proposed Residence, Garage with Maid's Quarter and Cabana in Block 33E Parcels 86 to 88. The proposed structures are outside the HWM setback. These structures are only at 2/3 of an area of the maximum allowable site percentage of the property and meet the minimum 20' setback from the road and more than 10' setback required on the sides.*

*If we use the 75' HWM setback (and adding on the 20' setback from the road side), the width of the property will end up too narrow thus making it very limited to accommodate the structures and the design concept our client wants to build in his property. We also make in reference of most existing structures in that area being out of the HWM.*

*We are looking forward for your consideration and thanking you in advance."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a dwelling house (4,914 sq. ft.), garage/maid's quarter, swimming pool and cabana to be located on Water Cay Road, Rum Point.

### **Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issue addressed below.

### **Specific Issue**

#### **a) High Water Mark Setbacks**

In accordance with Regulation 8 (10)(b), in areas where the shoreline is beach or mangrove ... all structures and buildings, including ancillary buildings, wall and structures, shall be setback a minimum of seventy-five (75) feet from the high water mark (HWM). Contrary to the aforementioned regulation, the house is setback between 36' 9" and 52', with the patio steps encroaching a further 3'. The garage/maid's quarters is setback 43' 11' with the patio steps also encroaching into that setback by a further 3'. It should be pointed out that the Authority has granted setback variances in the area on Block 33m Parcel 41 (60'), Block 33E Parcel 23 (66') and Block 33E Parcel 28 (44'). The applicant's letter of variance is included in this report, and the adjacent property owners were notified and no objections received.

In accordance with Regulation 8(11) of the Development and Planning Regulations (2015 Revision), the Authority may grant permission for a setback to be located at a lesser distance than that prescribed, having regard to-

- (a) the elevation of the property and its environs;
- (b) the geology of the property;

- (c) the storm/beach ridge;
- (d) the existence of a protective reef adjacent to the proposed development;
- (e) the location of adjacent development; and
- (f) any other material consideration which the Authority considers will affect the proposal.

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of the high water mark setback, which is addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10) of the Development and Planning Regulations (2015 Revision). Pursuant to Regulation 8(11), the Authority may allow a lesser setback having regard to:
  - a) the elevation of the property and its environs;
  - b) the geology of the property;
  - c) the storm/beach ridge;
  - d) the existence of a protective reef adjacent to the proposed development;
  - e) the location of adjacent development; and
  - f) any other material consideration which the Authority considers will affect the proposal.

In this instance, the Authority is of the view that per sub-regulation e), there are existing developments on adjacent properties with similar setbacks from the high water mark. Therefore, the setback of the proposed development is consistent with the established development character of the area and it will not detract from the ability of adjacent land owners from enjoying the amenity of their lands.

**2. 8 JEFFREY & DANIELLE DYSON Block 6D Parcel 59 (F16-0141) (P16-0586) (\$515,295) (MW)**

Application for a 3-bedroom house with detached maid's quarters.

**FACTS**

<i>Location</i>	Glen Eden Road, off South Church Street, George Town
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.2922 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	House
<i>Building Size</i>	3,123.33 sq. ft.
<i>Building Coverage</i>	24.5%
<i>Total Site Coverage</i>	24.5%
<i>Proposed Parking</i>	2
<i>Required Parking</i>	2
<i>Number of Units</i>	1

**BACKGROUND**

**CE07-0280** - An Enforcement case was opened after horses and a boat were being stored on the site; however, the case was closed February 25, 2010 after the horses and boat were removed.

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level, [i.e. two feet (2') above the Vidal Bench Mark].

## **LETTER FROM APPLICANT**

*“Hereby J&R Construction Ltd. Request permission for building a project with two units for Jeffrey and Danielle Dyson (F16-0141 / P16-0586) in the lot Block 6D Parcel 59 with a footage of 12,726 sq. ft. in a low density area, the first being a main house for the family and the second unit, a guest house which will be occupied by indispensable staff for the family with cooking, eating, living, sleeping and sanitary facilities for a single person in a enclosed area of 230 sq. ft. Being aware of the Development and Planning Regulations which states the minimum lot size for each semi-detached house is 10,000 square feet, we ask for a lot size variance to give the opportunity to the family achieve privacy and medical care at the same time. We are sure you will see the necessity in this request and we would appreciate your help and authorization for this request. Thank you in advance.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a 3,123.33 sq. ft. 3-bedroom house with detached staff quarters.

### **Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (8)(d), the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Lot Size**

The minimum lot size for each house in the LDR zone is 10,000 sq. ft. Hence, the site should have a minimum lot size of at least 20,000 sq. ft, whereas the proposed lot size is 12,728.23 sq. ft. The Authority must determine if there is sufficient reason and exceptional circumstance to warrant granting the lesser lot size per Regulation 8(13)(b).

Notifications were mailed to the immediate adjacent property owners and no objections were received.

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed application does not comply with the minimum required lot size per Regulation 9(8)(d) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size as follows:

- a) The second building, while technical a dwelling house, it is associated with the primary dwelling to be utilized as maid’s quarters. As such, the two buildings together function as accommodation for the use of one family.
- b) The characteristics of the proposed development are consistent with the character of the surrounding area.
- c) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

**2. 9 CAYMAN REALTY Block 12E Parcel 13 (FA77-0171) (P16-0634) (\$175,000) (BES)**

Application for a swimming pool.

**FACTS**

<i>Location</i>	north of Lizard Run, West Bay Road
<i>Zoning</i>	<b>H/T</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	1.31 acres

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns with the application regarding the proposed setbacks.

**LETTER FROM APPLICANT**

*"Our client requests the Central Planning Authority’s approval for the swimming pool along with associated exterior works for this setback variance request to allow the pools to be built within the 130ft ocean side setback.*

*This request is being made on the basis of the following exceptional circumstances:*

- *In 1989 an existing apartment building was purchased by the current owners and repurposed to become the beach house now known as “Seascape”. The building was built more than 100 feet from the ocean as demonstrated by the aerial photos from 1994, 1999, 2004 attached and per LIS dimensioning.*
- *The house is one of a very few beach fronting homes that remain or have survived on Seven Mile Beach. Most other ocean fronting properties on this part of Seven Mile Beach have become developed as multi storey, multi family condominiums.*

- *For the last several decades this private family home has enjoyed an enviable reputation as host to a number of distinguished house guests whilst, more recently, “Seascape” has become equally renowned as a luxury property rental having earned its unique tourism profile as it is a stand alone private home world famous Seven Mile Beach. The Department of Tourism values the Seascape Villa property as a high end villa property, and when complete with a pool, it will be a unique and valuable addition to Cayman’s tourism product.*
- *The proposed swimming pool is an appropriate feature for any oceanfronting residence. In particular instance, given the home’s luxury profile, a swimming pool is an expected amenity for a luxury rental property.*
- *The beach side of the existing home has mature lush landscaping including tall palm trees and a pair of beach cabanas that have been in existence since the home was built. The existing landscape provides a natural enclave that provides almost complete privacy for house guests. These existing features are to remain hence the pool and spa will be contained and concealed amidst the existing landscape.*
- *In consideration of its prime placement on Seven Mile Beach and having, at the time been built to satisfy 100ft oceanfronting setbacks, the proposed swimming pool can only be built to the Oceanside of the existing villa. With the 130ft setback that current laws and regulations dictate the setback for the swimming pool’s location is restrictive however the attached proposals are as respectful as possible of today’s requirements while the designs take every step to minimize pool/spa presence and to harmonize their appearance within the existing lush tropical vegetation of the beach house.*
- *The proposed swimming pool is partly set above ground and pool deck level which is envisaged to help withstand any wave action or storm surge that may occur in times of inclement weather.*

*In addition to the above reasons, the applicant has attached other aspects to be considered in support this application and which we hope will receive the Central Planning Authority’s kind consideration.*

*If you have any queries or require further information prior to reviewing this application please do not hesitate to contact the writer.*

*We look forward to hearing from you in due course.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a swimming pool and spa to be located at Seascape Apartments on West Bay Road.

**Zoning**

The property is zoned Hotel/Tourism and the Department would offer comments on certain specific issue addressed below.

**Specific Issue:**

**a) Setbacks**

The proposed pool deck setback is 95'-5" and swimming pool setback is 100'-0" from the HWM, whereas the minimum required setback is 130'. Additionally, the proposed southerly side setback is 11'-8" to the spa deck and 19' to the spa and the northerly setback is 14.5' to the pool deck and 20' to the pool. The minimum required side setbacks are 20'. Based on Cayman Land Info, there are swimming pools on Block 12E Parcel 18 and Block 13B 2 south of the subject property measuring less than 130'.

In accordance with Regulation 8(11) of the Development and Planning Regulations (2015 Revision), the Authority may grant permission for a setback to be located at a lesser distance than that prescribed, having regard to-

- (a) the elevation of the property and its environs;
- (b) the geology of the property;
- (c) the storm/beach ridge;
- (d) the existence of a protective reef adjacent to the proposed development;
- (e) the location of adjacent development; and
- (f) any other material consideration which the Authority considers will affect the proposal.

Further, the Authority must determine if there is sufficient reason and exceptional circumstance to allow the lesser side setbacks per Regulation 8(13(b)).

**2. 10 FAY ANNE & PAUL DE FREITAS Block 64A Parcel 27 (F14-0001) (P16-0449) (\$500,000) (CS)**

Application for a house and LPG tank.

**FACTS**

<i>Location</i>	Seaview Road, High Rock
<i>Zoning</i>	<b>BR/R</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	40,946 sq. ft.
<i>Current Use</i>	Duplex
<i>Proposed Use</i>	House
<i>Building Size</i>	5,242.86 sq. ft.
<i>Building Coverage</i>	13%
<i>Existing Parking</i>	2
<i>Proposed Parking</i>	2
<i>Required Parking</i>	4
<i>Number of Units</i>	1

**BACKGROUND**

**March 24, 2014** - A duplex was administratively approved.

**January 29, 2016** - A pool was administratively approved.

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level, [i.e. two feet (2') above the Vidal Bench Mark].

## **LETTER FROM APPLICANT**

*“Reasons why it cannot be positioned elsewhere on the property:*

- 1. To the east of the house there will be a courtyard to be used by guests of the apartments and the residents of the proposed house – it is the site for three BBQ units and associated entertainment and pool safety equipment. To have a gas tank and an underground cesspit located in this area will be unsightly and it could be a health hazard.*
- 2. To move the entire house East by 15’ into the courtyard will mean that the pool will have to be relocated and the courtyard will be too small to be of any use, so this is not an option.*
- 3. To put the cesspit in the garden close to Sea View road will entail pipes under the drive way and may be difficult if repairs have to be done in the future either to drive or pipes.*
- 4. As for the gas tank, we are not sure it would be possible to run gas lines 70ft and a gas tank on the entrance of the property would also look unsightly.*
- 5. They cannot be moved in front of the house because on the north-west side there is the entrance to the garage and the air-conditioning pads are on the north-east (gas tanks cannot be near the a/c units).*
- 6. Neither can they be at the south end of the house because that is soft beach where green and loggerhead turtles come to nest and it would be above the required 75ft set back.*

*Reasons why this site is suitable:*

- 1. It is the most logical place for the cesspit and the normal site used in most houses in the Cayman Islands, since the tank is underground and does not impede access in any way.*
- 2. The underground cesspit will be 30’ 5 ½” away from the neighbour’s house, taking into account their 20ft setback, should they wish to build.*
- 3. The gas tank will be 36ft away from the neighbour’s house, taking into account their 20ft setback, should they wish to build.*
- 4. We have already agreed with our neighbours, Jim and Cora Rankin, the owners of 64A27H17, on the west side that sea grape or similar screening will preserve our joint views and privacy.*
- 5. We have not discussed this with (Baoquan Liu of Beijing, China) on the east side since this is irrelevant to his property which is over 200ft away, however he has been sent the relevant notice, via registered mail, in accordance with the planning regulations.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a house and LPG tank.

## **Zoning**

The property is zoned Beach Resort Residential and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Side Setback**

The side setback in the Beach Resort Residential zone is 20' (Regulation 15(4)(b)(i)). The house complies with the setback; however, the LPG tank and proposed septic tank encroach the area, having a 10'-5" setback for the septic tank and 16' setback for the lpg tank..

The applicant has notified the immediate adjacent property owners per Regulation 8(13)(d) and no objections have been received.

The applicant's explanation for the variance request is included in this report. The Authority should discuss whether the reasons for the variance satisfactorily address Regulation 8(13)(b).

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of side setback, which is addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed application does not comply with the minimum required side setback per Regulation 15(4)(b)(i) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) It is only two minor ancillary features that do not comply with the setback;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

**2. 11 COLMAR LTD Block 13D Parcel 420 (FA82-0226) (P16-0633) (\$20,000) (KA)**

Application for an 8' chain link fence.

**FACTS**

<i>Location</i>	High and Dry Storage, Eastern Avenue
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.8669 acres
<i>Current Use</i>	Warehouse

**BACKGROUND**

**CAP/27/05; Item 2.21** - CPA granted permission for warehouse with nine (9) units.

**Decision:** It was resolved to grant planning permission, **subject to the following condition:**

- 1) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

**LETTER FROM APPLICANT**

*“We wish to erect an 8ft high chain link fence around the boundary of the above property in order to prevent the really young children from a neighbouring property playing in our parking lot during business hours. One of our tenants has expressed concern that a visitor or a forklift operator may not see one of the children and that there could be an accident which we wish to avoid.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for an 8' high chain link fence. The site is located off Ebony Lane, off Eastern Avenue, George Town.

**Zoning**

The property is zoned General Commercial and Neighbourhood Commercial and the Department would offer comments on certain specific issues addressed below.

**Specific Issues**

**a) Height**

Section 4.4.2 of the Wall and Fence Guidelines states in commercial zones no part of the fence should exceed 6' in height. The proposed fence would be 8'

in height. The site is not adjacent to the main road and the purpose of the fence is for security. The Authority should assess the suitability of the proposed 8' fence.

Reason for the decision:

- 1) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2015 Revision).

**2. 12 CRYMBLE LANDHOLDINGS Block 10E Parcels 33, 36 & 47 and Block 11B Parcel 17 (FA85-0219) (P16-0620) (\$3,000) (CS)**

Application for a six (6) lot subdivision/combination.

**FACTS**

<i>Location</i>	Between West Bay Road and Esterley Tibbetts Highway, West Bay Beach North
<i>Zoning</i>	<b>H/T</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	79.6 acres
<i>Proposed Use</i>	Subdivision
<i>Number of Lots</i>	6

**Decision:** It was resolved to grant planning permission, **subject to the following condition:**

- 1) The surveyor's final drawing **shall include the surveyed dimensions of all lots and must show all required easements** and shall be submitted to the Director of Planning for approval prior to the survey being registered.

**LETTER FROM APPLICANT**

*“Regarding the Department's recommendation that Yacht Drive be a separate road parcel, we fully intend to do this but from a timing point of view (given the need to complete the Lenham contract to purchase) we didn't have enough time to complete company registrations/transfers etc with the Registrar. This exercise will likely be part of an upcoming application involving some reparcelization/upgrades to the Salt Creek plans to the north. We have no objection if Planning requests us to do this in 6 months, which should give us enough time to get these commercial/administrative details sorted. We just didn't want this to hold up the current application to register the new parcels per the Lenham aquision.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a six (6) lot subdivision/combination.

### **Zoning**

The property is zoned Hotel/Tourism and Low Density Residential and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Proposed Uses**

Lots A, B, D and F are all quite large and will be subject to future plans of the applicant. Lot C will remain in the current ownership of Lenham Properties Ltd., which also owns the sea side property 10E 11. Lot E is simply a remnant parcel created when the ETH roundabout was developed. The applicant has indicated no particular proposed use for this lot, but it does comply with the minimum lot size and lot width requirements of the H/T zone.

#### **b) Yacht Drive**

Currently, Yacht Drive is a vehicular easement over Parcel 36 (proposed Lot F) and becomes a road parcel east of the parcel. Given that Yacht Drive provides access to numerous residences, a restaurant and marina, the Department recommends the entirety of Yacht Drive becomes a road parcel as is typically required for rights-of-way that provide access to several properties. The applicant indicated that they are willing to create the road parcel, but at a future date as it would interfere with the land transfer arrangement they have with the current owner (please see applicant's letter).

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2015 Revision).

**2. 13 CHRISTOPHER & RACHAEL BODDEN Block 24E Parcel 438 (F05-0128) (P16-0660) (\$70,000) (MW)**

Application for a house addition and pool deck extension.

**FACTS**

<i>Location</i>	Amity Street, George Town
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.3439 acres
<i>Current Use</i>	House with Garage
<i>Proposed Use</i>	House Addition
<i>Building Size</i>	520 sq. ft.
<i>Building Coverage</i>	27.2%
<i>Total Site Coverage</i>	27.2%
<i>Existing Parking</i>	2
<i>Required Parking</i>	2
<i>Number of Units</i>	1

**BACKGROUND**

April 20, 2005 (**CPA/09/05; Item 2.16**) - The Authority granted planning permission for a garage and helper's apartment addition.

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

**LETTER FROM APPLICANT**

*“We would be grateful for your consideration in respect to the following planning variances which relates to our client’s proposed home addition. Please note the below variance request.*

1. *Southeast Boundary Line Setback Variance – We ask for a variance to allow our client to extend a portion of their existing deck and Cabana 10’-4” from the canal boundary line (refer to Site Plan). The reason for this is to allow our client to utilize their existing pool deck / area efficiently and to make it more family friendly for their kids and guest. We would also like to note, that our client recently purchased the property and the current design of the pool deck, pergolas and pool was by the residence previous owner. Therefore, our client didn’t have any input on the existing design and would like to improve on it as noted above.*
2. *Site Coverage Variance. – We ask for a site coverage variance of 2.2% over the allowed 25% for a residential zoning. The current site coverage is 23.8% which includes all (3) building structures (see Site Plan). The (2) existing pergolas which is not covered was not included in site area coverage. Our client is proposing to change, extend, cover (1) of the existing pergolas into a Cabana (as noted above). With this additional area, we have exceeded the allowed coverage area by 2.2%. Please note that we have considered just covering the existing pergola without the extension. But we would still be over by 1.4%. Therefore, we decided to proceed with the extended design instead. As noted before, our goal is to make the existing pool deck more efficient and family friendly. Please note the below images showing existing pool deck and pergolas. As shown in the images, the space is restrictive in some areas. We ask that you consider this when making a decision on the requested variance.*

*Please also note that our client acknowledges that (2) of the (3) buildings located on the Southwest boundary is outside the setback line (current regulation standard). We have no record on what was approved previously and ask that CPA board consider our efforts to meet current Planning regulations and that our client inherited the existing conditions when they purchased the property.*

*Your consideration and approval will be greatly appreciated.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a 520 sq. ft. house addition and pool deck extension.

### **Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Setbacks**

The addition will be setback 10’-4” from the canal versus the minimum 20’-0” setback required in an LDR zone. The applicant has provided a letter in support of the variance request. The Authority must determine if there is sufficient reason and exceptional circumstance to warrant granting the site

coverage variance per Regulation 8(13)(b). Notifications were mailed to the immediate adjacent property owners and no objections were received.

**b) Site Coverage**

The existing site coverage is 23.8% which is under the 25% maximum allowed in a LDR zone. However the additional 520 sq. ft. will increase the site coverage to 27.2% an increase of 2.2%. The Authority must determine if there is sufficient reason and exceptional circumstance to warrant granting the site coverage variance per Regulation 8(13)(b).

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of the canal setback and site coverage, which are addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed development does not comply with the minimum required setback from the canal per Regulation 8(10)(ea) of the Development and Planning Regulations (2015 Revision). Pursuant to Regulation 8(11), the Authority may allow a lesser setback having regard to:
  - a) the elevation of the property and its environs;
  - b) the geology of the property;
  - c) the storm/beach ridge;
  - d) the existence of a protective reef adjacent to the proposed development;
  - e) the location of adjacent development; and
  - f) any other material consideration which the Authority considers will affect the proposal.

In this instance, the Authority is of the view that per sub-regulations (e) and (f):

- There are existing developments on adjacent properties with similar setbacks from the high water mark. Therefore, the setback of the proposed development is consistent with the established development character of the area and it will not detract from the ability of adjacent land owners from enjoying the amenity of their lands.
  - The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.
2. The proposed application does not comply with the maximum allowable site coverage per Regulation 9(8)(h) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the additional site coverage as follows:

- a) The characteristics of the proposed development are consistent with the character of the surrounding area.
- b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

**2. 14 FORTRESS INVESTMENT GROUP Block 11D Parcel 45 (FA94-0233) (P16-0616) (\$160,000) (CS)**

Application for a porte cochere with water feature, pool bar expansion, pool and cabana renovations, sign and two (2) 1,000 gallon underground LPG tanks.

**FACTS**

<i>Location</i>	Westin Hotel, West Bay Road
<i>Zoning</i>	<b>H/T</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	7.83 acres
<i>Current Use</i>	Hotel
<i>Proposed Use</i>	Hotel
<i>Building Size</i>	203 sq. ft.

**BACKGROUND**

September 21, 1994 (**CPA/30/94; Item 6.1**) - The Authority granted planning permission for a 350 room hotel.

May 3, 1995 (**CPA/12/95; Item 3.2**) - The Authority resolved to modify planning permission for a hotel which included expanding a restaurant.

June 22, 2016 (**CPA/14/16; Item 2.10**) - The Authority granted planning permission for a temporary tent, for 12 months only.

June 22, 2016 (CPA/14/16; Item 2.11) The Authority granted planning permission for a hotel addition.

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for the following:

- \* pool and cabana renovations
- \* 203 sq. ft. expansion of pool bar
- \* 60 sq. ft. sign
- \* two 1,000 gallon underground ASME tanks
- \* 864 sq. ft. porte cochere with water feature

### **Zoning**

The property is zoned Hotel Tourism. The Department has no concerns regarding the application as the renovations are exterior works that do not encroach any setbacks, remove parking spaces, nor require additional parking.

The proposed sign will not be viewable from a public road and is internal to the site.

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2015 Revision).

**2. 15 JACK HARWOOD JACKSON Block 28B Parcel 254 (F99-0167) (P16-0638) (\$3,000) (EJ)**

Application for a three (3) lot subdivision.

**FACTS**

<i>Location</i>	Off East/West Bypass Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	140,263 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Subdivision
<i>Total Site Coverage</i>	2.13%
<i>Number of Lots</i>	3

**BACKGROUND**

September 29, 1999 (**CPA/29/99; Item 7.10**) - The CPA granted planning permission for an after-the-fact mobile house.

**Decision:** It was resolved to grant planning permission, **subject to the following conditions:**

- 1) Lot A shall be granted a 30' vehicular easement over Lot B.
- 2) Lots A and B shall have a registered 30' vehicular easement over 28B 307.
- 3) The surveyor's final drawing **shall include the surveyed dimensions of all lots and must show all required easements** and shall be submitted to the Director of Planning for approval prior to the survey being registered.

**AGENCY COMMENTS**

Comments from the Water Authority and National Roads Authority are noted below.

**Water Authority**

*“Please be advised that the Water Authority’s requirements for this development are as follows:*

*Water Supply:*

- *The proposed development site is located within the Water Authority’s piped water supply area.*

- *The developer shall contact Water Authority's Engineering Services Department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the piped water supply.*
- *The developer shall submit plans for the water supply infrastructure for the development to the Water Authority for review and approval.*
- *The developer shall install the water supply infrastructure within the site, under the Water Authority's supervision, and in strict compliance with the approved plans and Water Authority Guidelines for Constructing Potable Water Mains. The Guidelines and Standard Detail Drawings for meter installations are available via the following link to the Water Authority's web page: <http://www.waterauthority.ky/water-infrastructure> .*

*The Authority shall not be held responsible for delays and/or additional costs incurred by the developer due to the developer's failure to provide sufficient notice to the Authority.*

***Wastewater Treatment:***

*The developer is advised that wastewater treatment and disposal requirements for built development are subject to review by the Water Authority.*

**National Roads Authority**

*"As per your memo July 6<sup>th</sup>, 2016 the NRA has reviewed the above-mentioned planning proposal.*

*Based on the information shown on the submitted application, the NRA has no objections or concerns with the above proposed subdivision."*

**LETTER FROM APPLICANT**

*"Please find attached our Application to Subdivide 28B 254 into 3 lots, noting that Lot "Road" has been set aside for imminent acquisition under Sec. 5 of the Roads Law.*

*The purpose of this Subdivision is so that Lot "A" can be transferred to Harwood Jackson's daughter, Stephanie Jackson.*

*Mr. Jackson has agreed with adjacent proprietor of 28B 307 that they share an access onto the by-pass and reciprocal easements will be granted to facilitate this.*

*We trust the forgoing is satisfactory, but should you have any queries, please do not hesitate to contact us."*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is seeking permission from the Authority for the proposed three (3) lot subdivision.

## **Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

## **Specific Issues**

### **a) Access**

As proposed, lot A and B will share a 30' access over lot B which connects to the east-west by-pass road. The access exists and has been approved by the NRA. It must be noted that the access also crosses over a small portion of 28B 307 and reciprocal easements will be required to be registered. The applicant has indicated that they have an arrangement with the owner of on 307 to secure the necessary easements. Lot AC is currently part of the east-west by-pass road and will be absorbed into the Boundary Plan for what will ultimately become a public road.

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2015 Revision).

**2. 16 CAYMAN HYDROPONICS LTD. Block 37A Parcel 14 (F16-0143) (P16-0597) (P16-0598) (\$130,000) (KA)**

Application for a shade house for hydroponic and soil farming and the use of a shipping container for storage.

**FACTS**

<i>Location</i>	Off Northward Road, Lower Valley
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	15 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Hydroponic and Soil
<i>Building Size</i>	21,840 sq. ft.

**Decision:** It was resolved to grant planning permission, **subject to the following condition:**

- 1) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

**AGENCY COMMENTS**

Comments from the Department of Environment and Water Authority are noted below.

**Department of Environment**

*“The Department’s Technical Review Committee has reviewed this application and does not object to the proposed greenhouse and storage container as there are no major environmental concerns resulting from the proposed works as the site has been previously man-modified as shown in Figure 2.”*

**Water Authority**

*“The plans do not indicate the source of water for the hydroponic and soil farming facility. The developer is advised that, under section 22 of the Water Authority Law (2011 Revision), the use of groundwater for irrigation requires a ground water abstraction licence from the Water Authority. If groundwater abstraction is the proposed water source, and if Planning permission is granted, the applicant is required to submit a completed abstraction licence application form to the Water Authority without delay.*

*Under section 34 of the Water Authority Law (2011 Revision), water pollution control, the Water Authority requires that the abstraction licence application*

*include details on the proposed storage, use and disposal of agrochemicals (pesticides and fertilizers). Details shall include types, application rates and equipment, and disposal of surplus/spent agrochemicals.*

*Based on a review of the application and the site's location, the Water Authority will determine specific conditions for the groundwater abstraction licence, such as maximum abstraction rate, well design and requirements to protect groundwater from contamination by agrochemicals.*

***Wastewater:***

*The plans do not indicate any sanitary plumbing fixtures; if this in fact the case, the Authority has no wastewater treatment requirements for this proposal."*

**LETTER FROM APPLICANT**

*"Cayman Hydroponics, Ltd. (T/A CayFresh) is moving its farm and planning-approved shadehouses (greenhouses) from Block 57E Parcel 56 to Block 37A Parcel 14 (land rented from Clarence McLaughlin) and installing an 8' x 40' shipping container for storage.*

*On the rented land, there are no currently covered structures or buildings. A separate application for agricultural power has been made to Planning (AGR16-0003). None of the proposed electrical equipment will be placed in the proposed covered structures and the two applications can be considered independently.*

*The proposed shadehouses (green houses) for Block 37A Parcel 14 will be located on the southwest corner of the property, which is adjacent to properties at Block 37A182 and 37A17 (see site plan). The setback from adjacent properties is 15' or more. The site is level at about 6 to 7 feet above sea level. A topographic map of the site is provided.*

*The storage container will be placed more than 100' from property lines on a bed of fill which is 9 to 10' above sea level.*

*The land register shows three owners of the 16 acre property at Block 37A Parcel 14. Our lease (attached) is with Clarence McLaughlin for 1.5 acres of his 8 acres. Our lease is evergreen after two years. Clarence McLaughlin is a shareholder in Cayman Hydroponics, Ltd.*

*There are no buildings on adjacent properties and the land is bush or being used to raise cattle except for the horse ranch at Block 43A53 .*

*An aerial and land-based pictures of the shadehouses at Block 57E56 (old site) are provided in this application for Elevations. There are five 28' x 150' tunnels in the picture. A picture of one tunnel is also provided. Each tunnel is 6' high on the sides and 20' at the top of the arch at the ends.*

*At the new site (Block 37A14), the configuration of the tunnels will change to six 28' x 130' tunnels. Except for repairing damaged parts, the shadehouse will be assembled and look like the tunnels shown in the picture. The shadehouse will be reassembled according the manufacturer's instructions (Haygrove Tunnels) with minor modification.*

*Please find enclosed:*

- 1) *Permit Application and Fee*
- 2) *Farmer's identification card (Bruce Mico)*
- 3) *Trade and Business License*
- 4) *Site Plan with block and parcel info, location of shadehouses, location of CUC pole, setbacks and access road (3 copies)*

*Overview site plan*

*Expanded version of site plan*

*Topographic Map of Block 37A14*

- 5) *Pictures (2) which serve as elevation drawings (3 copies)*

*Aerial photo of existing shadehouses being moved (5 tunnels)*

*Land-based photo of one tunnel*

- 6) *Registry map and land register*

*(When I requested the registry map from Lands and Surveys, their map system was down and they provided us with the enclosed alternative.)*

- 7) *Copy of lease and ownership agreement between Cayman Hydroponics, Ltd. and Clarence McLaughlin*

- 8) *Proof of notice of planning application to all immediately adjacent properties*

*Boundary map*

*Owner listing*

*Certified mail receipts*

*Copies of each notice letter"*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for the construction of a shade house for hydroponic and soil farming and the use of a shipping container for storage. The site is located between Northward Road and Harvey Stephenson Drive, Lower Valley.

### **Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Suitability**

In 2011, CPA granted permission for these same shade structures to be used on Block 57E Parcel 56 for hydroponic farming (CPA/19/11;item 2.9). That property was zoned Agricultural/Residential. The applicant is requesting to

move the shade structures to a new location to continue his hydroponic farming. As noted above the new site is zoned LDR. Section 9(1) of the Development and Planning Regulations (2015 Revision) states “In a residential zone, the primary uses are residential and horticultural”. The hydroponic farming operation would be considered horticultural.

Access to the site is off Harvey Stephenson Drive, Lower Valley. The proposed structure and shipping container would meet the minimum setback requirements. The Department has no particular concern with the proposal.

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2015 Revision).

### **3.0 DEVELOPMENT PLAN MATTERS**

### **4.0 PLANNING APPEAL MATTERS**

### **5.0 MATTERS FROM THE DIRECTOR OF PLANNING**

#### **5.1 ETHLYN BANKS Block 1D Parcel 526 (F01-0329) (P16-0628) (EJ)**

Application for a two (2) lot subdivision.

**Decision:** It was resolved to grant planning permission, **subject to the following condition:**

- 1) The surveyor's final drawing **shall include the surveyed dimensions of all lots and must show all required easements** and shall be submitted to the Director of Planning for approval prior to the survey being registered.

The Authority considered the application and determined that planning permission would be granted for the following reasons:

1. With the exception of the width of lot B, which is addressed below, the application complies with the Development and Planning Regulations (2015 Revision).
2. The proposed application does not comply with the minimum required lot width for lot B per Regulation 9(8)(g) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to

Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot width as follows:

- a) Lot B is a flag shaped lot and it is only the driveway portion that does not comply with the minimum required lot width. The remainder of the lot does comply with the required lot width.
- b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

## **5.2 CROWN WORLD PAT DECISION Block 53A Parcel 112 (APP/01/16)**

The Authority was advised of a recent decision of the Planning Appeals Tribunal decision in which the appeal was allowed in relation to the lot size for duplexes, but was not allowed in relation to the setback from the high water mark. The matter is to be remitted back to the Authority for re-consideration. The Authority resolved to not appeal the decision of the PAT to Grand Court.

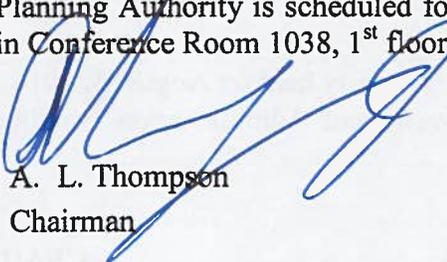
## **5.3 HUW & KIM MOSES Block OPY Parcel 181 (F81-0247) (P16-0542) (CS)**

The Authority was advised that planning permission was granted for several signs at CPA/15/16; item 2.9, but in preparing the minutes of the meeting, the reasons for the Authority's decision was inadvertently omitted. The Authority resolved to confirm the reasons for that decision as follows:

“Other than the sign on the side of the roof top structure, the signs are reasonable in design and size and would be consistent with the goal of section 1.3 (c) of The Development Plan 1997. To the contrary, the Authority views the sign on the roof top structure as visual clutter and not providing an appropriate visual image that would improve the commercial areas of the Island and must be deleted from the plans.”

## **6.0 CPA MEMBERS INFORMATION/DISCUSSIONS**

The meeting adjourned at 2:10 pm. The next regular meeting of the Central Planning Authority is scheduled for **Wednesday 17<sup>th</sup> August 2016 at 10:00 a.m.** in Conference Room 1038, 1<sup>st</sup> floor, Government Administration Building.



A. L. Thompson  
Chairman



Ron Sanderson  
Acting Executive Secretary

cc: All members of the Central Planning Authority