

## **Central Planning Authority**

**Agenda** for a meeting of the Central Planning Authority to be held on April 28, 2021 at **10:00am, in Conference Room 1038, 1<sup>st</sup> Floor, Government Administration Building, Elgin Avenue.**

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

**CPA/09/21**

**Mr. A. L. Thompson (Chairman)**

**Mr. Robert Walter Jr. (Deputy Chairman)**

**Mr. Kris Bergstrom**

**Mr. Peterkin Berry**

**Mr. Edgar Ashton Bodden**

**Mr. Roland Bodden**

**Mr. Ray Hydes**

**Mr. Trent McCoy**

**Mr. Jaron Leslie**

**Ms. Christina McTaggart-Pineda**

**Mr. Selvin Richardson**

**Mr. Fred Whittaker**

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

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

- 1. Confirmation of Minutes & Declarations of Conflicts/Interests**
- 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 ATTENDING THE AUTHORITY’S MEETING VIA E-CONFERENCE**

<b>APPLICANT NAME</b>	<b>TIME</b>	<b>ITEM</b>	<b>PAGE</b>
Refuel	11:00	2.1	5
NWPR	11:30	2.2	12
Sands	1:00	2.3	25
Lookout Holdings	1:30	2.4	40
Karl Lopez	2:00	2.5	48
Anthony Wellington	2:30	2.6	55

**1.1 Confirmation of Minutes of CPA/08/21 held on April 13, 2021.**

**1.2 Declarations of Conflicts/Interests**

<b>ITEM</b>	<b>MEMBER</b>

**2.0 APPLICATIONS**  
**APPEARANCES (Items 2.1 to 2.6)**

**2.1 REFUEL (Chalmers Gibbs Architects) Block 12C Parcel 517 (P21-0021) (\$1M) (JP)**

Application for four unit commercial building and fuel station, generator, underground 1000lb lpg tank and 12 signs.

**Appearance at 11:00**

**FACTS**

<i>Location</i>	Esterley Tibbetts Highway, West Bay Beach South
<i>Zoning</i>	<b>H/T</b>
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	5.98 ac. (260,488.8 sq. ft.)
<i>Current use</i>	Vacant
<i>Proposed building size</i>	11,754 sq. ft.
<i>Total building site coverage</i>	3.53% of 12C 517 82.23% of portioned development site
<i>Required parking</i>	39
<i>Proposed parking</i>	39

**BACKGROUND**

April 24, 2019 (**CPA/08/19; item 2.2**) – an application for a fuel station and convenience store with associated works was refused for the following reasons:

1. Pursuant to Section 3.02 (b) of The Development Plan 1997, the applicant failed to demonstrate that the gas station in its present location would service the needs of the community.
2. Pursuant to Regulation 13(1)(b) of the Development and Planning Regulations (2018 Revision), the applicant failed to demonstrate that the gas station in its present location would cater principally for the needs of persons resident in, or in the vicinity of, the zone.

The Central Planning Authority decision was appealed. On the 6<sup>th</sup> December 2019 the Planning Appeal Tribunal found CPA:

“did not misdirect itself, did not err in law and did not act contrary to the rules of natural justice”

The Tribunal further found:

- 1) Having regard to s.13(1)(b) of the Regulations the Appellant failed to meet the relevant tests set out for approval of a project in a Neighbourhood Commercial zone whereby the applicant failed to demonstrate that a gas station in the location of this project would serve the needs of the community.
- 2) CPA provided adequate reasons setting out how the decision of refusal was arrived at.
- 3) The National Energy Policy does not override development criteria provided in the Development and Planning Law.
- 4) The CPA did not act unreasonably in its determination of the matter in accordance with Wednesbury principles of reasonableness.

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Suitability of commercial use in Hotel/Tourism zone
- 2) Access road

### **AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Department of Environment (NCC), Petroleum Inspectorate and Fire Department are noted below.

#### **Water Authority**

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

***The development shall be connected to the West Bay Beach Sewerage System (WBBSS).***

- *The developer shall notify the Water Authority's Engineering Services at 949-2837 ext. 3000 as soon as possible to ensure that:*
- *the site-specific connection requirements are relayed to the developer,*
- *any existing sewerage appurtenances on the property can be clearly marked to prevent damage (for which the developer would be held responsible), and*
- *the Authority can make arrangements necessary for connection such as ordering materials, scheduling, pipe installation, etc.*

*The Authority will not be responsible for delays due to insufficient notice from the developer.*

- *The developer shall be responsible for providing the site-specific sewerage infrastructure required for connection to the WBBSS. The site's wastewater infrastructure shall be designed and installed to the Authority's specifications. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road, or the web:*

[http://www.waterauthority.ky/upimages/pagebox/Guidelines-Sewer\\_1425464500\\_1426308023.pdf](http://www.waterauthority.ky/upimages/pagebox/Guidelines-Sewer_1425464500_1426308023.pdf)

- *The developer shall submit plans for the infrastructure to the Authority for approval.*
- *The Authority shall make the final connection to the WBBSS, the cost of which shall be borne by the developer.*
- *A **grease interceptor with a minimum capacity of 1,000 US gallons is required** to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the WBBSS.*

**Oil / Water separator**

*An **approved coalescing oil / water separator is required**. The fuel dispensing area(s) shall be finished with an impermeable surface (i.e. concrete) and be sloped towards a dedicated drainage system that discharges into the oil/water separator which discharges into a drainage well installed per approved NRA design. Areas outside of the dispensing area(s) shall be sloped in such a manner that stormwater does not drain into the drainage system for the oil/water separator. The developer shall submit a drainage plan for all hard cover areas of the development including slopes, flow gradients and the drainage system plumbed towards the oil / water separator. In addition, the developer shall submit details of the area covered by the canopy. Upon receipt of the required information the Water Authority will determine the minimum treatment capacity of the oil/water separator. The minimum treatment capacity (GPM) of the coalescing Oil Water Separator is based on the surface area that drains into the OWS and a rainfall intensity of 2 inches per hour. For any parts of the drainage area that are covered by a canopy, the rainfall intensity is reduced to 1 inch per hour.*

*The oil/water separator shall be installed in such a manner that it can easily be accessed for routine maintenance and inspection. Best Management Practices (BMPs) shall be employed to prevent or minimize spills of hazardous materials stored / used at the facility. The oil / water separator shall be inspected by the Water Authority as a condition for Certificate of Occupancy and shall be routinely maintained.*

*The developer shall submit the Manufacturer's specification sheet, installation and operation manual for the oil / water separator with design guidelines for review and approval. The required information can be submitted via email to [development.control@waterauthority.ky](mailto:development.control@waterauthority.ky), or hand delivered to the Water Authority's Administration Office at 13G Red Gate Road.*

**Elevator Installation:**

*Hydraulic elevators are required to have an approved pump with oil-sensing shut off installed in the sump pit. Specifications shall be sent to the Water Authority at [development.control@waterauthority.ky](mailto:development.control@waterauthority.ky) for review and approval.*

**Generator and Fuel Storage Tank(s) Installation:**

*In the event underground fuel storage tanks (USTs) are used the Authority requires the developer to **install monitoring wells for the USTs**. The exact number and location(s) of the monitoring wells will be determined by the Authority upon receipt of a detailed site plan showing location of the UST(s) and associated piping. The monitoring wells shall*

*comply with the standard detail of the Water Authority linked below. All monitoring wells shall be accessible for inspection by the Authority. In the event above ground fuel storage tanks (ASTs) are used, monitoring wells will not be required.*

[https://www.waterauthority.ky/upimages/download/USTMonitoringWellFeb2013\\_1445632994.pdf](https://www.waterauthority.ky/upimages/download/USTMonitoringWellFeb2013_1445632994.pdf)

### **Water Supply:**

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

- *The developer is required to notify the CWC 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**

No comments received.

### **Department of Environmental Health**

*The Department has no objections to the proposed in principle.*

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (NCC) (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) offers the following comments for your consideration.*

*The application site is low lying with a mixture of tidally flooded mangrove habitat and man-modified areas. With the proposed conversion of the mangrove habitat, it is essential that drainage is properly assessed. We recommend the incorporation of a storm-water management plan which retains and manages storm-water on-site to prevent the flooding of adjacent properties. We also note that the applicant is proposing to access the development using a road which has not yet been built.*

*In addition, the Department recognizes the potential for contamination issues and queries the possibility of integrating a first flush diversion system on-site for the collection and treatment of storm-water which may be laden with hydrocarbons. The Department notes, however, that both the Water Authority and Petroleum Inspectorate have been consulted and trust that any potential storm-water management and contamination issues will be identified and addressed within these agencies' comments.*

### **Petroleum Inspectorate**

8<sup>th</sup> April 2021

*We had a meeting with the applicant who is currently a Licensee of OfReg and he expressed concern that our comment did not highlight that **the new/proposed site is contributing to achieving Cayman Islands National Energy policy, and such initiative and investment should be encouraged/facilitated.** We wish to highlight this although the*

*applicant made strong mention of it in their application to Planning. If this comment can be included under our submission, would appreciate so this point is reinforced with CPA.*

19<sup>th</sup> February 2021

*The Office has reviewed the proposed captioned project in accordance with the Dangerous Substances Law, (2017 Revision), The Fuels Market Regulation Law, 2017, and the Utility Regulation and Competition Law (as revised) and set out our comments below. The review is based on the statutory provisions of the laws, but generally seeks to ensure public safety, economic efficiency, transparency, environmental sustainability, and innovation in the fuel sector.*

*Please note that the Advisory Comments generally applies where an installation may fall below the aggregate storage capacity threshold of 250 imperial gallons prescribed under the Dangerous Substances Law, but may require action in the interest of public and life safety.*

*Please note that this is the first review of the Project by OfReg Fuels Inspectorate.*

*General Comments:*

*I. The requirement of NFPA 30 and NFPA 30A shall apply to this project.*

*II. Consideration should be given to optimize the general site plan and layout to allow for enhanced maneuverability and intuitive traffic flow on site, to minimize risk to fueling and other related activity on site. The dual ingress and egress to the site, while acceptable, may not allow road tank trucks to access and exit the site with ease, especially in case of emergencies when the site need to be evacuated in the shortest possible time.*

*III. The site must incorporate Stage 1 Vapor Recovery systems in the design to reduce the impact of Green House Gases and air quality in the neighboring areas. Vent location should ideally be located in an area where dispersion of vapor would present the least possible annoyance to occupants of contiguous parcels.*

*IV. Provisions for dispensing of LPG, CNG, LNG (and Hydrogen) is not allowed at this facility and will be subject to detailed review if such considerations are made in future.*

*V. Environmental baseline conditions shall be assessed at the site.*

*VI. Identification of Oil Water Separator (OWS) will be required, and can be finalised during BCU permitting stage. OWS to include surface run off from tank farm area also.*

*VII. The proposal complies with the maximum storage capacity allowed for the facility which shall be 40,000 IG; no single tank shall exceed 10,000 IG capacity.*

*VIII. Underground equipment shall be of double-wall construction for both tanks and pipes, with continuously monitored interstitial spaces. Pipelines shall be of non-rigid and of non-metallic materials.*

*IX. All tanks must be installed and anchored on a subgrade concrete slab to achieve stability and counter buoyancy.*

X. All other technical requirement relating to equipment type and requirements, installation details, testing and commissioning requirements shall be outlined at BCU stage.

XI. Totem or Monument sign is acceptable and required to meet the requirement of the Planning Department; Applicant may consider canopy fascia price signs as secondary signage.

XII. LPG Tank shown on plan as proposed is acceptable and shall be up to 2000-gallon capacity to meet general setback and requirement.

XIII. Provisions for other commercial activities on the site should generally fit the characteristics of a fuelling facility noting the risks associated with storage and handling of fuel.

XIV. Clarification is sought on the Canopy North elevation which makes reference to the "White Hardie Plank Gable." We wish to clarify that the Canopy and general forecourt structure and elements must be constructed of non-combustible materials or alternatively a minimum of 2hrs fire rated materials.

XV. Under OfReg's broader remit, the office's preliminary economic and regulatory assessment indicates that the increase in number of gas stations continues to place (upward) pressure on fuel prices. Subject to finalisation of the comprehensive fuel market assessment, Grand Cayman may be overserved with gas stations. The assessment takes into account a number of additional gas stations which has been approved and are pending construction, unless there were change of approval status for those previous applications.

Advisory comments:

We have also included a rough markup with suggestions on changes to the site layout for general safety and improved maneuverability on the forecourt. To emphasize, these are only suggestions, some of which are strong recommendations, but are generally not statutory requirements.

### **Fire Department**

Stamped approved drawings uploaded.

### **APPLICANT'S LETTER**

See Appendix A

### **OBJECTION LETTER**

See Appendix B

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located in the West Bay Beach South area with Esterley Tibbetts Highway and West Bay Road bounding the site to the east and west, respectively. To the north The Residences at the Ritz Carlton form the northern boundary and vacant land is sited to the south.

The application seeks Planning Permission for a four unit commercial building and fuel station together with associated works.

### **Zoning**

The property is zoned Hotel/Tourism.

### **Specific Issues**

#### **1) Hotel/tourism zone**

On the 5<sup>th</sup> June 2019 at the fifth meeting of the Cayman Islands Legislative Assembly the application site, and four other nearby lots, received approval for a re-zone. In this instance, the application site changed zone from Neighbourhood Commercial to Hotel/Tourism.

Regulation 10 of the Development and Planning Regulations (2021 revision) provides the framework for determining applications in Hotel/Tourism zones.

Regulation 10(2) states in '*certain cases unrelated development may be permitted by the Authority within Hotel/Tourism zone but it will be required to conform to the setback requirements applicable to hotels as well as to all other requirements applicable to its own type of development*'.

For completeness, the proposed development complies with the setback requirements of hotels. Specifically, front and rear setbacks of 25 feet and side setbacks of 20 feet. The proposal provides adequate parking for commercial units per Regulation 8(1)(iv) with 39 spaces proposed. The height of development fits within the Regulation requirements. Finally, the proposed site coverage falls significantly below the upper limit of 90%.

For the avoidance of doubt, Regulation 13(1)(vii) recognises petrol stations as a commercial use. Members are invited to consider the acceptability of the commercial use as 'unrelated development' in the Hotel/Tourism zone.

#### **2) Access road**

The applicant is proposing access to the site from a Boundary Plan which has not yet been constructed. Comments have not been received from the NRA so it is not known if the proposed access scheme is acceptable to the NRA. Also, it is not known if the NRA will construct the road or if the applicant must do so having regard to the specifications of the NRA.

#### **3) Architectural design**

The applicant has incorporated a high level of architectural design which the Authority has been encouraging with gas stations.

**2.2 NWPR GROUP LTD. (Declan O’Brien) Block 2C Parcel 66&67 (P20-1021) (\$12,320,000) (MW)**

Application for 30 apartments (4 storeys) with cafe, 2 houses and ancillary features.

**Appearance at 11:30**

**FACTS**

<i>Location</i>	North West Point Rd., West Bay
<i>Zoning</i>	<b>Beach Resort Residential</b>
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	1.5 ac. (65,340 sq. ft.)
<i>Parcel size required</i>	0.959 ac. (41,780 sq. ft.)
<i>Current use</i>	Vacant
<i>Proposed building size</i>	74,047 sq. ft.
<i>Total building site coverage</i>	37.4%
<i>Allowable units</i>	30
<i>Proposed units</i>	30
<i>Allowable bedrooms</i>	90
<i>Proposed bedrooms</i>	60 in apartments, 8 in houses
<i>Required parking</i>	55
<i>Proposed parking</i>	56

**BACKGROUND**

September 25, 2020 (**CE20-0141**) – Unauthorised clearing of land. (Being Researched).

February 3, 2021- 30 Unit 4 Story Apartment building - the application was seen and it was resolved to adjourn the application.

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Suitability
- 2) HWM Setback (0’ vs. 50’)
- 3) Building Height (69’ vs. 55’)

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health and Department of Environment (NCC) are noted below.

**Water Authority**

Please be advised that the Water Authority’s requirements are based on the above referenced block and parcels being combined. The requirements for the development are as follows:

**Wastewater Treatment and Disposal**

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

- **The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer’s guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 8,772 US gallons per day (gpd), based on the following calculations:**

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD</b>	<b>GPD TOTAL</b>
Apartment Building	30 Apartments	150gpd/1-Bed unit 225gpd/2-Bed unit 300gpd/3-Bed unit	6,750gpd	6,750gpd
-	1,002sqft Café	1gpd/sqft of Dining Area	1,000gpd	1,000gpd
-	Rooftop WC	100gpd/WC	100gpd	100gpd
-	148sqft Office	0.1gpd/sqft	22gpd	22gpd
North Residence	5-Bed House	450gpd/5-Bed House	450gpd	450gpd
South Residence	5-Bed House	450gpd/5-Bed House	450gpd	450gpd
<b>TOTAL</b>				<b>8,772gpd</b>

- **Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.**
- **To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4’8” above MSL or 5’11” if installed less than 100ft from the sea. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.**

**Grease Interceptor Required**

**A grease interceptor with a minimum capacity of 1,000 US gallons is required to pre-treat flows from the Café kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains.**

*The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the ATU.*

**Traffic Rated Tank and Covers**

*The drawings indicate the wastewater treatment plant is proposed to be located within a traffic area. Therefore, a traffic rated tank and covers are required. The Water Authority requires that manhole covers be traffic rated heavy duty to meet AASHTO H-20 loadings of 16,000lb wheel loads and sealed with a gasket or O-ring. Covers and frames shall be manufactured from ductile iron or gray iron complying with the requirements of ASTM A-48 Class 35.*

**Elevator Installation:**

*Hydraulic elevators are required to have an approved pump with oil-sensing shut off installed in the sump pit. Specifications shall be sent to the Water Authority at [development.control@waterauthority.ky](mailto:development.control@waterauthority.ky) for review and approval.*

**Generator and Fuel Storage Tank(s) Installation:**

*In the event underground fuel storage tanks (USTs) are used the Authority requires the developer to install monitoring wells for the USTs. The exact number and location(s) of the monitoring wells will be determined by the Authority upon receipt of a detailed site plan showing location of the UST(s) and associated piping. The monitoring wells shall comply with the standard detail of the Water Authority linked below. All monitoring wells shall be accessible for inspection by the Authority. In the event above ground fuel storage tanks (ASTs) are used, monitoring wells will not be required.*

*[https://www.waterauthority.ky/upimages/download/USTMonitoringWellFeb2013\\_1445632994.pdf](https://www.waterauthority.ky/upimages/download/USTMonitoringWellFeb2013_1445632994.pdf)*

**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**

*None received at this time*

**Department of Environmental Health**

- 1. DEH has no objections to the proposed in principle.*
- 2. The property requires (1) 8yd3 container with servicing three times per week.  
a. The applicant is advised that the drain that is required for the garbage enclosure cannot be plumbed to a storm drain. The drains must be plumbed to a garbage effluent disposal well. Contact the Water Authority ([development.control@waterauthority.ky](mailto:development.control@waterauthority.ky)) for well specifications.*

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

4. Kitchen layout and approved BCU mechanical drawings for the hood must be submitted for review.

**Department of Environment (NCC)**

Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.

The application site is man-modified with some primary coastal shrubland habitat in the northern section as shown in Figure 1. The site is also located adjacent to a marine protected area (a Marine Park) and is on a high wave energy coastline with deep water offshore. It is also noted that the site and the property immediately to the west have a unique geological feature in the form of a split/fissure in the ironshore, as shown in figure 2

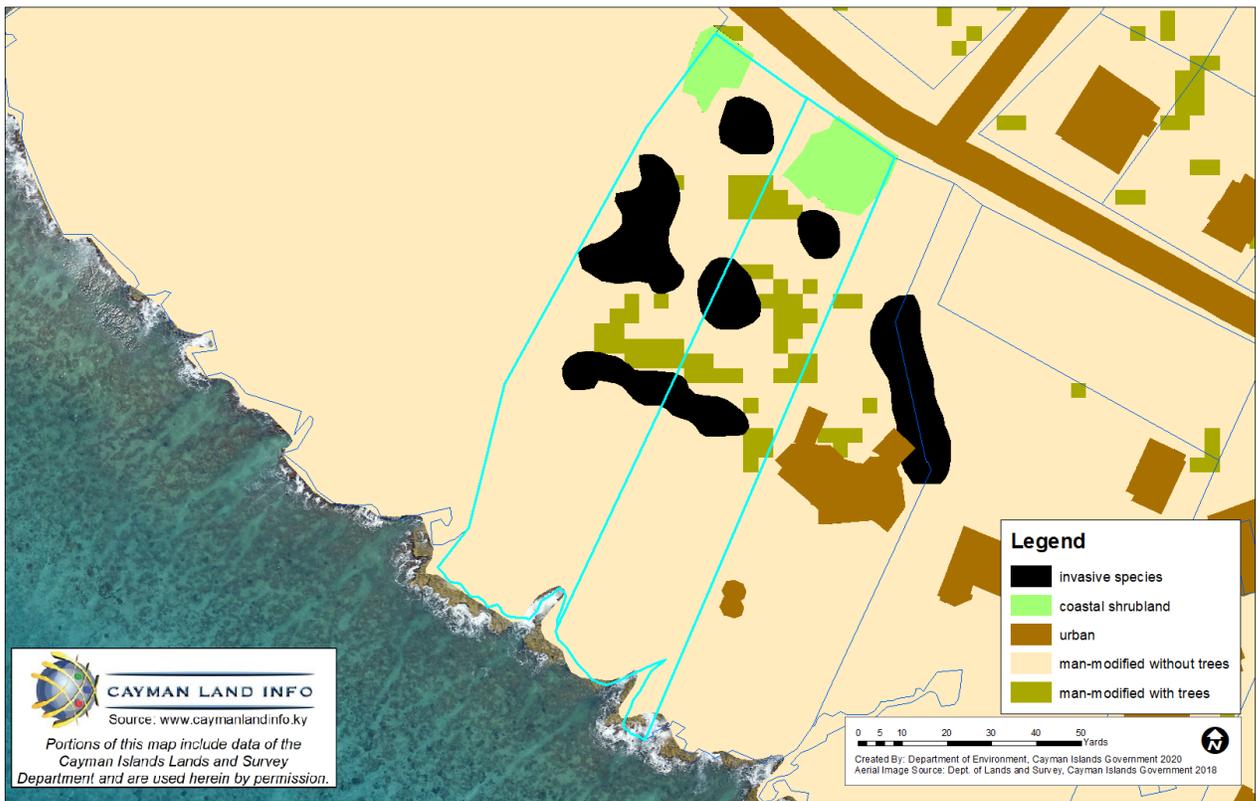
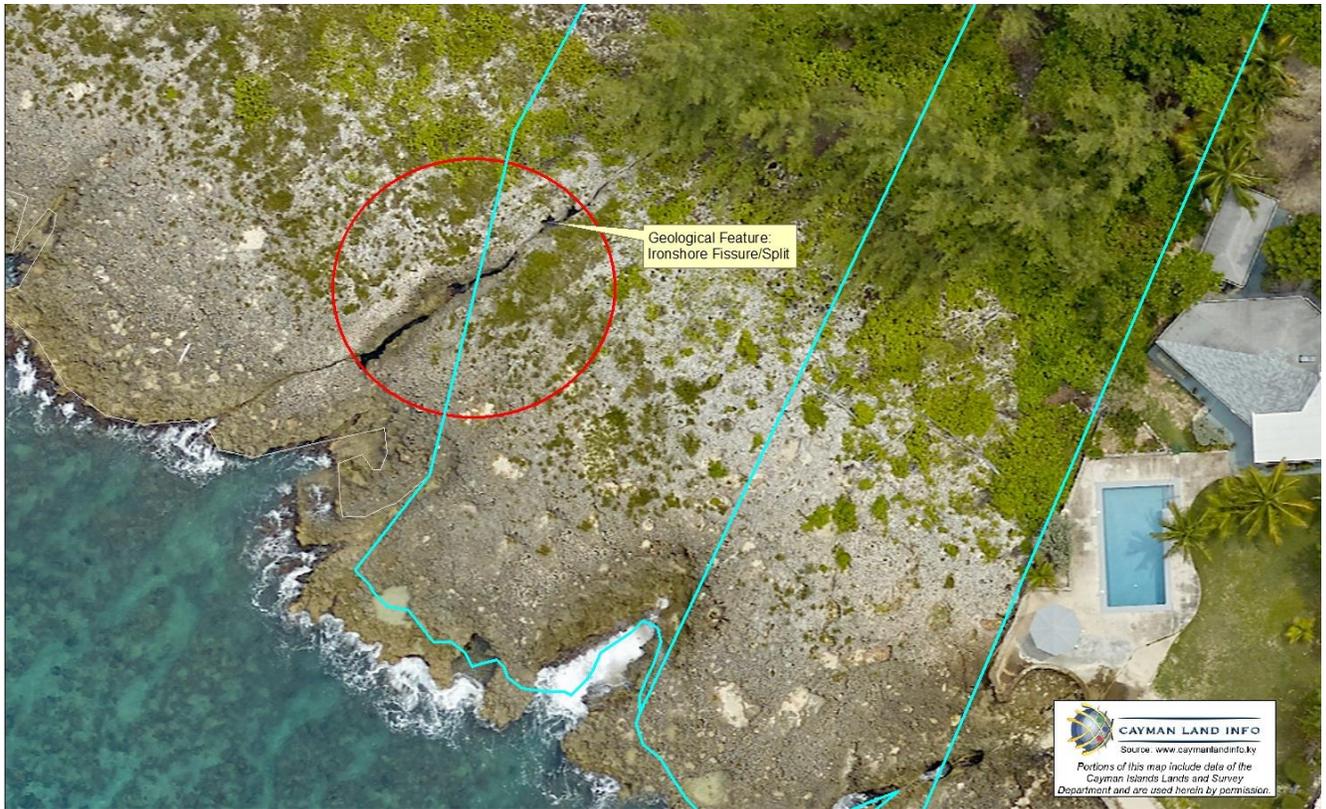


Figure 1: DOE's 2013 Habitat Map Extract showing application site outlined in blue



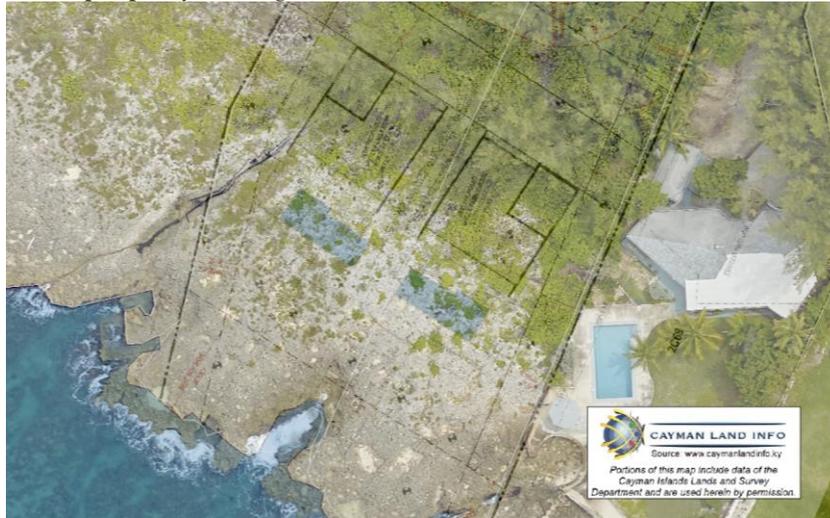
*Figure 2: LIS 2018 Aerial Imagery showing geological feature (circled in red) and the application site (outlined in blue). Source: Cayman Land Info*

*This stretch of coastline has a history of coastal property damage during storm wave action. Figure 3 shows the impact Hurricane Ivan had on the site and the position of the remaining vegetation in the 2005 image illustrates the extent of storm wave incursion. We therefore recommend that the setbacks are maximized to the greatest extent possible. We would also encourage the use of climate change resilient design features such as wash through ground floors. This would assist in reducing storm surge impacts.*



*Figure 3: LIS aerial imagery showing the application site (outlined in blue) in 2004 pre-Ivan (Left) and in 2005 post-Ivan (Right)*

*The western single family home is extremely close to the ironshore split/fissure, and the DoE will not support any future filling of or works to the split as it is directly connected to the sea and Marine Park. The DoE would urge the applicant to seek advice from a structural engineer to ensure that the split/fissure does not cause a threat to the structural integrity of the property. The home could also be impacted as the split/fissure is directly connected the sea, and could potentially bring storm waves closer to the property during inclement weather.*



*Figure 4: Extract of submitted plans overlaid on LIS 2018 aerial imagery showing the proximity of the split/fissure to the western proposed dwelling (Source: Declan O'Brien Architectural Services & Cayman Land Info)*

*We strongly recommend that Best Management Practices are adopted during the construction to ensure that construction-related debris does not enter the marine environment. We have experienced other developments along the coastline inadvertently polluting the marine environment from wind-borne debris. Practices such as sanding down Styrofoam which is used as part of wall finishing and window moulding can result in Styrofoam beads getting blown into the sea in significant quantities; these beads are very difficult to remove once they enter the water.*

*Therefore, if the CPA is minded to grant planning approval, under Section 41(5)(a) of the National Conservation Law, the National Conservation Council **respectfully directs** the Central Planning Authority to include the below as conditions of approval:*

- At no time shall the split/fissure be filled and any other works to the split/fissure should be the subject of a separate consultation with the National Conservation Council.*
- Construction materials shall be stockpiled at least 50 feet from the water's edge to prevent construction debris from entering the marine environment.*
- Prior to undertaking any sanding or breaking down of Styrofoam as part of the construction process, screens shall be installed to ensure that Styrofoam beads are contained within the construction site and do not get blown onto adjoining sites or into the marine environment.*

## **Fire Department**

Approved for Planning Permit Only (February 5<sup>th</sup> 2021)

## **OfReg (Petroleum Inspectorate)**

*Tanks Approved as proposed. Tanks to be securely anchored utilising ground augurs and flat SS (insulated) straps. Tank pit to be adequately prepared to receive tank, level with compacted uniform materials, with anode bags properly connected and secured in place. Tracer wire and caution tape to be installed with fuel line, and tank to be backfilled with uniform materials. Please note Ofreg to inspect before backfilling of tank and operating permit required before*

## **APPLICANT'S LETTER**

See Appendix C.

## **OBJECTIONS**

### **Objector #1**

*We have recently received the planning notice for Planning Permission from NWPR (Ltd) in relation to the development of the above property per the attached copy. The detail provided reads:*

***“You are hereby notified that an application for planning permission for a residential development consisting of 32 units with a total of 69 bedrooms, café, a rooftop communal pool, two pools with spas and two trellises to the beachfront, LPG generator, two buried LPG tanks 1000 gallons each.”***

*We are writing to register our objections to the application referenced above because it majorly impacts our residence on 2C 68. We believe the approval of this application would grant permission in contravention of the Planning Laws and Regulations (2020).*

*Our objections are as follows:*

- ***Objection 1 HEIGHT/ STOREYS Regulation 8(2) (f) (2020)***

*The Planning Regulations in a Beach Resort/Residential Zone state that the maximum height of a building “shall not exceed 55 feet or 4 storeys, whichever is the less”. The height of this development’s HighRise building is 67 feet 8 inches. The Height of the Buildings is exacerbated by the Gradient of the site resulting in an estimated additional 5 Feet at least i.e. over 72 feet 8 inches.*

### ***“Regulation 2 Definitions.”***

***“Height of a building means the vertical distance measured from the highest point on a proposed or existing building to the proposed finished grade directly below that point and ..... finished grade means the highest grade within 5 ft of the building and includes natural grade when no terrain alteration is proposed.”***

*There are 5 storeys shown on the Application, Level 1 Covered Parking, Café, Kitchen and other ancillaries, Levels 2,3 and 4 – 10 units per Level - Total 30 units*

*and Level 5 Pool, Pool deck, fire/pump/ pool equipment room and washroom etc. total 5 Storeys.*

*Our objection is that the Height and the Number of Storeys contravene the Regulations resulting in a dominating building of huge magnitude which particularly impacts our home as it is only approximately 40 feet from our property.*

- **Objection 2 DENSITY Regulation 9(6)(c) Regulation 15 (5) (b) (2020)**

#### **Land Use Guidelines**

“The Beach Resort/Residential zone is a transition zone. Development within this zone will generally be permitted if it has the appearance of residential development in scale and massing.”

#### **Site Development Guidelines**

- a) Density – Apartments 25 units/42 bedrooms per acre
- b) Parking – 1.5 stalls per apartment unit
- c) Site coverage – **30 % maximum**

The application shows 30 units with 60 bedrooms on 3 of 5 levels in an inappropriate mixed use building of over 5 storeys. To achieve 30 units would require one and a half acres to comply with **Regulation 9 (6) (c)** which then would use the total lot size (one and a half acres) available. No further construction would therefore be allowable as has been included in the planning application from NWPR Ltd. additionally of 2 houses.

*The submitted plans show 5 Levels of the mixed use building have a combined coverage of 60,363 sq. ft. which is nearly the equivalent of the total lot size of 65,340 sq. ft. available. The site plan shows that, in addition to the building, the surrounding land is also used for internal and private driveways (9,000 sq.ft.) plus car parking. In fact, between the side setbacks, the whole surface area is 100% covered.*

#### **Regulation 15 (5) (b).**

*Any alternative of a 4 storey mixed use building would not meet the requirement of a residential development with outdoor facilities including swimming pools, gardens and sundecks/patios/terraces with a substantial amount of landscaping.*

- **Objection 4 CHARACTERISTICS OF NEIGHBOURHOOD Regulation 8(11) (e) Regulation 9(1) (2020)**

*We have lived in West Bay for some 40 years and are delighted to be always welcome on NW Point where there is a variety of housing of all types from high end luxury through to more normal housing as well as rental accommodation. Nowhere on NW Point is there anything like this planned development from NWPR Ltd.*

*Additionally, the 2 residences are not in keeping with our immediate neighbours as the site plan shows they are too far forward of the line of houses/condominiums of us and our fellow neighbours along the coastline to the south.*

- **Objection 5 OVERLOOKING/LOSS OF PRIVACY Regulation 15(5) (a)(b) (2020)**

*This huge mixed use development majorly impinges on our privacy. We are **Overlooked** at the front of our property by a looming highrise concrete building of a height of over 70 feet within some 20 feet of our property.*

*At the rear of our home, where we spend most of our time outdoors, we are overlooked by the south residence, a major **Loss of Our Privacy**. This Overlooking and Loss of Privacy is not just from the inside of our home but also outside. When enjoying our pool and rear garden, we will be overlooked by this residence which is far too close to us, some 40 feet from our bedroom window and far too forward towards the sea. It is essentially a 2 storey, 30'10" high, concrete wall. We are so close to the south residence that we are completely overlooked, majorly impairing our Privacy.*

*A few floral decorations drawn on the plans is insufficient information on landscaping. We are protecting the trees on our side of the boundary in our front garden but the rear is ironshore and unsuitable for the growing of trees. The plans do not "Incorporate sufficient screening to provide privacy from adjacent properties."*

- **Objection 6 2 RESIDENCES Regulation 8(10) (f) Regulation 8(11) (e) (2020)**

*The 2 residences are too far forward of the line of housing including ourselves, our neighbour on Lot 2C 187 as well as Clan Creek beyond to the South. There is a line of symmetry of high end housing in our immediate neighbourhood that means we do not impinge on each other's privacy by being overlooked by concrete walls as would be the case with these 2 residences of 2 storeys each on 2C 66 and 67.*

*We all know that we are much safer from the sea further back than the **MINIMUM** HWM setback as stated in Regulation 8(10)(c) and 8(10)(f). We respectfully request the CPA to increase the HWM setback from the minimum 50 feet for these 2 houses because of the close proximity of the south residence to our property. This will take into account the line of housing along this section of the coast to maintain a better perspective from the ocean around NW Point.*

### **Regulation 2020 Scenic Shoreline**

*The Scenic Shoreline regulation states that it is the duty of the Authority to ensure that the open character of Scenic Shoreline is preserved. 2 residences close to the sea will destroy the open character of the shoreline at NW Point. In fact, our home has one of the*

*last remaining blow holes in Grand Cayman which is known to many generations of Caymanians.*

*Additionally, we are aware of a landscape trough on the south residence being 44'11" from the HWM. Even if this is minor, it proves NWPR Ltd is trying to cram too much into these residences including a large garden at the rear of the 2 Residences rather than pulling their residences back nearer to their high rise apartment complex where it is more in keeping with the neighbourhood than its current position.*

*The 2 residences are of 2 Storeys with Height of 30 feet 10 inches each with a footprint that is overly large (3,950 sq.ft.) for the site, twice the size of our home! The south residence becomes a dominating building which majorly impacts our Privacy.*

- **Objection 7 CAR PARKING Regulation 8(1) (c) 8(1) (vii) (2020)**

*The Planning Application shows car parking spaces in the setback to the East on our boundary as well as underneath the HighRise building (Storey 1). We object to our privacy being impacted by a major car park as well as ugly concrete pillars. Our security will also be compromised. There are no walls or fences shown on the drawings.*

- **Objection 8 LPG TANKS SAFETY**

*We are concerned about our personal safety as well as that of our family and friends at having 2 large LPG storage tanks buried near to our boundary, close to our home buildings.*

- **Objection 9 ROAD TRAFFIC SAFETY**

*This huge Development is on a very dangerous bend and camber on North West Point Road. We have witnessed many serious accidents over the years at the top of our road. We are certain the Royal Cayman Islands Police Force will attest to this record of accidents, some very serious. Our wall to the road has been destroyed many times.*

*We are seriously concerned about exiting our property safely from traffic approaching from the left (Turtle Farm direction) plus increased traffic from this development. There is a structure (17), shown on the plans adjacent to our boundary, impacting our safety.*

*There will be a high volume of traffic coming and going from 30 units and 2 residences on a dangerous bend as well as the entrance to Coral Gables subdivision. The consequent traffic demands along North West Point Road would be very significant and seriously compromise the safety of local residents. We recommend this aspect of the planning application be notified to the NRA and RCIPS.*

• **Objection 10 ENVIRONMENTAL PROTECTION**

*We are very concerned about the impact on the environment in our area as the 2 residences are being constructed on Ironshore. The 2 pools for the 2 houses and the 4 large tiered landscaping boxes will be concreted/cut into the Ironshore impacting the delicate environmental balance. The houses and the pools are too near the sea and are on Ironshore where there is major impact of weather related problems on North West Point (Hurricanes, Tropical Storms, Norwesters etc.) There is no detail on whatever is to be constructed at the edge of the sea. Ironshore should be protected not destroyed. We recommend this aspect of the planning application be notified to the NCC and the Department of Environment.*

***In summary:***

*Firstly, we respectfully request the CPA to increase the HWM setback from the minimum 50 feet.*

*Finally, we also respectfully trust you have noted that our objections to this Planning Application P20-1021 concern the Height, Density, Massing, Scale, Inappropriate Overdevelopment, Not in Character for the Neighbourhood, Overlooking and Loss of Privacy, Road Traffic Safety, our Safety and Security and last but not at all least the impact on our Cayman Island Environment of this Planning Application.*

*After owning our home for 40 years, we are devastated to be put in this position. Thank you for taking account of the merits of our objections.*

**Objector #2**

*My wife and I, as joint proprietors of IE30, received notice of the proposed development at caption, and wish to duly register our objection. The area is undergoing an extended growth spurt, and the scale of what's proposed in this instance would almost certainly overwhelm existing infrastructure.*

*Quiet and peaceful enjoyment of the area is also diminishing, and commercial development on this scale, within such a geographically small area, could make the situation drastically worse for residents. It's the sort of initiative that could all too easily be the start of a downward spiral: If the attraction of the area is eroded, persons relocate, etc, etc ... A real effort must be made to maintain a balance here.*

*In challenging times keeping up high standards remains possibly even more important.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a (30) Unit 4 Storey Apartment Building with (60) Bedrooms, Café, Rooftop Communal Pool, (2) Single Family Dwelling Homes (8) Bedrooms with

(2) Pools with Spa's and Trellises, LPG Generator, (2) Underground LPG Storage Tanks; 1,000 Gallons each to be located on North West Point Rd., West Bay.

### **Zoning**

The property is zoned Beach Resort Residential.

### **Specific Issues**

#### **1) Suitability**

Section (15)(2) states the following development is permitted in a Beach Resort Residential Zone.

(a) detached & semi-detached houses.

(b) duplexes

(c) beach resorts; and

(d) in locations considered by the Authority to be suitable, guest houses and apartments, cottage colonies and tourism related development.

The neighborhood consists mostly of single-family houses. There are several parcels with apartments within less than 1000 feet of the subject parcel. The closest apartment community, similar to this application, is Bonnie's Arch & Lighthouse North West Point / Lighthouse Point Residences, located approximately 432 feet & 839 feet respectively from the proposal. The Authority needs to determine if the site is suitable for apartments.

#### **2) HWM Setback**

Regulation 8(10)(c) states "*in areas where the shoreline is ironshore (except hotel and tourist related zones) all structures and buildings, walls and structures, shall be setback a minimum of 50' from the high water mark.*" The applicant has proposed a water entry area with what appears to be a platform of sorts overhanging an existing natural cove resting on the coastline at a distance of 0'. The Department has reached out to the agent requesting clarification on the proposed water entry area as it shows what appears to be steps possibly cut into the sea bed, however currently no response has been received in this regard.

It is noted that all of the main buildings and pools do comply with the required 50' setback.

#### **3) Garbage Dumpster Location & Setback**

The Department of Environmental Health has submitted comments regarding the location of the proposed garbage dumpster being inadequate. In addition, per Regulation 8(7) states "*solid waste storage areas shall be setback a minimum of 6' from adjacent property boundaries and shall be screened with vegetation and fencing.*" The proposed garbage dumpster would be 14'-2" from the fronting main road and 2'-4" from the adjoining parcel a difference of 10'-10" and 3'-8" respectively

#### **4) Building Height**

Regulation 8(2)(f) of the Development & Planning Regulations (2020 Revision) states the maximum permitted height of a building *“in a Beach Resort / Residential zone, shall not exceed 55’ or four storeys, whichever is the less; and, where the height of a building is four storeys, the building shall be so designed that no continuous vertical façade or elevation exceeds 25’ or two stories in height”* The applicant has proposed a 4 story apartment building with an overall building height of 69’-0” when measured to the roof top structures. The Authority needs to determine if the roof top structures, including shade tents, can be considered exempt from the calculation of building height per Regulation 8(4). If they are exempt the building height would comply with the exception of the sea side elevation which would have a building height of between 59’ and 65’ depending on the measuring point.

#### **5) Site design**

The entry/exits have been designed with the 15’ turning radii connecting to the road, not the property boundary. The Authority has not typically supported this design because if the adjacent road is widened then the entry/exit will not have adequate turning radii.

The driveways leading to the two houses are only approximately 8’ wide. There is ample space on the site to widen these to allow for suitable traffic flow.

#### **SUPPLEMENTARY ANALYSIS**

The Authority is reminded that the application was considered and it was resolved to adjourn the application for the following reasons:

1. Comments from the Fire Department regarding the proposed fire access lane must be submitted for consideration by the Authority.
2. The applicant must submit a revised plan that complies with the requirements of the Department of Environmental Health regarding the location of the garage dumpster which will then be further considered by the Authority. The location of the dumpster must comply with all minimum required setbacks.
3. The applicant must submit a revised site plan showing the entry/exit driveway turning radii extending to the property boundary, not the physical road. The revised site plan must also show the driveway leading to the two houses with a minimum width of 12’.
4. The applicant must provide revised elevations and cross-sections that clearly demonstrate that the apartment building complies with maximum allowable building height of 4 storeys/55’. In this regard, the applicant is directed to the definition of building height in the Development and Planning Regulations.
5. The applicant must demonstrate to the Authority that the proposed setbacks and design of the two houses have taken into account the potential impact from wave action.

In response to these 5 reasons for adjournment, the Authority is advised as follows:

1. The Fire Department has approved the site plan for fire access.

2. DEH has approved the location of the garbage enclosure. The enclosure now complies with the required side setback of 6', but still does not comply with the road side setback of 20, approximately 14' instead.
3. The applicant has complied with this request.
4. The applicant has provided a response in Appendix C
5. The applicant has provided a response in Appendix C

**2.3 CAYMAN PROPERTY INVESTMENTS LTD (MJM Design Studio) Block 5B Parcel 162 (P20-1121) (\$820,000) (JP)**

Application for a house.

**Appearance at 1:00**

**FACTS**

<i>Location</i>	Boggy Sand Road, West Bay South
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.05 ac. (2485 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	1448 sq. ft.
<i>Total building site coverage</i>	23.1%
<i>Required parking</i>	1
<i>Proposed parking</i>	1

**BACKGROUND**

July 29, 2009 (**CPA/20/09; Item 6.1**) – The Authority permission granted for a seawall and one-storey cabana.

June 20, 2012 (**CPA/14/12; Item 2.14**) – The Authority modified permission to increase the size of the cabana.

April 30, 2014 (**CPA/11/14; Item 2.1**) - The Authority resolved to adhere to decision CPA/14/12; Item 2.14; which states “the applicant shall reduce the building height and modify the roof pitch per the drawings approve on June 20, 2012 within 90 days of the date of this application.”

November 26, 2014 (**CPA/28/14; Item 2.2**) – The Authority resolved to adhere decision CPA/14/12; Item 2.14 and refused the applicant’s request to remove condition which states “the applicant shall reduce the building height and modify the roof pitch per the drawings approve on June 20, 2012 within 90 days of the date of this application.”

**Recommendation:** Discuss the application, for the following reasons:

- 1) Historic overlay
- 2) High Water Mark setback
- 3) Side setbacks
- 4) Front setback
- 5) Application inaccuracies
- 6) NCC directive

**AGENCY COMMENTS**

Comments from the National Roads Authority and Department of Environment (NCC) are noted below.

**National Roads Authority**

No comments received.

**Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.*

***Meeting with the Applicant***

*The applicant met with the Department of Environment on 17 November 2020 to discuss remediation works to the seawall. It was agreed by all that the existing structure is failing and has lost structural integrity. Although development of the property was mentioned by the Applicant in passing, it was not the subject of the conversation and the plans for this development were not presented by the Applicant. The focus of the conversation was on repairing the existing structure. The Department advised that the current structure has caused erosion and will continue to cause erosion of the beach if the remediation works keep the current size and shape of the structure. The Department reiterated its position that the seawall had been built too close to the sea on the active beach and that the Department does not support development positioned so close to the sea. The Department advised that in order to attempt to reduce the negative impacts that the seawall is having, the applicant could consider using design techniques such as a curved or stepped seawall to help dissipate wave energy, and that the square structure of the seawall is a particular problem. We also advised that the hard corner of the seawall is a particularly poor layout in terms of erosion and vulnerability. We encouraged the Applicant to curve the seawall along the shoreline to redirect or dissipate more energy from the waves, thereby reducing the negative effects the seawall is causing. The Applicant has not made any modifications to their proposals for remediation of the seawall following this meeting and the application is also seeking permission for a two/three storey residential development on the site. The existing structure is a one storey gazebo, and the applicant is proposing to have a two storey home with a third storey comprising a covered roof terrace.*

### Site Context

The site is located on the south side of Boggy Sand Road, directly east of a Crown-owned parcel of land, which has a landward border comprising a sheet-piled seawall constructed by the National Roads Authority in 2005. The site is adjacent to the Seven Mile Beach Marine Park, which is a Marine Protected Area under the National Conservation Law (2013).

The site is not located on a current turtle nesting beach, albeit historically when the beach was present in this location it would have likely supported turtle nesting activity. The presence of built development and seawalls on the active beach has contributed to significant erosion in this area. There is a turtle nesting beach to the west and Critical Habitat to the east, as shown in Figure 1. Critical Habitat is defined in the Interim Directive for the designation of Critical Habitat of Green turtles (*Chelonia mydas*), Loggerhead turtles (*Caretta caretta*), Hawksbill turtles (*Eretmochelys imbricata*), Leatherback turtles (*Dermochelys coriacea*) and all other species that may occur in Cayman waters including Kemp's Ridley turtles (*Lepidochelys kempii*) and hybrids (2020).



Figure 1: The site (blue), along with the presence of seawalls at properties to the east, has resulted in an area with no sea turtle nesting due to the lack of a beach. There is critical habitat (red) to the east and nesting habitat (yellow) to the west.

### ***Accuracy of Application Submission***

*In order to assess the application, we attempted to overlay the site plans on aerial photography. However, the dimensions stated on the site plans appear to be inaccurate.*

*The licensed survey dated 11 September 2020 indicates that the distance from the survey marker on the western edge of the property (HH6261NL) to the Mean High Water Mark is 31 feet. Site Plan Sheet No A101 prepared by the applicant's architect reports this same distance as 39 feet 5.5 inches. Therefore, the Site Plan shows a coastal setback which is 8 feet 5.5 inches greater than the licensed survey submitted with the same planning application. The eastern boundary is similar; the licensed survey indicates a distance from the survey marker (IP1NL) to the Mean High Water Mark of 31 feet, and Site Plan Sheet A101 shows a distance of 37 feet 10 inches. Therefore, the architectural plans show a coastal setback of 6 feet 10 inches greater than the licensed survey along the eastern boundary. It should be noted that both of these survey markers are located inland of the existing seawall, and so the distance from the seawall to the Mean High Water Mark is shorter than 31 feet.*

*The DoE's georeferenced plans show that the Mean High Water Mark surveyed on 10 October 2020 is much closer to the development than Site Plan Sheet A101 shows, and that the existing seawall is also closer to the sea than the application plan shows. Our georeferencing results in a setback of only 21 feet from the 10 October 2020 Mean High Water Mark survey (see Figure 2). The Development and Planning Regulations (2020 Revision) Section 6(4) states that the site plan must show the location of the proposed building, the location of existing buildings on the site and on adjacent land, the front, and the rear and side setbacks. It should be a given that these dimensions must also be accurate.*

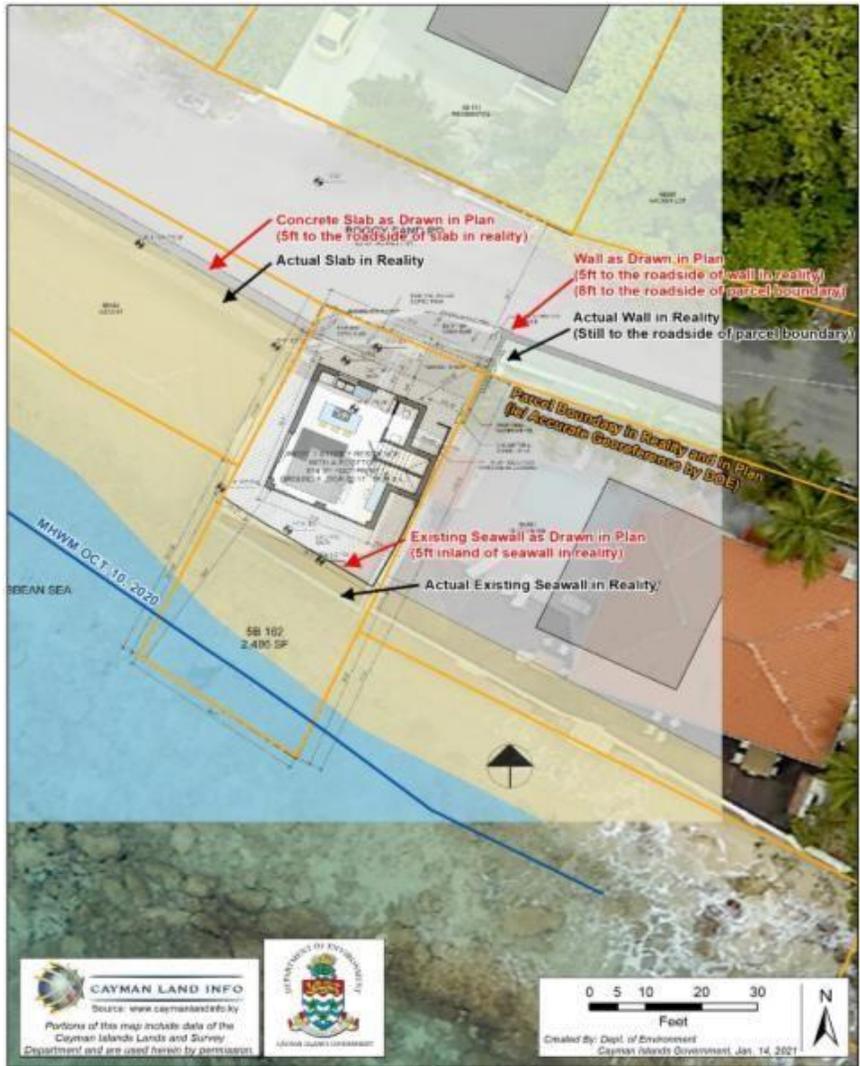


Figure 2: Application site plan & October 2020 MHWM survey geo-referenced on to 2018 aerial imagery

In addition, as shown in Figure 2, both the georeferenced plans and the Applicant’s Site Plan Sheet A101 show that parts of the existing development are located within the public roadway, and that the site is unable to accommodate the single proposed parking space for the development. The plans show that the proposed parking space is located in the public roadway of Boggy Sand Road rather than within the Applicant’s site.

There are also a number of inaccuracies in the variance request letter, which accompanies the application. There are repeated references to an existing house, when there is only an uninhabitable gazebo located on the property. The letter states that the house will be built 38’-9” from the existing seawall. This was presumably meant to read 38’-9” from the Mean High Water Mark (which as detailed above is only 21 feet) as the house is less than 6 feet from the edge of the existing seawall.

### ***Inadequate Coastal Setbacks***

*In terms of setbacks, the Development & Planning Regulations (2020) state that:*

***“8 (10)(b) in areas where the shoreline is beach or mangrove (except in a Hotel/Tourism zone), all structures and buildings, including ancillary buildings, walls and structures, shall be setback a minimum of seventy five feet from the high water mark”;***

*With regards to high water mark surveys, the Development & Planning Regulations (2020) state that:*

***“6 (3) Unless exempted by the Authority, an application for planning permission with any setback adjacent to the sea shall include a Mean High Water Mark survey physically defined on ground no more than six months prior to the application being submitted, and the survey plan shall be authenticated by the Department of Lands and Survey”.***

*The application plans are accompanied by a Mean High Water Mark survey which was completed within the past six months. However, this is not the survey that the applicant has used to calculate setbacks from the MHWM on the application plans. The applicant appears to be relying on a survey from 1999 to calculate setbacks. **If the MHWM undertaken in October 2020 is used for the purposes of calculating setbacks, then the seawall has a setback of approximately 21 feet from the MHWM and the proposed dwelling has a setback of approximately 27 feet from the MHWM, as shown in Figure 3.***



Figure 3: October 2020 MWHM survey (dark blue line) geo-referenced on 2018 aerial imagery

The DoE is also concerned about the validity of relying upon a MWHM survey that was conducted immediately post-Hurricane Delta (survey is dated 10 October 2020). Hurricane Delta deposited significant volumes of sand in this location, as it passed on 5 October 2020. The beach then experienced further deposits as Tropical Storm Eta passed in November 2020. Therefore, whilst it may appear that beach currently exists at this site, having monitored the position of the shoreline, utilising aerial imagery from

1958 through to 2018, it is evident that the construction of seawalls and development in this area, has resulted in a trend of sustained erosion, as would be expected when hard infrastructure is built on the active beach (as we see at the southern end of Seven Mile Beach). Under normal circumstances, the beach in this location ceases to exist and this has been the case for at least the past 5 years, and it is only under quite unique storm conditions that sand is deposited on this shoreline. Appendix D provides a time series of photographs of the presence/absence of the beach in this location, which illustrates the dynamic nature of the beach at Boggy Sand Road and how development has impacted the beach. Figure 4 shows the surveyed position of the shoreline/MHWM at frequent time intervals from 2003 to 2019 (approximately monthly), based on survey data collected by the Department of Lands & Survey. Out of a total of 62 surveys undertaken in this location between 2003 and 2019, there were only 4 dates when the beach existed seaward of the October 2020 MHWM. Of these, the October and November 2005 accretion events can be attributed to Hurricane Wilma. The October 2011 accretion may be attributed to Hurricane Rina. Furthermore, as can be seen from Figure 4, the beach was completely absent for many of the survey dates (22).

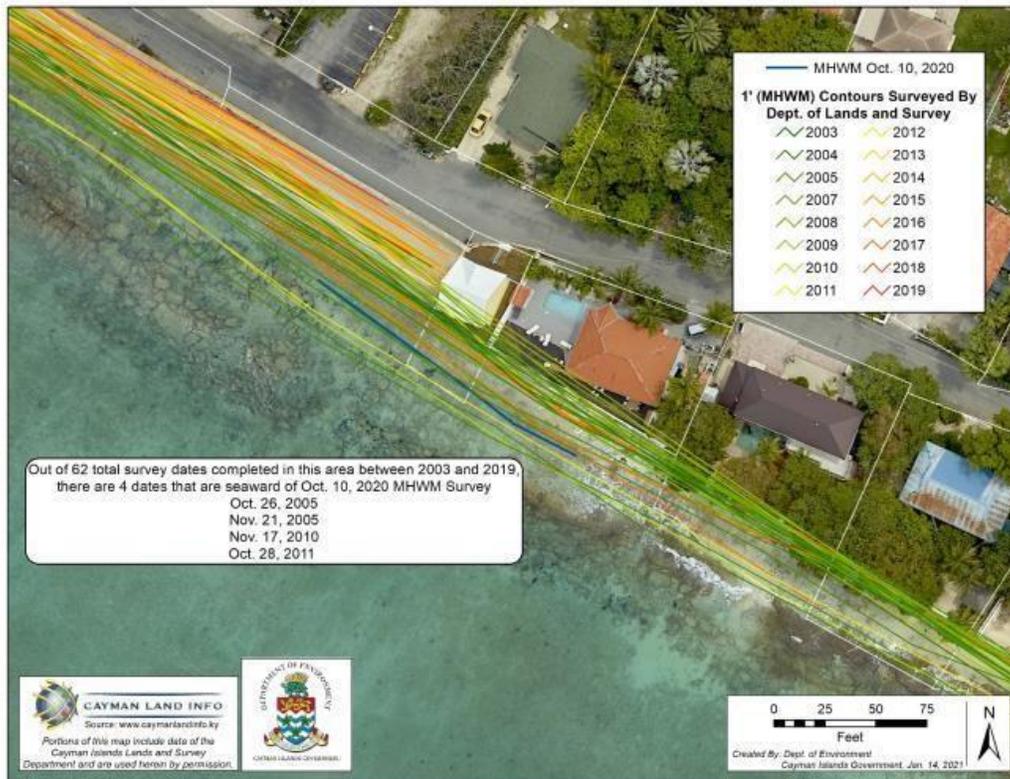


Figure 4: Survey data showing shoreline position/MWHM from 2003 to 2019 on 2018 aerial imagery

The Department has grave concerns about the vulnerability of the proposed development given its proximity to the sea and associated wave activity/loading and scour. Climate change predictions both globally and regionally predict an acceleration in sea level rise,

*with increased intensity of storm and hurricane activity in the Caribbean. There are absolutely no mitigating circumstances which could justify a departure from the legally prescribed setbacks in this location and, in our view, it would be negligent to permit a residential development on this site.*

### ***Integrity of Existing Structures***

*The application is accompanied by a report prepared by Reed Consulting Engineers ('the Engineering Report'), dated 22 July 2020. The Engineering Report reviews a previous study conducted by AMR, dated April 2019 and confirms that it agrees with the findings of this previous report. However, AMR's report is not included as part of the application package and it unclear what this report was assessing and its conclusions. With regards to the Engineering Report, we note the following:*

- 1. The Report is predicated on the end use of the site being for a two-storey cabana, not a two/three-storey residential dwelling. The Report does not provide confirmation that the proposed modifications to the foundations are sufficient to provide structural integrity for a significantly more vulnerable land-use such as a habitable dwelling.*
- 2. The Report is based on non-intrusive investigations which cause concerns about the full extent of the structural damage and integrity of the foundations and structures.*
- 3. It is stated that "there seems to be very serious structural integrity issues relating to failure of the foundations", which is due to undermining of the foundations from scouring associated with wave activity (p.6). This wave activity will continue as the location of the seawall will remain unchanged.*
- 4. Appendix D provides a 'proposed scope of works for contractor'. The scope states that: "The following is a very basic and descriptive outline of the proposed scope of works. It is highly recommended that a suitably qualified registered structural engineer is retained to develop the proposed design, review the proposed contractor's methodology, and provide construction review services during the works" (p. 16)*

*The Department is concerned that the design evolution is at a preliminary stage and given the location of the structures on the active beach, the wave loading and scouring that the structure was subject to will only continue, and likely worsen with climate change impacts e.g. increased storm surge and wave damage atop sea level rise . In our view, it would be negligent to grant approval for a dwelling on this property with no comfort that the proposed design will not also result in the same structural failure as the existing.*

### ***Vulnerability of Proposed Development***

*The Department is of the firm view that the site is not an appropriate location for a two/three-storey residential dwelling. The Proposed Development will have no setback from the water under normal conditions, with the potential for occasional sand deposits during high energy wave events from a southwesterly direction. The site is currently occupied by a gazebo, which is a low vulnerability receptor. The redevelopment of this*

*property into a habitable structure introduces high vulnerability receptors into a location with no resilience to the impacts of storms and waves. The property will be damaged regularly, and likely destroyed under moderate hurricane conditions. Furthermore, changing to a habitable space will introduce appliances and air conditioning units (and therefore heavy metals and coolants etc.), as well as general debris, which will enter the Marine Protected Area or be deposited on the adjacent sea turtle nesting habitat if damage is caused during hurricane events. It is clear from the records of previous Central Planning Authority (CPA) meetings that it was considered undesirable to have a habitable structure here. The CPA Minutes from 26 November 2014 (CPA/28/14; Item 2.2), where the previous owner was seeking to increase the building height, state: “The Authority considered the application further and determined that it would adhere to the previous decision as the Authority is concerned that the creation of the second floor may lead to the cabana being used as a dwelling unit and the proposed design no longer resembles that of a typical cabana.”*

*During preparations for a hurricane event, it may be possible to remove items stored in the gazebo and furniture on the decking, however it will not be possible to empty a two/three-storey house of all loose and sensitive items.*

#### ***Impact of Seawalls on the Active Beach***

*A seawall and cabana were approved at this site in 2009. The purpose of the cabana was to provide an amenity space for the existing adjacent residence (Block 5B Parcel 151), which is also owned by the Applicant. These two parcels have historically been linked by remaining in the same ownership. In relation to this earlier application, the CPA agenda for the meeting on April 29, 2009 states, “The Department [of Planning] is of the opinion that most seawalls do not only prove to be ineffective in halting beach erosion, but also are often a source of serious damage to the coastal environment.” These concerns are shared by the Department of Environment and have proven to be true at this site. Following development of the seawall at the site, the beach has experienced major erosion and is absent for sustained periods.*

*Hard structures such as seawalls on a beach, restrict the natural sand deposition processes. On a natural undeveloped beach, waves roll up the beach, depositing sand as they lose energy. However, seawalls interfere with this process. When waves hit a seawall, the energy is directed downwards and sideways. When the energy is directed downwards, the waves scoop out the sand at the foot of the seawall – called scour (see Figure 5). The existing seawall has caused scour at the site, as detailed in the Engineering Report which accompanies the planning application. When the energy is directed sideways, the wave flanking can remove sand from neighbouring properties. Therefore, this seawall could also be negatively affecting the beach on adjoining parcels.*

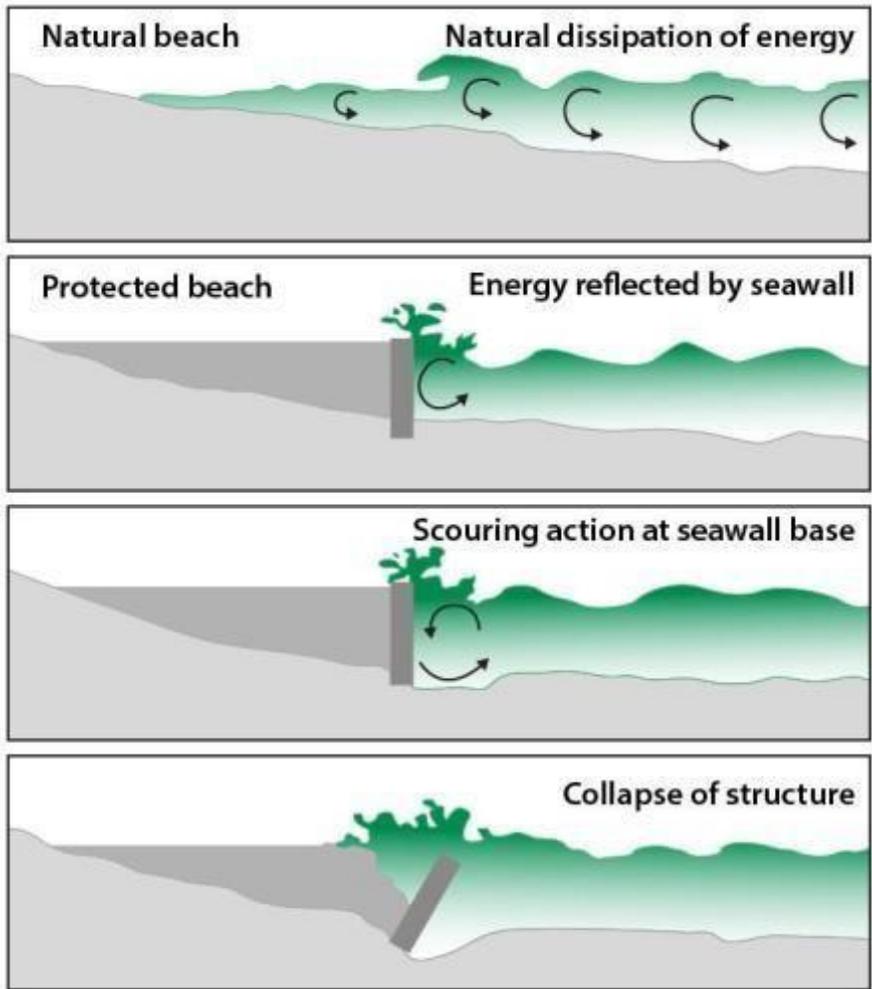


Figure 5. Seawalls cause scour as the energy is reflected by the seawall.

As shown in the photographs included at Appendix D, the beach fluctuates in this location however, post-construction of the wall (in 2010) there is no beach at all in front of the seawall at the site. In the July 2012 photo, the seawall already appears tilted, indicating likelihood of future collapse/failure of the structure.

**Construction Impacts**

Due to the proximity of the structure to the water, the proposed engineering works and construction of the proposed development will have adverse impacts on the Marine Protected Area. The Engineering Report states that pumping and shoring will be required, and there is no location provided for dewatering of sediment-laden water. The site is too small to facilitate this onsite. Any pumping into the Marine Park will result in sedimentation and turbidity impacts. In addition, the rate of pumping is likely to be very high given the depth into the ground water required for the additional foundation, the porosity of the sand and the proximity to the sea.

*While there is currently a beach at the site, there is no way of ensuring the beach will remain during construction. Aerial photographs of the site over a period in excess of 50 years indicates that it is highly probable that the beach, and therefore the setback, will shrink between now and the construction period. It does not seem possible to construct such a large development on such a small site without deleterious impacts on the Marine Park, especially given the negative impacts experienced when the seawall was constructed. The information provided does not satisfy the Department that the proposed development would not result in the discharge of dissolved or suspended minerals or solids at levels that may be harmful to the ecological or aesthetic value of the area.*

*Sedimentation is one of the biggest potential sources of reef degradation by reducing the amount of light available for photosynthesis and by increasing sediment load on corals. Corals are all Schedule 1 Part 1 Protected Species, which are protected at all times, and the site is within the Marine Park, and contains an area of coral reef which has a very high economic value for Cayman's tourism both directly (diving, snorkelling) and indirectly (ecosystem services). Excessive sedimentation can affect the complex food web on the reef by killing not only corals, but also sponges or other organisms which serve as food for important fish species.<sup>1</sup>*

*Our corals are under continuous stress from external sources (e.g. climate change, bleaching events, Stony Coral Tissue Disease) and adding further local stress could be the tipping point passed which our corals cannot survive. Given that so many external stressors on corals are beyond the control of the Cayman Islands Government and statutory bodies (including the Central Planning Authority and the National Conservation Council), it is even more important that local decisions within Cayman's control take a more deliberate consideration of corals and the effect on the marine environment. There is very little information provided by the applicant on proposed construction methodology, and none which indicates that the effects on the Marine Park could be mitigated.*

### ***Post-construction/Operational Impacts***

*The Engineering Report confirms that the existing structure is failing. The relentless force of the sea has destroyed this structure because it has been poorly positioned and poorly designed. Whilst the proposed remediation works may extend the longevity of this ill-placed structure, the forces acting on the structures, e.g. wave loading, will persist and the sea will continue to scour and undermine the property. Based on well-documented climate change predictions for the region, the impacts of sea level rise and increased intensity of hurricane and storm activity will increase the vulnerability of this site.*

### ***Conclusions***

*On the basis of the above information, under Section 41(5)(b) of the National Conservation Law, the National Conservation Council **respectfully directs refusal** of this planning application. The proposed development will result in the detrimental*

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<sup>1</sup> Rogers, C.S. (1990). Responses of coral reefs and reef organisms to sedimentation. Marine Ecology Progress Series. 62(185-202).

*alteration of a Marine Protected Area and the environment generally (including the turtle nesting habitat), for the reasons outlined in this review.*

See Appendix D for time series of photographs of the development site.

### **APPLICANT'S LETTER**

*With respect to our December 3, 2020 submission for a House and Remediation work to seawall on 5B 162. The project is comprised of the following elements require variances in setbacks to allow:*

- 1. Demolition / removal of the house on the subject property*
- 2. Remediation works to the existing structurally compromised seawall*
- 3. Remediation work to existing house foundations*
- 4. New house to replace the existing using existing house footprint with the exception of a new stair proposed to extend to the within 6" of the adjacent property 5B, 161, owned by one of the applicants*
- 5. House to be built 38'-9" from the existing seawall, 10'-6" from the road boundary 5'-8" from the west boundary and 6 ½" from east boundary as illustrated on the submission plans. The adjacent property on the east side is owned by the applicant. The proposed house will replace the existing house on the property.*

*In making the application for such a variance, our client is mindful of provisions of Regulations 8 (13) of the Development and Planning Regulations, and would submit that there is sufficient reason and exceptional circumstances that would permit such setback allowance, in that:*

- (i) The characteristics of the proposed development are consistent with the character of the surrounding area.*
- (ii) The proposed structures will not be materially detrimental to persons residing in the vicinity, to the adjacent properties, or to the neighboring public welfare.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application site is located in West Bay Beach South with Boggy Sand Road forming the northern boundary and the Caribbean Sea sited to the south. An existing property shares the eastern boundary with vacant beach frontage to the west.

The application seeks Planning Permission to construct a three storey dwelling to replace a cabana.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

##### **1) Historic overlay**

The application site is located within the West Bay historic overlay. Regulation 16(2) sets:

*“In considering any application for permission to develop within an Historic Overlay zone, the Authority shall, in its discretion, ensure that the development –*

*(a) conforms to the traditional workmanship, design, scale, massing, form, materials, decoration, colour and methods of construction of the buildings and the location of windows and doors in them; and*

*(b) in its setting, reflects the historic pattern of development in the Islands.”*

Members are invited to reflect upon the design, scale and massing together with the setting of the site to determine whether the proposal is appropriate development.

## **2) High Water Mark Setback**

Regulation 8(2)(b) requires a minimum setback of 75 feet from the high water mark, however, the entire development is fully situated within the High Water Mark 75’ setback.

For completeness, bearing in mind a discrepancy in the location of the High Water Mark line as detailed below, the proposed site plan indicates the deck is 25’ 1” from the high water mark and the proposed house is 30’ 8” from the high water mark.

However, when measured to the authenticated surveyed High Water Mark line the deck measures 22’ 10” and the house 29’.

Members are invited to consider whether the submitted variance letter offers sufficient reason and exceptional circumstance to support the submitted development design.

## **3) Side setbacks**

Regulation 9(8)(j) stipulates a 15’ side setback is required for buildings of one storey or more.

Only 65sq ft of the ground floor area is sited outside of the 15 feet side setbacks the rest of the development would be sited within the side setbacks.

Members are invited to consider whether the submitted variance letter offers sufficient reason and exceptional circumstance to support the submitted development design.

## **4) Front setback**

Regulation 9(8)(i) requires 20’ front setback.

The proposed house is sited 9’ 9” from the front boundary line.

Members are invited to consider whether the submitted variance letter offers sufficient reason and exceptional circumstance to support the submitted development design.

## 5) **Application inaccuracies**

The application contains several inaccuracies.

On the 26<sup>th</sup> February the Department of Environment uploaded extensive comments. The comments include consideration of the application submission and the standard of presentation with inaccuracies.

A revised site plan has been submitted however the following discrepancies are still apparent:

### ***5' sea wall***

The application description on OPS states a 5' sea wall is proposed and a shoreline modification has been paid. However, the submitted plans are completely silent on the location, specification, depth of the sea wall. The agent has been approached to provide further information on this. To date only the following explanation has been provided:

*“The 5' high sea wall makes reference to the existing sea wall that will be remediated.”*

The extent of remediation is not identified.

### ***High Water Mark Survey***

Correct High Water Mark Survey data is now being used on the site plan, however, there is still a discrepancy in transposing the HMW line onto the site plan.

**2.4 LOOKOUT HOLDINGS LTD. (Abernethy & Associates) Block 43A Parcels 54 and 409 Rem2 and Block 37A Parcel 15 (P20-0630) (\$272,257) (BES)**

Application for a 441 lot subdivision with 437 house lots, 1 LPP, and 3 road parcels.

**Appearance at 1:30**

**FACTS**

<i>Location</i>	Harvey Stephenson Drive, Bodden Town
<i>Zoning</i>	<b>A/R</b>
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	6,710,099 sq. ft.
<i>Parcel size required</i>	sq. ft.
<i>Current use</i>	Vacant

**BACKGROUND**

March 31, 2021 (**CPA/07/21; Item 2.1**) – CPA adjourned the application and re-invite the applicant and objector to appear before the Authority to discuss details of the application.

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Regulation 21 – allowing LDR lot sizes in A/R zone
- 2) Location of E/W arterial given outstanding EIA (see DOE/NCC comments)
- 3) Relocation of the LPP in the Central Mangroves Wetland area
- 4) Road design – more cross connectivity
- 5) Provision for schools
- 6) Objector concerns

**AGENCY COMMENTS**

Comments from Department of Environment/NCC, National Roads Authority, Fire Services and Water Authority are included below.

**Department of Environment/NCC**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.*

The application site is partially man-modified with areas of primary habitat (seasonally flooded mangrove forest) as shown in Figure 1. The vegetation in the man-modified areas has regrown somewhat and continues to provide an ecological benefit, such as drainage and habitat for native flora and fauna. The application site is also located immediately south of the Boundary of Central Mangrove Wetlands (see Figure 2). Therefore given the size and location of the subdivision, the Department would like highlight the following concerns.

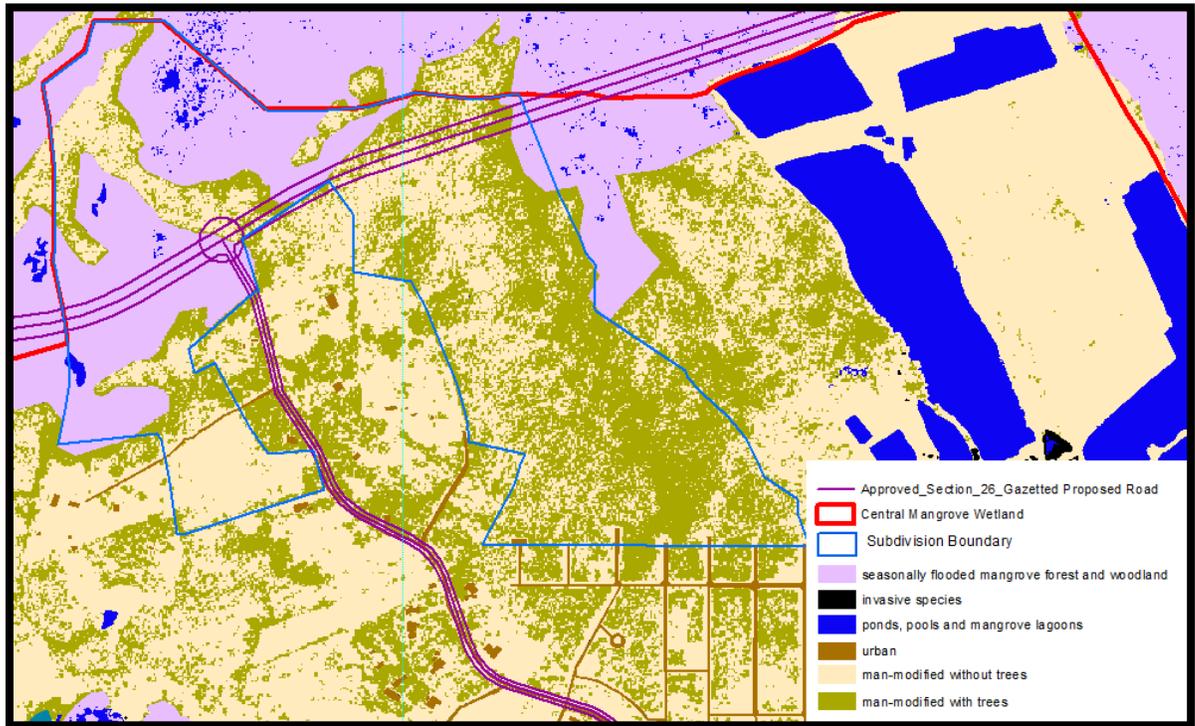


Figure 1: The site (outlined in blue) is mostly man-modified (beige/brown) with some areas of seasonally flooded mangrove forest (pink).

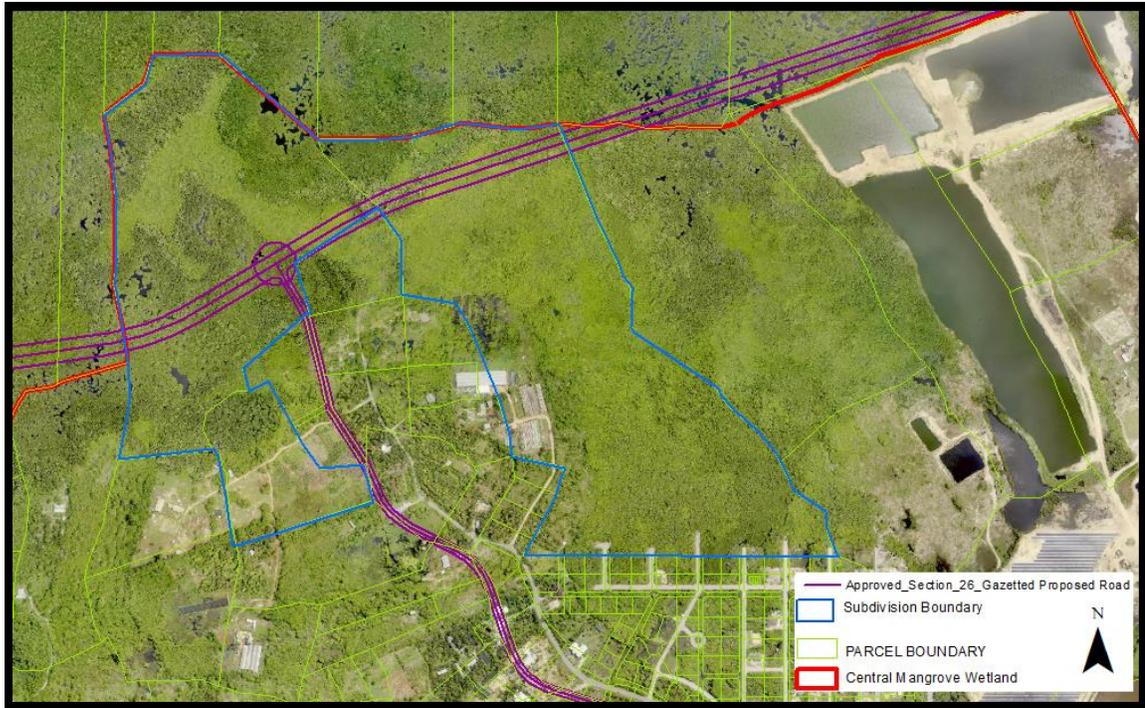


Figure 2: LIS 2018 aerial imagery showing the application site (outlined in blue) and the proposed East-West Arterial road (purple).

### **Scale of Subdivision**

*This subdivision would contain 437 residential lots with one LPP and 3 road lots, and would eventually have an impact on the existing social infrastructure such as schools, clinics, supermarkets and roads (traffic) in the area. The Department is concerned that existing infrastructure will not be able to accommodate a full build-out of the subdivision. The subdivision divides the lands into small residential lots suitable only for single family homes, duplexes or potentially small apartment buildings. There is little provision for a variety of housing and uses. Therefore this should be taken into consideration when reviewing this application. In addition, the Department has concerns in regards to the demand for such a subdivision at this time, as there have been other large scale subdivisions that have been recently granted approval and remain under-developed. There are often adverse effects on the environment now, but yet homes are not constructed for years (sometimes decades).*

*The Development Plan is severely outdated. It does not reflect accurately how the island should be developed moving forward taking into consideration the population size, projected population growth, the environment and climate change. Therefore, without an updated development plan for the islands, there is no vision on how the island should progress in terms of development. This can result in unnecessary fragmentation of pristine habitats and loss of valuable limited resources (such as land and associated ecosystem services). It is recommended that prior to approval of this subdivision, the*

supply and demand of residential lots should be determined. The current Lookout Gardens Subdivision is approximately 40% built out, which raises the question of the need for the proposed subdivision development when more than 50% of the existing subdivision remains undeveloped and within the ownership of the original developer.

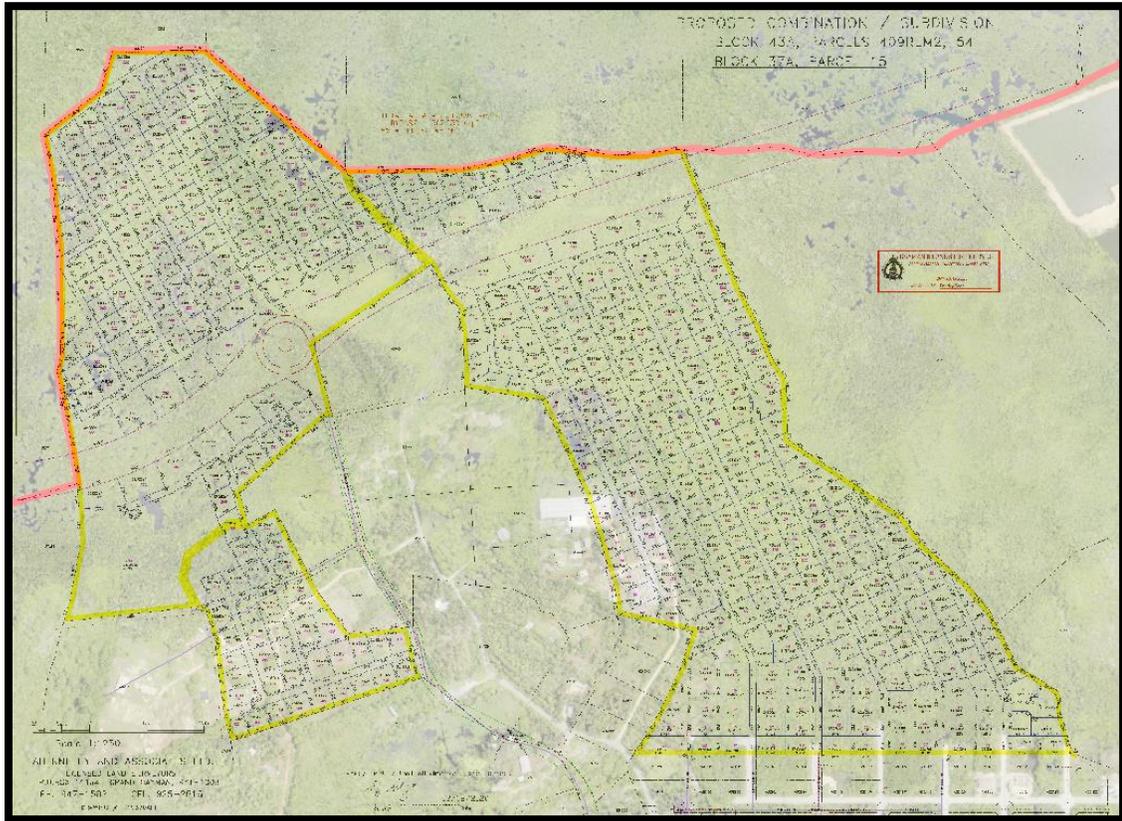


Figure 3: An extract of the Plan over the LIS 2018 aerial image, with the Central Mangrove Wetland boundary (orange red line).

**East-West Arterial Road** It is noted that the subdivision layout incorporates the proposed East–West Arterial road. The East–West Arterial road is currently the subject of an Environmental Impact Assessment (EIA), due to the potential effects on flooding and drainage of nearby communities and the hydrology of the Central Mangrove Wetland. The road has the potential to act as a dam, and deprive the Central Mangrove Wetland of water (affecting its ecology but also the ecosystem services it provides to people) and flood neighbouring communities (such as Lookout Gardens). The EIA will determine the best location to put the road and will determine the design required to maintain a suitable hydrological regime. This may include changing the road layout.

The East–West Arterial from Woodland Drive to Harvey Stephenson Road has been through the EIA screening stage and the EIA scoping stage. The next step in the EIA process is the preparation of the Terms of Reference. However, at the request of the Ministry of Commerce, Planning and Infrastructure (CPI) the scope of the EIA only covers the portion of the road from Woodland Dr to Harvey Stephenson Rd, and not

*further east. Based on a decision reached at the National Conservation Council's Special General Meeting on 26 October 2016, the section east of Lookout Gardens will require an EIA when the Ministry of CPI/the National Roads Authority chooses to pursue that section of the road.*

*The outcome of the EIA could impact the subdivision, and the subdivision may also impact the outcome of the EIA. The applicant may have to redesign parts of the subdivision should the location of the road change. Therefore, in the Department's opinion, it is considered that approving the subdivision application without knowing the outcome of the EIA is premature, and would recommend that the application be held in abeyance until the EIA is finalised. A phased approach could also be undertaken, starting with a phase in the south which is not likely to be directly impacted by the final layout and design of the road.*

### ***Primary Habitat and LPP***

*The application site consists of primary mangrove wetland forest in the north western section and therefore we strongly recommend retention of the primary habitat, especially along the boundary of the Central Mangrove Wetland. We recommend that the LPP is relocated north of the proposed arterial road especially along the northern boundary. Relocating the LPP would keep the area of primary habitat and would create a vegetated buffer adjacent to the Central Mangrove Wetland. The retention of the primary habitat would assist in the maintaining some of the drainage capacity of the site for storm water and surface sheet flow runoff. It could also be used as an amenity area with access by a boardwalk, meaning the preservation of ecosystem services.*

### ***Stormwater Management***

*Given that the site was once part of a mangrove wetland, which has now been modified, the drainage capacity of the site has diminished, therefore a stormwater management plan should be designed for the entire subdivision and not just the individual lots when they are being developed. The stormwater management plan could incorporate retention of remaining mangrove vegetation on site which could be retained to assist with stormwater runoff and storage along with swales etc. The stormwater management plan should ensure that the site-derived runoff can be handled on site without impacting the surrounding parcels especially any nutrient-loaded runoff from entering the central mangrove wetland.*

### ***Conclusion***

*It is strongly recommended that the application be held in abeyance until the outcome of the EIA for the East-West Arterial road. However, should the CPA be minded to grant planning permission, the following points should be considered:*

- *The subdivision should be carried out in phases starting from the southern end and working north. This will allow the development to proceed alongside the EIA process, although if the outcome of the EIA shows that the arterial road would be better suited in a different location, the Applicant would be required to adjust the subdivision layout accordingly.*

- *The LPP Lot should be redesigned in a manner that would incorporate as much primary vegetation as possible. The LPP should be relocated north of the proposed East-West Arterial Road, along the boundary of the Central Mangrove Wetland to assist in mitigating any edge effects from the subdivision once built out.*
- *A stormwater management plan should be designed and implemented for the entire subdivision to ensure that any stormwater and surface flow runoff can be handled within the subdivision and not negatively impacting the surrounding properties.*
- *Clearing and filling of the application site except for road and utility infrastructure should not be allowed until development of the individual lots is imminent to prevent unnecessary loss of habitat and ecological services if the subdivision does not get completely sold/built out.*

### **Fire Services**

*Subdivision reviewed. fire access roads 30' wide with 360 degree access. fire wells and hydrants will be require as per code and AHJ.*

### **National Roads Authority**

*Comments have not been received to date.*

### **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 and approval by the Water Authority.*

**OBJECTIONS**

*The National Trust for the Cayman Islands (NTCI) is writing to register our recommendations for the development of the above-referenced parcel. As an adjacent landowner, the National Trust has concerns regarding the plans and is grateful for the opportunity to register suggestions that we hope will benefit all parties.*

*Parcels 43A 409REM2, 43A54, and 37A15 are in Bodden Town. The proposed East West Arterial Road will cut across the northern part of those parcels. The proposed road runs along the southern boundary of the Central Mangrove Wetland (see attached map). The NTCI strongly suggests that the developer set aside the northern portions of his properties that will be left cut off by the road as undeveloped Land for Public Purpose (LPP) to preserve the mangroves.*

*The Central Mangrove Wetland (CMW) is the largest contiguous mangrove wetland in the Caribbean. Unfortunately, mangroves are one of the Cayman Islands' most undervalued and severely impacted habitats. The CMW is an internationally recognized Important Bird Area (IB A) and a biodiversity hotspot. As well as being a critical ecosystem for wildlife of all kinds, the CMW performs many services for the people of the Cayman Islands. Mangroves are known to provide storm protection, act as a sponge during heavy rainfall events to reduce flooding, keep our ocean clean and clear, recharge the groundwater for nearby farms, maintain rainfall patterns for the western side of Grand Cayman, act as a nursery area for commercially important species of seafood, and sequester large amounts of carbon thereby slowing climate change. This critical ecosystem must be protected.*

*It is clear that the National Roads Authority planned for the new EW Arterial to pass just south of the CMW, avoiding it whenever possible. Therefore the placement of the road seems an obvious marker of where to draw the line between the residential lots planned by the developer on previously disturbed land to the south, and the LPP across the major road to the north that would be left in its natural wetland state.*

*The NTCI therefore asks that the landowner set aside the portion of their property north of the road as their LPP so that it remains undisturbed and continues to perform the services which are so important to the people of the Cayman Islands. This would truly be "land for public purpose" as the entire island benefits from the protection of the CMW. The National Trust's interest in this matter stems from a desire to conserve our unique natural heritage, and we hope these proposed conditions are considered at the highest level by the Development Control Board.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a for a 441 lot subdivision. The site is located on Harvey Stephenson Drive, Bodden Town.

### **Zoning**

The property is zoned Agricultural/Residential.

### **Specific Issues**

#### **1) Minimum Lot Size**

Per Regulation 21 of the Development and Planning Regulations (20 Revision), *Two houses per acre may be built on agricultural/residential land but if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit any development which complies with the requirements for low density residential areas.*

The lot sizes ranges from 10,070-s/f to 34,560-s/f, whereas the minimum lot size is 21,780-s/f in A/R zone. Under Regulation 9(8)(d), the minimum lot size is 10,000-s/f which lot sizes could comply with LDR zones if the Authority addresses the two criteria in Regulation 21.

#### **2) Land for Public Purpose**

Regulation 28 outlines the instances when the Authority may request an area designated for Land for Public Purpose within a subdivision. The Authority may ask for up to 5% of the gross area to be dedicated as LPP (335,504.9-sq ft). The applicant is proposing (309,760) sq ft LPP lot and By-pass Road (507,053-sq ft). It should be pointed that a 4-ft wide landscape buffer is provided along the lots fronting of the By-pass Roads.

DoE has suggested that the LPP Lot should be redesigned in a manner that would incorporate as much primary vegetation as possible. The LPP should be relocated north of the proposed East-West Arterial Road, along the boundary of the Central Mangrove Wetland to assist in mitigating any edge effects from the subdivision once built out.

The Authority is to determine whether to LPP lot should be relocated in the Central Mangrove Wetland area.

#### **3) Road design**

In the easterly portion of the subdivision, there are 3 very long roads, approximately 1750' in length. Regulation 25(b) states that roads without through access should not typically exceed 800' in length. The Authority should determine if an additional east/west connector should be provided midway along these roads.

**4) Provision for schools**

Regulation 30 requires one primary school on 3 acres for every 400 families and one secondary school on 7 acres for every 2000 families.

The application is silent regarding this provision.

Members are invited to consider this requirement.

**SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans as the applicant and objector was re-invited to appear before the Authority to discuss details of the application.

**2.5 KARL LOPEZ (Island Drafting) Block 28B Parcel 121 (P20-0551) (\$660,269) (BES)**

Application for 3-apartments.

**Appearance at 2:00**

**FACTS**

<i>Location</i>	Meadowlark Road, off Spotts Newlands Rd
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	<b>Objectors</b>
<i>Parcel Size Proposed</i>	0.51 ac. (22,215.6 sq. ft.)
<i>Parcel Size Required</i>	25,000 sq. ft.
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	4,259.8 sq ft
<i>Building footprint</i>	2,226.3 sq ft
<i>Building Site Coverage</i>	10%
<i>Allowable Units</i>	7
<i>Proposed Units</i>	3
<i>Allowable bedrooms</i>	12
<i>Proposed bedrooms</i>	6
<i>Required Parking</i>	5
<i>Proposed Parking</i>	12

**BACKGROUND**

April 13, 2021 (CPA/08/21; Item 2.2) – CPA adjourned the application and re-scheduled it to be considered at the next scheduled meeting of the Authority.

February 3, 2021 (CPA/03/21; Item 2.1) – CPA adjourned the application and re-invited the applicant and objectors to appear before the Authority to discuss details regarding the application.

**Recommendation:** Discuss the application, for the following reasons:

- 1) Suitability
- 2) Lot size (22,215.6 sq ft vs. 25,000 sq ft)
- 3) Lot Width (99.25' vs. 100')
- 4) Building design
- 5) Objectors letter

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, and CI Fire Service are noted below.

**Water Authority**

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

*Wastewater Treatment & Disposal*

- *The developer shall provide a septic tank(s) with a capacity of at least (1,250) US gallons for the proposed, based on the following calculations:*

<i>BUILDING</i>	<i>UNITS/BLDG</i>	<i>GPD/UNIT</i>	<i>GPD/BLDG</i>	<i>GPD</i>
<i>Apartment Building</i>	<i>3 x 2-Bed Units</i>		<i>225/2-Bed Unit</i>	<i>675 675</i>
<i>TOTAL</i>	<i>675</i>			

- *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. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’11” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

*For Water Authority approval at BCU stage, a detailed profile drawing of the proposed wastewater treatment system is required. The drawing shall indicate:*

- 1. If the proposed septic tank will be site-built or precast. (You may use the Water Authority drawing for site-built tanks available from the Authorities website or a Precast septic tank drawing if you intend to use a Precast Tank).*
- 2. All dimensions and materials shall be provided for any site-built tanks.*
- 3. Manholes extensions are permitted up to a maximum of 24" below finished grade.*
- 4. Detailed specifications including make and model for (H-20) traffic-rated covers for septic tanks proposed to be located within traffic areas.*
- 5. A detailed profile cross-section of the wastewater system clearly showing the plumbing from building stub out to the effluent disposal well achieving the minimum invert connection specified above. (Alternatively details of proposed lift station shall be required)*
- 6. The Water Authorities updated 2020 effluent disposal well specifications.*
- 7. A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.*

### ***Stormwater Management***

*This development is located over the Lower Valley fresh water lens or within the 500m buffer zone of the lens. In order to protect the fresh water lens, the Water Authority requests that stormwater drainage wells are drilled to a maximum depth of 60ft instead of the standard depth of 100ft as required by the NRA.*

### ***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 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.*

### ***National Roads Authority***

*As per your memo dated September 4<sup>th</sup>, 2020 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

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

The traffic demand to be generated by a residential development of a three (3) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Meadowlark Road is as follows:

<b>Expected Daily Trip</b>	<b>AM Peak Hour Total Traffic</b>	<b>AM Peak 16% In</b>	<b>AM Peak 84% Out</b>	<b>PM Peak Hour Total Traffic</b>	<b>PM Peak 67% In</b>	<b>PM Peak 33% Out</b>
<b>20</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>

Based on these estimates, the impact of the proposed development onto Meadowlark Road is considered to be minimal.

**Access and Traffic Management 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-four (24) ft.

A six (6) foot sidewalk shall be constructed on Meadowlark Road, within the property boundary, to NRA standards.

Tire stops (if used) shall be placed 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 Meadowlark Road. 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.*

### **Department of Environmental Health**

*Please see the department’s comments on the above application:*

1. *The departments has no objection to the proposed in principle.*

### **CI Fire Service**

The CFO has approved the site layout.

### **APPLICANT’S LETTER**

*We have submitted an application on behalf of Karl Lopez which will be located on the above mentioned block and parcel which she is seeking the approval to construct three apartments.*

*Not with standing regulation 8 (13) (b) (iii) that 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;*

*And not withstanding regulation 8 (13) (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.*

*With the registered area of this parcel being 0.51 Acreage which has an area of (22,216.00 Sq. Ft.). Which the proposed parcel/development will fall short of the required 25000.00 Sq. Ft. (L.D.R), by about (2,784.00 Sq. Ft.), with regards to the lot width being less than the required 100'-0" at the front (99'-3") and rear (99'-1") of the property which is serviced by the access off Meadowlark Rd the width of the parcel which show a registered width which will fall short of the current regulation 2020 @ by approximately 0"-1" and 0"-7" respectively, taking into consideration that some of the parcels within the area are approximately the same width.*

*Having mentioned the above, we would like to request a variance which would allow the board of central planning authority the right to grant the requested planning approval for the variance of the lot width and the lot size.*

*Also of note there are already various existing apartments located adjacent to this proposal and within the immediate area.*

*We would appreciate the central planning authority board's favorable decision to this request to allow the proposed apartments to be approved as submitted.*

### **OBJECTION LETTER**

*Letter# 1*

*Please note that we have just received both notices of Karl Lopez late in the mail. We received the notices today, on December 29th, 2020, at 11:00 am.*

*The owner of Block 28B Parcel 69, Evalee Webb, is my mother. I want my objection to be recorded. I Manesa Webb, who lives at 34 Meadowlark Road Spotts Newlands, Block 28B Parcel 69, rejects Karl Lopez's planning permission request of a lot size variance and lot width variance block and parcel 28B/ 121.*

*We strongly do not want our million-dollar home to be sitting in between two sets of developments, which one would be for Mr. Karl Lopez.*

*Letter# 2*

*Please be advised I Evalee Hazel Webb is the owner of a million-dollar home at Block and Parcel 28B/69. My house will be significantly devalued if these Apartments are built.*

*My million-dollar home will be sitting between two sets of apartments. Mr. Karl Lopez will be the owner of set number two.*

*Therefore, I am strongly objecting to Mr. Karl Lopez, owner of Block and Parcel 28B/121 - Lot size variance and Lot width variance - to the building of these Apartments.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for 3-apartments at the above-captioned property. The site is located on Meadowlark Road.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Suitability**

Per Regulation 9(8), apartments are permissible in suitable locations. Based on Cayman Land Info Map, the surrounding area is single-family residential, duplexes (28B 70), apartments (28B 6) and vacant properties.

#### **2) Lot Size**

Per Regulation 9 (8)(f), the minimum lot size is 25,000 sq ft, whereas the proposed lot size is 22,215.6 sq. ft. or a shortfall of 2,784.4 sq ft. The Authority should ascertain whether or not the applicant has demonstrated there is sufficient reason and exceptional circumstance in accordance with Regulation 8(13)(b) of the Development and Planning Regulations (2020 Revision) to warrant granting the lesser lot size variance.

#### **3) Lot Width**

Per Regulation 9(8)(g), the minimum lot width for apartments is 100', whereas the proposed lot width is 99.25'. The Authority should ascertain whether or not the applicant has demonstrated there is sufficient reason and exceptional circumstance in accordance with Regulation 8(13)(b) of the Development and Planning Regulations (2020 Revision) to warrant granting the lesser lot width variance.

#### **4) Building design**

The building design strongly indicates that there will be a phase two for this development. Essentially, the building appears as one half of the eventual building. The Authority should determine if this truncated appearance is acceptable.

## **SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans as the applicant and objectors were invited to discuss the application with the Authority.

**2.6 ANTHONY WELLINGTON (Architectural Designs and Cayman Contemporary)  
Block 14C Parcel 355 (P20-1058) (\$8,000) (JP)**

Application for canopy.

**Appearance at 2:30**

**FACTS**

<i>Location</i>	Sound Way, George Town
<i>Zoning</i>	<b>GC</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.681 ac. (29,664.36 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Commercial/light industrial
<i>Proposed building size</i>	498 sq. ft.
<i>Total building site coverage</i>	90%
<i>Required parking</i>	10
<i>Proposed parking</i>	22

**BACKGROUND**

March 17, 2021 (**CPA/06/21; item 2.22**) – members adjourned determination to invite the applicant to appear before CPA to discuss concerns regarding the structure and location.

October 5, 2020 (**CE20-0146**) – Enforcement file created for after-the fact trellis/garage and addition to existing building

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Rear setback (2' v 6'')

**APPLICANT'S LETTER**

*On behalf of our client, we wish to apply for a variance. This is in regards to the rear setback being 2' from the boundary. The property is in a commercial zone and most of the adjoining properties have similar setbacks. Please note in reference to section 8(13) of the development and planning regulations, due to the characteristics of the unusual shape of the property. There are sufficient reasons to apply for this variance.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located south of Sound Way and is multi-tenant in occupation and use. The existing tyre/repair business has been *in situ* in excess of five years.

After-the-fact structures have been removed and the application now seeks Planning Permission for a proposed canopy.

### **Zoning**

The property is zoned General Commercial.

### **Specific Issues**

#### **1) Rear setback variance (2' v 6')**

Regulation 8(8)(b) requires minimum side and rear setbacks of 6'.

The proposed canopy would be sited 2' from the rear boundary.

Members are invited to consider the variance letter in determining the acceptability of the proposed structure.

## **SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans as the applicant was invited to discuss the application with the Authority.

**2.0 APPLICATIONS**  
**REGULAR AGENDA (Items 2.7 to 2.20)**

**2.7 ISLAND PROPERTIES (Tropical Architectural Group Ltd.) Block 1C Parcels 273, 274, 275 and 276 (P21-0151) (\$8.6 million) (BES)**

Application for 52 apartments with ancillary features.

**FACTS**

<i>Location</i>	Northwest Point Road, West Bay
<i>Zoning</i>	<b>LDR &amp; N.COM</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	3.39 ac. (147,668.8 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Residential
<i>Proposed building size</i>	68,202-sq. ft.
<i>Total building site coverage</i>	19.8%
<i>Allowable units</i>	50
<i>Proposed units</i>	52
<i>Allowable bedrooms</i>	81
<i>Proposed bedrooms</i>	65
<i>Required parking</i>	78
<i>Proposed parking</i>	82

**BACKGROUND**

No previous CPA action

**Recommendation:** Discuss the application, for the following reasons:

- 1) Suitability
- 2) Zoning
- 3) HWM setbacks
- 4) Density (52-units vs 50-units)
- 5) Adjust parking space #60

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Fire Department and Department of Environment (NCC) are noted below.

**Water Authority**

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

**Wastewater Treatment and Disposal**

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

- ***The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer’s guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 8,750 US gallons per day (gpd), based on the following calculations.***

<b>BUILDING</b>	<b>UNITS/B LDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
<i>Building 1</i>	28	150/225	4,350	4,350
<i>Building 2</i>	8	150/225	1,350	1,350
<i>Building 3</i>	8	150/225	1,350	1,350
<i>Building 4</i>	8	150/300	1,500	1,500
<i>Cabana</i>	2 WC	100	200	200
<b>TOTAL</b>				<b>8,750 GPD</b>

- ***Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.***
- ***To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 6’0” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.***

**Elevator Installation:**

*Hydraulic elevators are required to have an approved pump with oil-sensing shut off installed in the sump pit. Specifications shall be sent to the Water Authority at*

*development.control@waterauthority.ky for review and approval.*

*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.*

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

### **National Roads Authority**

No comments received.

### **Department of Environmental Health**

*Please see the department's comments on the above application:*

1. *The department has no objections to the proposed in principal.*
  - a) *This development requires (2) 8 cubic yard containers with twice per week servicing.*
2. *A swimming pool application must be submitted for review and approval prior to constructing the pool.*

### **Fire Department**

*Fire access and, Fire Wells and Hydrants reviewed.*

*\*Fire well and Hydrant, recommended to be placed to the front, unobstructed and accessible.*

*\*Fire access requires a turnaround as per code for fire apparatus. (Travel distance greater than 150')*

*\*ENSURE CLEAR TURNING RADIUS FOR REQUIRED APPLIANCE*

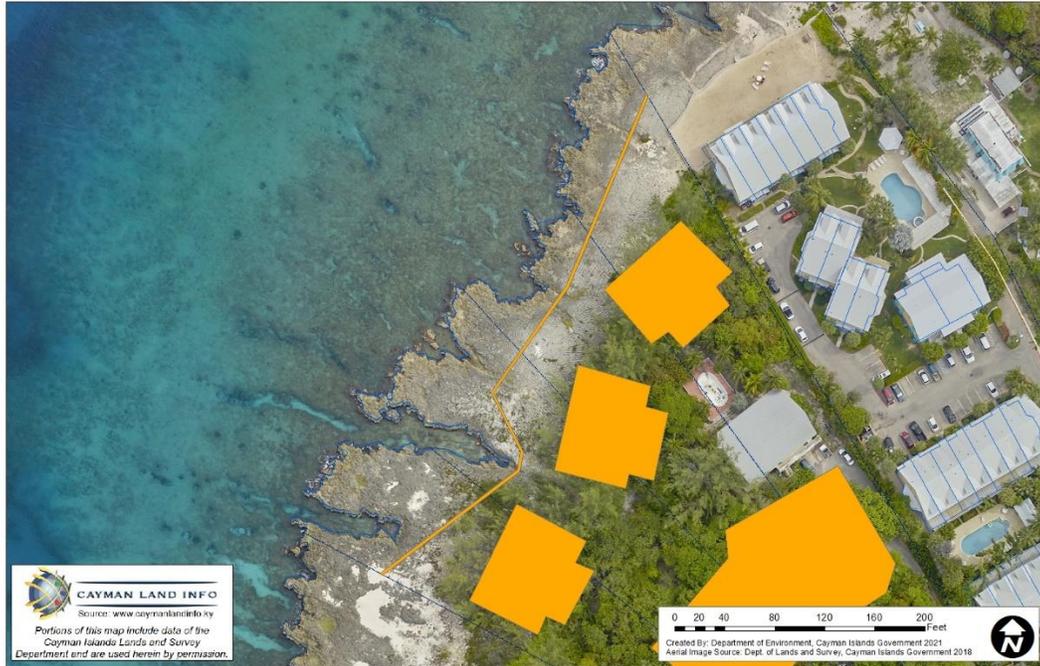
*\* Sos (Siren Operated Sensor) for gate system required, if the development is a gated community*

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) offers the following comments for your consideration.*

*The Department notes that the proposed development does not meet the required coastal setbacks for an ironshore coastline, as set out in 8. (10) (c) of the Development and Planning Regulations (2021 Revision), particularly the proposed seawall which appears to only be set back from the nearest part of the surveyed MHWL line by 7ft 6in, as is shown in Figure 1 below. Similarly some apartment buildings are setback as little as 37ft.*

*Furthermore, we note that there are no design features, such as a wash through ground floor or positioning of the building on elevated pilings, to help mitigate against the effects of sea inundation on the proposed dwellings.*



*Figure1: Aerial imagery showing the proposed seawall and buildings (Source: LIS 2018)*

*The DOE does not support the granting of a variance in the coastal setback, based on the current design of the proposed development in this location. A review of historical aerial imagery shows that the vegetation line in this area has been setback at least 100-150ft from the MHWM over several decades, demonstrating the sea impact to the coastline (see figure2 below).*

*The Department of Environment would therefore recommend this application be refused and the setbacks increased, and/or design techniques be incorporated to make the development more resilient e.g. wash through or elevated structures. It is imperative that minimum coastal setbacks are met, particularly given climate change predictions for the region and the increasing prevalence of coastal erosion associated with inappropriately sited development, either on the active beach or too close to the Mean High Water Mark.*

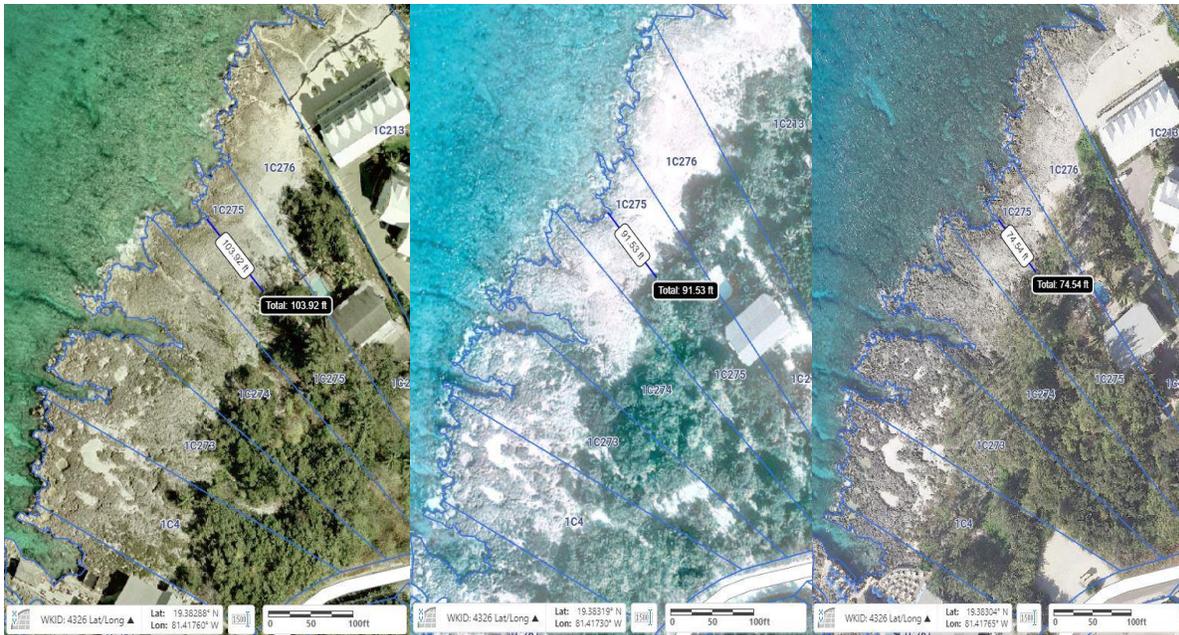


Figure 2: Aerial Imagery showing the vegetation line on the coastline of the proposed development in 1994, 2004 and 2013 (Source LIS 2021.)

## **APPLICANT'S LETTER**

See Appendix E

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for apartments, gym, cabana, trellises, swimming pool, concrete wall, elevator, sign attached on wall, and seawall at the above-captioned property. The site is located next to Coconut Bay apartments and Cracked Conch on Northwest Point Road, West bay.

### **Zoning**

The property is zoned Low Density Residential and Neighbourhood Commercial.

### **Specific Issues**

#### **1) Suitability**

Per Regulation 9(8), in low density areas, detached and semi-detached houses, duplexes and, in suitable locations, guest houses and apartments are permissible. Based on Cayman Land Info Map, the surrounding land uses in the area are commercial (Cayman Motor Museum, Cracked Conch Restaurant and other retail businesses), industrial (Cayman Turtle Farm), apartments, single-family residential, and vacant properties.

## 2) Zoning

In the Neighbourhood Commercial zone, residential development is permissible if the residential development is not on the ground floor of the building. In this instance, the building #4 has apartments on both floors and would not comply with regulation 13(9). Regulation 13(10) does provide for two exceptions for allowing residential development on the ground floor, but neither of those exceptions would apply in this instance.

## 3) Setback from HWM

The proposed setbacks from the high-water-mark are 0'-0" (steps on iron shore), 7'-9" (seawall) and 34'-0" (apartments) respectively, whereas the minimum required setback is 50'-0" per regulation 8(10)(c) of the Development and Planning Regulations (2021 Revision).

## 4) Density Requirements

In Neighbour Commercial Zone, the Authority has discretion in determining the density requirements for apartments. In this instance, the adjoining zone is Low Density Residential and therefore the LDR zone would be pertinent to determine density requirements.

### Neighbourhood Commercial Com Density Requirements:

Lot Size	Allowable Apts	Allowable B.Rooms	Proposed Apts	Proposed B.Rooms
0.72 ac	10	17	<b>17</b>	<b>20</b>

### Low Density Residential Density Requirements:

Lot Size	Allowable Apts	Allowable B. Rooms	Proposed Apts	Proposed B. Rooms
2.67	40	64	<b>35</b>	<b>45</b>

The Authority is to determine whether 2-apartments over the maximum allowable density are appropriate for the site.

## 5) Parking Space

Parking space # 60 needs to be adjusted to include a reverse area in order to properly function.

**2.8 OSMOND ANDERSON (Design (Cayman) Ltd) Block 24B Parcel 64 (P21-0104) (\$1.09M) (JP)**

Application for 5 apartments, swimming pool and boundary wall.

**FACTS**

<i>Location</i>	Trophy Crescent, Spotts
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.3215 ac. (14,004.54 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	6737 sq. ft.
<i>Total building site coverage</i>	17.28%
<i>Allowable units</i>	4
<i>Proposed units</i>	5
<i>Allowable bedrooms</i>	7
<i>Proposed bedrooms</i>	10
<i>Required parking</i>	8
<i>Proposed parking</i>	8

**BACKGROUND**

No Planning history

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Suitability
- 2) Lot size (14,004 sq ft v 25,000 sq ft)
- 3) Unit density (5 v 4)
- 4) Bedroom density (10 vs 7)
- 5) Front setback variance (13' 2" v 20')

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Department of Environment (NCC) and Fire Department are noted below.

## Water Authority

### Wastewater Treatment & Disposal

- *The developer shall provide a **septic tank(s)** with a capacity of at least (2,000) US gallons for the proposed, based on the following calculations:*

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Osmond Apartments	5 x 2-Bed Units	225gpd/2-Bed Unit	1,125gpd	1,125gpd
<b>TOTAL</b>				1,125gpd

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

**For Water Authority approval at BCU stage, a detailed profile drawing of the proposed wastewater treatment system is required. The drawing shall indicate:**

1. *If the proposed septic tank will be site-built or precast. (You may use the Water Authority drawing for site-built tanks available from the Authorities website or a Precast septic tank drawing if you intend to use a Precast Tank).*
2. *All dimensions and materials shall be provided for any site-built tanks.*
3. *Manhole extensions are permitted up to a maximum of 24" below finished grade.*
4. *Detailed specifications including make and model for (H-20) traffic-rated covers for septic tanks proposed to be located within traffic areas.*
5. *A detailed profile cross-section of the wastewater system clearly showing the plumbing from building stub out to the effluent disposal well achieving the minimum invert connection specified above. (Alternatively details of proposed lift station shall be required)*
6. *The Water Authorities updated 2020 effluent disposal well specifications.*

7. A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.

### **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 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.*

### **National Roads Authority**

No comments received.

### **Department of Environmental Health**

1. *DEH has no objections to the proposed in principle.*
2. *This development requires four (4) 33 gallon bins and an enclosure built to the department's requirements.*
3. *The enclosure should be located as closed to the curb as possible without impeding the flow of traffic.*
4. *The enclosure should be provided with a gate to allow removal of the bins without having to lift it over the enclosure.*
5. *A swimming pool application must be submitted for review and approval prior to constructing the pool*

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) offers the following comments for your consideration.*

*The site is man-modified and therefore of low ecological value. We recommend the planting of native species where possible. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a very cost-effective choice.*

## **Fire Department**

Stamped approved drawings uploaded.

### **APPLICANT'S LETTER**

*We would be grateful for your consideration in respect to the following planning variances in accordance with the*

*Development and Planning Regulations Clause 8(13), which relates to our client's proposed Apartment Building.*

*Please note the below variance request.*

#### *1. North (Roadside) Boundary Line Setback Variance for Apartment complex Pool & Deck.*

*We ask for a front (roadside) setback variance to allow our client to fit 5-unit Apartment Building with a community pool and deck within the property. In accordance with the Development and Planning Regulations (2018 Revision) Clause 9(8)(c), the Pool and deck encroaches the 20'-0" setback requirement by 6'-10".*

*The reason for the request is to allow the client to meet the competitive market standards for Apartments.*

*Most of the apartment complexes within the area have amenities such as club houses, pools w/deck, etc.*

*The client is proposing to add a below standard size pool with a deck in effort to meet markets standards and keep within code requirement where possible.*

#### *2. Density Variance - Increased Unit allowance*

*Our client would like to obtain a variance approval for (5) instead of (4.8) units in accordance with the Development and Planning Regulations (2018 Revision) Clause 9(8)(c).*

*The reason for the request is to make the project feasibility as an investment to the client. Based on a (0.2) difference in requirement, we ask you consider this in your review and decision.*

#### *3. Site Size Variance - Reduced Lot size allowance*

*Our client would like to obtain a variance approval for reduced lot area (14,003.00 sq.ft.) instead of (25,000.00 sq.ft.) in accordance with the Development and Planning Regulations (2018 Revision) Clause 9(8)(f).*

*The reason for the request is to make the project feasibility as an investment to the client. Approval for this variance application would allow our client to utilise his restricted land size optimally.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located within an established subdivision of Spotts. The subdivision road forms the northern boundary. Existing development forms the remaining boundaries.

The application seeks Planning Permission for 5 townhouses and a pool.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Suitability**

Regulation 9(8) permits apartments in suitable locations.

The surrounding area is a mixture of houses, duplexes and apartments/townhouses.

Members are invited to consider the area surrounding the site to determine whether apartments would be suitable.

#### **2) Lot size**

Regulation 9(8)(f) requires a minimum lot size of 25,000 sq ft. for apartments. The application site measures 14,004 sq ft. There are two existing apartment developments in the immediate area situated on similar size lots as the current proposal and these were approved many years ago in 1994 and 1997.

Members are encouraged to reflect upon the variance request letter to aid determination of the application.

#### **3) Unit density**

Regulation 9(8)(c) permits a maximum density of 4 units based on the lot size. The application seeks permission for 5.

Members are invited to consider whether sufficient reason and exceptional circumstance have been demonstrated to justify exceeding density limits.

#### **4) Bedroom density**

Regulation 9(8)(c) permits a maximum of 8 bedrooms based on the lot size. The application seeks permission for 10.

Members are invited to consider whether sufficient reason and exceptional circumstance have been demonstrated to justify exceeding bedroom density limits.

#### **5) Front setback**

Regulation 9(8)(i) requires a minimum front setback of 20'. The application proposes a pool and deck which will be sited 13' 2" from the front boundary lot line.

Members should consider the content of the variance letter as part of their deliberations determining whether an adequate justification has been provided.

**2.9 SHARON MITCHELL (Cayman Survey Associates) Block 58A Parcel 37 (P20-0477) (\$2,000) (MW)**

Application for four lot subdivision (family estate).

**FACTS**

<i>Location</i>	Arlington Dr., North Side
<i>Zoning</i>	<b>Agricultural Residential</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	3.84 ac. (167,270.4 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant

**Recommendation:** Discuss the application, **for the following reason:**

- 1) Consider the provisions of Regulation 21

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, and Department of Environment (NCC) 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.*

### **Stormwater Management**

*This development is located over the North Side fresh water lens. In order to protect the fresh water lens, the Water Authority requests that stormwater drainage wells are drilled to a maximum depth of 80ft instead of the standard depth of 100ft as required by the NRA.*

### **Wastewater Treatment:**

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

*If there are questions or concerns regarding the above, please email them to: [development.control@waterauthority.ky](mailto:development.control@waterauthority.ky)*

### **National Roads Authority**

None received at this time.

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.*

*The Department has no objections to the proposed subdivision. However, we note that some primary habitat remains on site. Given the Director of Planning's confirmation that permission to subdivide land confers the right to also clear all land within the application site boundary, we strongly recommend that clearing of vegetation should not occur until development is imminent. In addition, we recommend that any future development on the resulting lots should only clear the building footprint and retain as much native vegetation as possible and incorporate it into the landscaping scheme. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a very cost-effective choice.*

*Please do not hesitate to contact the Department should you require further assistance*

### **APPLICANT'S LETTER**

*We are in the process of submitting for a 4-lot Partition of 58A 37, so that each child can be assigned their 1/4 share of the parcel in their name outright..*

*We understand that Sec. 21A of the Registered Land Law (2018 Revision), was included to allow family estates to be settled, without the normal Planning Conditions, with these only coming in to force when a subsequent Application for development was made.*

*We request that this Application be considered under that Section of the Law, and attach the following:*

- *Sec 21A of the Registered Land Law.*
- *Land Register in the name of Leroy Mitchell Snr.*

- Land Register in the name of Freda Maureen Mitchell.
- The Land Register in the names of the 4 siblings has already been uploaded.

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

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a four lot subdivision (Family Estate) with a lot width variance to be located on Arlington Dr., North Side

**Zoning**

The property is zoned Agricultural Residential.

**Specific Issues**

**1) Regulation 21 (and lot width)**

Regulation 21 states “if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit any development which complies with the requirements for low density residential areas.”

In this instance, the site is situated over a water lens and the site is subject to Agricultural Classes 1 and 2 (the two best). It must also be noted that there are existing residential subdivision in the immediate area that are also zoned A/R and are over the same water lens and with the same agricultural classes.

Should the Authority apply the above noted provision of the A/R zone then it should be noted that Regulation 9(8)(g) states “the minimum lot width in a LDR zone is 80”. The proposed “Lot D” would have a width of 71’, a difference of 9’ respectively. The Authority is also asked to consider the irregular shape of the land causing the proposed Lot D to have the exact same area as the other 3 lots but not width.

**2.10 MIKAEL SEFFER (MKS International) Block 56B Parcel 96 (P21-0008) (\$80,000) (MW)**

Application for a gazebo & pool.

**FACTS**

<i>Location</i>	School House Ln., Bodden Town
<i>Zoning</i>	<b>LDR/Neighbourhood Commercial</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.49 ac. (21,344.4 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Existing Residence, Cottage & Garage

<i>Proposed building size</i>	676 sq. ft.
<i>Total building site coverage</i>	10.4% (N/C) / 23.42% (LDR)

## **BACKGROUND**

November 23, 2011 – Garage - the application was considered and it was resolved to grant planning permission.

January 7, 2015 – House 352 sq. ft. – the application was considered and it was resolved to grant planning permission.

July 2, 2014 – Two Pools – the application was considered and it was resolved to adjourn the application.

February 3, 2015 – Modification to Garage-Decrease floor area – the application was considered and it was resolved to grant planning permission.

February 15, 2016 – Modification to House & Pool- Increase Floor Area- the application was considered and it was resolved to grant planning permission.

June 22, 2016- Addition to House; 950.83 sq. ft. –the application was considered and it was resolved to grant planning permission.

April 13, 2021 (CPA/08/21; Item 5.4) – the Authority determined that a new HWM survey would not be required

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) HWM Setback 25’-1”(Pool) / 24’-11”(Cabana) vs 50’-0”

## **AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) offers the following comments for your consideration.*

*Although this application does not meet the required 50ft coastal setback for a Neighborhood Commercial Zone it is to be sited landward of the existing seawall which has been present on the site for over 20 years. The proposal is also a non-habitable structure, therefore reducing the vulnerability of the structure to the impacts storms. Furthermore, vegetation has grown on the seaward side of the seawall indicating that the shoreline is relatively stable. The Department recommends that the applicant be required to retain the vegetation in-front of the seawall to help stabilize the shoreline and any beach quality sand excavated during the proposed works should be placed on the beach landward of the mean high water mark.*

*Please do not hesitate to contact the Department should you require further assistance.*

**APPLICANT’S LETTER**

*We are seeking Planning approval for a proposed pool and 676 s/f gazebo as per site plan submitted.*

*Due to the fact that there is an existing 7’ high concrete seawall on site and Planning approval was already granted for a similar development in 2015 we would like to request the High Water Mark Survey and required setbacks from HWM and notifications be exempt from the Planning application since the existing seawall and previously approved pool location will not change in relation to the shoreline.*

*We thank you for your kind consideration, and please let us know if you require any additional information.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a 676 sq. ft. Gazebo & Pool with a Rear HWM Setback Variance to be located on School House Ln., Bodden Town.

**Zoning**

The property is split zoned Low Density Residential & Neighbourhood Commercial and the Department would offer the following comments regarding the specific issue noted below.

**Specific Issues**

**1) HWM Setback**

Regulation 8(10)(c) states *“in areas where the shoreline is ironshore (except hotel and tourist related zones), all structures and buildings, including ancillary buildings, walls and structures, shall be setback a minimum of 50’ from the high water mark”*. The existing seawall is currently 22’-2” from the HWM, however the proposed pool would be 25’-1” & the proposed cabana 24-11” from the HWM a difference of 24’-11”(pool) & 25’-1”(cabana) respectively.

**2.11 LUISA O'NEIL (GMJ Home Plans Ltd.) Block 4C Parcel 72 (P21-0017) (\$400,000) (BES)**

Application for 3 apartments and 5’block wall.

**FACTS**

<i>Location</i>	off Cinder LN, West Bay
<i>Zoning</i>	<b>HDR</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.4163 ac. (18,134.03 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.

<i>Current use</i>	Existing foundation of building to be removed
<i>Proposed building size</i>	2,842-sq ft
<i>Building footprint</i>	1,275-sq ft
<i>Total building site coverage</i>	7.03%
<i>Allowable Units</i>	10
<i>Proposed Units</i>	3
<i>Allowable bedrooms</i>	17
<i>Proposed bedrooms</i>	4
<i>Required parking</i>	5
<i>Proposed parking</i>	6

**BACKGROUND**

January 10, 2008 – a dwelling house was granted planning permission.

April 8, 2010, a Building Permit was issued, and expired on April 8, 2011.

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Suitability
- 2) 5’ high Fence height

**AGENCY COMMENTS**

Comments from the Department of Environmental Health, Fire Service, and National Roads Authority comments are noted below.,

**Department of Environmental Health**

*Please see the department's comments on the above application:*

1. *The department have no objections to the proposed in principle.*
2. *This development require six (4) thirty three (33) gallon bins and an enclosure built to the department's requirements.*
  - a. *The enclosure should be located as closed to the curb as possible without impeding the flow of traffic.*
  - b. *The enclosure should be provided with a gate to allow removal of the bins without having to lift it over the enclosure.*

**Water Authority**

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

**Wastewater Treatment & Disposal**

- *The developer shall provide a **septic tank(s)** with a capacity of at least (1,000) US gallons for the proposed, based on the following calculations.*

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Triplex	2 x 1-Bed Units	150gpd/1-Bed Unit	525gpd	525gpd
	1 x 2-Bed Unit	225gpd/2-Bed Unit		
<b>TOTAL</b>				<b>525gpd</b>

- *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. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’6” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

*For Water Authority approval at BCU stage, a detailed profile drawing of the proposed wastewater treatment system is required. The drawing shall indicate:*

- 1. If the proposed septic tank will be site-built or precast. (You may use the Water Authority drawing for site-built tanks available from the Authorities website or a Precast septic tank drawing if you intend to use a Precast Tank).*
- 2. All dimensions and materials shall be provided for any site-built tanks.*
- 3. Manholes extensions are permitted up to a maximum of 24” below finished grade.*
- 4. Detailed specifications including make and model for (H-20) traffic-rated covers for septic tanks proposed to be located within traffic areas.*
- 5. A detailed profile cross-section of the wastewater system clearly showing the plumbing from building stub out to the effluent disposal well achieving the minimum invert connection specified above. (Alternatively details of proposed lift station shall be required)*
- 6. The Water Authorities updated 2020 effluent disposal well specifications.*

7. A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.

### **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.

### **Fire Service**

The CFO approved the site layout

### **Nation Roads Authority**

No comments were received from the agency.

## **APPLICANT'S LETTER**

We write on behalf of our client Ms. Luisa O'Neil, with regards to the following variance:

- fence greater than 4ft in height - The applicants request a variance allowing for a 5ft tall fence at the perimeter of the property.

We request permission for these variations as shown and humbly give the following reasons:

1. Per section 8(13)(d) of the Planning Regulations, the adjacent property owners have been notified;
2. Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare;
3. The application complies with all other relevant planning requirements.
4. The applicant will be residing in one of the proposed units and feels that the fence, at the height proposed, would provide better privacy and security for and tenants.
5. Delineating the property with the proposed fence would also contribute aesthetically to the proposed project thus improving the visual harmony to immediate area.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is seeking planning permission for 3-apartments (2,497-sq ft) and 5'-concrete block fence at the above-captioned property. The site is located off Cinder LN, West Bay. Access to the property is via 22'ft wide vehicular right-of-way over 4C345 in

favour the subject property.

As indicated on the site plan, the existing foundation will be demolished.

**Zoning**

The property is zoned High Density Residential.

**Specific Issues**

**1) Suitability**

Regulation 9(6) states that the Authority may allow apartments in suitable locations. For the Authority’s consideration in this regard there are 10 duplexes on the adjoining property and apartments on a nearby parcel.

**2) Fence Height**

The applicant is seeking planning permission to construct a 5’ high concrete block fence along the property boundaries. Per section 13(3)(e) of the Development and Planning Law, a fence/wall exceeding 4-ft in height requires planning permission.

**2.12 ADAM & CANDICE CZEREMUSZKIN Block 22D Parcel 310 (P20-0998) (\$1,000,000) (AS)**

Application for a duplex, pool & cabana.

**FACTS**

<i>Location</i>	Peaceful Cl
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size Proposed</i>	.29 acres (12,623 sq. ft.)
<i>Parcel Size Required</i>	12,500 sq ft
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Residential
<i>Building size</i>	5,337 sq ft
<i>Building Coverage Allowed</i>	30%
<i>Building Coverage</i>	20%%
<i>Allowable Units</i>	2
<i>Proposed Units</i>	2
<i>Proposed Parking</i>	2
<i>Required Parking</i>	2
<i>Proposed Height</i>	45 ft
<i>Maximum Height</i>	40 ft

**Recommendation:** Discuss the application for the following reason:

- 1) Proposed building height (45' vs 40')

### **AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

#### **Department of Environment (NCC)**

*“The application site is man-modified and is of limited ecological value. It is recommended that best management practices should be followed during construction, including stockpiling construction materials and debris away from the canal edge, to prevent materials getting washed into the canal. It is also recommended that the septic tank is relocated further away from the canal edge, to minimise the risk of any leachate entering the canal system resulting in poor water quality.”*

### **APPLICANT’S LETTER**

*“We would like to request a height variance for the sides of this proposed duplex. The front and rear of the property will be 40’ from finished site grade or less (Rear is 37’-6’’ from site grade). The sides of the property vary to a maximum of 45’. The reason for the lower grades to the sides of the building is to create storage underneath rather than filling the lot up which would be very costly. The clients wanted their homes ground level to be as high as possible in the event of a hurricane. The finished floor level is 11’-0’’ above sea level. From a design perspective we did not want to create steep grades to the boundaries which would occur if we filled the lot up to say 8 or 9 ft. By keeping some of the existing grades and creating steps down it will look better aesthetically and fits in better with the surrounding homes. We note that the adjoining property (22D-311) is 3 stories and I would guess is more than 40’ above grade level so this proposed duplex is in keeping with this area.”*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for a 5,337 sq ft duplex, pool & cabana.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issue**

##### **1) Building height**

Regulation 8(2)(c) states that in a low density residential zone the maximum permitted height of a building is forty feet or three storeys, whichever is the less. The applicant proposes a three storey duplex that has a maximum height of 45 ft. The applicant has provided their reasons for the required building height variance in the letter provided above.

**2.13 JASON SEYMOUR (TSC Architecture) Block 43E Parcel 95 (P21-0128) (700,000) (JP)**

Application for 5 apartments.

**FACTS**

<i>Location</i>	Nashe Street, Bodden Town
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.62 ac. (27,007.2 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	4242 sq. ft.
<i>Total building site coverage</i>	15.7%
<i>Allowable units</i>	9
<i>Proposed units</i>	5
<i>Allowable bedrooms</i>	14
<i>Proposed bedrooms</i>	7
<i>Required parking</i>	8
<i>Proposed parking</i>	8

**BACKGROUND**

No Planning history

**Recommendation:** Discuss the application for the following reason:

- 1) Suitability

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Fire Department and Department of Environment (NCC) are noted below.

**Water Authority**

**Wastewater Treatment & Disposal**

- *The developer shall provide a **septic tank(s)** with a capacity of at least **(1,500) US gallons** for the proposed, based on the following calculations:*

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Townhouse Building	3 x 1-Bed units	150gpd/1-Bed unit	450gpd	450gpd
-	2 x 2-Bed units	225gpd/2-Bed unit	450gpd	450gpd
<b>TOTAL</b>				900gpd

- *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. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’5” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

**Lint Interceptor Required at commercial, institutional & coin-op laundries.**

*An approved lint interceptor is required for commercial, institutional and coin-operated laundries. The developer is required to submit specifications for all laundry (washer) equipment to the Water Authority for determination of the required capacity of interceptor. Specifications can be sent via email to [development.control@waterauthority.ky](mailto:development.control@waterauthority.ky)*

***For Water Authority approval at BCU stage, a detailed profile drawing of the proposed wastewater treatment system is required. The drawing shall indicate:***

1. *If the proposed septic tank will be site-built or precast. (You may use the Water Authority drawing for site-built tanks available from the Authorities website or a Precast septic tank drawing if you intend to use a Precast Tank).*
2. *All dimensions and materials shall be provided for any site-built tanks.*
3. *Manhole extensions are permitted up to a maximum of 24” below finished grade.*
4. *Detailed specifications including make and model for (H-20) traffic-rated covers for septic tanks proposed to be located within traffic areas.*
5. *A detailed profile cross-section of the wastewater system clearly showing the plumbing from building stub out to the effluent disposal well achieving the minimum invert connection specified above. (Alternatively details of proposed lift station shall be required)*
6. *The Water Authorities updated 2020 effluent disposal well specifications.*

7. A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.

### **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 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.*

### **National Roads Authority**

No comments received

### **Department of Environmental Health**

No comments received

### **Fire Department**

Stamped approved drawings uploaded.

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.*

*The application site consists of primary habitat, classified as seasonally flooded mangrove forest and woodland. Therefore, we strongly recommend only clearing and filling the development footprint, retaining the remainder of mangrove vegetation on site to assist with drainage. Not only do mangrove forests play an important role in the drainage functions of the site and wider area by acting as natural sponges that trap and slowly release surface water, but they have diverse ecological functions such as providing habitat to a multitude of flora and fauna, and they are extremely effective at sequestering carbon from the atmosphere and serve as carbon sinks/stores.*



**Figure 1: Cayman Land Info screenshot showing application site location outlined in red in 2018**

*Therefore, if the CPA is minded to grant permission, the following is recommended for inclusion on the planning permission:*

- *Only the development footprint should be cleared and filled and the remainder of the site retained as mangrove habitat.*
- *A stormwater management plan should be designed for the site, incorporating any of the remaining wetland vegetation.*
- *The existing mangrove vegetation outside of the development footprint should be incorporated into the landscaping scheme, along with other native vegetation.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located in the Bodden Town area within an established subdivision. The site is bound to the site by playing fields and vacant land to the west and residential development to the north and east.

The subdivision appears predominantly characterised by houses/duplexes.

The application seeks Planning Permission for the construction of 5 apartments.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Suitability**

Regulation 9(8) permits apartments in suitable locations.

Members are invited to note apartments on the approach road Belford Drive as part of their consideration of the application.

**2.14 CHALLENGER (TAG Ltd) Block 43A Parcel 369 (P21-0214) (\$19,125) (JP)**

Application for after-the-fact shed.

**FACTS**

<i>Location</i>	Dewsbury Avenue, Bodden Town
<i>Zoning</i>	<b>MDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.2446 ac. (10,654.78 sq. ft.)
<i>Parcel size required</i>	7,500 sq. ft.
<i>Current use</i>	Residential
<i>Proposed building size</i>	2536 sq. ft.
<i>Total building site coverage</i>	22.37%

**BACKGROUND**

March 20<sup>th</sup>, 2013 (**P13-0196**) – House approved

May 23<sup>rd</sup>, 2014 (**LPG13-0057**) – installation of an LPG tank

January 16<sup>th</sup>, 2014 (**P14-0022**) – Trellis addition approved

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Rear setback (4' 4" v 20')
- 2) Side setback (5' v 10')

**APPLICANT'S LETTER**

*Further to the application submitted in relation to the above referenced Project, we hereby request for a setback variance to a site plan which requires a minimum of 20 ft rear setback per Planning Regulation 9 (8)(i).*

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

*A. 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:*

*a. The project is an after-the-fact Shed which was built to store Gardening and house tools. The location of the after-the-fact shed was relatively hidden at the rear end of the property. Only the adjacent properties located at 43A407 & 43A408 would have a direct view of the shed. This adjacent property also has signed a written statement that they have no objection to the existing shed.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located within an established residential subdivision in Bodden Town. Bound to the east and west and partial north by vacant land with a residential property sharing the remainder. Dewsbury Avenue which serves the site runs to the south.

The application seeks retrospective Planning Permission for the retention of a shed.

### **Zoning**

The property is zoned Medium Density Residential.

### **Specific Issues**

#### **1) Rear setback**

Regulation 9(7)(i) requires a 20' setback from the rear boundary to all structures. A shed has been constructed which is located 4' 4" from the rear boundary.

Members are invited to consider the content of the variance letter.

#### **2) Side setback**

Regulation 9(7)(j) requires a 10' setback from the side boundary to all structures. A shed has been constructed which is located 5' from the side boundary.

Members are invited to consider the content of the variance letter.

**2.15 DAVID FAWCITT (CS Design) Block 20D Parcel 437 H2 (P21-0186) (\$7000) (JP)**

Application for addition to an apartment.

**FACTS**

<i>Location</i>	Old Crewe Road, George Town
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.0336 ac. (1463.62 sq. ft.)
<i>Current use</i>	Residential
<i>Proposed building size</i>	2407 sq. ft.
<i>Total building site coverage</i>	65%

**BACKGROUND**

No relevant Planning history

**Recommendation:** Discuss the application, **for the following reason:**

- 1) Side setback variance (13' 9" v 15')

**APPLICANT'S LETTER**

*On behalf of our client, David Fawcitt, we are requesting the following variances for the Proposed Balcony attached to an existing apartment unit on the above-mentioned property.*

*- 132 sq.ft. increase in site coverage*

*- Encroachment of the 15-foot left and right setbacks by approximately 14'-0" and 8'-0" respectively.*

*- Encroachment of the 20-foot rear setback by approximately 5'-4"*

*As per Development and Planning Regulations 2021, Sections 8 (13)(B) (i) & (iii), we would like to note that similar encroachments are predominant with the surrounding stratas / areas; And, the size and the quality of the proposed structure 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 also note that the adjoining and affected property owners have been notified of the application via registered mail.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application site is located within an established complex served off Old Crewe Road. The northern boundary is shared with a vacant strip of land beyond which a church is located.

The application seeks Planning Permission for the installation of a covered balcony.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Side setback variance (13' 9" v 15')**

Regulation 9(8)(j) requires a side 15' setback for structures which are more than one storey. The proposed addition is two storeys in height and will be sited 13' 9" from the side boundary of Lakeland Villas.

Members are invited to consider the content of the variance letter.

**2.16 SARAH CUFF (Oasis Pool and Spa) Block 11C Parcel 196 (P21-0154) (\$35000) (JP)**

Application for pool.

**FACTS**

<i>Location</i>	Magellan Quay, West Bay Beach North
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.3446 ac. (15,010.78 sq. ft.)
<i>Current use</i>	Residential

**BACKGROUND**

23<sup>rd</sup> May 1996 (P96-101057) House – approved

31<sup>st</sup> March 2008 (P08-0342) Addition - approved

**Recommendation:** Discuss the application, **for the following reason:**

- 1) Rear setback (17' 4" v 20')

**APPLICANT'S LETTER**

*We write to request a variance for the construction of a swimming pool at the above-mentioned block and parcel. The pre-existing house placement and shape of the parcel create a hardship that limit the options for pool placement on the lot*

*The proposed pool location allows for a typical and functional pool at the rear of the property. The new proposed location would have a 11'-8" setback from the cback boundary varied from the 20' required set back. Only a small corner portion of the pool would be located in the set back.*

*The characteristics of the proposed development are consistent with the character of the surrounding area.*

*The proposed new swimming pool will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or the public welfare.*

*The adjacent property owners have been notified of the application and there have been no objections received.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located within the established subdivision of Governors Harbour with the access road Magellan Quay forming the southern boundary. New development bounds the site to the west and north with a vacant lot located to the east.

The application seeks Planning Permission for a swimming pool.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Rear setback**

Regulation 9(8)(i) requires a 20' rear setback. The pool would be sited 17' 4" from the rear boundary.

Members are invited to review the variance letter as part of the determination process.

**2.17 GRAEME & KRISTEN THOMSON (GMJ HomePlans Ltd.) Block 27C Parcel 277 (P20-1169) (\$20,000) (BES)**

Application for a pool cabana with outdoor kitchen

**FACTS**

<i>Location</i>	Arnold Ave., Savannah
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No Objectors
<i>Parcel Size</i>	0.2296 ac. (10,001 sq. ft.)
<i>Current Use</i>	House
<i>Building Size proposed</i>	290 sq. ft.
<i>Building Site Coverage</i>	20.8%

**BACKGROUND**

*May 12, 2005, an addition to dwelling house was granted planning permission administratively.*

**Recommendation:** Discuss the application, **for the following reason:**

- 1) canal setback (10'-6" vs 20'-0")

**AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

**Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.*

*The application site is man-modified and is of limited ecological value. Best management practices should be followed during construction, including stockpiling construction materials and debris away from the canal edge, to prevent any materials getting washed into the canal.*

**APPLICANT'S LETTER**

*We write on behalf of our clients, Mr. Graeme B Mrs. Kristen Thomson with regards to the following variance:*

- *A rear setback variance - to allow the structure to remain as proposed with a reduce setback of 10'G which is less than the required 20 ft in LDR zone.*

*We request permission for the proposed development per the drawings provided and humbly the following reasons:*

- 1. Per section 8(13)(d) of the Planning Regulations, the owners of the adjacent properties were notified by register mail;*
- 2. Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, the neighborhood, or to the public welfare;*
- 3. The structure would share the same setback as the existing pool deck.*
- 4. The application complies with all other relevant planning r*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is for a pool cabana with outdoor kitchen at the above-caption property. The site is located on Arnold Ave., Savannah.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Canal setback**

The proposed cabana is setback 10'-6" from the canal, whereas the minimum required setback is 20'-0" per regulation 8(10)(ea) of the Development and Planning Regulations (2020 Revision).

The adjoining parcels were notified, and no objections were received. The Authority should ascertain whether or not there is sufficient reason and exceptional circumstance in accordance with Regulation 8(13)(b) of the Development and Planning Regulations (2020 Revision) to warrant granting a setback variance.

**2.18 OASIS LAND DEVELOPMENT LIMITED (DDL Studio Ltd.) Block 57A Parcel 137 (P21-0196) (\$58,500) (BES)**

Application for a pool.

**FACTS**

<i>Location</i>	Old Robin Rd., North Side
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No Objectors
<i>Parcel Size Proposed</i>	0.2870 ac. (12,501.72 sq. ft.)
<i>Current Use</i>	House
<i>Proposed Use</i>	pool

**BACKGROUND**

Oct. 31, 2018 (CPA/24/18; Item 2.16) – CPA granted planning permission for a duplex.

**Recommendation:** Discuss the application, **for the following reasons:**

- 1) Side setback (2’ vs. 10’)
- 2) Rear setback (2’ 8” - pool deck and 5’ 9” - pool vs 20’)

**AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

**Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) confirms we have no comments.*

**APPLICANT’S LETTER**

*We write on behalf of our client, Oasis land development, regarding the following variances for adding a 25ft by 11ft swimming pool and deck to an existing duplex unit on Block/Parcel 57A-137. We would like to apply for the following variances as part of the planning application:*

- *A side setback variance – The addition is presented with a 5’-9” setback for the pool, which is less than the 10’0”, as shown in the current planning regulations.*
- *A side setback variance – The addition is presented with a 2’-8” setback for the deck, which is less than the 10’0”, as shown in the current planning regulations.*

- *A rear setback variance – The addition is proposed with a 10'-8" setback for the pool, which is less than the 20'0", as shown in the current planning regulations.*
- *A rear setback variance – The addition is proposed with a 2'-0" setback for the deck, which is less than the 20'0", as shown in the current planning regulations.*

*We humbly seek planning permission for the proposed development, as shown on the drawings provided, for the following reason.*

*Due to the position and irregular shape of the existing building, substantial setback restrictions and relationship to the adjacent lots, there is minimal open space on the parcel when adding a proposed swimming pool and deck, without encroaching on any of the standard setbacks required by the current planning regulations. As a result, of this, the only suitable area is the Northwest corner of the parcel.*

*We have attempted to limit the encroachment into the setback to a minimum, by keeping the deck surface to just 2 feet above the grade level, hence reducing the impact to adjacent properties to a minimum.*

*The owners of the adjacent properties have been notified, and the proposed change in the setback will not be materially detrimental to persons residing or working in the vicinity of the property and the neighborhood; nor to the public welfare, in accordance with Section 8 (13) (b) (iii) in the planning law. We trust this explanation satisfies any concerns that the board members may have.*

*We have ensured that the project is complying with all other requirements for Low-Density Residential developments.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is for a pool at the above-caption property. The site is located on Old Robin Rd., North Side

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Side setback**

The proposed side setbacks are 2'-0" (pool deck), whereas the minimum required rear setback is 10'-0" per regulation 9(8)(j).

#### **2) Rea setbacks**

The proposed rear setbacks are 2'-8" (pool deck) and 5'-9" (pool), whereas the minimum required rear setback is 20'-0" per regulation 9(8)(i).

**2.19 STEVE HUGHES (LSG Designs) Block 23C Parcel 17 (P21-0147) (\$200,000) (JP)**

Application for change of use from carwash facility to plant nursery, home and garden, pet shop and aquatic centre.

**FACTS**

<i>Location</i>	Shamrock Road, Prospect
<i>Zoning</i>	NC
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	1.19 ac. (51,836.4 sq. ft.)
<i>Current use</i>	Vacant premises
<i>Proposed building size</i>	8742.7 sq. ft.
<i>Total building site coverage</i>	16.64%
<i>Required parking</i>	30
<i>Proposed parking</i>	30

**BACKGROUND**

Extensive history pursuant to car wash use. Nothing of direct relevance to current proposal.

**Recommendation:** Grant planning permission.

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Fire Department and Department of Environment (NCC) are noted below.

**Water Authority**

**Wastewater Treatment & Disposal**

*The design capacity of the existing wastewater system can accommodate the additional wastewater flows from the proposed change-of-use application, given that the system has been inspected by a licensed septic hauler and deemed satisfactory.*

*The existing development is served by a septic tank with a design capacity of 2,250 gallons. The findings of a septic tank and disposal well inspection found that the septic tanks invert connection to the effluent disposal well was measured at 2” above mean sea level (MSL). To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’5” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water*

level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater. **As the required invert level has not been met the developer shall install an effluent pump as referenced in correspondence i031521-044556 Architecture\_SteveHughes\_Change of Use.Rev.pdf A-02.**

- The proposed development requires a **septic tank(s)** with a capacity of at least **(2,250) US gallons** for the proposed, based on the following calculations:

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Retail Building	3,356sqft	0.15gpd/sqft	503gpd	503gpd
Dog Grooming Area	136sqft	1.0gpd/sqft	136gpd	136gpd
Live Stock Pet Sale Area	204sqft	1.0gpd/sqft	204gpd	204gpd
Outdoor Retail Area	2,320sqft	0.15gpd/sqft	348gpd	348gpd
Fish & Aquarium	320sqft	1.0gpd/sqft	320gpd	320gpd
<b>TOTAL</b>				<b>1,511gpd</b>

- 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. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.
- **Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards.** Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.
- **To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’5” above MSL.** The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

**Hair Interceptor Required for Dog Grooming Area**

**An approved hair interceptor is required for drains within Dog grooming/kennel facilities.** The developer is required to submit specifications to the Water Authority for review and approval. Specifications can be sent via email to [development.control@waterauthority.ky](mailto:development.control@waterauthority.ky)

**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 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.*

### **National Roads Authority**

No comments received.

### **Department of Environmental Health**

1. *DEH has no objections to the proposed in principle. However, based on the building classification, an additional restroom is required in Buildings 1 and 2.*

### **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment confirms that we have no comments.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located between Hurley Merren Boulevard and Shamrock Road being bound on three sides by the local road network. Neighbouring land to the west is heavily vegetated with low rise buildings.

The application seeks to repurpose the existing carwash facility as a garden, plant, pet and aquatic centre. The proposal includes a fence, generator and signs.

### **Zoning**

The property is zoned Neighbourhood Commercial.

**2.20 ALBERT VOADEN (Cayman Survey Associates Ltd) Block 4C Parcel 565 (P21-0179) (BES)**

Application for 4 lot land strata subdivision.

**FACTS**

<i>Location</i>	Pleasant Drive, West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.2896 ac (12,614.9 sq ft)
<i>Current use</i>	Apartments

**BACKGROUND**

July 9, 2014 (CPA/16/14; item 2.2) – CPA granted planning permission for addition to dwelling house to create 3-apartments

**Recommendation:** Grant planning permission.

**AGENCY COMMENTS**

Comments from the Water Authority, Department of Environment (NCC) 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:**

*Please be advised that the proposed development site is located within the Cayman Water Company’s (CWC) 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.*

**Wastewater Treatment:**

- *Please be advised that the development is outside the Water Authority’s West Bay Beach Sewage System (WBBSS) collection area; therefore, the required onsite treatment of wastewater will be specified by the Water Authority when the proposal for built development is reviewed.*

## **Department of Environment (NCC)**

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment confirms that we have no comments at this time.*

## **National Roads Authority**

No comments from the agency

## **APPLICANT'S LETTER**

*Please find attached our Application to create a single Land Strata Lot as a double-Parking Space.*

*As you are aware the Strata Titles Law requires that any Strata Development must be comprised of a minimum of 4 Lots. We are proposing to create 3 Building Units, with the 4th Land Unit (as a Parking Area), which will be paired with Proposed Unit 1.*

*This parcel is already defined by a Fixed Boundary Survey, and we have also carried out a Topographical Survey for the purpose of this Application.*

*As this parcel is zoned "Low Density Residential", Variances are requested for the Land Strata Parcel for both Dimensions & Area. We make specific reference to Regulation 8(13)(b), and believe that this will not be in any way detrimental to the neighbourhood.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a four (4) strata lots subdivision located on Pleasant Drive, West Bay.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Lot Sizes**

The resultant acreage of the parcels after the subdivision would be unit "#1" = 920 sq ft; units 2 & 3 = 953 sq ft and unit# 4 = 920 sq ft.. In LDR zone, the minimum lot size for apartments is 25,000 sq ft per regulation 9(8)(f) of the Development and Planning Regulations (2021 Revision).

#### **2) Lot Widths**

Per regulation 9(8)(g), the minimum lot width for apartments is 100', whereas the proposal lot widths are 22.7', 28', 32' respectively

The Authority is to determine whether to grant lot size and lot width variances regarding the above application.

**3.0 DEVELOPMENT PLAN MATTERS**

**4.0 PLANNING APPEAL MATTERS**

**5.0 MATTERS FROM THE DIRECTOR OF PLANNING**

**6.0 CPA MEMBERS INFORMATION/DISCUSSIONS**

## Appendix 'A'



126 Maclendon Dr.  
P.O. Box 12422, KY1-1010,  
Cayman Islands

Director of Planning  
Central Planning Authority  
P.O. Box 113  
Grand Cayman KY1-9000

1<sup>st</sup> December 2020

Dear Sir,

Proposed Refuel Station on West Bay Beach South 12C517

Refuel is an independent Caymanian owned and operated company<sup>1</sup>, focused on fighting climate change and preserving the Cayman Islands environment by lowering harmful motor vehicle emissions and bringing lower cost alternative fuel solutions to the consumer.

Refuel has helped Cayman fuel vehicles over 650,000 times, lower CO<sub>2</sub> emissions from fossil fuels by over 10,000,000lbs and save Cayman over \$1,300,000. No other fueling location is able to speak to such emission and price reducing accomplishments.

We are requesting permission to expand our station to a second location for two primary reasons;

Firstly, Hon. Minister Hew, of the Ministry of Commerce, Planning and Infrastructure, recently stated that "Implementing the National Energy Policy is a **strategic priority of the government**"<sup>2</sup>

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<sup>1</sup> Refuel is the only fuel import, wholesale, and vehicular fuel retail company that does not require a Limited Company Control License (LCCL) to operate. Refuel is 100% Caymanian owned and operated.

<sup>2</sup> Further support for the NEP is shown through the Legislative Assembly, who voted **unanimously** to approve the National Energy Policy and Cabinet who approved the NEP on 21<sup>st</sup> February 2017. Additionally, Hon. Kurt Tibbets, said "As a community we must be sensitive to the consequences of unfettered increases in greenhouse gases on the planet and recognize that, as a responsible member of the global community, the **Cayman Islands must do its part**, however small, to mitigate impacts on climate change". Hon. Alden McLaughlin stated that he was proud to introduce the policy that has the vision of "Enhancing and embracing a sustainable lifestyle through responsible and innovative energy supply and consumption" and that it is his "**hope that everyone will embrace this new policy** and participate in the strategy to keep it alive", National Energy Policy 2017-2037, Cayman Islands

Cayman's National Energy Policy recognizes the benefits of E10 and B5 and under clause 3.3.4 "Fuel Sector Strategy" and promotes the introduction of E10 and B5 into Cayman's fuel market whenever it is economically advantageous to do so, and Refuel is proud to currently be the **only** brand bringing this vision of the National Energy Policy to life, and bringing these emission reducing fuels to the Cayman Islands. It is our vision to make these fuels common place in the Cayman Islands and thus this expansion supports and aligns with the National Energy Policy, the Ministry, and Government objectives.

Additionally, we would use this new site to introduce a new product to Cayman; E85. This flex fuel would be the highest octane, highest renewable content fuel on Island and would be exclusively available at the pump from Refuel.

The Australian Medical Association said "In our opinion, there is incontrovertible evidence that the addition of ethanol to petrol and biodiesel to diesel will reduce the deaths and ill-health associated with the emissions produced by burning those fuels."

Secondly, there is tremendous pressure from both the public and private sector to lower fuel prices. The Public Accounts Committee, OfReg, many MLAs<sup>3</sup>, and other notable government agencies regularly speak about the need to lower fuel prices for the consumer. A goal on which Refuel is aligned, but that simply cannot be accomplished without the increases in volume and scope that a second location will provide.

Refuel is experiencing overwhelming demand, with growth of over 30% since our last application on this site in Spring 2019, at which time congestion was already an issue. Refuel is proud to have done more to reduce fuel costs in the Cayman Islands than any other station in the past 40 years, (we were the first station in recent memory to provide fuel for less than KYD\$3 a gallon), but we simply cannot lower costs further without being able to spread our fixed costs over more units. If we are to make an even more significant impact on fuel prices in Cayman, we must be allowed to expand, and increase our scope and scale economies. We must, as a small Caymanian company, be allowed to compete with the foreign regional importers at scale or we will forever be competing uphill on an uneven playing field.

It is clear that not only do we serve and cater to the needs of our immediate community, but also to the community of Grand Cayman at large, but we are limited in our ability to make renewable content fuels common place and in our ability to lower fuel costs by our capacity to supply.

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<sup>3</sup> "Premier Alden McLaughlin was pressed by opposition members over the pump prices"... "Veteran MLA Anthony Eden (SAV) was outraged that it was taking so long to find out why Cayman was paying so much at the pumps" <https://caymannewsservice.com/2020/06/ripped-off-gas-prices/>;  
"But I would argue that the biggest driver of the high cost of living is the cost of fuel" [said Hon. Ezzard Miller], <https://caymannewsservice.com/2020/07/suppliers-blame-cost-living-pump-prices/>

Not to allow us to expand, compete, and gain market share from our foreign competitors, hands them an unassailable regulatory barrier to entry and competitive advantage; and I fear for the future of Caymanian entrepreneurship, and the consumer, when incumbent companies are made inexorable solely by non-market regulatory forces.

If we are truly to accomplish the goals of our vision, which appear to be aligned with the goals of the Cayman Islands Government, then we need permission to expand and compete at scale.

Taking in the verbal suggestions of the CPA from our last application on this site, we have moved the application from WBR to the Easterly Tibbets Highway, we have designed the whole site to resemble a Caymanian cottage and we have beautified the forecourt by designing a gingerbread A-framed canopy unlike any other station on Island.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a horizontal line extending to the right.

Dow Travers

Our Ref: DOR / 1820

January 06<sup>th</sup> 2021

Central Planning Authority,  
c/o Mr. Haroon Pandohie  
DIRECTOR OF PLANNING  
PO Box 113  
The Department of Planning  
Grand Cayman KY1-9000  
CAYMAN ISLANDS

Dear Sir or Madam,

**RE: Application for New Fuel Service Station, dispensers and canopy, Retail and Commercial building and associated siteworks – Block 12C Parcel 517 – West Bay Road, Grand Cayman**

Please find attached our client's application for the above-named Development that is comprised of a multi-tenant Retail & Commercial Building and a fuel station.

The previous application at this location has now been revised to take into consideration the rezoning of the parcel to Hotel Tourism in the intervening period and some of the comments and feedback we got during and after the Central Planning Authority meeting for that particular application.

We have:

- a. Moved the development area so that is now on the eastern portion of the site – accessed from the Esterley Tibbetts Highway
- b. Included opportunity for retail and commercial tenancies not associated with the Gas Station
- c. Have incorporated in the building design some of the verbal comments offered at the CPA meeting referencing the traditional Caymanian Roof form on both the main building and the Canopy.
- d. Entry and exit now contained to the proposed connector road.

The site is now zoned Hotel Tourism. Section 10.(2) of the Development and Planning Regulations allows for development unrelated to Hotel Tourism provided it meets the setback requirements applicable to the Hotel / Tourism zone – as well as all other requirements applicable to its own category of development – in this case Commercial. As such the application falls should be considered under the Development and Planning Regulations S.13(1)(a) which allows for proposed uses (ii) Retail and (iv) Petrol Stations. The setbacks to buildings are compliant with both the requirements of the Commercial zone and the Hotel / Tourism zone

**Servicing the needs of the community** – we believe that the need of the community is being served with the construction of this new facility. Since the opening of a single gas station along the West Bay Road approximately 20 or more years ago there has been significant growth in the population, both residential and tourist related, in the vicinity of the particular parcel on West Bay Road where this development is proposed to be built. There is a need in the surrounding community for an additional station, in particular one which promotes fuels which are environmentally friendly and in keeping with the National Energy Policy of the Cayman Islands.

Refuel's Corporate Fleet Management Program is used next to exclusively by over 90 Companies in Cayman. This is because of Refuel's secure automated billing portal and process that allows all fleets to view and download a history of all transactions. All of these companies operate in and around the Seven Mile Beach area, and all of

these companies currently have to return to the Industrial park to receive fuel and benefit from the paperless system our program provides. These companies all operate in the community of Seven Mile Beach and would be well serviced by another Refuel station in that location.

Facebook Data shows us that Refuel's followers identify predominantly as living in GT and West Bay with West Bay being the second largest demographic to George Town. Using Refuel's in house data, we can estimate that over 2000 vehicles a month are making the commute from their Community of West Bay to our GT location to purchase fuel. These customers would greatly appreciate a station in their community.

Refuel cross referenced the 500 foot notification list of those in the immediate community of the proposed location with credit card transactions and found that we already provide a service for several residents in the immediate vicinity which shows we already cater to and provide a service for those in the community of the proposed location, and they would benefit from not having to drive all the way to the Industrial park.

#### **Population Growth:**

- In 2000 the population of Cayman was 39,020, George Town was 20,626, and West Bay was 8,243.
- At the end of 2019 (the most recent data) the population was 69,914, George Town was 36,547 and West bay was 14,183
- Therefore, the population in GT and WB combined has increased by 21,861 people or 43% since the last gas station was built north of Pagent Beach. Population increased by 15,921 people in GT and 5940 people in WB. There is a clear increase in population that need to be serviced.
- In 2015, GT population was 31,303, WB population was 11,911.
- At the end of 2019 GT population was 36,547, and WB population was 14,183 - in those 4 years alone there was a 17% and 19% population increase respectively in those two areas.
- Households GT & WB combined have increased by over 1825 households since just 2015

Clearly there is a much increased population that is now underserved – in particular not afforded the ability to choose a gas station which promotes fuels which are environmentally friendly and in keeping with the National Energy Policy of the Cayman Islands.

**Air arrivals** - from 2000-2019 Air Arrivals have increased by over 148,000 visitors a year. From 354,000 in 2000 to 502,000 in 2019. The majority of these visitors stay in Seven Mile Beach and in-season 1000s of vehicles are rented a week to service their needs. These vehicles need fuel in the community they are used predominantly.

**Vehicle count growth** - the Cayman Compass posted in 2019 that there were 4457 vehicles imported to Cayman in 2018, up from 2298 in 2009. Over 4000 vehicles a year are thus being imported to Cayman. These vehicles need fuel and according to the Cayman Compass this number "far surpassing the number of derelict vehicles that were processed at the George Town landfill over the same period of time"

**Current station demand** – Refuel GT location has had over 100,000 vehicle visits for fuel over the last 4 months alone.

**National Energy Policy** – Refuel are the only provider of the fuels supported by the National energy policy. The National Energy Policy has already determined that products offered by Refuel are required in the marketplace – and their use is to be supported and promoted by the National Energy Policy's Fuel Sector Strategy

**Similar applications approved in vicinity** - a similar application for fuel station was approved by the Authority in May 2016 (CPA/12/16; Item 2.2) on Block 11D Parcel 106 (previously Parcel 16). That site is located approximately ¼ mile north of current subject site (Parcel 517) with frontage on Esterley Tibbetts Highway and is

zoned Neighbourhood Commercial. The Authority decided in favour of that application for the following reasons: • The proposed use is consistent with the objectives of Section 3.02 (b) of The Development Plan 1997. Further to Section 3.02 of the Plan, the Authority is satisfied that the design and construction of the proposed development reflects the local architectural heritage and a landscape plan will be required as a condition of approval which also must reflect the local architectural heritage.

**Regarding this application**, we include several renderings of the proposed development to highlight to the board how the aesthetic is informed from traditional Caymanian forms, materials and palette indeed reflecting the local architectural heritage.

**Low Impact** - this is a low impact development, much less intense than the zoning permits and as such will have less of an impact on neighbouring properties.

**Support** - there is significant support for a station in this area

The image shows a screenshot of social media comments, likely from Facebook, arranged in two columns. Each comment includes a profile picture, the user's name, the text of the comment, and interaction options like 'Like', 'Reply', and 'Message'. The comments are overwhelmingly positive, praising the project and suggesting locations. Some comments include emojis and specific details about the project or local area.

**Shirley Roulstone** Awesome! Congratulations! Thank you for considering your consumers! We love your great prices and good gas! Don't think we don't notice! Like · Reply · Message · 3w 2

**Rony Red** This gas burns great in my Honda ' Like · Reply · Message · 3w 1

**Shena Ebanks** Yeaah love this gas. Glad it's coming WB Like · Reply · Message · 3w 1

**Dayne Brady** Congrats Like · Reply · Message · 3w 1

**Rosie Alexander** 🍌🍌 sweet! Why only one diesel pump? Like · Reply · Message · 3w 1

**Refuel Rosie Alexander** Hello Rosie, all of our pumps will be similarly capable of dispensing multiple products like our current station. Like · Reply · Commented on by Dow Travers [?] · 3w · Edited 1

**Sophie Prior** Huge congrats guys! This is mega Like · Reply · Message · 3w 1

**Denham Clarke** go east Like · Reply · Message · 2w 1

**Alex A. Bodden** Bring one to the eastern district!!!! Like sav or Bodden town or better yet. A gas station between frank sound and east end is the best location. Like · Reply · Message · 3w 2

**Keino Daley** We need the third in the brac please Like · Reply · Message · 3w 2

**Michael Lee** East side around the country side area. This is all that goes in my tank. Like · Reply · Message · 3w 2

**James Whittaker** Happy for you guys. I know they've fought you guys all the way. 🙌 now let's get some solar up on those canopies. Like · Reply · Message · 3w · Edited 3

**Lanie McLaughlin** Thank you I make the drive from east end just to come to you each wek Like · Reply · Message · 3w 2

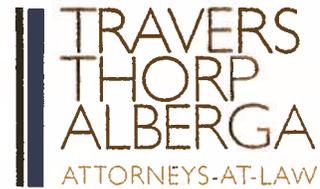
**Robert Smith** Congratulations Folks! Anything sustainable to reduce the cost of fuel and benefit the environment is a great step forward. Like · Reply · Message · 3w 2

Yours faithfully,

**Daniel O'Regan**

**CG Associates Ltd.**

**Our ref:** MLA/dp  
**Direct tel:** +1 345 949 0699 ext 221  
**Email:** malberga@traversthorpalberga.com



22 March 2021

Director of Planning  
Central Planning Authority  
PO Box 113  
Grand Cayman KY1-9000

Dear Sir

**Re. Planning Application for a New Refuel Gas Station on Block 12C Parcel 517, West Bay Beach South**

We write to you on behalf of HH Limited, the legal owner of Parcels 12C 517 and the adjacent parcel, 12C 518 comprising some 36 acres, and in connection with the letters of objection of Mr Jonathan Paul Drake dated 16<sup>th</sup> March 2021 and 18<sup>th</sup> March 2012 (together the "Drake Objection Letters"). HH Limited is currently undertaking development works on Parcel 518 in accordance with the planning permission granted and will shortly file further proposals for a major residential development within current hotel/tourism density involving a maximum of some 130 units, the construction cost of which may amount to US\$75M. We write to confirm the unqualified support of HH Limited in respect of this planning application for the Refuel station and to say that we find the Drake Objection Letters wholly misconceived and inappropriate. Specifically –

1. Refuel is not simply an additional gas station and should not be described as such. It is the only gas station in the Cayman Islands complying with the Cayman Islands Government Renewable Fuel Policy and is distinct from the stations serviced by Sol and Rubis in that it provides environmentally friendly fuel. Specifically from inception Refuel has reduced CO2 emissions in the Cayman Islands by over 11,700,000 pounds and continues to do so at a rate of 400,000 pounds of CO2 a month. Refuel also provides its fuel at a significant economic discount to all other gas stations in the Cayman Islands and this location will extend these much needed economic benefits to the residents of West Bay. No doubt these weekly cost savings involved may be unimportant to wealthy expatriates but they are of significance to Caymanian families.
2. Refuel is the only importer and distributor of fuel in the Cayman Islands which is wholly Caymanian owned.
3. The Drake Objection letters are in error in that the proposed gas station is not situated on the West Bay Road rather the Easterly Tibbetts Highway.
4. Nor is it for Mr Drake to argue with the legal zoning. The gas station is within the lawful zoning of Parcel 517 and no variance is sought. Whenever Mr Drake bought his residence, he bought it subject to the zoning and is estopped from complaining of lawful development within that zoning.

Tel: +1 345 949 0699  
Fax: +1 345 949 8171  
[www.traversthorpalberga.com](http://www.traversthorpalberga.com)

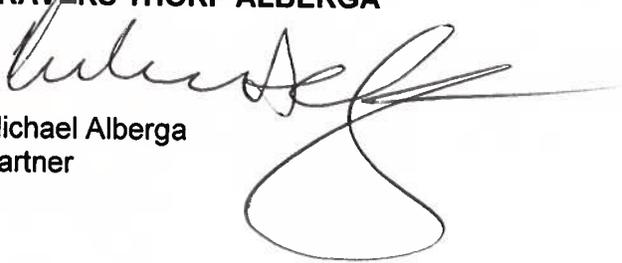
Harbour Place, P.O. Box 472  
103 South Church Street  
Grand Cayman KY1-1106  
Cayman Islands

5. Mr Drake's suggestions with regard to fumes are fantasy. There is no evidence of any such nuisance from the existing Refuel station which, unlike any other gas station in the Cayman Islands, uses state of the art dispensing technology.
6. HH Limited is also fully in support of the gas station because as the owner and developer of the above mentioned parcels comprising 30 acres it will enhance the adjacent property values and provide a much needed environmentally friendly fuel resource for prospective adjacent owners.
7. The design of the gas station is particularly attractive and uniquely in Caymanian style.

Yours sincerely

**TRAVERS THORP ALBERGA**

Michael Alberga  
Partner





126 Maclendon Dr.  
P.O. Box 12422, KY1-1010,  
Cayman Islands

Director of Planning,  
Central Planning Authority  
P.O. Box 113  
Grand Cayman KY1-9000

25<sup>th</sup> March 2021

Dear Sir,

**Refuel: Planning Application Block 12C Parcel 517 West Bay Beach South (“the Application”)**

You will be aware that Refuel is the only Caymanian owned importer and distributor of gasoline and diesel fuel in the Cayman Islands.

You will also be aware that Refuel is the only gas station supplying such fuel in the Cayman Islands that complies with the Cayman Islands Government’s National Energy Policy; our fuel being distinct from the product sold at all other stations on Island in that it provides emission reducing E10, B5 and B20. Specifically from inception, Refuel has reduced CO<sub>2</sub> emissions from fossil fuels in the Cayman Islands by over 12,000,000 pounds and continues to do so at a rate close to 400,000 pounds a month.

You should know that the statistical comparative evidence that Refuel has in its possession, and that OfReg has made public, will show that it provides such fuel over any given average period at a price significantly less per gallon than that of the National Average overwhelmingly operated by Sol and Rubis. We have the documented evidence that shows that occasionally one Sol or Rubis station will reduce its price unsustainably to attempt to compete with Refuel, but the average cost per gallon across all competitor outlets remains significantly higher than Refuel on any given day and often by as much as half a dollar a gallon.

We wish to draw your attention to a comment by Mr Duke Monroe of OfReg to the Planning Department as part of their Planning Review, for this application:

“(xv) Under OfReg’s broader remit, the offices preliminary economic and regulatory assessment indicates that the increase in the number of gas stations continues to place (upward) pressure on fuel prices. Subject to finalization of the comprehensive fuel market assessment, Grand Cayman may be overserved by gas stations. The assessment takes into account a number of additional gas stations which has been approved and are pending construction unless there were change of approval status for those previous applications.”

We find this statement :-

1. Misleading.
2. Further it deliberately conflates the supply by Refuel of emission reducing lower priced Refuel product with the product provided by Sol and Rubis and fails to make the basic economic distinction.
3. The supposition that competition places upward pressure on prices, flies in the face of recognized economic theory, Public Account Committee recommendations<sup>1</sup> and the National Energy Policy.

The attraction of the emission reducing and economically competitive product is evidenced by the existing Refuel station operating at full capacity. That is unanswerable. The ability of Refuel to further reduce fuel prices in the Cayman Islands, is limited unless it can increase scale. It proposes to do so by providing emission reducing and less expensive fuel to the residents of West Bay and the Seven Mile Beach Corridor from the operation of the gas station the subject of the Application. It appears from Mr Munroe's comment that OfReg is intent on reducing competition and our ability to reduce fuel costs further which is precisely the opposite intention of its statutory remit.

OfReg and its consultants appear to have confused genuine open market economic competition with anti-competitive strategic entry/preemption games. The intention of these entry/preemption games in this scenario is to enable the established incumbent duopoly, Sol and Rubis, to saturate the market deliberately to prevent new entrants, here Refuel, from competing or gaining market share. That monopolistic saturation will indeed lead to upward price pressure through the establishment of barriers to entry and protected returns. Entry/preemption games of this sort and monopolistic expansion are not competition, they are strategic interactions designed precisely to prevent competition. Once the new entrant is precluded from gaining market share through whatever barrier is established, (in this case regulatory barriers) the monopoly will then be free to price gasoline as it sees fit. These propositions are well settled in strategic theory by the likes of Michael Porter and Bruce Greenwald. OfReg must answer on the subject of the clear pricing advantage provided by Refuel to the public of the Cayman Islands which it seeks not merely to now ignore<sup>2</sup> but to prevent.

We find the above statement made to the CPA by OfReg to be misconceived, and require it to be withdrawn forthwith and in any event to be ignored by the CPA.

Barriers to Entry must be torn down, not built up if competition is to flourish.

Yours faithfully,



Dow Travers

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<sup>1</sup> Report of Standing Public Accounts Committee on the Report of the Office of the Auditor General on the Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg) – June 2020. Section 9.13

<sup>2</sup> Speaking on Refuel's pricing advantage; "Mr. Munroe said Refuel's lower prices are causing "unease" among its competitors", <https://www.caymancompass.com/2018/12/05/gas-prices-fall-but-not-as-much-as-in-u-s/>

## Appendix 'B'

**LAURA (B.W.I.) LIMITED**  
PO BOX 448, GEORGE TOWN  
GRAND CAYMAN KY1-1106, CAYMAN ISLANDS

---

Director of Planning  
Central Planning Authority  
PO Box 113  
Grand Cayman KY1-9000

March 16, 2021

Dear Sir,

**Planning objection for new gas station on block and parcel 12C517 West Bay Beach South**

Please accept this letter as our written objection to the proposed developments of a new multi-tenant retail & commercial building, including a fuel station, generator, 1000lb underground LPG tank, 12 signs and associated works (the "Proposal") on Block/Parcel 12C517 West Bay Beach South (the "Property").

We wish to object to this proposal on the following grounds:

- There are numerous gas stations already situated on the West Bay Road and there is no need for an additional one.
- The West Bay Road is Grand Cayman's premier tourist and residential area. Commercial activities such as gas stations should be encouraged to situate themselves away from tourist areas.
- Prevailing winds could send fumes from the fuels located at the Property to the nearby beach, hotels and condos which would adversely affected users of those areas of Seven Mile Beach.
- The proposed location of this gas station could adversely affect the market values of the nearby properties, which were developed to attract and retain high net worth investors, and in so doing generating considerable revenues for the Cayman Government through stamp duty.
- The proposed location of the gas station would undoubtable detract from the rental appeal of nearby properties to tourists, which currently attract high net worth tourists whose spending contributes to the Cayman economy and sustain the employment of Caymanians within the tourism industry.
- A similar application was previously submitted and rejected by the Planning Board on the same grounds in 2019.

We trust the above provides ample grounds to support our objection; but please contact us should you wish to discuss further. We greatly appreciate you taking the time to consider our objection to this Proposal.

Yours faithfully,

  
J. Paul Drake  
*Authorised Signatory*

Direct: +345 815 8525  
Email: pauldrake@genesis.ky

**Jonathan Paul Drake**  
**PO Box 448, George Town**  
**Grand Cayman KY1-1106, Cayman Islands**  
+345 815 8525 pauldrake@genesis.ky

Director of Planning  
Central Planning Authority  
PO Box 113  
Grand Cayman KY1-9000

March 18, 2021

Dear Sir,

**Planning objection for new gas station on block and parcel 12C517 West Bay Beach South**

As a home owner in the Seven Mile Beach corridor, and I am writing to object to the proposed developments of a new multi-tenant retail & commercial building, which includes a gas station (the "Proposal") on Block/Parcel 12C517 West Bay Beach South (the "Property").

We wish to object to this proposal on the following grounds:

- There are numerous gas stations already situated on the West Bay Road and there is no need for an additional one.
- The West Bay Road is Grand Cayman's premier tourist and residential area. Commercial activities such as gas stations should be located away from this tourist zone.
- The proposed location of this gas station could adversely affect the market values of the nearby properties, which were developed to attract and retain high net worth investors, and in so doing generating considerable revenues for the Cayman Government through stamp duty.

It should also be noted that a similar application was previously submitted and was rejected by the Planning Board and the community more widely.

I trust that the Planning Board will once again reject this ill-conceived Proposal.

Yours faithfully,



**BY EMAIL: PLANNING.DEPT@GOV.KY**

Director of Planning  
P O Box 113  
Grand Cayman, KY1-1900  
Cayman Islands

Our ref: 1728-0001  
Your ref: P21-0021

March 23, 2021

Dear Sir,

**Objection to proposed development on Block 12C Parcel 517**

We act for Flourish Investments Ltd. and Lorny Becker ("Our Clients") who are the Proprietors of Block 12C Parcel 3. We have been instructed by Our Clients to object to the development proposed by Advanced Land Holdings on Block 12C 517 (the "Property").

Our Clients object to the development for the following reasons:

- a) The property and surrounding parcels are zoned Hotel/Tourism. Retail outlets and gas stations are permitted in General Commercial zones and not Hotel/Tourism zones.
- b) There are already three gas stations along West Bay Road and there is no evidence that a gas station is required in this neighbourhood.
- c) While regulation 10(2) provides the CPA with the authority in certain cases to permit unrelated development within a Hotel/Tourism zone, no evidence has been provided by the applicant to justify the need for a gas station in a Hotel/Tourism Zone. There is no evidence that the gas station will be primarily related to the needs of the tourism industry.
- d) The proposed development seeks to store 48,000 gallons of fuel on the side of the site facing the Ritz Carlton. It is imprudent to store hazardous materials in close proximity to such a large hotel. Residents of the hotel may be impacted by the smell and fumes from the fuel. There is also a risk of extensive damage to the hotel in the event of an accidental fire.

Our Clients respectfully request that the application not be approved, as it is not in the appropriate zone and the development is not primarily related to the needs of the tourism industry.

Kind regards,



Dentons

## Appendix 'C'

# P O I N T ° W E S T

CPA/03/21; Item 2.4

NWPR Group Ltd.

P.O. Box 1569

Grand Cayman, KY1-1110

CAYMAN ISLANDS

Govt. Admin. Bldg. Box 113

133 Elgin Ave.

Grand Cayman, KY1-9000

CAYMAN ISLANDS

3<sup>rd</sup> March 2, 2021

Dear Sir/Madam

**SUBJECT: APPLICATION FOR 30 APARTMENTS (4 STOREYS) WITH CAFÉ, 2 HOUSES AND ANCILLARY FEATURES ON BLOCK 2C PARCEL 66 & 67 (P20-1021) (MW)**

Following the meeting of the Central Planning Authority (CPA) held on February 3<sup>rd</sup> 2021, the subsequent adjournment and letter received from the CPA dated February 12<sup>th</sup> 2021 the applicants response to the numbered points are as follows:

1. The comments from the Fire Department regarding the proposed fire access lane were submitted by Declan O'Brien on 4<sup>th</sup> February 2021, shown as approved via the OPS System on February 4<sup>th</sup> 2021, and further attached within the Appendix C to this letter.
2. A revised plan has now been submitted that complies with the requirements of the Department of Environmental Health regarding the location of the garbage dumpster. See attached within the Appendix A.
3. A revised site plan has been submitted showing the entry/exit driveway turning radii extending to the property boundary. This revised site plan also shows the driveways leading to the two houses with a minimum width of 12', attached within the Appendix A.
4. Revised elevations and cross sections are attached within the Appendix A. We'd like to draw your attention to two scenarios; a) Building storey/height with the current rooftop services (as presented in the Appendix A) and b) building storey/height without certain rooftop services:

- a. **Building storey/height with current rooftop services:** We understand that certain rooftop services (BBQ, Elevator lobby, and bathroom) that would require a storey/height variance from the existing Planning Regulations. We have consulted with the Planning department and understand that the Planning Regulations are in the process of being changed so that all of the rooftop services in the Appendix A would be exempted from the calculation of building storey/height. The pending Planning Regulations have been through the consultation phase and are waiting to be read into law. The proposed services are practical in nature (i.e. a bathroom for the users of the pool) and do not create an inhabitable space. We respectfully request that the CPA allow the rooftop services to remain in place. **If the CPA does not agree to the variance request, we ask that the project be approved subject to the condition that the non-exempted rooftop services be removed.**
- b. **Building storey/height without current rooftop services:** We draw your attention to a number of developments with a similar profile to the applicants. The most recent decision being to grant planning consent at Dolphin Point Development Ltd. Block 2C Parcel 131 (F19-0253) (P19-0474), located approximately 475 ft to the east of the applicant's land where the CPA noted ***"Portions of the building exceed the maximum height of 55' per Regulation 8(2)(f) of the Development and Planning Regulations (2018 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 height as follows:***
- a) ***The height is exceeded along certain portions of the building elevations due to the grading and slope of the site; 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."***

It should be noted that if measured from the finished site grade the approved Dolphin Point Development Ltd. Condominium building will measure **89'2"**. If measured at the lowest point of the site, the Applicant's condominium building closest to the sea will measure approximately **60'**.

As part of the planning submission for Dolphin Point Development, Kariba compiled an extensive review of existing projects (similar to Dolphin Point Development and now Point West) as examples where the roof was higher in certain places than the maximum allowable of surrounding grade. We have paraphrased portions of the cover later below and attached the full report in the Appendix B for convenience.

"This is evident in many projects with basement parking where the height to roof slab at the entrance / exit to the basement is higher than the maximum allowed simply to gain access to the parking. Some examples of this are; the Caribbean Club, Fin, Meridien, Water Colors, Shore Club and Tides.

There are also several examples of where the height to the roof slab above grade exceeds

the allowable maximum in areas like the swimming pool, waterfront and beach areas and in some cases all around the building.

This is evident to a significant degree at the Shore Club on South Sound and also at the Kimpton hotel on Seven Mile Beach, also at the recently complete Tides project, Fin on South Church Street, and similarly to a lesser extent at Rum Point Club and The Water Colors.

There are also examples of where a deck or planter area has been extended out from the edge of the face of a building by 5' or more to create a new grade level enabling the building to comply with the maximum height. Fin and Tides are clear examples of where this has been accepted."

The proposed ground floor slab of the main building within the Applicants' development is 55' from the roof slab throughout the entirety of the building. At the road, (the north/east façade) the grade and parking area is 55' from the roof slab of the building. The site is sloping to the south/west and at the sea facing elevation (south/west façade) the car parking is on grade and this is approximately 60' from the roof slab.

It is therefore interpreted that the applicants meet the requirements as set out under the Land Use Guidelines. The site naturally slopes to the water from the road and whilst and it is felt that leveling the parking lot would offer neither additional aesthetical nor functional benefit.

5. In response to the request to demonstrate to the Authority that the proposed setbacks and design of the two houses have taken into account the potential impact from wave action please note on the amended site plan, attached within the Appendix A, that the northern home has been moved further from the high-water mark and inert feature (the 'fissure'), despite the statement from APEC Structural Engineers that deems this unnecessary as set out below.

To further demonstrate the proposed setbacks and design of the two houses have taken into account the potential impact from wave action and in response to the Department of Environments comments and diagrams relating to the western/northern homes' situation close to an ironshore fissure the Applicants note the following response from Pearse Murphy, APEC Structural Engineers;

*"We dealt with the fracture within our geotechnical report. We conferred with the Dr Brian Jones, Emeritus Professor of Geology at the University of Alberta. Brian is the preeminent expert on the geology of the Cayman Islands. He is well known to the DoE. This commentary on fractures arises from our discussions with Brian.*

## Fractures

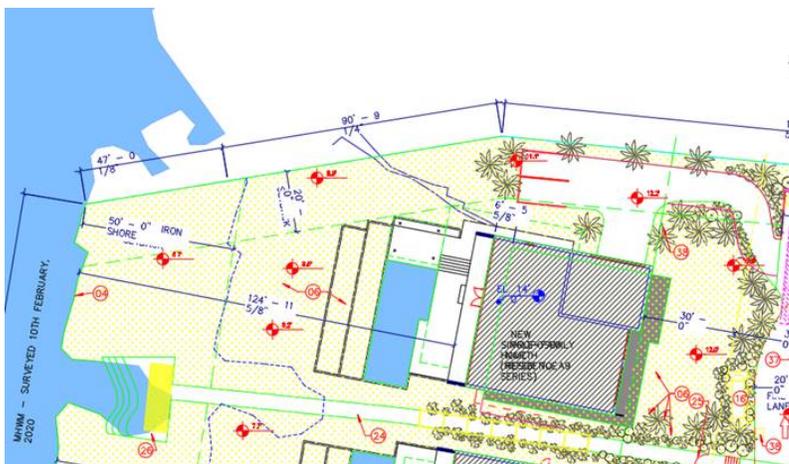
Fractures are common features in hard, well-lithified limestones, especially in areas that are tectonically active. In the context of the Cayman Islands, fractures are very common in the hard, well-lithified limestones and dolostones of the Cayman Formation and Pedro Castle Formation. Fractures are generally rare in the Ironshore Formation because the limestones in that formation are not as well lithified as those in the Cayman Formation and Pedro Castle Formation. Some fractures are evident in the Ironshore Formation that outcrop along the west coast of Grand Cayman. In those areas, surface weathering and alteration have case-hardened the limestones (hence the name Ironshore) and the rock can therefore retain any fractures that are produced. APEC discussed the presence of the fractures on the site with Dr Brian Jones, author of *The Geology of the Cayman Islands* as well as numerous scientific papers on Cayman's geology. The fractures present on the subject site can be considered as geologically inert.

*"The fissure currently extends under the north wall of the north house only.....see site plan snippet and isometric markups below. [HOME HAS SINCE MOVED FURTHER FROM THIS FISSURE AS NOTED ABOVE]"*

*We could design a grade beam to bridge over the fissure but this seems ridiculous. Easier and better structurally to fill the fissure with concrete directly below the strip footing as we have done in line with our recommendations. The fissure is very narrow where it falls below the house (see photo below). Frankly, just filling a section of the fissure under the house is not an unreasonable solution. Perhaps the DoE staff don't appreciate the how insignificant the overlap is with the building footprint?"*

*...We can design whatever is decided upon. "*

**"To confirm, as both the geotechnical and structural engineer of record for this project, we are not concerned by the proximity of the fracture to the proposed building."**





The applicant respectfully notes that the minimal size of the fissure is such that it is not noted on the current, or indeed any past site survey plan as being part of the sea nor an extension of the high-water mark.

The applicants have relocated the northern home further away from the fissure in response to the CPA suggestion. The fissure is now not discernable to the eye where it meets the foundation of this home. Furthermore, the Applicants would be happy to consult with the National Conservation Council to ensure that they are satisfied with the methods of construction in proximity to the fissure.

Under the Land Use Guidelines, the minimum high-water mark setback for ironshore (which is applicable to the subject site) is **50'**. The Applicants note that the setback for the northernmost home on the site plan is **126'** and the southernmost home is **122'**, which is more than double the required setback.

The Applicants have employed Apec Structural Engineers to design the homes with the potential impact from wave action taken into account and such measures as a solid poured structure with 12" reinforced concrete walls and reinforced concrete ground floor slab **14'** above mean sea level are being implemented with this in mind. The Applicants are fully aware of the potential impact from a 100 year storm scenario and are satisfied with their Structural Engineers' recommendations in this regard.

We look forward to your favorable decision with respect to the application and remain at your disposal to answer any questions.

Respectfully,

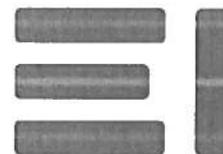
*Michael Tracy*

NWPR Group

## Appendix A – Updated drawings

**Appendix B – Kariba Architects submission to planning for Dolphin Point Club**

**Appendix C – Fire Department Approval**



kariba  
ARCHITECTURE & INTERIORS

24<sup>th</sup> June 2019

Central Planning Authority  
Government Administration Building  
Grand Cayman  
Cayman Islands

Attention: Mr. Pandohie (Director) % Ms. Jessica Peacey

Dear Sirs,  
**P19-0544 South Sound Condos**  
Block 21C Parcel 155 & 166. Grand Cayman, Cayman Islands.

Please accept this addendum to our application and associated plans as an update on the above application to address any concerns with regard to numbers of Storeys and Building Height above grade as well as the Set Back of the pool deck from the High Water Mark.

The attached analysis of existing project precedent, highlights examples of some of the many multi residential buildings with similar design in relation to numbers of storeys and height above grade that have been approved by the CPA. These projects are either recently completed and occupied or currently under construction.

The analysis highlights THREE key areas:

1. Examples of mezzanine floors being part of the same storey, this is clearly evident in the recently completed Tides Project, The Kimpton hotel, and the Fin Project currently under construction. The inclusion of a mezzanine as "part" of a storey rather than a separate storey is defined in the Cayman Islands Building Code, which this proposed project will comply with.
2. Areas of buildings that the eaves are higher than the allowable maximum from surrounding grade. This is evident on a smaller scale in many projects with basement parking where the height to eaves at the entrance / exit to the basement is higher than the maximum allowed simply to gain access to the parking. Some examples of this are; the Caribbean Club, Fin, Meridien, Water Colors, Shore Club and Tides.

There are also several examples of where the height to the eaves above grade exceeds the allowable maximum in areas like the swimming pool, waterfront and beach areas and in some cases all around the building.

This is evident to a significant degree at the Shore Club on South Sound and also at the Kimpton hotel on Seven Mile Beach, also at the recently complete Tides project, Fin on South Church Street, and similarly to a lesser extent at Rum Point Club and Water Colors.

3. Examples of buildings where a deck or planter area has been extended out from the edge of the face of building by 5 feet or more to create a new

grade level enabling the building to comply with the maximum allowable height. Fin and Tides are clear examples of where this has been accepted.

On a separate note to address the Setback variance requested, please note that the proposed South Sound Condos project is in close proximity to the Aura project which is an example of a multi residential development recently approved by the CPA in the same area with a similar Set Back variance to the pool deck area.

We would like to further highlight that the project has no objections from adjacent owners and trust that this provides the CPA with adequate explanation and precedent for the proposed project's height above grade, variance to the pool deck area and numbers of storeys.

We will be available to present the project and direct comparison to developments with similar features recently been approved by the CPA. (per the attached report) on Friday 28<sup>th</sup> June 2019, as requested.

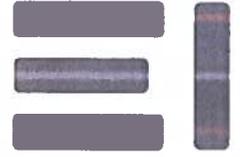
Please do not hesitate to call or email ([derek@evolvingisland.com](mailto:derek@evolvingisland.com)) with any queries.

Yours Faithfully,



*Derek Serpell*

**Kariba Architecture and Interiors**



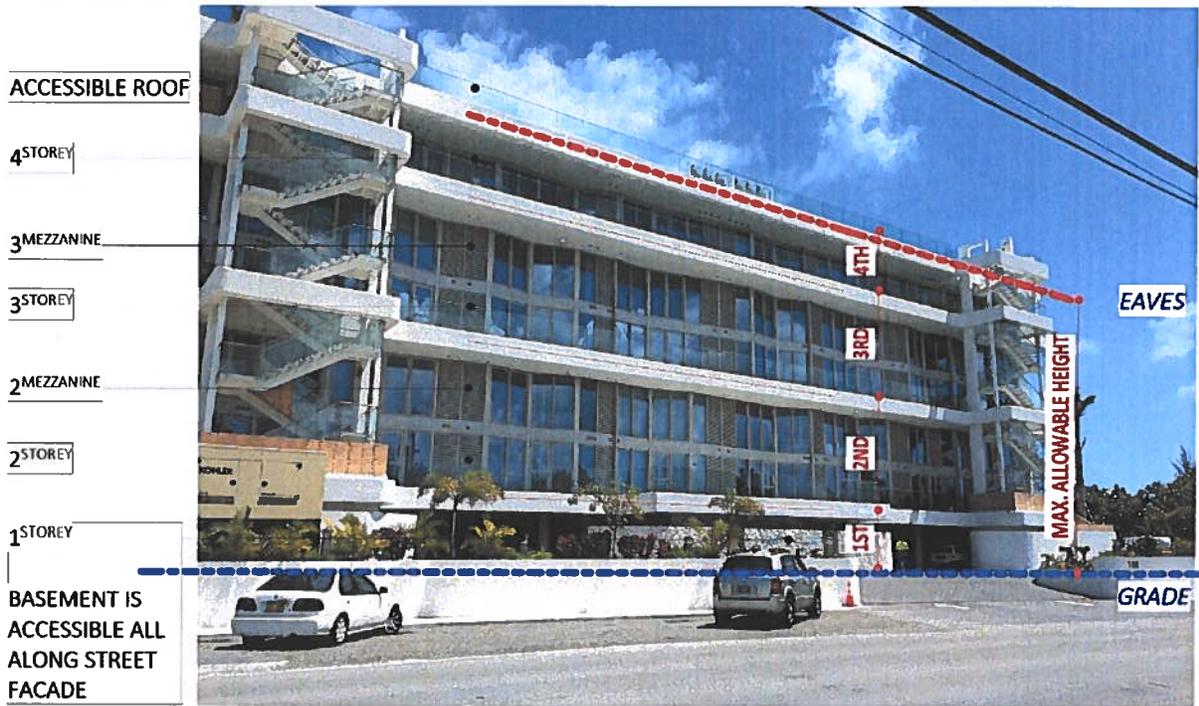
**kariba**  
ARCHITECTURE & INTERIORS



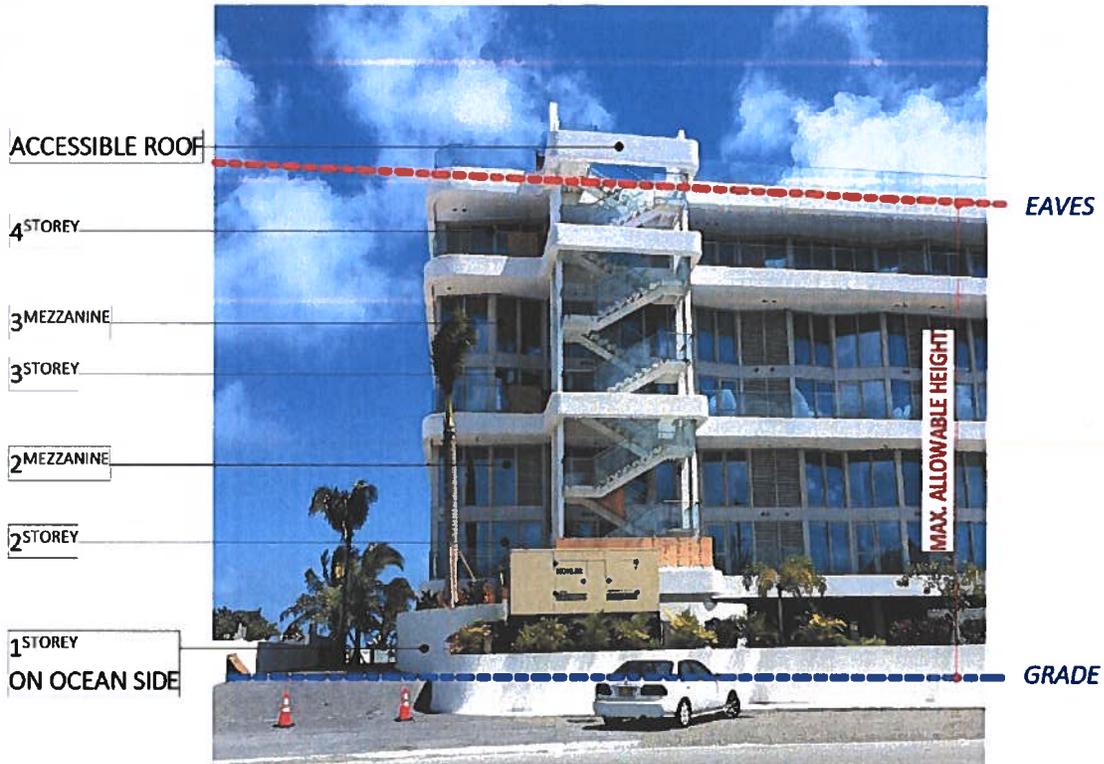
a) *Tides Development*

Location	Waterfront in South Sound Road
Block and Parcel	15E106
Zoning	<b>BBR</b> Beach Resort Residential

- Please note the inclusion of mezzanine as “part” of the storey rather than a separate storey.
- The basement is completely above grade on the street side of the property.
- The volume of the basement is used to form a unit to the ocean side.



*Storeys as seen from the street.*



*The allowable height as seen from the street.*



*The allowable height as seen from the side.*



Render of the project indicating allowable height as seen from sea side.



Photo taken during construction indicating allowable height relation.

**b) Oceana Condos**

Location	Waterfront in South Church Street
Block and Parcel	14BJ26
Zoning	<b>BBR</b> Beach Resort Residential

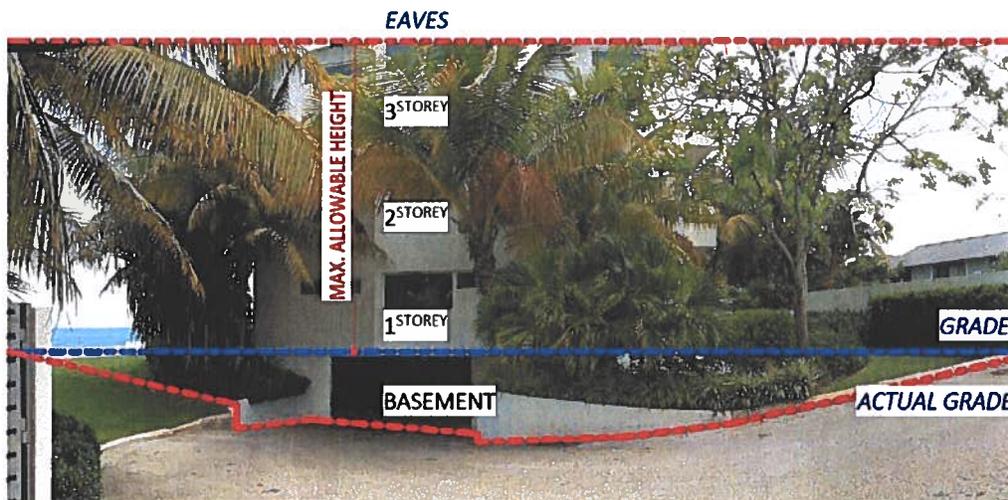
- Number of storeys allowable by law at time of approval were 3 storeys with a maximum allowable height of 40'.
- Please note the relation between the grade on the sides of building in order to access the basement area.



*Building from the street side with storeys.*



*Building from the sea side with storeys.*



*Entrance of basement with relation to eave height of roof.*

### c) FIN Development

Location	Waterfront in South Church Street
Block and Parcel	14E786 and 14E786
Zoning	<b>BBR</b> Beach Resort Residential

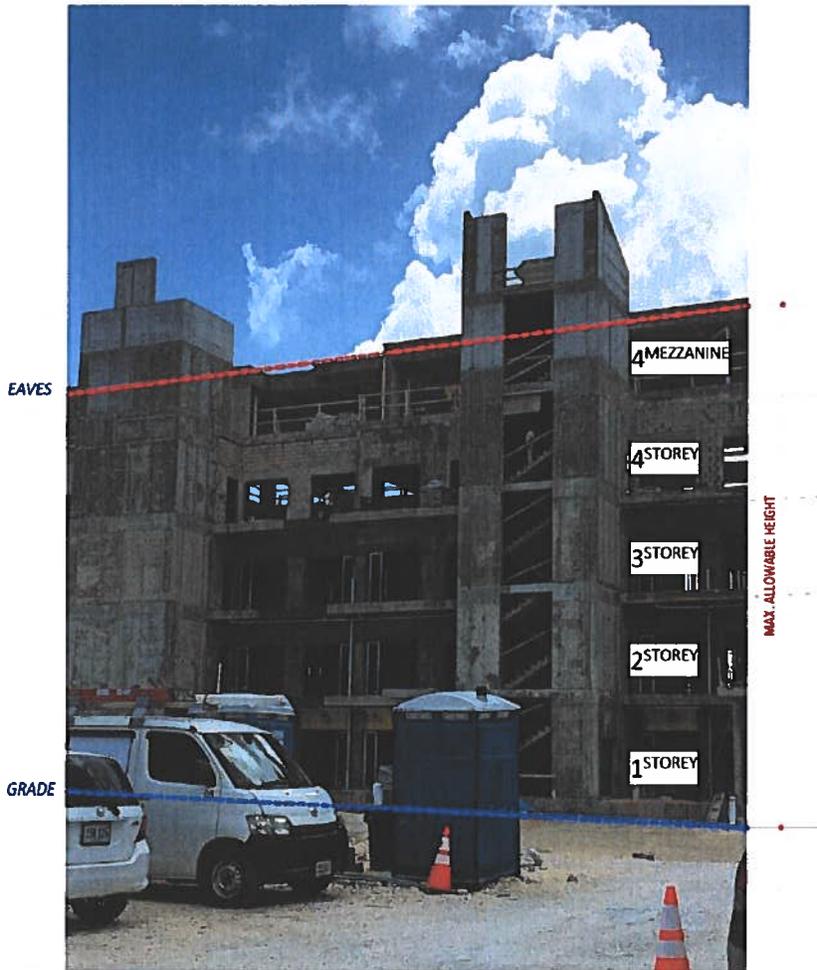
- Please note the usage of a raised planter / deck level along the sea front in order to achieve the required relation of grade to eaves height.
- Please note the inclusion of mezzanine as “part” of the storey rather than a separate storey.
- The height between the eaves and the final grade on the side of building should also be noted.



Photo of side elevation of building in construction phase indicating storeys.



Photo of elevation as seen from the ocean in construction phase indicating storeys.



Portion of Street elevation of building during construction.

d) *Kimpton Seafire Hotel*

Location	Waterfront, Seven Mile Beach.
Block and Parcel	11B87REM 1
Zoning	<b>H/T</b> Hotel and Tourism

- Please note the inclusion of mezzanine as “part” of the storey rather than a separate storey.
- The height between the eaves and the final grade on the side of building should also be noted.
- The portion of exposed and accessible basement are to the western side of the site should also be noted.



*Photo taken from the sea side during construction.*



Completed development as seen from sea side.

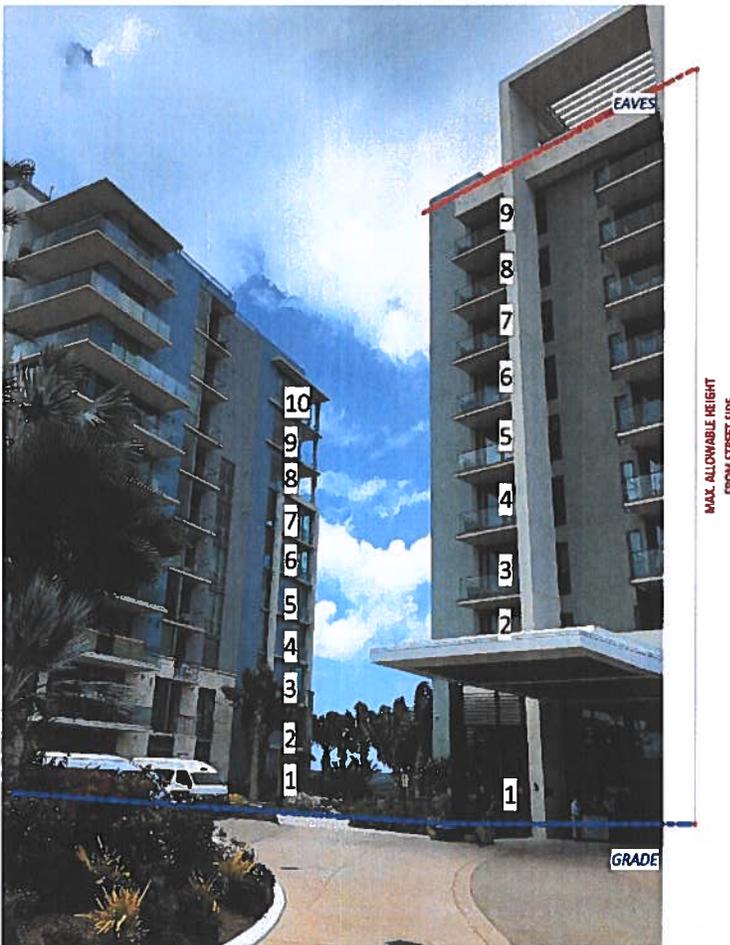


Photo indicating storeys as seen from entrance.



Storeys as seen from the sea side.



Western access road, basement and utilities area exposed.



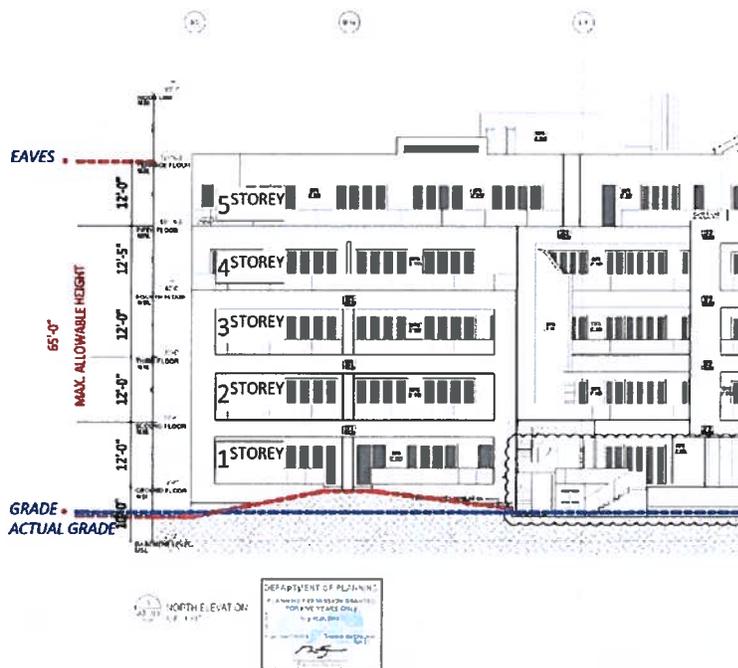
e) *Rum Point Club*

Location	Waterfront in Sand Point Road
Block and Parcel	33B177
Zoning	<b>H/T</b> Hotel and Tourism Z.2

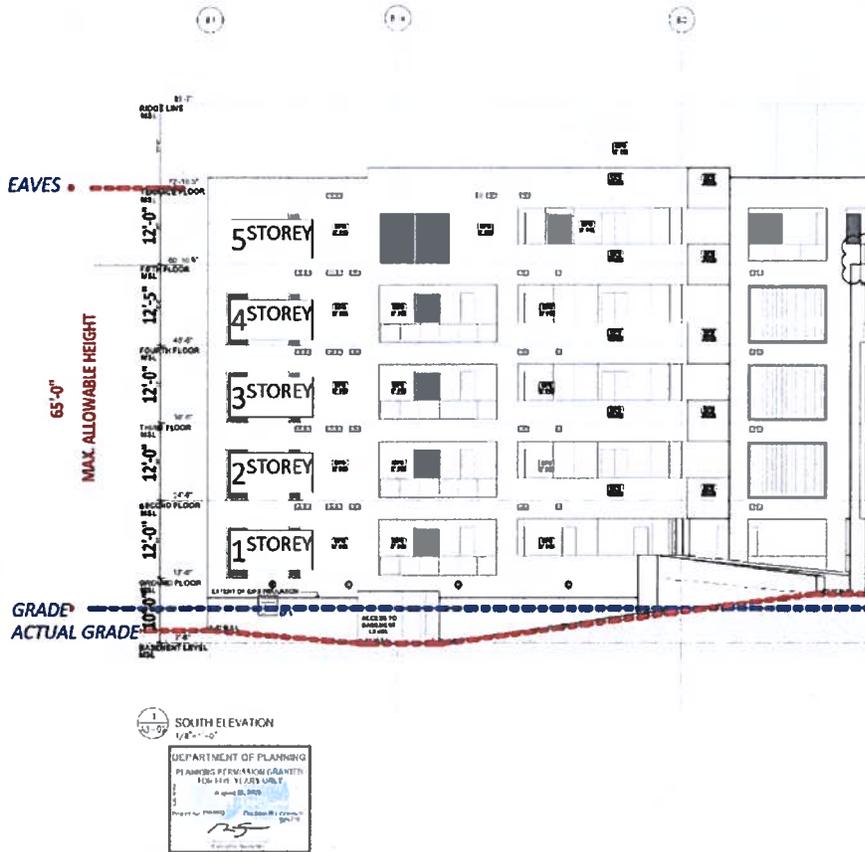
- Please note the usage of a raised level along the ocean front in order to achieve the required relation of grade to eaves height.
- The relation between the height of the eaves and the final grade on the side of building should also be noted.



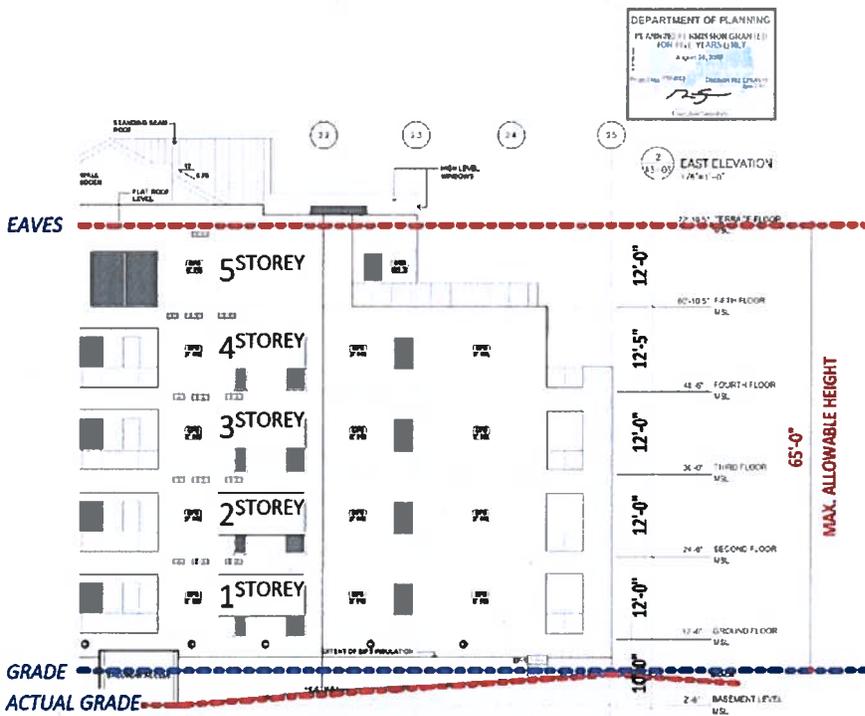
Render indicating final building and storeys.



Portion of North elevation indicating grade and allowed height.



Portion of South elevation indicating grade and allowed height.

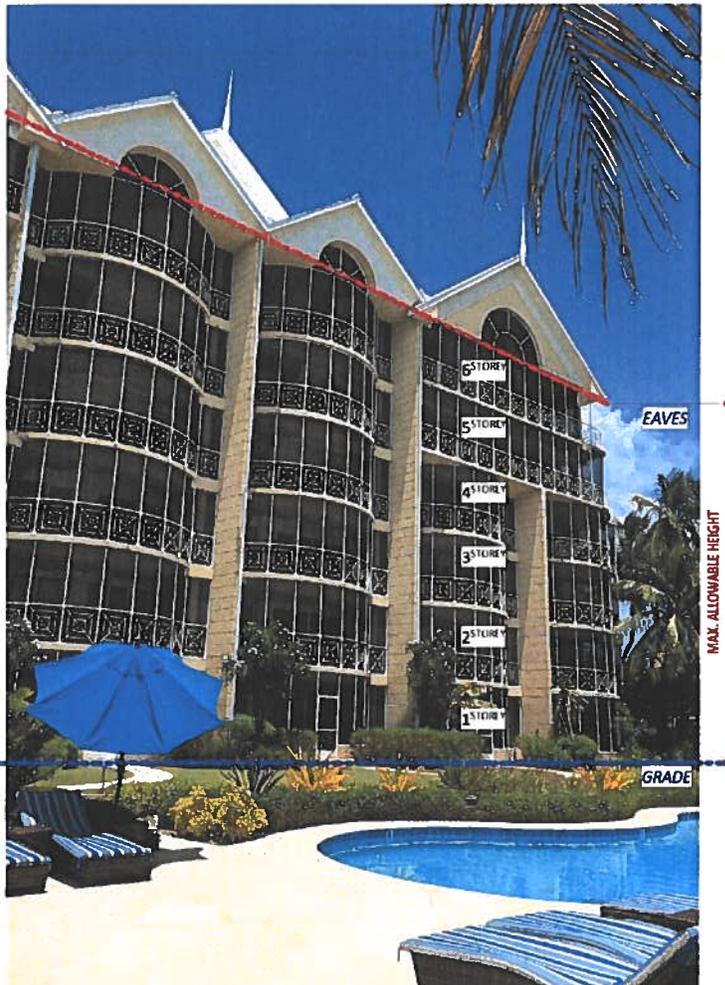


Portion of East elevation indicating grade and allowed height.

f) Meridian Villas

Location	Waterfront on Seven Mile Beach
Block and Parcel	12C20
Zoning	<b>H/T Hotel and Tourism Z 1</b>

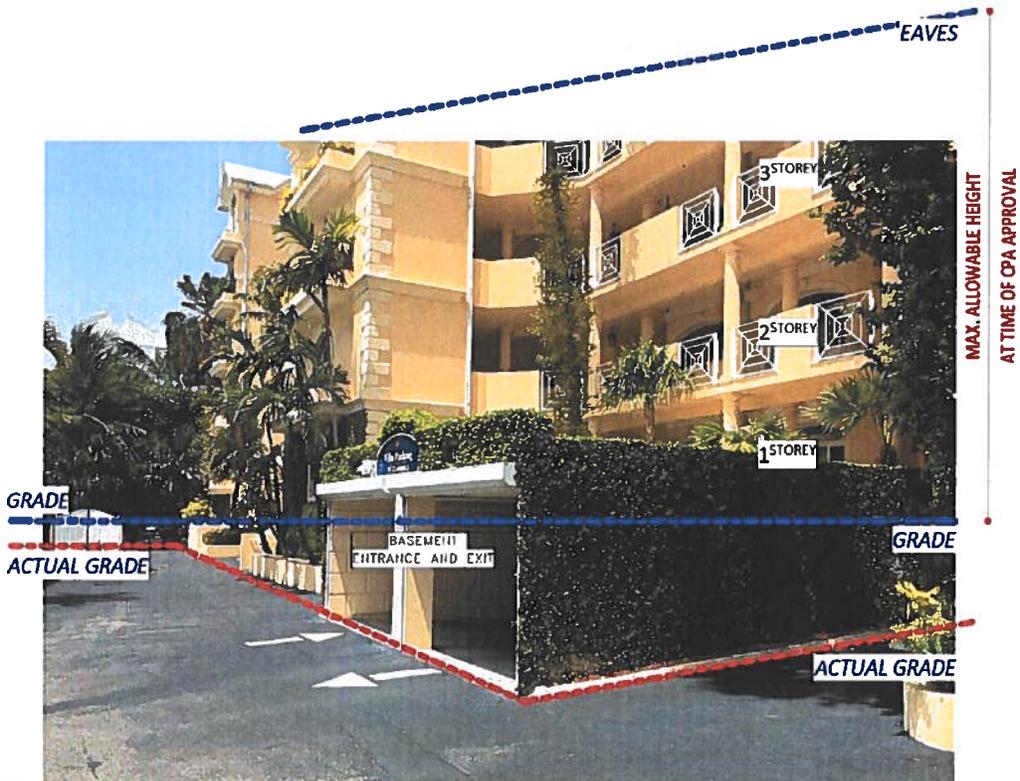
- **Number of storeys allowable by law at time of approval were 7 storeys.**
- The relation between the height of the eaves and the final grade on the side of building should also be noted, especially at the entrance of the garages.



*View of building from sea indicating storeys.*



View from street indicating grade at basement entrance in relation to storeys above.



View from street indicating grade at basement entrance in relation to storeys above.

**g) The Watercolours**

Location	Waterfront on West Bay Road
Block and Parcel	12E4
Zoning	<b>H/T Hotel and Tourism Z 1</b>

- The relation between the height of the eaves and the final grade on the side of building should also be noted, especially at the entrance of the garages.



Street entrance indicating allowable height in relation to basement entrance.



Building as seen from sea side.

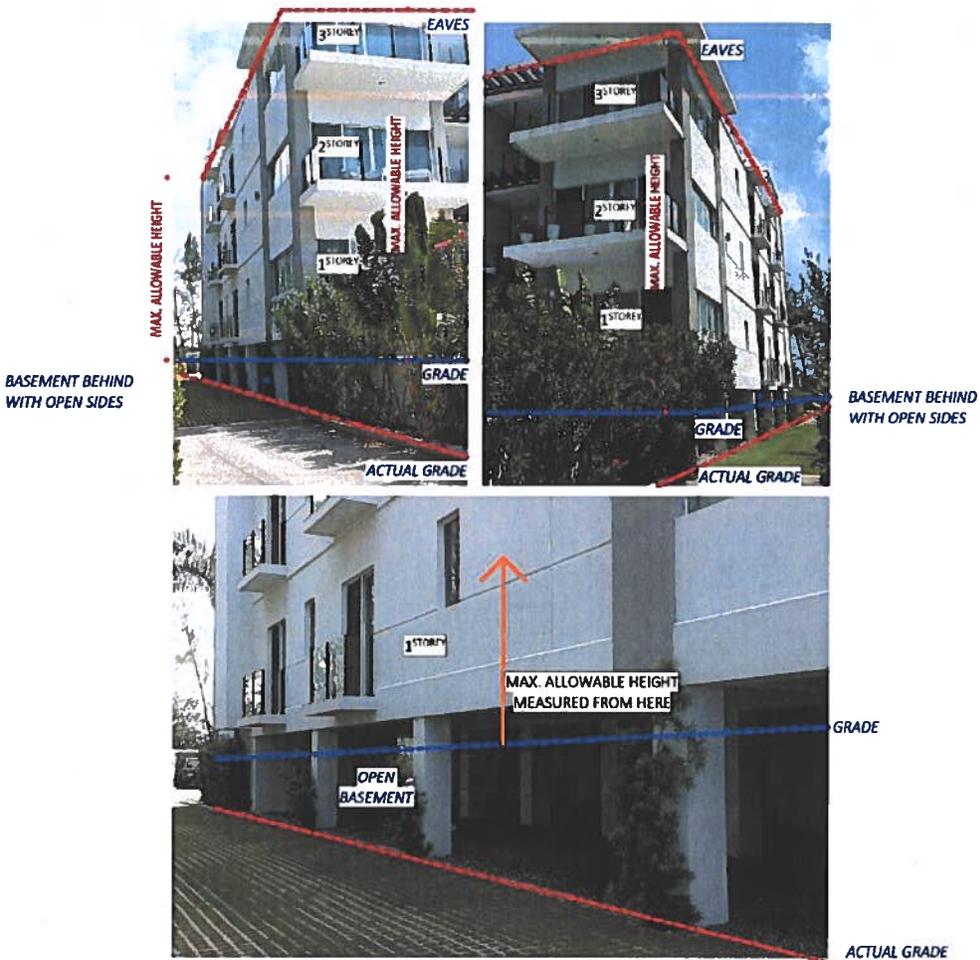
## *h) Shore Club*

Location	Boardwalk on South Sound Road
Block and Parcel	12E4
Zoning	<b>LDR</b> Low Density Residential

- Please note the definition of BASEMENT as per Section 502 of IBC.
- Please note the usage of a raised level along the sea front in order to achieve the required relation of grade to eaves height.
- The relation between the height of the eaves and the final grade on the side of building should also be noted, especially along the sides of the building where the basement is totally open.



*Building as viewed from street indicating the storeys.*



*Building sides indicating open basement.*



*Building from street, indicating the manipulation of grade.*

## Appendix 'D'

**Appendix 1: Time series of photographs of the development site**



Picture 1: Aerial image of application site in 1994, prior to development at the site, the beach is wide compared to the present condition of the site.



*Picture 2: Construction of the existing seawall commenced in 2010. There are visible excavator tracks on the beach and in the water, which is a Marine Protected Area.*



*Picture 3: A pump can be seen with the outlet from the excavation into the Marine Park. The works had been stopped at this point.*



*Picture 4: The site in November 2010 during a period of inclement weather. The seawall has only recently been constructed.*



*Picture 5. The site in January 2011 shows of the presence of sand and a beach in front of the site. At this time the gazebo had not yet been constructed.*



*Picture 6: During a period of inclement weather in June 2012, breaking waves can be seen crashing against the seawall and cresting waves can be seen just offshore. The proposed house includes glass railings at the top of the seawall, where the waves can be seen breaking. The living room of the proposed house is just over 5 feet from where the whitewash can be seen.*



*Picture 7: The site in July 2012 shows there was no beach directly in front of the property. The top of the seawall does not appear to be level when compared with previous photos, and the seawall footings are*

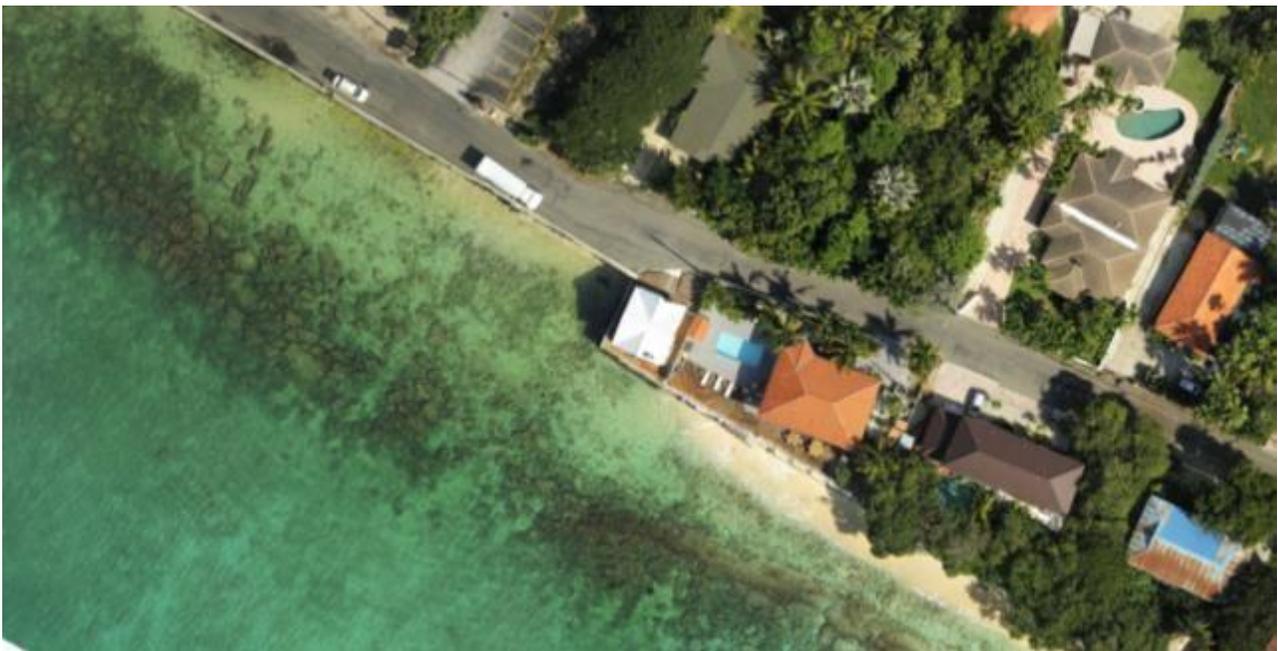
*exposed, indicating there may be impacts to the structural integrity of the wall only two years after construction, and prior to the construction of any structures.*



*Picture 8: This photo of the site from September 2013 shows that gazebo is under construction and there is no beach on either the west or the north of the site. There are cresting waves along these two sides of the seawall. The seawall appears to be undermined or the footings are exposed.*



*Picture 9: The site in August 2019 (photo from Cayman New Services) shows visible undercutting of the seawall as well as no beach to the south and west of the site.*



*Picture 10: Drone imagery from October 2019 shows no beach to the south and west of the site.*



*Picture 11: The site in October 2020 after Hurricane Delta has a narrow beach deposited in front of the site.*



*Picture 12: The site in October 2020 after Hurricane Delta, with a narrow beach.*



*Picture 13: The site in November 2020 after Tropical Storm Eta brought and deposited more sand at the site.*



*Picture 14: The site in December 2020 after the planning application has been submitted.*



Figure 15: The site in February 2021 which shows a reduction in the volume of sand on the beach and the water line being much closer to the existing structure

## Appendix 'E'

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Friday, March 23, 2020

Mr. Haroon Pandohie  
Director of Planning Department  
P.O. Box 113 Grand Cayman KY1-9000

Cc: Mr. Burton Schneider, Planning Assistant

**RE: Variance Request to allow a Multi-Family Residential Development in a Low Density Residential & Neighborhood Commercial Zone for Island Properties Ltd. at Block 1C Parcel 273, 274, 275 and 276**

Further to the application submitted in relation to the above referenced Project, we hereby request the following variances:

1. Zoning - a zoning variance to allow a Multi-Family Residential Development in a Neighbourhood Commercial (NC) Zone which is only permissible if the residential units are above dedicated commercial units per Planning Regulation 13 (9);
2. Density - a density variance to allow 51 units on the site instead of 50.85 (an increase of 0.15 of a unit) per Planning Regulation 9 (8)(c); which limits the number to (15) apartment units per acre and (24) bedrooms per acre; and
3. Setback - a setback variance for an ironshore shoreline which requires a minimum of 50 feet from the High-Water Mark per Planning Regulation 8 (10)(c). A variance is being requested that the setback be based on the median, or average, High-Water Mark because of the site's unusual terrain characteristics. Failing that, a variance is being requested to allow the proposed sea wall and minimal parts of four back porches and balconies (and a small section of a building) to be to be constructed within the setback determined by the Planning Regulations (please see the attached plan marked "Plan A").

We would appreciate your consideration of each of these variance requests on the following basis:

**Density Variance**

**Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area:**

1. The site is approximately 3.39 acres. On that basis, Planning Regulation 9 (8)(c) allows for up to a maximum of (51) apartment units (50.85 units to be exact) and (82) bedrooms (81.36 bedrooms to be exact). While the proposed scheme exceeds those limits by (1) apartment unit, we tried to make up for this excess by making the bedroom count substantially lower (65 bedrooms proposed vs 82 bedrooms allowed) and also by making the proposed site coverage lower than the limit also set by the Planning Regulations (20.20% proposed site coverage vs 30%

maximum allowed for Low Density Residential and 75% for Neighbourhood Commercial).

### **Zoning Variance**

**Under Regulation 8 (13)(b)(iii), 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:**

- 1.1 The proposed development is well suited for this because it is in an area of predominantly residential houses and is already well served by commercial establishments within the vicinity of the site. We would also like to refer to the Periwinkle Development (Block 22E Parcel 312), Arvia Townhomes (Block 22E Parcel 360) and Dolphin Cove Suites (Block 9A Parcel 119) as precedent for allowing multi-family residential development in a Neighborhood Commercial zone. These developments were approved by the Planning Board on February 1, 2017 (CPA/03/17; Item 2.3), September 19, 2018 (CPA/21/18; Item 2.2) and October 9, 2019 (CPA/21/19; Item 2.3) respectively;
- 1.2 With regard to the absence of commercial units in the Buildings usually required for property designated as “Neighbourhood Commercial”, we note that within a 2 - mile radius of our site there are a myriad of other commercial entities that adequately serve this area neighbourhood shopping malls and plazas such as Centennial Towers and Banks Plaza as well as the Turtle Farm, Tortuga Rum, Cracked Conch/ Maccabuca and a number of other restaurants and small stores. Please see the attached Google area image showing various commercial outlets in the area and marked “Commercial Outlets”. We feel the area is more than adequately served by the existing commercial developments and the introduction of additional commercial developments could be detrimental to these established businesses. In addition, the site is located adjacent to existing apartment developments such as Coconut Bay and Portofino Gardens which we believe make the proposed apartments a better fit for the area;
- 1.3 We intend to combine Parcels 1C273, 274, 275 and 276 into a single parcel which would mean that the affected area will be less than 25% of the total site. Further, we have not taken advantage of the smaller side setback requirements of property zoned Neighbourhood Commercial (6’) as opposed to that of sites zoned Low density Residential (15’) or the site coverage requirements.

### **Setback Variance**

**Under Regulation 8 (13)(b)(ii), the unusual terrain characteristics limit the site’s development potential.**

- 1.1 The property is located along the ironshore and has a very irregular shoreline. As a result of this irregular shape (please see attached the plan marked “Plan A”), if the

Planning Board were not to grant the setback variances requested, we would respectfully submit it would limit the development potential of the site unnecessarily.

- 1.2 The Planning Regulations call for a coastal setback of 50' from the High-Water Mark. Because of the irregular shape of the site, such a setback would reduce the area of the site eligible for development (please see the attached plan marked "Plan A"). We understand, it is for this reason the Planning Board has adopted a practice, in circumstances such as these, whereby it will measure the setback from the median, or average, High-Water Mark for irregularly shaped sites such as this one, thereby "flattening" out the irregular shape of the site.
- 1.3 As a result of the National Conversation Council's comments regarding this application we commissioned a report from our local geotechnical consultants, AMR Consulting Engineers ("AMR") to examine the NCC's comments on the possible impact of constructing of this development on this site. We attach a copy of that report which is marked "AMR Report". We would draw your attention to the last paragraph on page 4 of the report, highlighted in yellow which supports the Planning Board's practice in these circumstances in so far as it suggests that the presence of these gullies "...should not be treated with the same severity as the actual coastal margins".
- 1.4 Should the Planning Board choose to exercise its discretion to adopt this practice in this case no structure (including the sea wall and all the Buildings) would fall within the setback (again, please see the attached plan marked "Plan A"). The thick green triple dashed line represents the median High-Water Mark line, and the green double dashed line delineates the location of the 50' setback measured from that median High-Water Mark line).
- 1.5 Should the Planning Board not choose to exercise its discretion to measure the setback from the median High-Water Mark then we would respectfully request it exercise its discretion to allow the following variances under the same Planning Regulation:
  - 1.5.1 Allow the construction of the sea wall within the setback (as depicted on the attached plan marked "Plan A"); and
  - 1.5.2 Allow the construction of part of Buildings 2, 3 and 4 (etched in pink on the attached plan marked "Plan A") within the setback.
- 1.6 To support our application, we would make the following submissions:
  - 1.6.1 A sea wall is a necessary and effective precaution against any unusual wave action. We would draw your attention to paragraph 3 of that report on page 5 (highlighted in green) which states that a sea wall is necessary in order to minimize loss of life and damage to property in sever storm events. It also notes that coastal erosion that can be caused by reflected energy caused by sea walls would not negatively impact coastal erosion in this case due to the coastline of

this site being ironshore and also would have little effect on adjacent lots for the same reason;

- 1.6.2 As further evidence of the effectiveness of a sea wall, we would draw your attention to the attached letter from the Chairman of the Executive Committee of the Strata Corporation of the adjoining development immediately to the north of this site, Coconut Bay. This letter confirms that since that development was built in 2002 no wave action, including from Hurricane Ivan in 2004 and numerous nor'westers, has breached their retaining wall which is actually 1'3" lower than our proposed sea wall. We would rather be safe than sorry!;
- 1.6.3 The reason why small areas of the said Buildings would fall within the setback is because of the presence of two small inlets (see the attached plan marked "Plan A"). In one case the offending part of the inlet is only 5'4' x 2'0' and the other, although 24' long is only 5' wide! We understand from local knowledge that the water in this inlet is only between 6' deep where it opens to the sea and less than 1' nearest the land. (Please see the photograph attached to the "AMR Report" referred to in paragraph 1.3 under Setback Variance). We would respectfully submit that the sections of the two inlets causing the encroachments are so insignificant as to not present a danger of increased wave action that might threaten the current location of the Buildings. Again, this submission is supported by AMR's report in the last paragraph on page 4 and highlighted in yellow.
- 1.6.4 Apart from a tiny section of Building 4 (46sqf), the areas of encroachment are open porches so even if water were to come up to the encroaching parts of the Buildings the water would merely flow over the porches i.e. By the time the water reaches the actual building it would be beyond the setback; and
- 1.6.5 You will note, the three Buildings facing the sea are widely spread apart. The gap between the boundary and Building 1 is almost 27', the gap between Buildings 3 and 4 is 38' 6" and the gap between Buildings 3 and 2 is 61' 2". The Buildings are also at angles to one another which, together with the substantial gaps between the Buildings, will present substantially less resistance to oncoming water than a single block running the width of the site and therefore better flow through.

In addition to our variance requests, we would also like to take this opportunity to address the concerns raised by the Planning Department and the National Conservation Council with regard to this proposed development project which are as follows:

- (1) **Removal of East Entry Point.** This entry is specifically designated only for Fire Truck Access and will only be used for Fire Emergencies. To deter vehicles from using it, there will be a gate across this entry point that will be fitted with an "SOS" (Siren operated System) that will only allow emergency vehicles to enter.
- (2) **Redesign of Garbage Area to Remove extra driveway curbs accessing Public Roads.** The Department of Environmental Health (DEH) has already given their approval for our design of the garbage area. We would respectfully submit that our



design is the most practical to enable them to quickly and efficiently collect the garbage for this site. It does not require the trucks to go through the main area of the site and, in particular, internal roads and parking areas where the risk of damaging property and cars etc. will be much greater. Further, the proposed approach to, and exit from, the garbage area is sufficiently large for a garbage truck to securely enter, collect the garbage and exit without encroaching on any the public road.

This method of entry from, collection of garbage and exit onto, public roads has been successfully adopted by a number of developments including Portofino Gardens, almost directly across the road from the proposed site, South Bay Estates, Ocean Reach.

- (3) **Pool Trellis Setback.** A drafting error was made when calculating the dimension of the trellis. It was based on the overhang as point of reference instead of the actual trellis boundary, which are the columns that support it. We have fixed this error now to show that Pool Trellis does not encroach on the required 10 ft setback from the side boundary.
- (4) **Coastal Setback.** Should the Planning Board see fit to exercise its discretion and follow its long-standing practice of calculating the coastal setback of sites with an irregular coastline by reference to the “median or average” High-Water Mark (please see point 1.2 above) then the NCC’s objections fall away.

The NCC’s concerns seem to be as follows:

4.1 There are no design features to help mitigate against the effects of sea inundation.

Response - We would respond by advising that, apart from the sea wall and open porches where any water would be able to flow through, the only part of any structure that would fall within the required setback is one tiny corner of one building of approximately 46sqf and even then, only because of the proximity of an inlet approximately 5’ wide. Further, we will be constructing a substantial sea wall to protect all Buildings from water inundation. In addition, the Buildings have very substantial gaps between them to allow a flow through of water (please see point 1.4.4 above). Finally, all Buildings are to be constructed with hurricane proof windows and doors;

4.2 The NCC seems to be putting significant reliance on the location of the vegetation line as shown on historical images accompanying its comments, including one image where it has superimposed the proposed development over an image of the vegetation line (please see the attached image marked “Site Overlay of Vegetation Line”), the possible impact of water inundation, and the position of the sea wall.

Response - We would submit the image actually supports our contention as the development is actually within the vegetation line. Further, we would refer you the 2<sup>nd</sup>, to 5<sup>th</sup> paragraphs of the AMR report that specifically addresses the matter of the vegetation line. To summarize they state that:



- the location of the vegetation line is not due to sea impact but is, in fact, directly related to where the ironshore meets sand i.e. vegetation can't grow on ironshore;
- there are adjacent sites where the tree line is only 25 feet of the coastal margin;
- The coastline is static and beach erosion is largely a "non-issue for this site; and
- The coastal margin of this site should not be treated as "active beach".

Notwithstanding all the above arguments and reports, the one factor that gives the developer the most confidence in developing this site is that Coconut Bay, right next door has been there for almost 20 years and gone through Hurricane Ivan and many fierce nor'westers without any significant damage!

If you require additional information or further clarification, please do not hesitate to contact us at the 'phone numbers and e-mail address below. Thank you and God bless.

Kind regards,

Tuesday, March 30, 2021

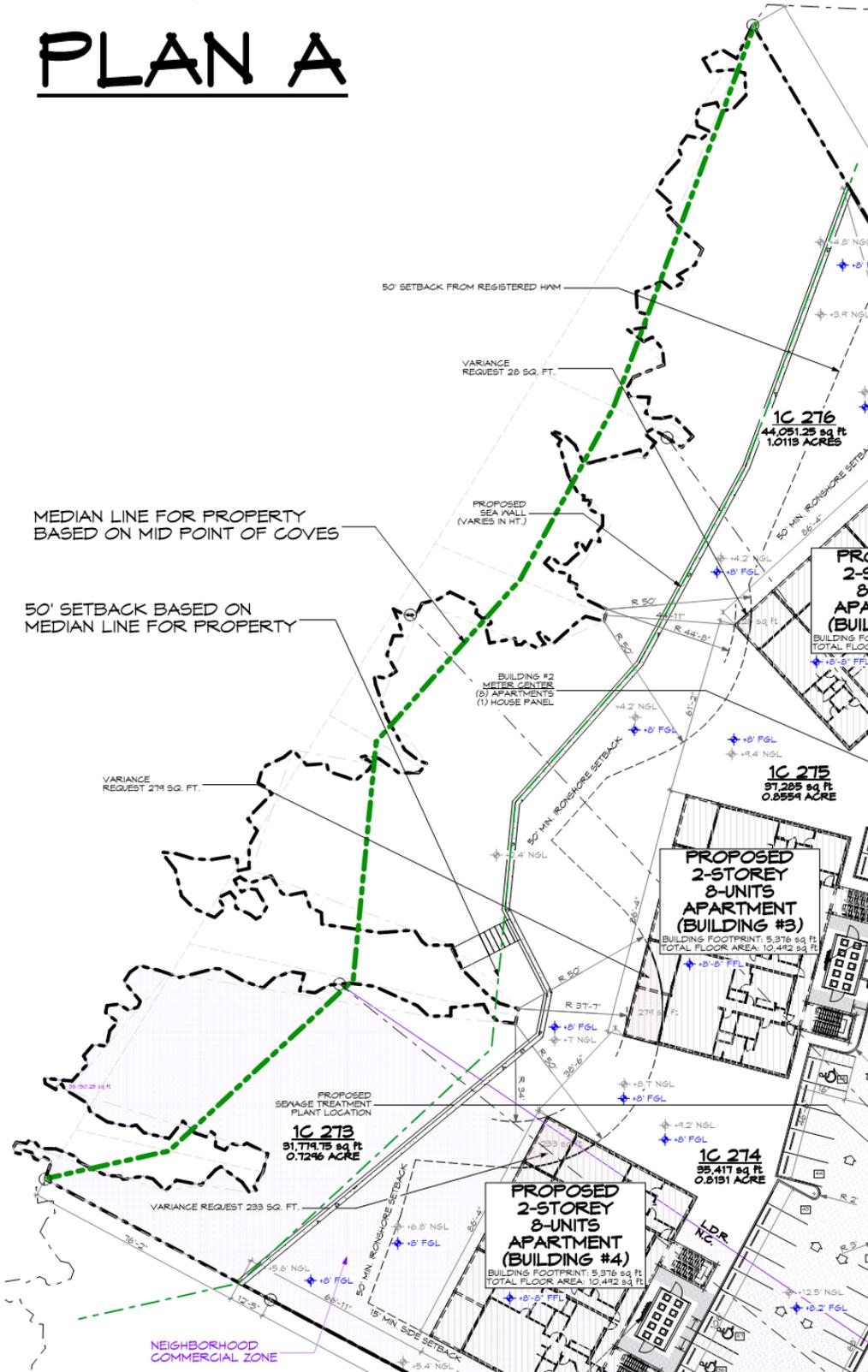
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Darrel Ebanks  
For Island Properties (Cayman) Ltd.

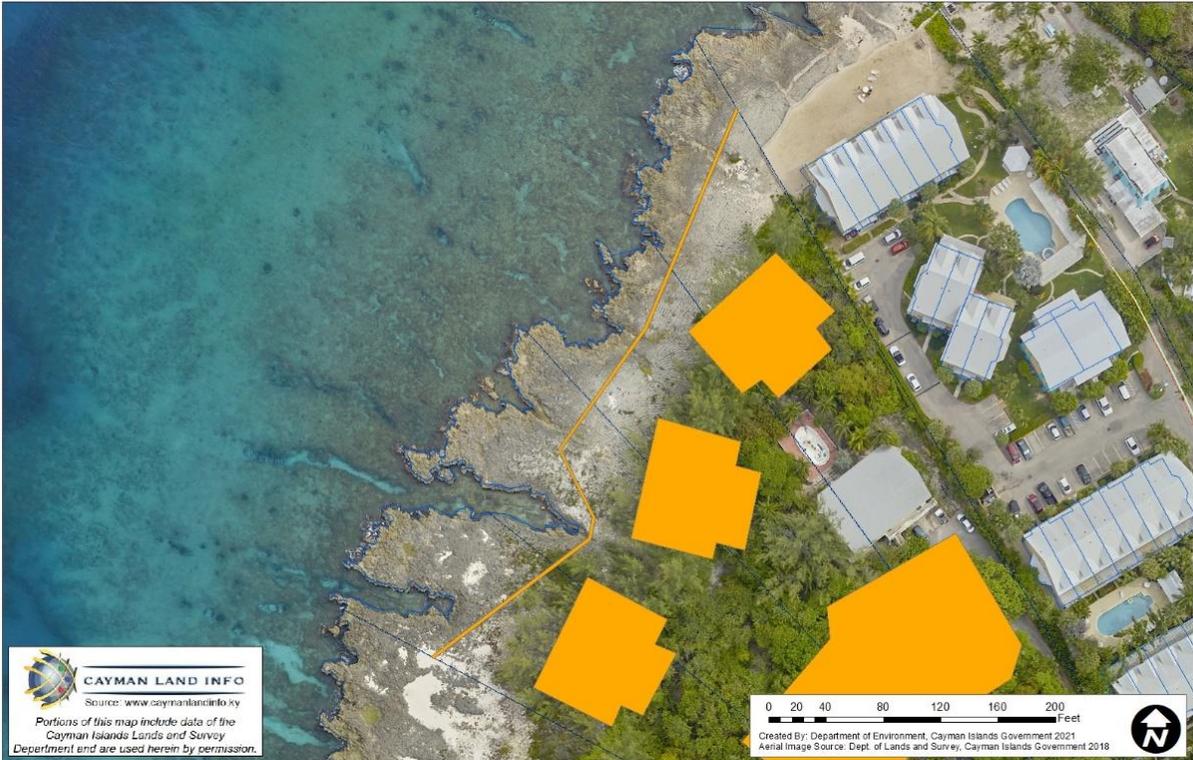
Date



# PLAN A



# SITE OVERLAY OF VEGETATION LINE



**The Proprietors, Strata Plan No. 344**

C/O Travers, Thorpe and Alberga  
Harbour Place, 2nd Floor, PO Box 472, 103 South Church Street  
Grand Cayman, KY1-1106, Cayman Islands

March 25, 2021

Department of Planning  
Cayman Islands Government  
Government Administration Building  
Grand Cayman  
CAYMAN ISLANDS

**Record No. 'P21-0151**

Dear Sirs,

Re: Coconut Bay Development

The above-mentioned development was built in 2002 and to date, some of the buildings on the development face the ocean and have suffered no damage from wave action to the present time, even as a result of the passing of Hurricane Ivan in 2004 and various norwesters which have passed from time to time over the years.

Sincerely,



Michael Alberga  
Chairman  
Executive Committee



**AMR**  
CONSULTING ENGINEERS

O/Ref: AMR12636/Let01

25 March, 2021

Planning Department  
Cayman Islands Government  
Building Control Unit, GOAB  
Elgin Ave., Grand Cayman  
Cayman Islands

Dear Sir/Madam:

**Re: Commentary on Coastal Conditions for: Island Properties Ltd  
Sunset Point Apartment Development, North West Point  
West Bay, Grand Cayman, Cayman Islands  
Block: 1C, Parcels 273, 274, 275 and 276**

To date, AMR Consulting Engineers has been retained by the client (Island Properties Ltd) to conduct geotechnical investigation services and structural analysis / narrative services for the proposed Sunset Point Apartment Development at North West Point, West Bay.

As part of these services, AMR Consulting Engineers was requested to conduct a desktop coastal study of the site in question, supplemented with surveying data (provided by Abernathy & Associates Ltd) and historical aerials (Lands and Survey). Our commentary is as follows:

Per the geotechnical investigation conducted by this practice, it was determined that site is situated within the Ironshore Formation limestone bedrock, outcropping and exposed at the coastal margins, peaking at a ridge at approximately 75ft from the coastal margin, and then dipping 'below grade' (Refer to *Figure No.1* for Diagrammatic Cross Section of the Site). The Ironshore Formation was named after the hard calcrete crust rock that developed on the weathered surface of the rocks in this formation, typically along the shorelines of the islands (as is the case for this property). The Ironshore Formation is typically formed of friable, poorly consolidated reef limestones, calcarenites, and oolitic limestone that are cemented by calcite. It has been suggested that the limestones found in the Ironshore Formation have been formed in reef, back-reef, lagoonal, shoal, and beach ridge settings.

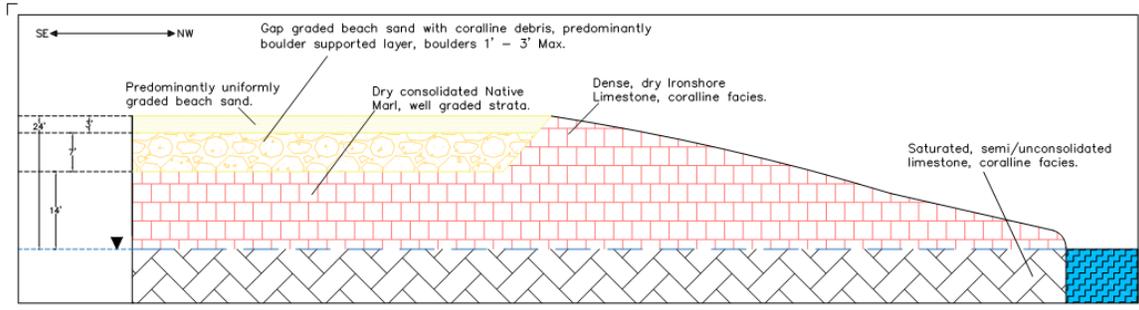


Figure No.1 - Diagrammatic Cross Section of the Site

The design intent for the structures on the northern fringe; per the geotechnical report, is that all foundations are to be placed / bearing on the Ironshore Formation bedrock, with concrete block stemwalls up to finish floor level. It is the design intent that foundations are 'keyed' into the bedrock to provide additional lateral stability for the proposed structures; therefore underscour is mitigated.

The Cayman Islands are prone to seasonal hurricanes and tropical storms; as well as the often accompanying localised flooding and high wave action. The resultant damage to a property due to these environmental loads is dependent on many factors.

Amongst these is the proximity to the shore line, elevation of the building in relation to mean sea level (MSL), the provision of sea defence structures and the installation of effective hurricane shutters / hurricane rated doors and windows and the type and method of construction. Therefore, careful consideration should be given to the proposed ground floor levels of the property.

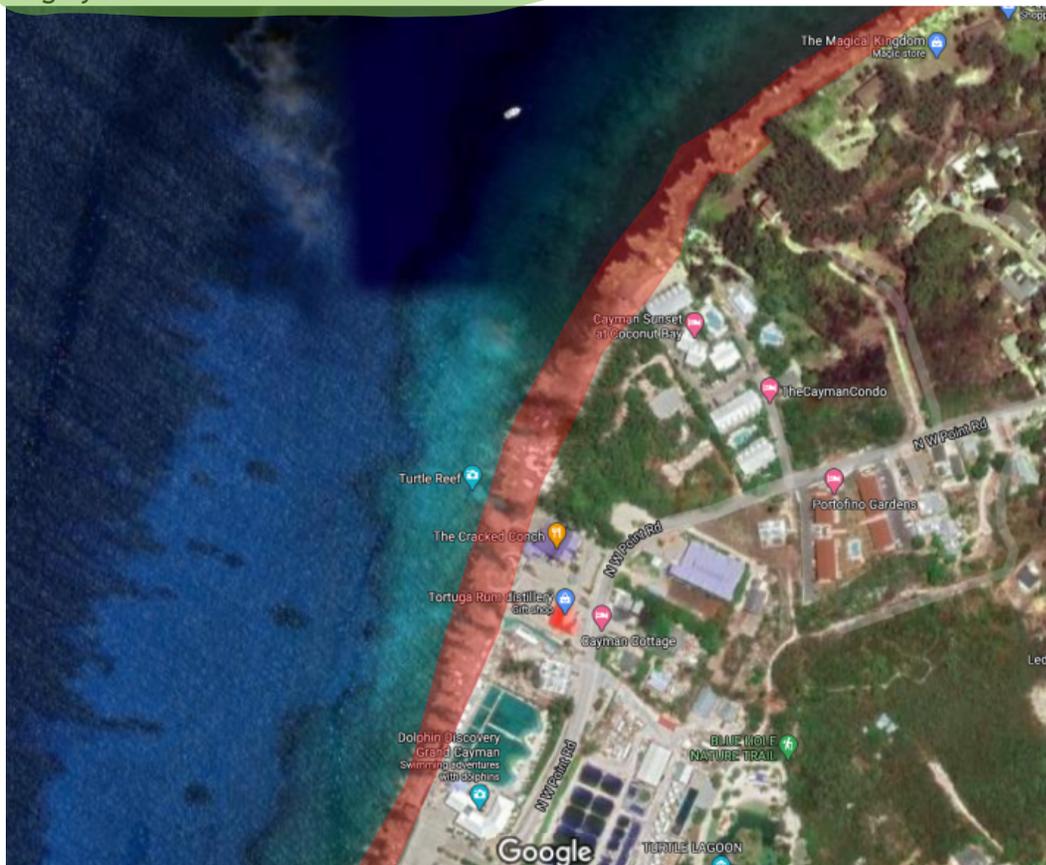
The most recent significant storm was the Hurricane Ivan storm of 2004, which was considered to be a 1 in 140 year storm. Flood elevations to certain areas on Grand Cayman were in excess of 8'-0" above MSL. It should also be noted that Little Cayman was affected by the Category 4 Hurricane Paloma in 2008; causing damage to roads and infrastructure. Areas that are to be affected by flooding by any storm event can be approximately determined by the hurricanes storm track (both direction and speed), its intensity, barometric pressure and the local topography: as can be appreciated, the prediction of any weather event is not an exact science. Whilst flooding to these flood elevations is severe, it does not take into consideration further direct coastal wave action.

There are no coastal flood map studies for the Cayman Islands and so we tend to rely upon local knowledge. We can also turn for guidance to the United States of America, Federal Emergency Management Agency (FEMA), to enable us to understand and equate realistic Base Flood Elevations (BFE's) (100 year Stillwater elevation [Storm Surge Level] with the addition of associated wave crest heights). Recommendations are also given with respect to Special Flood Hazard Areas (SFHA) and the location of natural barriers such as reefs, uplifted coastal shelves, etc. In this case, this site would be considered to be a 'Coastal V Zone' and considers special hazards associated with high velocity waves, such as wave impacts and impacts from waterborne debris. It should be noted however that due to the uplifted coastal shelf (extending out approximately 300 feet offshore the site), wave heights would typically be reduced due to a reduction in depth to the seabed. Though it would not have the same wave

dissipating function as a reef, this shelf could still be considered as a 'natural barrier' for mitigating the height of waves during a storm event.

It is imperative that the construction of buildings within the 'V' zone meet the various requirements to ensure the construction of stable, safe and secure buildings. Due to the uplifted bedrock conditions at the coastal margins (refer *Figure No.1*), it is the opinion of this practice that erosional effects would not be as prevalent as in other areas in Grand Cayman (Seven Mile Beach, South Sound, etc), therefore it is the opinion of this practice that a coastal defence structure, such as a purpose built seawall would be a viable (and highly recommended) coastal defence solution for this project.

The purpose of a seawall is to minimize loss of life and damage to property in severe storm events. It is appreciated that the reflected wave energy; particularly during severe storm events can cause significant coastal erosion, however it is the opinion of this practice that said erosion would be most prevalent on sandy beach coastal margins. Uplifted Ironshore Formation is the predominant coastal margin feature for the majority of North West Point Road (Refer *Figure No.2 - Diagrammatic Map of Uplifted Bedrock Coastal Margin*). Due to this consistent coastal feature within this area, it is the opinion of this practice that the construction of a seawall would not negatively impact the beach erosion of the adjacent lots; as such sandy beaches are largely non-existent within this area.



*Figure No.2 - Diagrammatic Map of Uplifted Bedrock Coastal Margin*

To date, this practice has been involved in a preliminary structural analysis and narrative program for the seawall design, and a full structural design will be completed during the construction design / drawing phase of the project.

It is the understanding of this practice that there is some concern over the location of the northern structures and the seawall in relation to the coastal margins. It is our understanding that this concern is mainly based over the potential for erosion and the setback of the historical vegetation line which is approximately 100 feet from the coastal margins, in addition to the setback encroachment due to the 'gully' on-site.

Based on site investigative works, and as noted above in *Figure No. 1*, it is the opinion of this practice that the historical vegetation setback is not due to sea impacts along the coastline, but is in fact directly related to the outcropping / uplifted Ironshore Formation along the coastal margins. As noted in *Figure No. 1*, the vegetation growth on-site appears to commence at the rear of the apex of the ridge, where the limestone bedrock is subsurface instead of exposed.

It should be noted that there are adjacent sites, within 500 feet of the proposed development where the treeline is within 25 feet of the coastal margins. It is therefore the opinion of this practice that the vegetative features of the site is not indicative of wave / sea impacts but is in fact largely due to the geomorphology of the site.

Based on historical aerials of the property provided to this practice (1994, 2004, 2013, 2018), the coastline is in fact 'static' and largely unchanged in each of said aerials, indicating that the potential for 'beach' erosion is largely a non-issue for this site. AMR Consulting Engineers is in agreement that coastal erosion is indeed an issue; not just in the Cayman Islands, but globally, and indeed these issues will in all likelihood be exacerbated by predicted sea level rise in the future. However, it is the opinion of this practice that due to the geomorphology of the coastal margins of this site, coastal erosion would not be as prevalent as along a sandy beach coastline such as Seven Mile Beach, and therefore should not be treated as an 'active beach' coastline. \_

In regards to the natural inlet / gully observed on-site, it is understood that the coastal setbacks have been taken from the extents of the gully, however it is the opinion of this practice that this area should not be treated with the same severity as the actual coastal margins. As can be seen from *Figure No.3* below, the depth of the water within the gully is significantly reduced compared to the water levels at the actual coastal margins of the site. This difference in seabed elevation would have a mitigating effect on wave height elevations, in direct comparison to the coastal margins.



Figure No.3 - On-site photograph of Gully / Inlet

We trust this is satisfactory. If you have any questions, please do not hesitate to contact the undersigned.

Yours faithfully,

**Jon Haylock, PE, BSc.**  
For and on behalf of  
**AMR Consulting Engineers**

# APPENDIX A

# LIMITATIONS

## LIMITATIONS

- < No party other than the Client shall rely on the Consultant's work without the express written consent of the Consultant. The scope of work and related responsibilities are defined in the Conditions of Assignment. Any use which a third party makes of this work, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. Decisions made or actions taken as a result of our work shall be the responsibility of the parties directly involved in the decisions or actions. Any third party user of this report specifically denies any right to any claims, whether in contract, tort and/or any other cause of action in law, against the Consultant (including Sub-Consultants, their officers, agents and employees).
- < The work reflects the Consultant's best judgement in light of the information reviewed by them at the time of preparation. Unless otherwise agreed in writing by AMR Consulting Engineers, it shall not be used to express or imply warranty as to the fitness of the property for a particular purpose. This is not a certification of compliance with past or present regulations. No portion of this report may be used as a separate entity; it is written to be read in its entirety.
- < The subsoils conditions present on site have been predicted by extrapolating data obtained from trial pits and boreholes situated at various locations throughout the site. As such, discrepancies from the originally predicted subsoil conditions may be revealed during excavation and construction. If considerable deviations from the predicted subsoil conditions are made evident during construction, it may be necessary to reassess the recommendations and conclusions arrived at in this report.
- < The foundation system recommendations made in this report are based on the predicted subsoil conditions and behaviour, together with local foundation construction techniques. This is in keeping with the local industrial standard for geotechnical engineering practices. No portion of this report may be used as a separate entity; it is written to be read in its entirety.
- < Only the specific information identified has been reviewed. The consultant is not obligated to identify mistakes or insufficiencies in the information obtained from the various sources or to verify the accuracy of the information.