

Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on **27 March 2024 at 10:00am** in Conference Room 1038, 1st Floor, Government Administration Building, 133 Elgin Avenue

10th Meeting of the Year

CPA/10/24

Mr. Ian Pairaudeau (Chair) (via Zoom) (Chair for 2.20)
Mr. Handel Whittaker (Deputy Chair) (Acting Chair)
Mr. Joshua Bernard
Mr. Gillard McLaughlin
Mr. Charles Russell Jr. (apologies)
Mr. Peterkin Berry (arrived at 10:30)
Mr. Peter Campbell
Mr. Kenneth Ebanks (via Zoom)
Ms. Danette McLaughlin (apologies)
Ms. Shakina Bush (apologies)
Ms. Christine Maltman, MCIP, AICP (arrived at 10:30)
Ms. Celecia Bancroft (stepped out at 10:30, came back at 11:00)
Mr. Ashton Bodden (apologies)
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

List of Applications Presented at CPA/10/24

- 2.1 GARFIELD ELLIS (Architectural Designs & Cayman Contemporary Style) Block 25B Parcel 266 (P23-0164) (\$30,000) (EJ) 5**
- 2.2 SYLVIA DAILEY & NATASHA BRYAN (TSC Architecture) Block 22E Parcel 349 (P23-0130 and P23-0136) (\$6,000) (EJ) 11**
- 2.3 MAXINE POWIS (GMJ Home Plan) Block 38B Parcel 49 (P22-1102) (\$45,000) (EJ) 14**
- 2.4 MAXIMILIANO IEZZI (Duro Architecture and Design) Block 5B Parcel 131 (P22-0138) (\$500,000) (MW) 17**
- 2.5 LIV DEVELOPMENT (Tropical Architectural Group Ltd.) Block 15E Parcel 34H5 (P23-1088) (\$1,165,500) (MW) 24**
- 2.6 20 NORTH DEVELOPMENT (TAG) Block 5C Parcel 77 (P23-0940) (\$12.658 million) (NP) 26**
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- 2.7 YARL TOWERS LTD. (Trio Design) Block 12C Parcels 438 (P23-1060) (\$20,000,000) (MW) 39**
- 2.8 CRESWELL POWERY (Garden City Designs) Block 4C Parcel 472 (P24-0051) (\$20,000) (MW) 46**
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- 2.10 GEORGE TAYLOR (Craftman's Touch) Block 28C Parcel 476 (P23-1189) (\$1,927,200) (MW) 56**
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- 2.13 CELICIA MARIA ALLEY (IWB Architecture) Block 27E Parcel 209 (P23-0451) (\$25,000) (EJ) 66**
- 2.14 VICTOR JENNINGS (TSC Architecture) Block 14D Parcel 179 (P23-1168) (\$700,000) (EJ) 74**
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- 5.7 ADRIAN BODDEN Block 55A Parcel 360 (P24-0181) (MW) 135**
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APPLICANTS ATTENDING THE AUTHORITY'S MEETING

Applicant Name	Time	Item	Page
Garfield Ellis	10:30	2.1	5
Sylvia Dailey & Natasha Bryan	11:00	2.2	12
Maxine Powis	11:30	2.3	14
Maximiliano Lezzi	1:30	2.4	17
Yarl Towers	1:50	2.7	39
Liv Development	2:00	2.5	25
20 North Appts	2:30	2.6	27

1.1 Confirmation of Minutes CPA/08/24 held on 06 March 2024.

Moved: Joshua Bernard

Seconded: Celecia Bancroft

Confirmed

Confirmation of Minutes CPA/09/24 held on 13 March 2024

Moved: Kenneth Ebanks

Seconded: Ian Pairaudeau

Confirmed

1.2 Declarations of Conflicts/Interests

Item	Member
2.1, 2.2, 5.8	Ian Pairaudeau
2.6	Joshua Bernard
2.20	Handel Whittaker
5.8	Christine Maltman

2.0 APPLICATIONS
APPEARANCES (Items 2.1 to Item 2.6)

2.1 GARFIELD ELLIS (Architectural Designs & Cayman Contemporary Style) Block 25B Parcel 266 (P23-0164) (\$30,000) (EJ)

Application for four (4) 40' containers for rental storage.

Appearance at 10:30am

Ian Pairaudeau declared a conflict and was placed in the Zoom waiting room.

FACTS

<i>Location</i>	Evco Tours Drive Lane, Prospect
<i>Zoning</i>	LDR
<i>Notification result</i>	Objection received
<i>Parcel size proposed</i>	0.3619 ac. (15,764 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Shipping container storage
<i>Proposed building size</i>	1,280 sq. ft.
<i>Total building site coverage</i>	8.12%
<i>Required parking</i>	4
<i>Proposed parking</i>	0

BACKGROUND

November 28, 2018 (**CPA/26/18; Item 2.4**) - The Authority granted permission for a temporary house for five years.

January 19, 2021 (**CE21-0224**) - The Authority issued an enforcement notice for parking of heavy trucks, storage of containers and mechanic works.

Decision: It was resolved to refuse planning permission for the following reason:

- 1) The metal storage containers are not consistent with the established character of the surrounding residential neighbourhood which is that of permanent dwellings with a high degree of design reflective of the architectural traditions of the Island and a departure from this established character would unacceptably detract from the amenity of the area.

The applicant is advised that the container must be removed from the site within 90 days from the date of this decision.

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, National Roads Authority, Department of Environmental Health, Department of Environment and Fire Department.

Water Authority

Water / Wastewater

The submitted plans do not indicate any additional water source(s) or sanitary fixtures. If this is in fact the case, the Authority has no requirements for this proposal.

National Roads Authority

As per your email dated September 11th, 2023, the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

General Issues

A six (6) foot sidewalk shall be constructed on Evco Tours Lane within the property boundary, to NRA specifications (available on our website at: <https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf%20>).

The NRA requests that the CPA have the applicant construct a sidewalk per NRA specifications that incorporates entrance and exit curves of no less than fifteen (15) feet in radius, and an entrance of twenty-four (24) feet wide.

Road Capacity Issues

The traffic demand to be generated by storage of 996 square feet has been assessed in accordance with ITE Code 150 – Warehousing. Thus, the assumed average trip rates per thousand square feet provided by the ITE for estimating the daily, AM and PM peak hour trips are 3.56, 0.30 and 0.32 respectively. The anticipated traffic to be added to Evco Tours Lane is as follows:

Expected Daily Trips	AM Hour Traffic	Peak Total	AM Peak 79% In	AM Peak 21% Out	PM Hour Traffic	PM Peak 25% In	PM Peak 75% Out
4	1	1	1	0	1	0	1

Based on these estimates, the impact of the proposed development on Evco Tours Lane is considered to be minimal.

Access and Traffic Management Issues

Entrance and exit curves shall be no less than fifteen (15) feet in radius. Entrances shall be twenty- four (24) feet wide.

One-way driveway aisles with diagonal parking shall be between twelve (12) to sixteen (16) ft. wide. Two-way driveway aisles shall be a minimum of twenty-two (22) ft. wide.

Tire stops (if used) shall be placed in parking spaces such that the length of the parking space is not reduced below the sixteen-foot (16') 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 the 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 the 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 Evco Tours Lane. 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 the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins (Per NRA specifications (available at: https://www.caymanroads.com/upload/files/4/628e65_99be2c9.pdf) are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk details need to be provided per NRA specifications (available on our website at: <https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf%20>).*

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 Act (2005 Revision). For the purpose of this Act, 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 by the applicant.

Department of Environment Health

DEH has no objections to the proposed in principle provided that the containers are used for storage only. Any modifications to the site must be submitted to DEH via OPS for review and approval.

Department of Environment

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

The majority of the site is man-modified however there are existing mangroves growing on the adjacent Crown Property on Block 25B Parcel 496 near the site's eastern boundary.

A Cease and Desist Order was issued to Mr. Ellis on the 14 April 2022 under Section 30(1)(a) of the National Conservation Act (NCA), in relation to the works associated with the unauthorised 'take' of mangroves on the adjacent Crown-owned parcel Block 25B Parcel 496 as shown in Figure 1 below. The unpermitted 'take' of mangroves was in contravention of Section 33(1)(a) and (2)(a) of the NCA and the Mangrove Species Conservation Plan (2020). The Applicant should note that this Cease and Desist Order remains in effect until it is rescinded and any further unpermitted 'take' of mangroves on Crown property is an additional offence under Section 30(4) of the NCA.

Figure 1: The unpermitted 'take' of mangroves on Crown-property by the Applicant (outlined in red) (Source: DoE, April 2022)

Mangroves are Part 2 Schedule 1 protected species under the National Conservation Act (2013) with an adopted Mangrove Conservation Plan (2020). It is an offence to remove mangroves unless permission is explicitly sought to remove them either through a coastal works permit, planning permission or a National Conservation Council Section 20 permit. As the existing mangroves fall outside of the applicant's parcel boundary and on Crown property, the removal or trimming of the mangroves would not be covered by this application and must be retained in accordance with the Species Conservation Plan for Mangroves (2020) under the National Conservation Act (2013).

In reference to the after-the-fact storage containers on site, the Department has no environmental concerns given that the site is man-modified with limited ecological value and the containers are already on site.

Fire Department

Approve by the Fire Department.

APPLICANT'S LETTER

On behalf of our client Mr. Garfield Ellis. We wish to apply for 2 after the fact storage containers & an 1 existing container. The existing container has been at this location for more than 5 years. Which is used for the storing of rental items, mainly chairs for functions. The other two (containers) were added around 3 years ago. There was actually 4 containers in total, but he had decided to remove one.

My client didn't realize that plans were even needed for the containers, because there was no construction involved.

Nevertheless, he is sorry that he's done this and is willing to correct his mistake. Landscaping palms & river gravel will be added to beautify the area around the site.

My client is very sorry for his ignorance on this matter and hopes that the CPA will favourably consider his proposal.

OBJECTION LETTER

I, the undersigned hereby object to the grant of planning permission for four containers for the purpose of storing rental items.

The community within 25B has been a peaceful residential neighborhood for the past twenty three plus years of my residency and would rather not have it commercialized with such storage of items for commercial business purposes which may also attract unwanted crime within our tranquil community.

Recently, due to the unethical and illegal actions of Mr. Garfield Ellis storing numerous drums of gasoline, multiple large containers of diesel, multiple gardening trailers with containers of fuel within the yard of his residence, my family and I experienced a vey traumatic event that endangered our lives and the safety of our home as an explosion erupted and a huge fire engulfed from an overturned drum of gasoline within the same area of multiple drums of gasoline which he was storing directly on our boundary line which would have easily spread if not for the quick thinking of another neighbor who called the emergency services.

I have no confidence that those containers will contain ONLY rental items being stored at this property. Therefore, I gravely object to the grant of this application.

If this application is approved, it will set a precedent that commercial activity can be allowed within residential communities as this applicant runs multiple businesses out of his residence, namely landscaping and event rentals.

PLANNING DEPARTMENT ANALYSIS

General

The proposed four (40') containers located on Evco Tours Lane in Prospect.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

The proposed is for four (40') containers to be used for rental equipment storage; the Authority is asked to consider if the proposed use is suitable under regulations 9 (3) which states that commercial development may be permitted in a residential zone in suitable locations and provided the applicant has advertised details of the proposal twice in the newspaper and there are no objections that the Authority regards as having raised grounds for refusing permission. The Authority needs to determine if the site is suitable for the intended use and if objections have been raised that give grounds for refusing permission.

2) Parking

The proposal is for the storage of rental equipment, but there are no dedicated parking spaces as required under regulations 8 (1) (iv) which would require a minimum of four (4) parking spaces if the Authority deems this a commercial development.

At 10:30am, Garfield Ellis (GE) appeared as the applicant and Vadonna McLaughlin (VM) appeared as an objector. Summary notes are provided as follows:

- CPA summarized the application and asked GE to address suitability and parking.
- GE explained the application is for two 40' containers that he uses to store rental items such as tents and chairs.
- CPA asked GE to address the objector's concern about an explosion because of fuel storage.
- GE replied that wasn't at this site, it was a different location.
- CPA noted this is a residential area.
- GE advised that the purpose of the containers is not to accommodate customers, he is the only one with access to the containers, he just picks up items and delivers them.
- CPA asked GE if he feels containers are suitable in a residential area.
- GE replied yes, the site is at the end of the road and there are no houses beyond it and he is not impeding anyone.
- CPA asked if there is not a house next to GE.
- GE replied yes, it is before his lot.
- CPA asked how long have the containers been there.
- GE replied about 5 years. He noted he bought the land with a 40' container and that was about 10 years ago.

- CPA asked for input from VM.
- VM provided several comments:
 - the explosion incident took place on Block 25B Parcel 213, but the parcel in question is Block 25B Parcel 266
 - she is located at Block 25B Parcel 249
 - the incident took place on September 7, 2022
 - if they hear any little noise now it keeps them scared
 - she is not convinced there is only rental equipment on site, she thinks there are fuel barrels there too
 - there are dangerous substances on parcel 266
 - if everything was above board then it would be okay
 - with the containers and the way the site is, it is an enticement for crime
 - GE is new to the area and the neighbourhood doesn't want to see it commercialized
 - there is lawn equipment on site too
 - the explosion has left a mark on them
 - if something is legitimate, then go through the process, don't do it and then be in a position where you are compelled to go through the process
- CPA asked how many family are at VM's house
- VM replied 7, but only 5 are there now
- CPA asked if anyone lives at GE's site and he replied no.
- CPA sought clarification from GE that the containers are for storage for his business.
- GE replied yes, he has two 40' containers to store chairs and tables.
- CPA asked GE if he has a Trade and Business Licence and GE replied yes.
- CPA asked if this property is listed in his licence and GE replied no.
- CPA asked if GE has access to a commercial or industrial property and GE replied no.

2.2 SYLVIA DAILEY & NATASHA BRYAN (TSC Architecture) Block 22E Parcel 349 (P23-0130 and P23-0136) (\$6,000) (EJ)

Application for after-the-fact 6' vinyl fence and proposed 5' cast iron fence.

Appearance at 11:00am

Ian Pairaudeau declared a conflict and was placed in the Zoom waiting room.

FACTS

<i>Location</i>	Bimini Drive
<i>Zoning</i>	MDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.2690 ac. (11,717 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	House & Pool

BACKGROUND

June 20, 2012 – planning permission granted for a house, swimming pool.

January 9, 2013 – planning permission modified to increase floor area and addition to pool house.

August 4, 2022 – The Department issued an enforcement notice (CE22-0101).

August 23, 2023 (**CPA/18/23; Item 2.22**) – The current application was adjourned to require the applicant to provide a plan prepared by a licensed land surveyor showing the after-the-fact fence in relation to the property boundary and the adjacent drainage swale. The applicant is also required to submit a revised plan that correctly identifies the location of the adjacent properties, Block 22E Parcels 356 and 357.

November 15, 2023 (**CPA/27/23; Item 2.3**) – the CPA adjourned the application in order to invite the applicant to appear.

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

APPLICANT'S LETTER

This letter is written on behalf of Natasha & Sylvia Daley who recently applied to the department for their 5 ft. high Cast Iron fence I must stress that the fence will provide privacy, and as such they are applying for a variance. The fence will not be materially detrimental to any future residents on the aforementioned properties, to the neighborhood, or the public welfare.

The ability to construct this fencing will address privacy concerns, and they will significantly appreciate the CPA's consideration for their application.

PLANNING DEPARTMENT ANALYSIS

General

The proposed 5' cast iron fence runs along the sides of the subject parcel and the after-the-fact 6' vinyl fence (result of enforcement action CE22-0101) and is located at the rear of the property located on Bimini Drive.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Fence heights

The Authority is asked to consider if the heights of the fences are appropriate in this instance given that 4' walls and fences are normally permitted in residential zones.

SUPPLEMENTARY ANALYSIS #1

The applicant has provided the requested plans from a licensed land survey and has revised the site plan as requested.

SUPPLEMENTARY ANALYSIS #2

The applicant was not present for the meeting on November 15, 2023 and was re-invited to appear at the current meeting.

At 11:00am, Sylvia Dailey (SD) appeared as the applicant. Summary notes are provided as follows:

- CPA summarized the application and asked SD to explain the after-the-fact application.
- SD provided several comments:
 - when the building was being constructed, she had an operation and she had some memory loss and she didn't check her letter box
 - she was told that people walked through the back of the property from Selkirk
 - she thought she would build a fence to keep out intruders
 - she called her contractor and he said he didn't think CPA would have a problem with it
 - she didn't know she was breaking the law to build a fence
 - she had surgery and didn't check her letter box
 - then she got a summons
 - she didn't remember she had a letter box
 - she went to a lawyer and then got an architect

- it wasn't intentional to break the law
- because of the bushes in the back she wanted the fence for protection
- CPA asked if the people coming through her property were thieves.
- SD replied yes, they broke into her neighbours homes, one night they broke into four houses. She noted they were coming in from Selkirk.
- CPA asked if other owners have fences in the area.
- SD replied the neighbour to the right as one. CPA asked if it lines up with hers and SD replied basically. CPA asked if it is a similar height as hers and SD replied hers is a little higher.
- CPA noted that when the application was adjourned so that the fence could be checked by a licenced land surveyor, it was found that it was on her land.
- SD advised she had to bring in the fence by 4" so it would be on her property.

2.3 **MAXINE POWIS (GMJ Home Plan) Block 38B Parcel 49 (P22-1102) (\$45,000) (EJ)**

Application for an after-the-fact house.

An appearance was scheduled for 11:30am, but neither the applicant or her agent were present for the meeting. As this second opportunity for the applicant to appear before the Authority, the Authority determined that natural justice has been served and the application can be considered.

FACTS

<i>Location</i>	Shamrock Road, Bodden Town
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.25 ac. (10,890 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	House & ATF House
<i>Proposed building size</i>	221 sq. ft.
<i>Total building site coverage</i>	16.24%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

BACKGROUND

1989 – The Authority granted permission for a house.

April 21, 2010 – The Department modified permission to house to decrease floor area and change design (P10-0325).

October 28, 2010 – The Department modified permission to house to decrease floor area (P10-0883).

October 8, 2009 – The Department modified permission to house to decrease floor area and change design (P09-1028).

February 25, 2022 – The Department issued and enforcement notice (CE22-0030).

August 23, 2023 (**CPA/18/23; Item 2.21**) – the CPA adjourned the application in order to invite the applicant to appear before the Authority.

November 15, 2023 (**CPA/27/23; Item 2.2**) – the application was adjourned at the applicants request.

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

- 1) The application does not comply with the minimum lot size requirement and the minimum required rear and side setbacks per Regulation 9(8)(d), (i) and (j) of the Development and Planning Regulations (2022 Revision) and the Authority is of the opinion that pursuant to Regulation 8(13)(b), the applicant failed to demonstrate that there is sufficient reason and exceptional circumstance to warrant allowing the lesser lot size and setbacks.

The applicant is advised that the after-the-fact house must be removed from the site within 90 days from the date of this decision.

APPLICANT'S LETTER

We write on behalf of the applicant, Ms. Maxine Powis, who is asking the Authority to allow the following variance in order to retain the subject house for her personal use:

- *A lot size variance — where the subject parcel is registered as 0.25 acres or 10,890 sq. ft. which is 9,110 sq. ft. less than the required 20,000 sq. ft. for two homes in areas zoned Low Density Residential.*
- *A rear setback variance - of 14ft 4in. as the subject house exists 5ft8in. from the rear property line instead of the required 20ft.*
- *A side setback variance - of 4ft 10in. as the side setback exists at 5ft2in. from the property line instead of the required 10ft.*

As such, permission is requested for the subject addition and we humbly give the following reasons:

1. *Per section 8(13)(d) of the Planning Regulations, the owners of the adjacent properties were notified by register mail and there were no objections to the current location of the structure from the property line.*
2. *Per section 8(13)(b)(iii) of the Planning Regulations, granting the variances to allow this structure to remain as shown has not and will not cause it to be detrimental to persons residing or working in the vicinity, nor to the adjacent property, nor to the neighborhood, or to the public welfare going forward.*

3. *Although the size of the lot is less than the prescribed lot size for two homes in a low-density residential area, the proposed total site coverage of 16.24% is considerably less than the 30% allowed.*
4. *The subject house appears to have been soundly built. The construction consists of a timber framed superstructure anchored to a reinforced concrete block foundation. The exterior finish consists of painted tex1-11 siding over framed walls and shingle roofing. The structure is aesthetically pleasing and has not negatively affected the harmonious look of the area from its existence. Its location is the most suitable area on this parcel for the applicant and therefore, to relocate it would be a time- consuming, cumbersome, and a costly exercise for her.*
5. *It is noted that parcels 38B48 & 38B50 currently enjoy the use of structures that were built with similar reduced setbacks.*
6. *The application complies with all other relevant planning requirements.*

PLANNING DEPARTMENT ANALYSIS

General

The after-the-fact one-bedroom house does not meet the required side setback, rear setback and required lot size and is located off Shamrock Road neat Beach Bay, Bodden Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Minimum lot size

The application for the after-the-fact one-bedroom house is the result of enforcement action CE22-0030. The subject parcel does not meet the required lot size as there is an existing main house; therefore, the applicant is seeking a lot size variance (10,890 sq. ft. vs 20,000 sq. ft.) or 9,110 sq. ft. under as the development does not meet regulation 9 (8)(d) which requires 10,000 sq. ft. per house.

2) Minimum rear setback

In addition to a lot size variance, the subject house does not meet the required rear setback existing at (5'.8" vs 20') or 14'.4" difference; consequently, not meeting regulations 9 (8)(i).

3) Minimum side setback

Finally, the subject house does not meet the required left-side setback existing at (5'.2" vs 10') or 4'.10" difference; subsequently not meeting regulations 9 (8)(j).

SUPPLEMENTARY ANALYSIS

There have been no changes to the plans.

2.4 MAXIMILIANO IEZZI (Duro Architecture and Design) Block 5B Parcel 131 (P22-0138) (\$500,000) (MW)

Application for 4 apartments.

Appearance at 1:30pm

FACTS

<i>Location</i>	West Church St., West Bay
<i>Zoning</i>	Neighbourhood Commercial
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.1520 ac. (6,621.12 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	4,927.5 sq. ft.
<i>Total building site coverage</i>	29.4%
<i>Allowable units</i>	CPA Discretion
<i>Proposed units</i>	4
<i>Allowable bedrooms</i>	CPA Discretion
<i>Proposed bedrooms</i>	4
<i>Required parking</i>	6
<i>Proposed parking</i>	8

BACKGROUND

November 8, 2023 (**CPA/26/23; Item 2.7**) – It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding:

- 1) Zoning
- 2) Unit density (4 vs. CPA Discretion)
- 3) Bedroom density (4 vs. CPA Discretion)
- 4) Lot size (6,621 sq. ft. vs. 20,000 sq. ft.)
- 5) Lot width (36’-3” vs. CPA Discretion)
- 6) Lack of landscaping along driveway
- 7) Building aesthetics

Decision: It was resolved to adjourn the application at the applicant’s request in order to submit revised plans.

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, National Roads Authority, Department of Environmental Health and Department of Environment.

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** with a capacity of at least 1,500 US gallons for the proposed, based on the following calculations:*

BUILDING	UNITS/BLDG	GPD/UNIT	GPD
<i>Proposed Apartments</i>	<i>4 x 1-Bed + Den Units</i>	<i>225gpd/1-Bed + Den</i>	<i>900</i>
TOTAL			900 GPD

- *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 licensed driller in strict accordance with the Authority’s standards. Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the 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

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

As per your memo dated March 14th, 2022 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 four (4) 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 6.65, 0.51 and 0.62 respectively. The anticipated traffic to be added onto West Church Street is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 20% In</i>	<i>AM Peak 80% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 65% In</i>	<i>PM Peak 35% Out</i>
27	2	0	2	3	2	1

Based on these estimates, the impact of the proposed development onto West Church Street is considered to be minimal.

Access and Traffic Management Issues

The NRA asks the CPA to offset the garbage enclosure by 6 feet to accommodate any future road widening along West Church Street.

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. Please have applicant revised entry /exit.

A six (6) foot sidewalk shall be constructed on West Church Street, within the property boundary, to NRA standards. Please have applicant show on site plan.

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 the 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 the 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 Abbey Way. 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 the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk detail needs to be provided as per NRA specifications. See (<https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Detail.s.pdf>)*

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 Act (2005 Revision). For the purpose of this Act, 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.

Should you have any questions, please do not hesitate to contact the undersigned.

Department of Environmental Health

Solid Waste Facility:

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

<i>Number of Containers</i>	<i>Minimum Dimensions (feet)</i>		
	<i>Width</i>	<i>Length</i>	<i>Height</i>
4	5.00	5.00	2.5

Department of Environment (March 7, 2022)

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

The application site is predominately man-modified and of limited ecological value. The DoE recommends the retention of mature trees for shade and that the applicant plants and incorporates native vegetation into the landscaping scheme for the development. Native vegetation is best suited for the habitat conditions of the Cayman Islands, requiring less maintenance and less supplemental irrigation, meaning once it is established, landscaping with native vegetation is a very sustainable and cost-effective choice. Landscaping with native vegetation also has a positive impact on our islands’ biodiversity by providing habitat and food for native fauna.

Fire Department

Approved for Planning Permit Only 07 Jun 22

APPLICANT'S LETTER

With respect to our submission for a 4,928 sf fourplex on 5B 131 located on Elizabeth Street in, West Bay, Grand Cayman. We hereby request variances as follows:

- 1. Minimum lot size from 0.25 acres to 0.15 acres*
- 2. Minimum lot width from 100 feet to 36 feet 3 inches*
- 3. Unit density from – proposed 4*
- 4. Bedroom density – proposed 8*

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) (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.*

Per Section 8(13) of the Regulation, the adjacent properties were notified by registered mail and there have been no objections to date.

We thank you for your consideration of this matter and look forward to a favorable decision on this application in due course.

Please do not hesitate to contact me for any further information.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a (4) Unit Apartment Complex; 4,927.5 sq. ft. to be located on West Church St., West Bay.

Zoning

The property is zoned Neighbourhood Commercial. The proposed development is allowed in the zone. However the Department wishes to discuss the following.

Specific Issues

1) Zoning

Neighbourhood Commercial zones are zones in which the primary use is a less intense form of development of that permitted in a General Commercial zone and which caters principally for the needs of persons resident in, or in the vicinity of, the zone (Regulation 13(1)(b) 2022 Revision)

Also, residential development may be permitted in this zone provided it is not on the ground floor (Regulation 13(9)). In this instance, the building has been designed with parking spaces and a ground floor foyer entry area with stair access to the second floor. The living accommodations are on the second and third floors. The Authority needs to determine if this design meets the intent of Regulation 13(9).

2) Unit & bedroom density

Although residential development may be allowed in the Neighbourhood Commercial Zone, the Regulations do not include any guidance regarding density.

This application includes (4) 1-bedroom apartments with a den/ office proposed on the second & third floors, the proposed unit density is more than double of what is permitted in a Low Density Residential zone of 15 units per acre (1.5 units) & (2.4 bedrooms).

3) Lot size

Regulation 8((9) states “*after the 6th May, 2002, the minimum lot size in a Commercial zone or Industrial zone shall be 20,000 sq. ft.*” Although the proposed parcel was first registered on April 1, 1974 the parcel is currently 15,644 sq. ft. less than required.

4) Lot width

Although the current Regulations do not specify lot width requirements within a Neighbourhood Commercial zone, the Authority should note the current existing lot width is 36’-3” which would be 63’-9” less than the 100’ that would be required in any other zone for an apartment development.

5) Lack of landscaping along driveway

The driveway is situated along the property line therefore there is little to no space for a landscape buffer.

SUPPLEMENTARY ANALYSIS

There have been no changes to the plans.

At 1:30pm, Maximiliano Iezzi (MI) appeared as the applicant and was joined by his agent, Jehrome Esluzar (JE). Summary notes are provided as follows:

- CPA summarized the application and asked the applicant to explain the application.
- JE noted that if this was zoned high density residential it would be a similar to what would be allowed.
- CPA advised the site is not zoned residential, it is Neighbourhood Commercial (NC).
- JE noted that residential is permissible if it is not on the ground floor.
- CPA noted they are only proposing residential and the lot size is supposed to be 20,000 sq ft.

- CPA noted further that the NC zone is intended for a mix of uses, if they want residential it can be on the upper floors, but not on the ground floor, that has to be commercial.
- CPA advised this is not a redevelopment of a residential site and the application doesn't comply with the requirements of the NC zone.
- JE noted that residential is only on the second floor, the ground floor is an open area. He asked if there was commercial on the ground floor with access to residential above would that be possible.
- CPA replied yes, but they have to look at what was submitted.
- JE advised he has prepared revised plans.
- CPA explained they have to look at what was submitted. CPA advised that any new plans have to include the total site coverage, as 75% is the limit. CPA asked if they are asking for the application to be adjourned.
- JE replied yes, if they need commercial then they can change the ground floor plan.
- CPA explained the revised plans would have to be reviewed on their merits, there is no guarantee of approval, but it would be in their best interest to have the application adjourned.
- JE noted that the owner and the previous architect have parted ways so they would now be able to start fresh.
- CPA noted this is a really undersized lot so they need to be mindful of that and if there is commercial on the ground floor then there will be a new parking requirement.
- JE asked for the application to be adjourned so they can submit revised plans.

2.5 LIV DEVELOPMENT (Tropical Architectural Group Ltd.) Block 15E Parcel 34H5 (P23-1088) (\$1,165,500) (MW)

Application to modify planning permission to increase the floor area; revise the floor plan layout & elevations; relocate the septic tank & revise the pool design.

An appearance was scheduled for 2:00 pm, but the applicant was not present.

FACTS

<i>Location</i>	Montage Dr., George Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.1707ac. (7,435.692 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	4,662 sq. ft.

<i>Total building site coverage</i>	31.3%
<i>Required parking</i>	1
<i>Proposed parking</i>	2

BACKGROUND

May 27, 2020 – House and pool (CPA/08/20; Item 2.6) - the application was considered and it was resolved to grant planning permission.

Decision: It was resolved to adjourn the application and re-invite the applicant to appear before the Authority.

APPLICANT’S LETTER

Further to the application submitted to build Two (2) Storey House on Block 15E Parcel 34 Lot 5, we hereby request for a setback variance of which requires a minimum of 15 ft minimum side setback per Planning Regulation 9 (8)(i) and (j).

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

- 1. Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area:*** *While we have complied with the minimum required setback for the 3 sides, we would like to request for a variance due to the application of the house templates to the respective lot.*

We would like to request only the north side setback which is 7’-2” away from the nearest boundary. We would also like to include the variance on the proposed propane tank and condensing units and pool pump. There are no other suitable locations we can fit these on site aside from its proposed locations and we hope that the CPA board will find this acceptable.

- 2. Under Regulation 8 (13)(b)(ii), the unusual terrain characteristics limit the site’s development potential.*** *The property is irregular in shape which limits the property’s buildable area; and even though we exceeded on the required setback line, we are still within the allowed site coverage.*

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

PLANNING DEPARTMENT ANALYSIS

General

The application is for a modification to increase floor area; 862 sq. ft., revise floor layout & elevations, relocate septic tank & revise pool design located on Montage Dr., George Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Front setback

Regulation 9(8)(i) of The Development and Planning Regulations (2022 Revision) states “the minimum front setback is 20 feet” The fronting steps would be 17’-3” from the fronting boundary a difference of 2’-9”.

2) Side setback

Regulation 9(8)(j) of The Development and Planning Regulations (2022 Revision) states “the minimum side setback is 10’ for a building of one storey”. The applicant has proposed the relocation of the septic tank to be 4’-2” from the adjoining property boundary, in addition the proposed exterior stairs to the northern side of the residence would be 3’-0” from the roadside boundary which should be a minimum of 20’.

3) Floor layout

The applicant has proposed a revised layout which shows a second floor guest bedroom, bathroom and game room above the previously approved garage. Given that the applicant is proposing an exterior access staircase the Authority should determine if the proposed could be potentially converted to a duplex which would then trigger the requirements for a lot size variance.

2.6 20 NORTH DEVELOPMENT (TAG) Block 5C Parcel 77 (P23-0940) (\$12.658 million) (NP)

Application for 95 apartments, cabanas, pool, gym, storage and a sign.

Appearance at 2:30 p.m.

Joshua Bernard declared a conflict and left the meeting room.

FACTS

<i>Location</i>	Willie Farrington Drive in West Bay
<i>Zoning</i>	Low Density Residential
<i>Notification Results</i>	Objections
<i>Parcel size</i>	6.34 acres
<i>Parcel size required</i>	25,000 sq ft
<i>Current use</i>	Dwelling
<i>Proposed use</i>	Apartments
<i>Building Footprint</i>	46,854 square feet
<i>Building Area</i>	84,389 square feet
<i>Units Permitted</i>	95
<i>Units Proposed</i>	95
<i>Bedrooms Permitted</i>	152
<i>Bedrooms Proposed</i>	119

<i>Parking Required</i>	143
<i>Parking Proposed</i>	177

BACKGROUND

July 19, 2023 (**CPA/16/23; Item 2.3**) – The Authority resolved to adjourn the matter in order to obtain NRA comments as well as confirm the number of objectors on file.

August 16, 2023 (**CPA/17/23; Item 2.5**) (**P23-0186**) – It was resolved to refuse planning permission for the following reasons:

- 2) The Authority is of the view that the applicant failed to demonstrate that the subject site is a suitable location for apartments per Regulation 9(8). In this regard, the Authority is of the view that the proposed apartments are not in keeping with the character of the area in terms of mass, scale and intensity of use and this will detract from the ability of surrounding land owners from enjoying the amenity of their properties.

The apartment and density number for P23-0186 are the same as for the current application. The proposed number of parking spaces has decreased from 219 to 177. The building designs are the same and the general circulation though the site is essentially the same. The new application does include a drainage swale around the perimeter of the property and the court yards will be used as catch basins.

March 13, 2024 (**CPA/09/24; item 2.4**) - current application adjourned and re-scheduled for march 27, 2024 at 2:30pm.

Decision: Prior to a full review under the Development and Planning Act (2021 Revision), The Development Plan 1997 and the Development and Planning Regulations (Rev 2022)the Authority reviewed the DOE's response to DPA s7 consultation and determined that, as part its consideration of Section 41 of the National Conservation Act (2014) (NCA), it would review with the applicant the list of definitions of adverse effects in Section 2 (a-1) of the NCA. After doing so, it was resolved to adjourn the application and refer the matter to the National Conservation Council pursuant to Section 41(3) of the NCA as there may be potential adverse effects per s2(b) and (d).

AGENCY COMMENTS

The Authority received and considered comments from the DOE, NRA, Fire Department and Water Authority Cayman.

Department of Environment

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

The application site consists primarily of tidally flooded mangrove forest and woodland (refer to Figure 1) and features several ponds or pools.

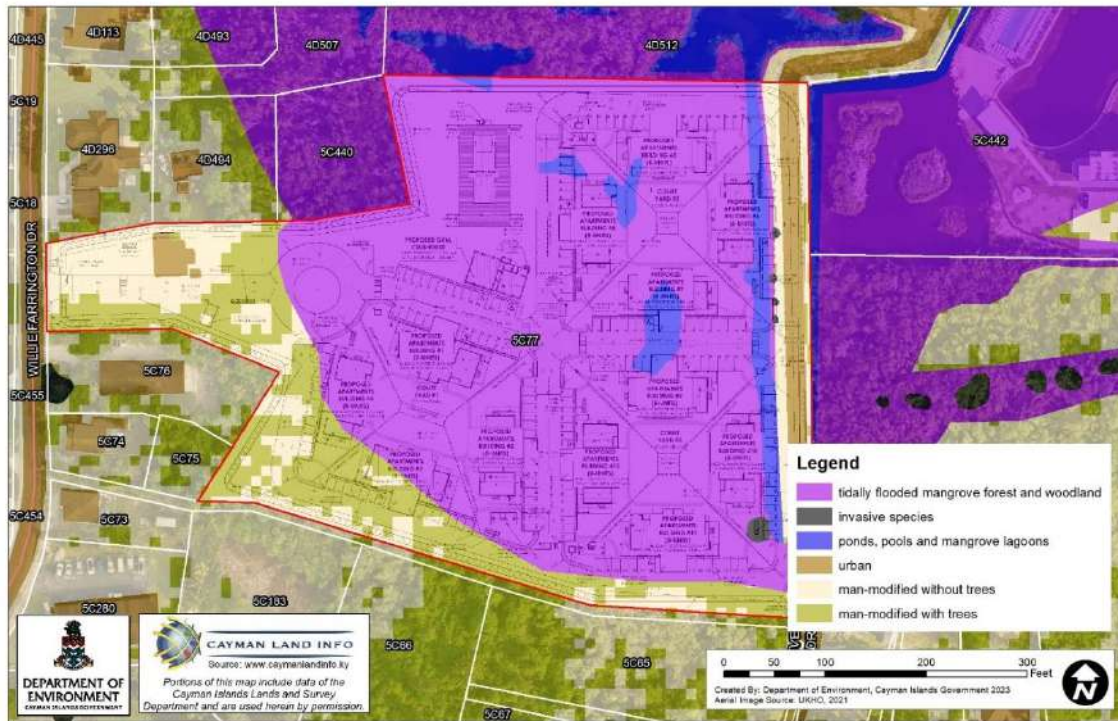


Figure 1: Land cover map overlaid on proposed site plan, note the majority of the site is covered by tidally flooded mangrove forest and woodland (Source: DoE, 2023)

The site is very low lying, averaging around 1 foot above Mean Sea Level (refer to Figure 2). As such, drainage is likely to be a significant concern. We are pleased to see that the revisions to the plan feature a number of areas that have been used to incorporate detention basins or retention ponds and the perimeter of the property features a swale. If incorporated effectively, these measures can be beneficial to the drainage of the site, as well as the surrounding area. We have not been provided with a comprehensive Stormwater Management Plan for detailed review, however we do support the inclusion of these aspects.

We further recommend that the applicant considers the use of porous or permeable paved surfaces in areas of hard standing such as the driveways and parking areas.

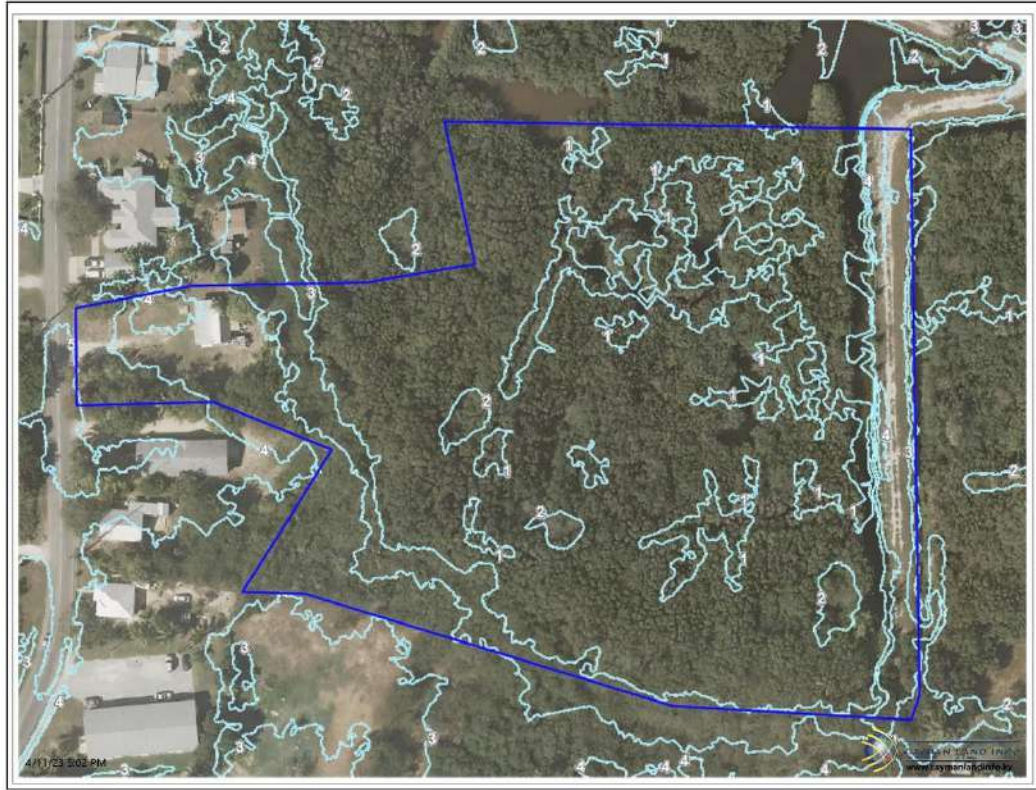


Figure 2: Site contours overlaid on 2018 aerial imagery (Source: LIS, 2018)

We recommend that native plants are incorporated into the landscaping scheme. Native plants are best suited for the conditions of the site, including the temperature and the amount of rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides ecological benefits by creating habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services. Stormwater management, flooding and drainage could all be greatly improved by retaining as much of the original wetland vegetation as possible.

We recommend that wherever possible, sustainable design and energy efficiency features are included in projects such as this one. We especially encourage renewable energy installations given that the Cayman Islands has a target of 70% of energy generation being renewably sourced by the year 2037 (Cayman Islands National Energy Policy 2017-2037). Photovoltaic solar panels in particular could be installed on suitable roof space or over proposed parking spaces.

Best management practices should be adhered to during construction to reduce impacts on the environment. In particular, control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.

If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed development, the DoE recommends the inclusion of the following condition in any planning permission:

1. If the construction uses insulating concrete forms (ICF) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris are completely captured on-site and does not impact the surrounding areas.

Water Authority Cayman

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 16,050 US gallons per day (gpd), based on the following calculations.

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Building 1	5 x 1-Bed Units	150gpd/1-Bed	750	750
	2 x 2-Bed Units	225gpd/2-Bed	450	450
Building 2-12	66 x 1-Bed Units	150gpd/1-Bed	900	9,900
	22 x 2-Bed Units	225gpd/2-Bed	450	4,950
TOTAL				16,050

- Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licensed driller in strict accordance with the Authority's standards. The minimum well casing diameter for this development shall be 8". Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.
- To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4'5" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

Water Supply

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

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

National Roads Authority

As per your memo dated October 11th 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

General Issues

The NRA request that the CPA have the applicant provide and consider,

1. *The overall intensity of the site and provide a comprehensive phasing plan;*
2. *The area is prone to flood and if this application is approved as is it will cause major flooding issues for homes etc. around it, therefore, the applicant needs to think more holistically. The applicant needs to keep in mind the intensity of the site as well as the use of fill and how it will affect the surrounding parcels; simply stated the SWMP will guide how the site is designed;*

Therefore, the NRA requests that the CPA have the applicant develop a strategic SWMP not just for the site but for the area as a whole considering the most recent development on Block 5C Parcel 442;

It is noted that the applicant put a six (6) ft drainage swale around the site, this will be inadequate, a swale if used needs to be a minimum of ten (10) ft with a proper outflow; and

3. *How will access be provided for a variety of parcels (specifically Block 5C Parcels 183, 66, and 65) in the area, who at the moment only have access off of a six (6) ft. public road. It is noted that the applicant has noted Genevieve Bodden Drive as an alternate access, however, Genevieve Bodden Drive is not built to minimal standards and will not be able to handle any additional traffic. The applicant will need to find an alternate route.*

Road Capacity Issues

The traffic demand to be generated by a residential development of ninety-five (95) 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, and PM peak hour trips are 6.65, 0.51 0.51 and 0.62 respectively. The anticipated traffic to be added onto Willie Farrington Drive is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 20% In</i>	<i>AM Peak 80% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 65% In</i>	<i>PM Peak 35% Out</i>
631	48	10	38	59	38	21

Based on these estimates, the impact of the proposed development onto Willie Farrington Drive is considered to be moderate.

Access and Traffic Management Issues

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

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

Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of twenty-four (24) ft.

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 the 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 the 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 Willie Farrington Drive. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*
- Curbing is required for the parking areas to control stormwater runoff.*

- *Roof water runoff should not drain freely over the parking area or onto the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk detail needs to be provided as per NRA specifications. See <https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Detail.s.p>*

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 Act (2005 Revision). For the purpose of this Act, 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.

Fire Department

The Fire Department has stamp approved the drawings.

OBJECTION LETTERS

Please see Appendix A.

APPLICANT'S LETTER

Further to the application submitted in relation to the above referenced Project, we hereby request for a Lot Width Variance which requires a minimum 100' in a Low-Density Residential Zone.

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

- (1) **Under Regulation 8 (13)(d), the adjoining property owners have been notified of the application.**
- (2) ***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 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. *While the lot width adjacent to the main public road is at 87'-1" and below the required 100' minimum width wide, due to the irregular shape of the property.*
- b. *In consideration of the irregular shape of the property, the width of the general concentration of the development is approximately 418' wide and the entire lot size is more than sufficient to sustain the full capacity of the development.*
- c. *The design of the entire development does not intrude, obstruct, or disturb the existing community and neighborhood.*

We look forward to the CPA board's favorable consideration to this request for variance.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located on Willie Farrington Drive in West Bay.

The proposal is for 95 apartments with 119 bedrooms and parking for 177 vehicles.

Adjacent landowners were notified by Registered Mail and a total of 4 objections have been received. One of the objectors also provided photos of some existing flooding in the area. Another objection was received but was determined to be located beyond the notification radius.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability for Apartments

Regulation 9(8) states that apartments are permitted in suitable locations in a Low Density Residential Zone.

The Department has reviewed the GIS mapping for the area and would note that there appears to be apartments and townhouses existing to the east and south of the subject property.

The Authority should discuss whether the area is suitable for the proposed number of apartments. It should be noted that the previous application for 95 apartments was refused because the applicant failed to demonstrate that the site is suitable for apartments.

2) Proposed Lot Width (87' vs 100')

Regulation 9(8)(g) states that the minimum lot width for townhouses shall be 100 feet.

The subject parcel has a minimum width at the road of 87 feet and it is noted that the property flares out to a greater width where the majority of development is proposed.

The applicant has submitted a variance letter and the Authority should discuss whether the request is justified in this instance.

At 2:30pm, Jess Peacey, Sam Small, Cline Glidden, Daniel Bond, Kerry Lawrence, Kathleen Runas and Mary Ann Villanueva appeared on behalf of the applicant. Jonathan Murphy joined the meeting via Zoom as part of the applicant team. Ezmie Smith, Jenny Manderson and James Moore appeared as objectors. Summary notes are provided as follows:

- CPA provided several preliminary comments:
 - Regarding the National Conservation Council (NCC), this is a new application, but it is similar to the previous application
 - The last application was considered on August 16, 2023 which was about two weeks before the Cayman Islands Court of Appeal judgement on NCC vs CPA was released and that judgement has caused CPA to institute a new process and that wasn't in place for the previous application
 - The DOE comments received through the Development and Planning Act Section 7 consultation have been received, but CPA must follow the new process which involves going through with the applicant the provisions of Section 2(a-1) of the National Conservation Act (NCA)
 - This process must be done before CPA can deal with the merits of the application
 - The provisions of Section 2(a-1) are on the projector screen
 - CPA and the applicant will go through the items and then everyone will be asked to step out of the room while the members deliberate on the issue of adverse effect and then everyone will be brought back in
 - If it is determined that there is adverse effect then the next step is to consult with the NCC per Section 41(3) of the NCA which means the application would be adjourned until comments are received from the NCC
 - If no further consultation with NCC is required then the CPA can consider the substantive aspects of the application
 - CPA will go through Section 2(a-1) with the applicant and the objectors can listen, but the CPA doesn't need their input on this point, but they would get to provide comment on the application if that is the result of the 2(a-1) process
- CPA asked if the applicant is prepared to go through Section 2(a-1) and Ms. Peacey (JP) replied yes.

(a) alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife
JP noted there will be a landscape scheme to ensure there is habitat for wildlife
(b) development that may increase the potential for damage to the area from floods, hurricanes or storms

<p>JP noted a storm water management plan (SWM) has been submitted and there will be revisions to ensure all water is contained on site. She noted that during the construction stage they will use a silt screen to prevent runoff.</p>
<p>(c) alterations of salinity levels, nutrient balance, oxygen concentration or temperature that may be harmful to wildlife or the ecological or aesthetic value of the area</p>
<p>JP noted a SWM plan will address the operational side of things.</p>
<p>(d) alterations of hydrology, water flow, circulation patterns, water levels or surface drainage that may be harmful to wildlife or the ecological or aesthetic value of the area or that may exacerbate erosion</p>
<p>JP noted that drainage will be contained on site with catch basins and french drains.</p>
<p>(e) alterations that may interfere with the public use and enjoyment of the area</p>
<p>JP advised there is no public access. CPA noted that there is reference to a right-of-way in the report. JP explained that is on the side of the property. Sam Small (SS) noted there is a gazetted road, but it is not built. CPA asked to go back to b) and d) and they said there will be a SWM plan to ensure there is no flooding and NRA has said that swales aren't sufficient and asked if they have submitted anything further. Mr. Bond noted those were applicable to the previous plan. Ms. Runas stated they are 10' wide swales. SS noted that the plan shows french drains and he disputes NRA's contention that swales are insufficient, they need to prove that from an engineering point of view. SS explained swales aren't popular here because of mosquitos and they don't need a 10' width. CPA noted it had to be brought up because NRA says they aren't sufficient.</p>
<p>(f) the discharge of pathogens, dissolved or suspended minerals or solids, waste materials or other substances at levels that may be harmful to wildlife or the ecological or aesthetic value of the area</p>
<p>JP noted best practices will be used during the construction stage</p>
<p>(g) changes in littoral or sediment transport processes that may alter the supply of sediment available for those processes or that may otherwise exacerbate erosion</p>
<p>JP noted this isn't applicable.</p>
<p>(h) alterations that may increase losses of the area from a rise in the sea level with respect to the surface of the land, whether caused by an actual sea level rise or land surface subsidence;</p>

JP noted the site isn't on the coast so this isn't applicable.
(i) emissions of air pollutants at levels that may impair the air quality of the area;
JP noted equipment will be run efficiently, there won't be idling.
(j) alterations that may hinder or impede the movement or migration of wildlife;
JP noted this is linked to a) as there will be landscaping so there is no impact on the migration of wildlife.
(k) alterations that may impair the capacity of a beach ridge to function as a protective barrier and as a reserve of sand for beach nourishment during storms;
JP noted this isn't applicable
(l) alterations that may impair the capacity of the area to act as a sink or reservoir of greenhouse gases or enhance its potential as a source of greenhouse gases.
JP noted they will landscape the site, but did note that there will be a dip during construction, but there will be landscaping to ensure there is no adverse effect.

- There was a general discussion about the total site coverage and the amount of hard surfaces.
- CPA asked if there was anything to add to the Section 2(a-1) discussion and JP replied no.
- CPA asked everyone to please step out of the room while the members determine if there is adverse effect and if the NCC needs to be consulted under Section 41(3) of the NCA. After about 5 minutes everyone was brought back into the room.
- CPA read the definition of adverse effect from the NCA and advised that they have found that the application may cause adverse effect per at b) and d) of Section 2(a-1) and therefore the application will be adjourned so that CPA can consult with the NCC per Section 41(3) of the NCA.
- CPA noted that once comments have been received from the NCC the application will be re-scheduled for hearing.
- SS asked that they make sure DOE gets the engineering SWM plan.
- A member of the applicant team noted that regarding endemic plants, if DOE says there are mangroves, there aren't any.
- CPA recommended to the applicant team that perhaps they should contact DOE so they can walk the site together. CPA also noted that if there were any issues related to this matter, DOE's section 7 memorandum would typically mention it.

- JP asked that when the application is re-scheduled if the Department can ensure all of the plans that were seen on March 13 are included.
- Ms. Smith noted that if there any new documents then the objectors need to see them too, they need to be provided with them.
- CPA advised that if there are new documents, the objectors can view them, but the CPA nor Department can give them copies.
- Mr. Murphy advised that they will organize the contact details for the objectors so they can share documents.
- Ms. Manderson began to explain that other developments in the area are causing flooding and the CPA advised that information can't be taken into account at this time.

2.0 APPLICATIONS
(Items 2.7 to 2.26)

2.7 YARL TOWERS LTD. (Trio Design) Block 12C Parcels 438 (P23-1060) (\$20,000,000) (MW)

Application for a mixed use building (20 apartments and 10 retail units), 1 pool, 6 hot tubs and a generator.

Appearance at 1:50

FACTS

<i>Location</i>	Earth Cl., West Bay
<i>Zoning</i>	Neighbourhood Commercial
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.6381 ac. (27,795.636 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	64,403 sq. ft.
<i>Total site coverage</i>	87.11%
<i>Allowable site coverage</i>	75%
<i>Allowable units</i>	CPA Discretion
<i>Proposed units</i>	20
<i>Allowable bedrooms</i>	CPA Discretion
<i>Proposed bedrooms</i>	20 (plus 20 dens with bathrooms and closets)
<i>Required parking</i>	58
<i>Proposed parking</i>	78

BACKGROUND

July 16, 2008 – Commercial building (CPA/24/08; Item 2.14)– the application was considered and it was resolved to grant planning permission.

July 16, 2008 – Sign (CPA/24/08; Item 2.14) – the application was considered and it was resolved to grant planning permission.

October 22, 2008 – Modification to commercial building (CPA/34/08; Item 2.19) – the application was considered and it was resolved to grant planning permission.

Decision: It was resolved to adjourn the application for the following reasons:

- 1) The applicant is required to submit revised plans that comply with the maximum allowable building height per Regulation 13(7)(a). For clarity, the Authority would advise as follows:
 - The building includes a lower storey for parking and a roof storey with a gym, lobby and restrooms. This results in a total of 5 storeys. Additionally, the height of the building is 59' 8". Regulation 13(7)(a) allows for a maximum building height of 40' or 3 storeys, whichever is the greater.
 - The Authority has no discretion to vary the provisions of 13(7)(a) in regard to the number of storeys for two reasons. First, Regulation 8(13) specifically restricts the Authority from granting a variance for additions storeys. Second, Regulation 8(4) does not apply to the Neighbourhood Commercial zone as the maximum allowable building height for the Neighbourhood Commercial zone is not contained in Regulation 8(2), it is contained in Regulation 13(7)(a).

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, National Roads Authority, Department of Environmental Health and Department of Environment.

Water Authority

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

Wastewater Treatment:

The development shall be connected to the West Bay Beach Sewerage System (WBBSS) as per Section 42 (1) of the Water Authority Act (2022 Revision).

- *The developer shall notify the Water Authority's Engineering Department 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 necessary arrangements for connection.*
- *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: https://www.waterauthority.ky/upimages/pagebox/Guidelines-SewerMar2006_1634241055.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.*

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

Elevator Installation

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

Potential High-Water Use

The plans submitted do not indicate the types of tenants to be included. Therefore, the above requirements are based on low-water-use tenants; i.e., those where wastewater generation is limited to employee restrooms/breakrooms. Should high-water-use tenants; e.g., food service, laundry, etc., be anticipated at this stage, details should be provided to the Water Authority thereby allowing requirements to be adjusted accordingly. Any future change-of-use applications which indicate an increase in water use will require an upgrade of wastewater treatment infrastructure which may include in-the-ground interceptors (for grease or oil-grit or lint) and/or an upgrade to an Aerobic Treatment Unit.

The developer is advised to contact development.control@waterauthority.ky to discuss requirements to accommodate potential high-water use tenants.

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

Department of Environment (9-Feb-24)

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). This review is provided in accordance with Section 41(3) of the National Conservation Act and the Section 41 Guidance Notes issued by the National Conservation Council.

Advice to the Applicant

As seen in Figure 1 below, the application site is man-modified and of limited ecological value.



Figure 1. The application site with the parcel boundary highlighted in blue (Aerial Imagery Source: Cayman Land Info, 2023).

The DoE recommends that native vegetation is incorporated into the proposed landscaping scheme. Native species are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services. In particular, any remaining wetland vegetation along the northern boundary of the site should be retained as it will assist in on-site drainage.

Advice to the Central Planning Authority/Planning Department

Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in

insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.

If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed development, we recommend the inclusion of the following condition in the approval:

- 1. If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the environment.*

Fire Department

Please note, this development requires a fire hydrant/Fire well. Location of same needs to be depicted on the site drawings. Chapter 6 of the 1994 Standard Fire Prevention Code: 603.1.3 Fire Hydrants; 603.1.3.1 Water Supply. Approved fire hydrants shall be provided for buildings to meet the necessary fire flow requirements as determined by the fire official.

OfReg

- 1) Minimum distance from generator and propane must be 20ft.*
- 2) Minimum number of fire extinguishers is one and must be within 30ft of both tanks.*
- 3) No combustible materials must be within 10ft of either tank. Take into consideration with landscaping.*
- 4) Capacity of the tank for the generator was not stated, however the minimum setback distances for the tanks are: Propane tank once bury must be 10ft away from boundary line and building and diesel tank - 276 to 750 gallons: 10ft away from boundary line and 5ft away from building, 751 - 12,000ft: 15ft from the boundary line and 5ft away from building.*

PLANNING DEPARTMENT ANALYSIS

General

The application is for a mixed-use building; (20 apartments, 10 retail units) to be located on Earth Cl., West Bay.

Zoning

The property is zoned Neighbourhood Commercial.

Specific Issues

1) Zoning

Neighbourhood Commercial zones are zones in which the primary use is a less intense form of development of that permitted in a General Commercial zone and which caters principally for the needs of persons resident in, or in the vicinity of, the zone (Regulation 13(1)(b) 2022 Revision)

The proposal includes 8,334 sq. ft. of retail, 38,492 sq. ft. of residential space and the remaining 17,577 sq. ft. split between common areas & parking. The layout and floor area of the commercial component is in similar scale to other commercial centres on Earth Cl. (Park Place & Landmark Square).

Also, residential development may be permitted in this zone provided it is not on the ground floor. In this instance all of the residential units are on the second & third level.

2) Building height

Regulation 13(7)(a) of the Development and Planning Regulations (2022 Revision) states *“The maximum building height of any building in a Neighbourhood Commercial zone shall be 40’-0” or 3 storeys, whichever is the greater.”* The proposed development includes a roof top gym, storage and lobby with a height of **59’-8”** and it would also be considered a 4th storey. While Regulation 8(4A) would appear to now allow the roof-top uses, it does not apply to the Neighbourhood Commercial zone. Regulation 8(13) allows the Authority to grant a variance for the building height in terms of the number of feet, but it does not allow the Authority to grant a variance to the number of storeys.

3) Roadside Setback

Regulation 8(8)(b) of the Development and Planning Regulations (2022 Revision) states *“the minimum road setbacks shall be 20’, unless otherwise specified by the Authority.”*

The proposed building meets the required 20’ roadside setback , however the proposed steps encroach the fronting road side setback at **11’-4”** a difference of **8’-8”**.

4) Density

Regulation 8(8)(a) of the Development and Planning Regulations (2022 Revision) states *“the maximum density and minimum setbacks shall be at the discretion of the Authority.”*

The applicant has proposed a total of 20 units with a total of 20 bedrooms, however each of the proposed units have dens which can be easily converted to bedrooms which would put the bedroom count to 40 bedrooms. Should the board consider the proposed dens as bedrooms this would put the proposed density at **31.3** apartments per acre and a bedroom density of **62.7** bedrooms per acre. The proposed density is greater than what is permitted in the Hotel/Tourism zone which allows up to 25 apartments per acre and more than double what is permitted in the Low density residential zone of 15 units per acre.

5) Site coverage

Regulation 13(10)(11) of the Development and Planning Regulations (2022 Revision) states *“Site coverage, parking areas, driveways and service areas in any Neighbourhood Commercial or Marine Commercial zone shall not exceed 75% of the lot concerned.”* The

proposed development (building & parking) would cover a maximum of **87.11%** a difference of **12.11%**.

At 1:50pm, Mike Stroh (MS), Robert Duvenage and David Amirthagelin appeared on behalf of the applicant. Summary notes are provided as follows:

- CPA asked for the application to be presented.
- MS asked to look at the building elevations. He noted that the Code calculates height to the roof slab and they have provided two dimensions, one to the roof slab and the other to the highest point of the tower. He explained there is no habitable space, there is a gym and bathrooms. He noted that the Neighbourhood Commercial (NC) zone was left out of the latest amendment to building height.
- CPA provided several comments:
 - the Development and Planning Regulations prevail over Building Control so with a truss framed roof, the height is measured to the top
 - the height Regulation gives a preference to a modern building style
 - the fact that amendment to the height regulation does not include the NC zone was not an oversight as it is generally next to residential areas
 - the allowable site coverage is 75%, only General Commercial allows 90%, and they have 87%
 - hard surfaces are a catalyst for flooding
- MS noted he had discussed with AMR to use pavers and they said they can be used but there will still be water on site. He explained they would ask to do what Landmark did which is to use grasscrete.
- CPA noted that Fire and DEH don't like grasscrete because it lacks strength.
- MS noted that if they uses grasscrete then even with a hard surface for the garbage they would have 62% site coverage.
- CPA noted that grasscrete doesn't get calculated into stormwater management and can be a threat to flooding for the residential area.
- MS noted that regarding water retention they have a huge cistern. He then looked at the roof plan and explained what is enclosed.
- CPA noted that MS considers it as non-habitable, but it needs to be included as habitable for Code calculations.
- MS noted there is no argument that this is not a 4 storey building, but he's not sure why the NC zone was excluded from the height exemptions. If CPA doesn't agree that it can be permitted then they would just have towers with a deck, no storage, bathrooms or gym.
- CPA asked MS to address bedroom density.
- MS noted they have dens as everyone wants them now.

- CPA noted the dens have a bathroom and closet.
- MS noted maybe that those can be changed to a half bathroom.
- CPA noted that as a comparison, their bedroom density is double what would be allowed in LDR and one and a half times more than MDR.
- MS referred to the aerial map on the cover sheet and gave context of what is in the area.
- CPA noted that the definition of building height for the NC zone is clear at 40' or 3 storeys and given the definition of height this building is 59'. CPA asked what section of the law does MS feel gives CPA the power to grant a variance.
- MS replied they are asking for a variance because all of the other zones have the ability for 4 storeys.
- CPA noted they are asking about the height in feet and MS noted he has no response.
- CPA explained regulation 8(13) may allow a variance for feet, but not storeys.
- MS explained if there can be no amenities on the roof then he can chop off the roof and go with a more modern design, but he prefers a sloped roof.

2.8 CRESWELL POWERY (Garden City Designs) Block 4C Parcel 472 (P24-0051) (\$20,000) (MW)

Application for 2 ATF houses.

FACTS

<i>Location</i>	Boreal St., West Bay
<i>Zoning</i>	Medium Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.3121 ac. (13,595.076 sq. ft.)
<i>Parcel size required</i>	22,500 sq. ft.
<i>Current use</i>	Existing duplex, shed & ATF homes
<i>Proposed building size</i>	493.8 sq. ft.
<i>Total building site coverage</i>	23.6%
<i>Required parking</i>	4
<i>Proposed parking</i>	4

BACKGROUND

April 2, 2017 – Duplex – the application was considered and it was resolved to grant planning permission.

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the lot size and the building/structural integrity of the houses.

APPLICANT'S LETTER

We are requesting a variance for the above captioned pursuant to Regulation 13, The Development and Planning Regulation 2022 (R) (DPR), particularly Regulation 13 (b) (iii).

Mr. Powery expresses his sincere apologies for violating the DPR, but he is now retired, bed confined and must maintain two dependents. Therefore, rather than be an extra burden on NAU Mr. Powery is trying to earn the extra income from the two units.

The application contravenes the DPR in two respects, namely setbacks and lot size. In our view the development "...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;" for the following reason:

- 1. The side setbacks which are less than the minimum of ten (10) feet have been violated in other instances within the neighbourhood (see attached photographs). Mr. Powery stated that the reason why he constructed the units that close to the boundaries is because if he had maintained the ten-foot setback for Unit #1 it would have been approximately 6-8 ft. from his house whereas Unit #1 is approximately 15' from the adjoining house on 4C471. The rear setback for Unit #2 is somewhat consistent with the developments on 4C468 & 469.*

On behalf of our client, we are seeking the CPA's favourable consideration of his application and trust that the foregoing reason for requesting a variance is sufficient, but should you require any other information or clarification please do not hesitate to contact us.





PLANNING DEPARTMENT ANALYSIS

General

The application is for two ATF houses; 493.8 sq. ft. located on Boreal St., West Bay.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Lot size

Regulation 9(7)(d) of the Development and Planning Regulations (2022 Revision) states “the minimum lot size for each detached house is 7,500 square feet.” The proposed property consists of (2) AFT dwellings in addition to the existing duplex which would

require a lot size of **22,500 sq. ft.** The current existing lot size is only **13,595.076 sq. ft.** a difference of **8,904.924 sq. ft.**

2) Rear setback

Regulation 9(7)(i) of the Development and Planning Regulations (2022 Revision) states “*the minimum rear setbacks are 20'-0”*”. The existing shed is currently **7'-5”** from the rear boundary in addition the ATF dwelling #2 is **8'-6”** from the rear boundary, a difference of **12'-7”** (shed) & **11'-6”** (ATF dwelling #2) respectively.

3) Side setback

Regulation 9(7)(j) of the Development & Planning Regulations (2022 Revision) states “*the minimum side setbacks is 10 feet for a building of one storey*” The (2) ATF dwellings would be **4'-1” (Unit #1)** & **6'-10” (Unit #2)** from the side boundary a difference of **5'-11”(Unit #1)** & **3'-2” (Unit #2)** respectively.

2.9 HUEY CRAWFORD (Abernethy & Associates) Block 53A Parcel 111 (P22-0358) (\$4,700) (NP)

Application for a 6 lot subdivision

FACTS

<i>Location</i>	Private road, North Side
<i>Zoning</i>	MDR
<i>Notification Results</i>	No objectors
<i>Proposed Parcel size</i>	12,510 sq ft to 25,970 sq ft
<i>Parcel size required</i>	7,500 sq. ft.
<i>Current use</i>	Vacant

BACKGROUND

July 6, 2022 – (CPA/17/22; Item 2.16) – The Authority resolved to adjourn the application in order for the road gazette referenced by the NRA in the memo dated July 1, 2022 becoming a fully designated public road prior to further consideration by the Authority.

Decision: It was resolved to adjourn the application in order for the road gazette referenced by the NRA in the memo dated July 1, 2022 becoming a fully designated public road prior to further consideration by the Authority.

AGENCY COMMENTS

The Authority received and considered comments from the Department of Environment, National Roads Authority and Water Authority.

Department of Environment

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

Site Overview

The Department notes that the majority of the subject parcel is primary dry shrubland and dry forest habitat with the northern-most section being previously cleared and man-modified, as shown in Figure 1 below. The subject parcel is also located on an elevated ridge area which reaches heights of approximately 24ft as shown in Figure 2 below. Elevated areas with primary dry forest habitats are known to contain some of the oldest growth native vegetation. These areas are of high ecological value and may contain endemic species.



Figure 1: Aerial imagery showing the subject parcel with primary dry forest and shrubland landcover and the previously cleared area in the northern most area (Source: LIS 2018)

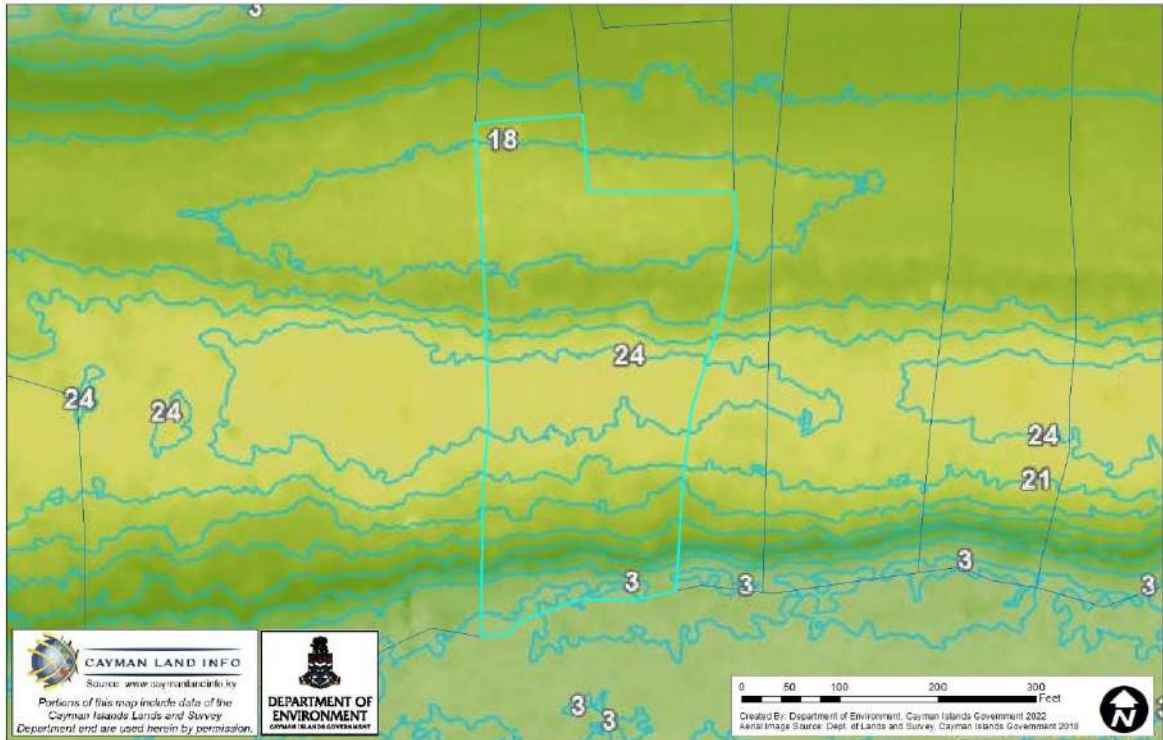


Figure 2: A map showing the elevation of the subject parcel with the elevated ridge shown in yellow reaching approximately 24ft above sea level (Source: LIS 2018)

Importance of Primary Habitat

Primary habitat is mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human uses. For this reason, the DoE does not support speculative or wholesale clearing of subdivision sites. In principle, land clearing should be reserved until the development of individual lots is imminent (through the granting of planning permission for development on those particular lots). This allows the opportunity for the individual lot owners to retain as much native vegetation as possible. Native vegetation is best suited for the habitat conditions of the site and requires less maintenance which makes it a very cost-effective choice.

Primary habitat can be retained and incorporated into subdivision plans to be utilised in a variety of ways. For example:

- *It can be retained along parcel boundaries and between buildings to serve as privacy buffers/screening.*
- *It can be incorporated into the landscaping schemes for low-maintenance low-cost landscaping.*
- *It can serve as an amenity, providing green space and shade for those who live nearby/on the property.*
- *It can assist with on-site stormwater management and drainage.*

- *It can remain as a habitat for endemic wildlife (helping contribute to the conservation of our local species).*
- *It can help cut back on carbon emissions by leaving the habitat to act as a carbon sink by avoiding its destruction and allowing natural processes to occur which assist with the removal of carbon dioxide in the atmosphere.*
- *When located in an area of wider primary habitat, wildlife corridors can be created connecting areas of a habitat that would have otherwise been isolated through development, allowing for the movement of animals and the continuation of viable populations.*

DOE RECOMMENDED CONDITIONS

Should the Central Planning Authority or Planning Department be minded to grant planning permission for the proposed subdivision, the DoE recommends the inclusion of the following conditions in any Planning Approval:

1. *There shall be no land clearing, excavation, filling or further development of the resultant subdivided parcels without planning permission for such works being granted.*
2. *Any future land clearing, excavation, filling or development of the resulting subdivided parcels shall be the subject of a separate consultation with the Central Planning Authority and National Conservation Council.*

Water Authority Cayman

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

Water Supply

- *Please be advised that connection of the proposed development to the Water Authority's piped water supply system will require an extension. It is the policy of the Water Authority – Cayman to extend water distribution lines in public roads for the first 100 feet from the main road at no cost to the owner. Extensions exceeding 100ft from the main road on public roads and extensions in non-public areas are done at the owner's expense. The timing of any pipeline extension is at the sole discretion of the Water Authority.*
- *The developer is required to notify the Water Authority's Engineering Department at 949-2837, without delay, to be advised of the timing of the extension and the site-specific requirements for connection.*

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 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 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.*

National Roads Authority

As per your memo dated May 9" 2022 the NRA has reviewed the above-mentioned planning proposal. Please find below out comments and Recommendations based on the site plan provided.

Proposed Gazette

The NRA and the Ministry of Works are working on a potential gazette scheme to provide the above site and adjacent parcels adequate access from North Side Road, thereby, also providing a more reliable means for both refuse and Ge truck access. Mr. Crawford's subdivision makes provision for 3 multi—faintly lots plus 2 house lots plus load — the land is zoned Medium Density Residential. The Rationale for a wider load width is that the combined area of 53A110 combined with 53A111 will make 2.83 acres of land available for development either for houses or for apartments. Please see schematic below.



Base mapping data provided by the
 Lands & Survey Department - Map
 produced by Transportation & Planning Unit
 April 25, 2022

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Stormwater Management Issues

A comprehensive drainage plan needs to be provided by the applicant for the entire project.

The applicant shall demonstrate that the Stormwater Management system can be designed to include storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties that are lower, and nearby public roadways are not subject to stormwater runoff from this site.

The applicant is encouraged to consider stormwater management techniques other than deep wells, and to contact the NRA for advice on these alternative control measures.

Infrastructure Issues

The NRA advises the CPA to require the developer to provide for signage (stop signs, etc.), street lighting and any other traffic calming measures on the proposed loads of the subdivision. Once the roadway has been taken over as a public toad, the NRA can then assume that responsibility.

A thirty (30) ft. wide toad parcel needs to be provided in order to have adequate access as the NRA does not endorse the use of vehicular ROWs.

The subdivision's road base shall be constructed to NRA minimum design and construction specifications for subdivision loads — this includes elevations, minimum longitudinal slopes and minimum cross fall of minus 2 percent from the centre line to the shoulder.

The roadway shall be HSE. The NRA shall inspect and certify the road base construction prior to HMA surfacing activities.

411 internal roadway curves (horizontal alignment) shall be no less than 46 feet centreline radius. This requirement ensures that the minimum vehicle sweeps for a standard garbage and/or fire truck can be accommodated by the site layout.

APPLICANT'S LETTER

Enclosed please find the relevant documents relating to a 6-lot subdivision. The purpose of the subdivision is to partition the parcel among the family members in relation to their shareholdings. Although lot C meets the width and area requirements of the zoning, it has a 30' access point.

We are asking for a variance on the width under the Planning Regulation 8(13) (b) (iii) to accommodate this.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located on a private road that runs south from North Side Road, just west of Dysa Lane.

The property is currently vacant and the proposal is to create 5 residential lots and one road parcel.

Adjacent properties were notified by Registered Mail and no objections have been received.

Zoning

The property is zoned Medium Density Residential.

Planning Issues

1) Width of right of way over 53A 110

The land register for the subject parcel indicates that the parcel has a vehicular right-of-way over the parcel to the north, which is 53A 110. However, it is noted a width of right-of-way is not indicated. In these instances, the Authority typically assumes that it is a maximum 12' wide right-of-way.

A 12' wide right-of-way may not be wide enough for an additional 5 residential lots, especially where there is the potential for apartments to be built on proposed lots B, E and F.

2) Proposed lot width

Proposed lot C has 30 feet of lot width on the proposed road parcel.

Regulation 9(7)(g) requires a minimum lot width of 60 feet.

SUPPLEMENTARY INFORMATION

The applicant's agent has submitted the following correspondence for the attention of the Authority:

We have received an email from the Ministry of Planning stating that they are in the process of gazetting the road and have asked the CPA to consider approving the application while they work through the process. The subdivision will not be registered with Lands and Survey until the completion of the gazette, but we can start working on the project in the meantime. Please see the attached email.

The email referenced in the applicant's correspondence is copied below:

As per our conversation, Ministry is in the process of gazetting a number of roads island wide, in order to provide public access to lands in the area/s. As such, we'd appreciate if the CPA could take this into consideration when considering planning applications in these areas, with the understanding that the road will provide public access to these lands once the road/s are gazetted. We understand that the gazette process will need be complete prior to any project/s along the named road being complete; however, we feel that this could ease the process as planning application could be sought in the meantime.

At this time, Fairlawn Rd is now being treated as a priority, and Ministry has now begun the process of gazette. The David Foster Dr is also being finalised as a public road. From time to time, Ministry will update the CPA/DOP on other road projects as we undertake.

2.10 **GEORGE TAYLOR (Craftman's Touch) Block 28C Parcel 476 (P23-1189) (\$1,927,200) (MW)**

Application for 2 duplexes.

FACTS

<i>Location</i>	Greenall St., Boddan Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.4410 ac. (19,209.96 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	vacant
<i>Proposed building size</i>	6,791.14 sq. ft.
<i>Total building site coverage</i>	17.68%
<i>Required parking</i>	4

BACKGROUND

March 4, 2015 – Two Bedroom House – the application was considered and it was resolved to grant planning permission.

July 29, 2021 – Three Bedroom House with Attached Double Garage; 3,374.65 sq. ft. – the application was considered and it was resolved to grant planning permission.

June 21, 2023 – 6 Unit Apartment Development; 9,378 sq. ft. with swimming pool – the application was considered and it was resolved to adjourn the application.

October 11, 2023 – 6 apartments and swimming pool (CPA/24/23; Item 2.6) – the application was considered and it was resolved to refuse planning permission.

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

Conditions (1-4) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The applicant shall provide proof that a Stormwater Management plan has been submitted to the National Roads Authority (NRA). **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 3) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department’s website (www.planning.ky) under About/Draft Policies.*
- 4) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

In addition to Building Permit requirements, condition (5) listed below shall be met before a Building Permit can be issued.

- 5) The applicant shall submit the Stormwater Management plan required in condition 2) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.
- 6) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 7) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area

- 8) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 9) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 10) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the lot size and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required lot size and the minimum required side setbacks per Regulations 9(8)(e) and (j) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size and setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
 - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

APPLICANT'S LETTER

With respect to our submission for two duplexes, on block 28C parcel 476, Grand Cayman, we hereby request variance as follows:

1. *Land Size and side setback variance is requested. Where the present regulation requires a minimum of 12,500 sqft, the proposed is 19,161 sqft. For building number two where the side setback is 15ft, 14"-9' is proposed on the right.*

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

We thank you for your consideration of this matter and look forward to a favourable decision on this application in due course.

PLANNING DEPARTMENT ANALYSIS

General

The application is for two (2) duplexes; 6,791.14 sq. ft located on Greenall St., Boddan Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot size

Regulation 9(8)(e) of the Development & Planning Regulations (2022 Revision) states “ *the minimum lot size for each duplex is 12,500 sq. ft.* ” As the applicant is proposing two duplexes a minimum lot size of 25,000 sq. ft. would be required. The subject lot is currently **19,209.96 sq. ft.** a difference of **5,790.04 sq. ft.**

2) Side setback

Regulation 9(8)(j) of the Development & Planning Regulations (2022 Revision) states “ *the minimum side setback for a building of more than one story is 15’-0”* The proposed building #2 would be approximately **14’-9”** from the eastern boundary a difference of **3”**

2.11 R&R EXPEDITERS LTD. (AD Architecture Ltd.) Block 19A Parcel 57 & 58 (P21-0115) (\$2,500,000) (EJ)

Application for warehouses.

FACTS

<i>Location</i>	Blue Lagoon Drive, North-West of Progressive Distribution
<i>Zoning</i>	LI
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.92 ac. (40,075 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Buildings, containers and vehicles.
<i>Proposed building size</i>	13,672.2 sq. ft.
<i>Total building site coverage</i>	34.1% (Bldg) & 43.1% (Parking) 77.2%
<i>Required parking</i>	14
<i>Proposed parking</i>	49

BACKGROUND

May 16, 2007 (CPA/13/07; Item 2.17) - The Authority granted permission for twelve warehouses and six retail units.

March 15, 2017 (CPA/06/17; Item 2.9) - The Authority granted permission for a 6' high chain link fence.

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

Conditions (1-5) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system including the disposal system per the Water Authority's specifications.
- 3) The applicant shall provide proof that a Stormwater Management plan has been submitted to the National Roads Authority (NRA). **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under About/Draft Policies.*
- 5) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning and must be prepared in accordance with the Central Planning Authority's Construction Operations Plan Guidelines - Template B *found on the Planning Department's website (www.planning.ky) under About/Draft Policies.*

In addition to Building Permit requirements, condition (6) listed below shall be met before a Building Permit can be issued.

- 6) The applicant shall submit the Stormwater Management plan required in condition 3) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.
- 7) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 8) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 9) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

- 10) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 11) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level.

The applicant is reminded that they must receive all relevant approvals from all required agencies.

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the site coverage, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the maximum allowable site coverage per Regulation 8(1) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the additional site coverage as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area; 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.

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, Department of Environmental Health, Department of Environment and the Fire Department.

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** with a capacity of at least (2,500) US gallons for the proposed warehouses.*
- *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 at the time of this writeup.

Department of Environmental Health

1. *DEH has no objections to the proposed in principle.*
2. *This development will require (1) 8 cubic yard container serviced twice per week.*
3. *The applicant is advised that any change of use from the warehouses must be submitted to DEH for review and approval.*

Department of Environment (February 22, 2024)

Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) confirms that there are no comments at this time, as the site is man-modified with limited ecological value

Fire Department

Fire Department approved.

PLANNING DEPARTMENT ANALYSIS

General

The proposed three (3) warehouse buildings are located on Blue Lagoon Drive, off Sparky Drive.

Zoning

The property is zoned Light Industrial.

Specific Issues

1) Site coverage

Regulation 8(1) states that the building and car parking area cannot exceed 75%. In this instance, the total site coverage would be 77.2%. In this regard, it should be noted that 14 parking spaces are required for the development and the applicant is proposing 49 which contributes to an excessive amount of asphalt leading to the excessive site coverage. Also, the proposed number of parking spaces raises a question as to the intended use of the warehouse buildings as 49 parking spaces does not seem necessary for warehouse use.

2.12 MARILIN EBANKS (Ernesto Carter) Block 5B Parcel 129 (P24-0059) (\$10,000) (NP)

Application for food truck & storage container

FACTS

Location

West Church Street in West Bay

Zoning

Neighbourhood Commercial

<i>Notification Results</i>	No Objections
<i>Parcel size</i>	0.1 acre
<i>Parcel size required</i>	CPA discretion
<i>Current use</i>	Vacant
<i>Proposed use</i>	Food Truck & Container
<i>Building Footprint</i>	233 square feet
<i>Parking Required</i>	2 spaces
<i>Parking Provided</i>	3 spaces

BACKGROUND

October 26, 2022 (**CPA/26/22; item 2.5**) – application for same food truck and storage container was adjourned to invite the objector to appear before the Authority.

November 23, 2022 (**CPA/28/22; Item 2.7**) - The Authority resolved to grant planning permission for the same food truck and storage container for one year only. That permission has lapsed.

Decision: It was resolved to grant planning permission for one (1) year only, subject to the following conditions:

- 1) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 2) The food truck and container shall be removed from the site no later than one (1) year from the date of this decision.

Reasons for the decision:

- 1) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). Specifically, the Authority is satisfied that the food truck will serve the needs of the community.
- 2) The Authority is satisfied with the gravel surface of the parking area as approval has been granted for one year only.

AGENCY COMMENTS

The Authority received and considered comments from the National Roads Authority, Department of Environment, Water Authority and Fire Department.

National Roads Authority

The NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

The NRA has no objections or concerns regarding the above proposed development.

Department of Environment

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

The application site is man-modified, however, it is noted that there is a mature mahogany tree on site. It is recommended that the mahogany tree is retained and incorporated into the site design.

Water Authority Cayman

Please be advised that the Water Authority's requirements for this development are as follows: Mobile food service providers shall provide details on the following:

1. Potable Water:

- a. Source:*
- b. Storage tank: type, volume and location within mobile unit.*

2. Wastewater generated during preparation and clean-up of food:

- a. Plumbing fixtures: list number and type, include dimensions of sinks.*
- b. Storage tank: type, volume and location within mobile unit.*
- c. Discharge: describe method and location of where contents are transferred for treatment and disposal.*

3. Wastewater generated from sanitary fixtures:

- a. Restroom facilities: list number and type of facilities provided.*
- b. Storage tank or treatment system: type, volume and location within or outside mobile unit.*
- c. Discharge: describe method and location for treatment and disposal.*

4. Type of food service:

- a. Sells only pre-packaged items or items prepared at a permanent site (indicate location of permanent site of preparation kitchen).*

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 Department

The Fire Department has stamp approved the drawings.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located on West Church Street in West Bay, at the corner of Elizabeth Street.

The proposal is for a food truck (73 Sq ft) and storage container with 3 parking spaces in an existing gravel area. There would be outdoor seating and a portable toilet on site.

The applicant is seeking planning permission for five years.

Zoning

The property is zoned Neighbourhood Commercial.

Specific Issues

1) Gravel Parking

The applicant is proposing to utilize the existing gravel parking area.

The Authority should discuss whether this is suitable in this instance.

2.13 CELICIA MARIA ALLEY (IWB Architecture) Block 27E Parcel 209 (P23-0451) (\$25,000) (EJ)

Application for after-the-fact one-bedroom addition to a duplex creating 3 apartments.

FACTS

<i>Location</i>	Brookstone Close, Savannah
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.3099 ac. (13,499 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Three apartments
<i>Proposed building size</i>	475 sq. ft.
<i>Total building site coverage</i>	22.85%
<i>Allowable units</i>	4
<i>Proposed units</i>	3
<i>Allowable bedrooms</i>	7
<i>Proposed bedrooms</i>	7
<i>Required parking</i>	3
<i>Proposed parking</i>	3

BACKGROUND

November 30, 2022 (CE22-0186) – the department issued an enforcement notice.

August 31, 2009 – The Department granted planning permission for a duplex (P09-0896).

January 4, 2023 (**CPA/01/23; Item 2.2**) – The Authority granted permission for the addition of a study, half bath and multi-purpose room to one unit of an existing duplex (P22-0828). At that time, it was noted that the owner of the other unit of the duplex had already constructed an addition, but there was no record that it was approved. Accordingly, the Department investigated and an enforcement notice was issued which resulted in the current application for the after-the-fact addition.

December 6, 2023 (**CPA/29/23; Item 2.7**) – The Authority adjourned the application in order for the department to undertake an electrical assessment of the building within 30 days.

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the lot size and rear setback.

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, National Roads Authority, Department of Environmental Health, Department of Environment and Fire Department.

Water Authority

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

Wastewater Treatment & Disposal

Addition with Existing Septic Tank

If the developer proposes to utilize the existing septic tank and/or disposal well, the system shall be inspected and serviced per the Water Authority's Septic Tank Inspection Form.

Septic Tank Inspection Form: <https://bit.ly/2RO8MBB>

*The completed inspection form shall be returned to the Water Authority for review and determination as to whether the existing system meets Water Authority design specifications. Any deficiencies noted will require repair or replacement **prior to** final approval for certificate of occupancy.*

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 email dated October 10th, 2023, the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

General Issues

- *Entrances shall be twenty-four (24) feet wide.*
- *A six (6) foot sidewalk shall be constructed on Brookstone Close within the property boundary, to NRA specifications (available on our website at: <https://www.caymanroads>*

[.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf%20](https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf%20)

The NRA requests that the CPA have the applicant revise the site plan to increase the width of the entrance to at least 24 feet wide, and include a sidewalk as noted above.

Road Capacity Issues

The traffic demand to be generated by a residential development of one (1) dwelling unit has been assessed in accordance with ITE Code 220 – Apartments. Thus, the assumed average trip rates per dwelling unit provided by the ITE for estimating the daily, AM and PM peak hour trips are 6.65, 0.51 and 0.62 respectively. The anticipated traffic to be added to Brookstone Close is as follows:

<i>Expected Daily Trips</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 20% In</i>	<i>AM Peak 80% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 65% In</i>	<i>PM Peak 35% Out</i>
<i>7</i>	<i>1</i>	<i>0</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>0</i>

Based on these estimates, the impact of the proposed development on Brookstone Close is considered to be minimal.

Access and Traffic Management Issues

Entrance and exit curves shall be no less than fifteen (15) feet in radius.

One-way driveway aisles with diagonal parking shall be between twelve (12) to sixteen (16) ft. wide. Two-way driveway aisles shall be a minimum of twenty-two (22) ft. wide.

Tire stops (if used) shall be placed in parking spaces such that the length of the parking space is not reduced below the sixteen-foot (16’) 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 the 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 the 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 Brookstone Close. 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 the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins (Per NRA specifications (available at: <https://www.caymanroads.com/upload/files/4/628e6599be2c9.pdf>) are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk details need to be provided per NRA specifications (available on our website at: <https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf%20>).*

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 Act (2005 Revision). For the purpose of this Act, 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 by the applicant.

Department of Environmental Health

Solid Waste Facility: 1. This development require 3 (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.

Department of Environment

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). The Department of Environment confirms that we have no comments at this time.

Fire Department

Fire Department approved.

APPLICANT'S LETTER

*We have applied on behalf of Ms. Celicia M. Alley for approval after the fact of a **One Bedroom Unit Addition to Existing Duplex to Create Apartment** on the above-mentioned block and parcel number,*

Not with standing regulation 8 (13) (b) (i) the characteristics of the proposed development are consistent with the character of the surrounding area;

And notwithstanding 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;

Also, notwithstanding 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 Area (13,495 Sq. Ft.). Which the proposed development falls short of the required minimum area required for the development of additional unit in the low density residential zoning, the area which the parcel falls short as mentioned above we would like to request the lot size and setback variance be granted to allow the after the fact one bedroom unit to be approved as submitted.

PLANNING DEPARTMENT ANALYSIS

General

The after-the-fact one-bedroom addition to duplex creating apartments is located on Brookstone Close in Newlands.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot size

The after-the-fact one-bedroom unit and porch addition to the existing duplex is on a parcel that is 13,499 sq. ft.; bearing in mind Regulation 9(8)(f) requires a lot size of 25,000 sq. ft. for apartments in this low-density residential zone.

2) Rear setback

The after-the-fact addition is existing at (10'.8" vs 20') from the rear boundary, therefore not meeting regulations 9(8)(i) which requires a 20' rear setback.

SUPPLEMENTARY ANALYSIS

On December 6, 2023 (CPA/29/23; Item 2.7) – The Authority adjourned the application in order for the department to undertake an electrical assessment of the building within 30 days.

The Department conducted a site inspection (Current Planning & BCU) on February 20, 2024 and photos was taken with the cooperation of the applicant; where two separate electrical panel boxes was observed and two separate entrances and kitchens; therefore, the Authority is asked to consider if the after-the-fact construction constitutes a third unit.



View from Brookstone Close.

FENCE SIGN: "GUESTS ENTER THE GATE HERE"



View facing East.

TRASH BIN SIGN: "AIR BNB GARBAGE BIN"



View from East Side



View of Back Porch (Main Unit)



View towards the Road.



View from South Side towards unit



View towards Storage



Back of ATF unit



Entrance to ATF unit



Inside entrance to ATF Unit



Kitchen area to immediate right at entrance of ATF Unit



Bathroom inside ATF Unit



View looking back towards entrance of ATF Unit



Electrical Panel Box in Main Unit



Electrical Panel Box in ATF Unit

2.14 VICTOR JENNINGS (TSC Architecture) Block 14D Parcel 179 (P23-1168) (\$700,000) (EJ)

Application to modify planning permission to increase the floor area, add a landing with steps, add a gate to the wall and relocate the septic tank.

FACTS

<i>Location</i>	July Street and Oakmill Street
<i>Zoning</i>	HDR
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.26 ac. (11,325 sq. ft.)
<i>Current Use</i>	Apartments under construction

BACKGROUND

March 20, 2019 (**CPA/06/19; Item 2.5**) – The Authority approved an application for apartments subject to a condition seeking revised plans detailing a maximum of six (6) apartments on the site including sign, generator and 8’ high perimeter enclosure.

October 9, 2019 (**CPA/21/19; Item 2.10**) – The Authority approved a six (6’ft) high boundary wall and a five (5-ft) wall along the road.

Decision: It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Act (2021 Revision) hereby orders that planning permission CPA/06/19; item 2.5 be modified to increase the floor area, add a landing with steps, add a gate to the wall and relocate the septic tank.

All other conditions of CPA/06/19; item 2.5 remain applicable.

Reasons for the decision:

- 4) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 5) With the exception of the front and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 6) The proposed application does not comply with the minimum required front and side setbacks per Regulations 9(6)(h) and (i) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
 - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

APPLICANT'S LETTER

This letter is written on behalf of Victor Jennings Jr; An approval was granted for 6 -2-story apartments on the referenced property. The total square footage is 3,691. As required, notices were sent by registered mail to all owners within an 80 feet radius on February 19th, 2023. He requests a setback variance for the septic as it is located to the front left of the property and would like the board's consideration.

As per section 8 (13) (b), (iii), there is sufficient reason to grant a side setback variance as exceptional circumstances exist, which may include the fact; the proposal will not be materially detrimental to persons residing or working in the vicinity to the adjacent property or the public welfare.

PLANNING DEPARTMENT ANALYSIS

General

The proposed 122 sq. ft front addition, increase in rear landing, relocation of septic tank and proposed sliding gate is located on Oakmill Street & July Street in Windsor Park.

Zoning

The land is zoned High Density Residential.

Specific Issue

1) Rear steps setback variance (10.1' vs 20'),

The proposed is to extend the front ground floor wall a total of 122 sq. ft. affecting two apartments and widening of two landing areas with steps to the rear of the building, proposed steps are at 10.1' vs 20' from the east boundary (unless the Authority considers the east boundary as a side).

2) Setback Variance for Septic Tank

Additionally, the application is seeking permission to relocated the approved septic tank from in front of the building to the North East corner, now proposed at 14.9' vs 20' from Oakhill Street and 13.11' from the east boundary.

2.15 GREGORY ROMUNDT (Trio Design) Block 10A Parcel 144 (P23-1185) (EJ)

Application for house addition for double garage and a duplex.

FACTS

<i>Location</i>	Ironshore Drive, Vista Del Mar
<i>Zoning</i>	LDR
<i>Notification result</i>	NA
<i>Parcel size proposed</i>	1.10 ac. (47,914 sq. ft.)
<i>Parcel size required</i>	22,500 sq. ft.
<i>Current use</i>	House
<i>Proposed building size</i>	3,639 sq. ft.
<i>Total building site coverage</i>	14.95%

BACKGROUND

July 14, 2010 (**admin approve**) – Permission granted for a four-bedroom house with gazebo and swimming pool.

July 21, 2010 (**CPA/17/10; Item 2.20**) – Permission granted for a five (5-ft) concrete wall.

April 2, 2014 (**CPA/08/14; Item 2.3**) – Permission granted for a five-bedroom house, swimming pool, concrete wall and lpg tank.

May 25, 2022 (**CPA/14/22; Item 5.3**) – Permission waived the need for a new HWM survey for proposed cabana.

July 20, 2022 (**CPA/18/22; Item 2.12**) – Permission granted for a cabana with trellis roof.

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

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

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 3) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 4) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 5) All construction materials shall be stockpiled at a minimum of 20 feet from the water's edge to reduce the possibility of run-off washing material and debris into the adjacent marine environment causing turbidity and impacting water quality.

- 6) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 7) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least seven feet (7') above mean sea level.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). Further in this regard, the Authority notes that per the Development and Planning Regulations, the two dwelling units above the garage are considered a duplex.

AGENCY COMMENTS

The Authority received and considered comments from the Department of Environment.

Department of Environment

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). This review is provided in accordance with Section 41(3) of the National Conservation Act and the Section 41 Guidance Notes issued by the National Conservation Council.

Environmental Overview

As seen in Figure 1 below, the application site is man-modified and of limited ecological value. The DoE note that the proposed additions will be landward of the existing residence.



Figure 1. The application site with the parcel boundary highlighted in blue (Aerial Imagery Source: UKHO, 2021).

Advice to the Planning Department/Central Planning Authority

Best management practices should also be adhered to during construction to reduce impacts on the environment and the adjacent marine environment, including impacts to water quality. Materials should be stockpiled away from the water to avoid run-off into the adjacent marine environment. Control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.

If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed additions, we recommend the inclusion of the following conditions in the approval:

- 1. All construction materials shall be stockpiled at a minimum of 20 feet from the water’s edge to reduce the possibility of run-off washing material and debris into the adjacent marine environment causing turbidity and impacting water quality.*
- 2. If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent marine environment.*

PLANNING DEPARTMENT ANALYSIS

General

The proposed 3,639 sq. ft. two-storey addition to home spa, theatre, double garage and two guestrooms is located on Ironshore Drive in Vista Del Mar.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Guest rooms vs duplex

The second floor over the garage has two guest rooms with each having a kitchen and bathroom and could be considered a duplex. The Authority is asked to determine the category of the building to ensure proper review under the Building Code. If it is determined to be a duplex the lot size of 1.10 ac is large enough to accommodate the existing house and the duplex.

2.16 HERFA HENRY ROBINSON (Ernesto Carter) Block 14E Parcel 760 (P23-0654) (\$6,500) (EJ)

Application for an after-the-fact house addition (kitchenette).

FACTS

<i>Location</i>	Windsor Hill Crescent
<i>Zoning</i>	HDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.1099 ac. (4,787 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	House
<i>Proposed building size</i>	64 sq. ft.
<i>Total building site coverage</i>	28.18%

BACKGROUND

December 20, 2013 (**admin approve**) – Permission granted for 177 sq. ft. house addition.

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

- 1) The applicant is required to apply for a Permit from the Director of Planning **within 6 months of the date of this decision.**
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 3) The applicant shall obtain a Final Certificate (of Fitness for Occupancy) **within 12 months of the date of this decision.**

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the side setback, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required side setback per Regulation 9(6)(i) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
 - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

APPLICANT'S LETTER

Please accept this letter for your boards humbly review and consideration as a formal request for a site setback variance of my property as per the Development and Planning regulations 8. (13) (b) (ii) unusual terrain characteristics limit the site's development potential; and 8 (13) (b) (i) the characteristics of the propose development are consistent with the character of the surrounding area;

*I purchase the property and house from the Government National Housing Trust for my children and I needing space for our family to expand and wanting my children when adults to be nearby to assist me with the house and to help them save for themselves; and, thereafter **built on a little kitchen dedicated to me and mv husband because of needing to make special meals due to the life chancing sickness I obtained on previous job of mv former employer where I was retired on permanent sick leave & cannot work the required time and hours; and now requires expensive medical and special prepared foods for life.***

I do hereby request your kind consideration for a site lot and setback variance of approx. 4ft-6-inches at the left-side of house next to parcel 759 from the access road. This allowing us to utilize our property without removing the few fruit trees onsite and to provided more proper gravel parking and to comply with Planning regulations 8. (13) (b) (ii) and 8 (13) (b) (i).

Plans were submitted for the site lot and proposed ATF House addition variances constructed of reinforced concrete blocks to the Cayman Islands Building Codes standard.

NOT A DUPLEX

The proposed 63.25 SQFT addition to existing house and NOT A DUPLEX is for my personal use as owner Mrs. Herfa Henry (Robinson) ATF Addition Modification.

Registered mail notices were sent to all adjoining lots to notify them of my planning Department Application proposed ATF Addition 4ft-6-inches setback and lot variances request for the side of building from road access Road (which actually 4ft-6-inches on side of the building next to parcel 759). Along with two maps showing where variance is being requested.

PLANNING DEPARTMENT ANALYSIS

General

The after-the-fact is the result of enforcement action CE22-0226; the 64 sq. ft. addition to the east-side of the house is for a second kitchen located on Winsor Crescent in Winsor Park.

Zoning

The property is zoned High Density Residential.

Specific Issues

1) Side setbacks

The applicant has added the after-the-fact 64 sq. ft. addition to the existing house, creating a second kitchen, the subject addition is at 4.6' vs 10' from the boundary; therefore, the applicant is seeking ATF permission to keep the second kitchen for personal use and not changing the house to a duplex; therefore, seeking a side setback variance from the Authority.

2.17 ANTONETTE MARQUIS (Craftman's Touch) Block 32B Parcel 438 (P23-0559) (\$203,034) (EJ)

Application for an addition to house to create a duplex.

FACTS

<i>Location</i>	Walbridge Drive, Lower Valley.
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.2383 ac. (10,380 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	House
<i>Proposed building size</i>	1,015.16 sq. ft.
<i>Building site coverage</i>	19.57%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

BACKGROUND

February 27, 2019 (**admin approve**) – the Department granted permission for a two-bedroom house.

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

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

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 3) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 4) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 5) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required lot size per Regulation 9(8)(e) of the Development and Planning Regulations (2022 Revision). The

Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size as follows:

- a) The characteristics of the proposed development are consistent with the character of the surrounding area;
- b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
- c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

APPLICANT'S LETTER

With respect to our submission for a duplex, on block 32B parcel 438 located Savannah Newlands, Bodden Town, Grand Cayman, we hereby request variance as follows:

1. *Land Size variance for o Duplex, where the present regulation requires a minimum of 12,500sqft and the proposed is 10,380sqft.*

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 proposed addition to house to create a duplex is located on Walbridge Drive in Lower Valley.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Minimum lot size

The proposed two-bedroom addition to create a duplex is on a lot existing at 10,380 sq. ft. vs 12,500 sq. ft. which does not meet regulations 9 (8)(e) for this low-density residential zone; therefore, the applicant is seeking a lot size variance of 2,120 sq. ft. from the Authority.

2.18 ROVIDA ESTATES (CI) COMPANY LTD. (BDCL Architects) Block 14BH Parcel 159 (P23-0942) (\$150,000) (MW)

Replacement of damaged chain link fence and increase height with barbed wire topping to 10'-2" and increase existing concrete fence height to 6'-10 ¼".

FACTS

<i>Location</i>	Shedden Rd, George Town
<i>Zoning</i>	General Commercial
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	2.943 ac. (128,197.08 sq. ft.)
<i>Current use</i>	Existing Commercial Buildings

BACKGROUND

January 17, 2024 (CPA/03/24; item 2.8) – It was resolved to adjourn the application for the following reason:

- 1) The applicant is required to submit revised plans showing the deletion of the barbed wire from the proposed fence.

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

APPLICANT'S LETTER

On behalf of our client, we are humbly requesting a variance for adding a 2'-10" extension in height to an existing 6'-1" concrete wall and to replace a damaged 6'-11" chain link fence with a new 10'-2" chain link fence that has the top 2'-0" strung with barbed wire for security measures. This proposed height addition will be in keeping with the adjacent properties, namely the Radio Cayman building and the George Town Police Station.

Due to the recent alarming increase in crime, our client is concerned for the privacy, safety, and security of their staff, tenants, and patrons of this establishment. Elizabethan Square has been targeted with numerous break-ins, theft, and is frequented by miscreants that climb over the existing wall and fence bordering the Scranton area. Raising the height of the wall, and placing barbed wire at the top of the chain link fence, will aid in preventing numerous illegal and dangerous activities from occurring at this location.

*Within the Cayman Islands "Development and **Planning Regulations (Planning Regulations 2022 Revision)**", **Planning Regulation 8.13(b)(i)**: "the characteristics of the proposed development are consistent with the character of the surrounding area"*

- The proposed wall and fence are consistent with the character of the surrounding area, as both the Police Station and Radion Cayman for both height and security measures in place. (See Figures 1-5 below.)

Planning Regulations 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”

- The proposed application will not be detrimental as stated above; contrarily it will provide safety and security to the property, staff, tenants, and visitors to the property by keeping out undesired and illegal activity.



Figure 1: Barbed wire and razor wire above the wall and chain link fence at the George Town Police Station.



Figure 2: Barbed wire and razor wire above the wall and chain link fence at the George Town Police Station.



Figure 3: Barbed wire above the chain link fence at Radio Cayman.



Figure 4: The existing concrete wall and damaged chain link fence at Elizabethan Square.



Figure 5: The end of the existing concrete wall at Elizabethan Square.

Additionally, per the Wall & Fence Guidelines document that was published by the Planning Department security features are permitted in Commercial Zones, provided that if barbed wire is used it may only be on top of a masonry wall or chain link fence and permission will be subject to CPA approval. Based on the circumstances described above, we feel that this application should be approved to provide safety and security to this development.

We thank you very much for your consideration and now look forward to your approval of our request for this variance. If you require additional information, please do not hesitate to phone this office or email me at kmandish@bdcl.ky.

PLANNING DEPARTMENT ANALYSIS

General

The application is for the replacement of damaged chain link fence and increase height with barbed wire topping to 10'-2" and increase existing concrete fence height to 6'-10 ¼" to be located on Shedden Rd., George Town.

Zoning

The property is zoned General Commercial.

Specific Issues

1) Fence/Wall height

The CPA fence guideline 4.41 stipulates that "In commercial, industrial and institutional zones, no part of a solid wall or fence should exceed 48 inches in height except for where provided within these regulations." The proposed extension to the existing concrete fence would put the fence height at 6'-10 ¼" a difference of 2'-10 ¼".

The CPA fence guideline 4.4.2 stipulates that "In commercial, industrial and institutional zones, no part of a semi-transparent wall or fence should exceed 72" in height, except for where provided within these regulations"- The proposed extension to the chain link fence would take the overall fence to 10'-2" in height a difference in height of 4'-2".

In addition, the CPA fence guideline 10.2 states the following regarding security features namely barbed wire.

- Barbed Wire

Stand alone barbed wire fencing will generally be permitted only in agricultural applications. Barbed wire as a security feature on top of a masonry wall or chain link fence is permitted subject to CPA approval.

The Authority should assess if there is sufficient reason and an exceptional circumstance that exists to warrant granting planning permission for the proposed fence heights & use of barbed wire as an additional security feature.

SUPPLEMENTARY ANALYSIS

The applicant has submitted revised drawings showing the deletion of the barbed wire as requested by the Authority.

2.19 PRO-PLUS CONSTRUCTION LTD. (Tropical Architectural Group Ltd.) Block 20D Parcel 472 (P24-0032) (\$10,000) (MW)

Application for a 25 lot land strata subdivision.

FACTS

<i>Location</i>	Linford Pierson Hwy., George Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	10.79 ac. (470,012.4 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Approved town homes under construction.

BACKGROUND

December 11, 2020 – Land clearing & fill – the application was withdrawn.

December 11, 2020 – Strata subdivision – the application was withdrawn.

September 29, 2021 – Apartments, Town houses, clubhouse/ gym, swimming pool, signs, wall & gate (CPA/20/21; Item 2.3) – the application was considered and it was resolved to grant planning permission.

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

APPLICANT'S LETTER

Further to the application submitted in relation to the above referenced Project, we hereby request for a lot size variance to a Strata Plan which requires a minimum of 10,000 sq ft per Lot per Planning Regulation 9(8)(d); lot width variance to a Strata Plan which requires a minimum of 80 ft per Lot per Planning Regulation 9(8)(g); setback variance which requires a minimum of 20 ft front & rear setbacks, and 15 ft side setback per Planning Regulation 9(8)(i) & (j).

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

- 1) ***Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area:*** *The proposed townhouse development buildings on Block 20D, Parcel 472, complies with the necessary standards for minimum lot size, width, and setbacks from the property boundary. However, in line with the Building Control Unit's requirements, each townhouse unit must be within a designated Raw Land strata lot, limited to the separation wall of each unit.*

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

PLANNING DEPARTMENT ANALYSIS

General

The application is for a (25) lot raw land strata subdivision located on Linford Pierson Hwy., George Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Regulation 9(8)(ja)

The proposed land strata lots are associated with the previously approved apartments. Regulation 9(8)(ja) states the minimum lot size, lot width, setbacks and site coverage for land strata lots and volumetric parcels which are intended to allow the conveyance of

dwelling units in an approved duplex, apartment building or townhouse shall be at the discretion of the Authority.

2.20 HANDEL WHITTAKER (Eric Cronier) Block 53A Parcel 107 (P24-0114) (\$10,000) (EJ)

Application for a four (4) lot subdivision.

Handel Whittaker declared a conflict and left the meeting room.

FACTS

<i>Location</i>	North Side Road
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	20.5 ac. (892,980 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, National Roads Authority, and Department of Environmental Health.

Water Authority

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

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.*

Stormwater Management

This development is located over the (North Side) 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 80ft** 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, however, please be advised that the connection of a proposed development to the Water Authority's piped water supply **may** require an extension.*

- *Extensions in private roads are done at the owner's expense and the timing of any pipeline extension is at the sole discretion of the Water Authority.*
 - *The developer shall contact The 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.

National Roads Authority

Per your email dated February 19th, 2024, the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

The NRA has no objections or concerns with the above-proposed subdivision.

Department of Environment (March 14, 2024)

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). This review is provided in accordance with Section 41(3) of the National Conservation Act (NCA) and the Section 41 Guidance Notes issued by the National Conservation Council.

Site Overview

The application site consists of a mixture of primary dry forest and primary dry shrubland habitats, some seasonally flooded mangroves and some man-modified areas.

Primary habitat is a mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. These habitats are often very old, existing long before humans and may consist of many endemic and ecologically

important species. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human activities.

Advice to the Applicant

The applicant is reminded that mangroves are Schedule 1, Part 2 Protected Species under the National Conservation Act (NCA) with an adopted Conservation Plan. It is an offence to remove mangroves unless permission is explicitly sought to remove them either through the granting and implementation of planning permission or a National Conservation Council Section 20 permit. The Mangrove Species Conservation Plan can be downloaded at the following link: <https://conservation.ky/wp-content/uploads/2021/01/Species-Conservation-Plan-for-Mangroves-FINAL.pdf>.

*We note that the application is for a subdivision, we would **not** support the clearing of this site at this time. Land clearing should be reserved until the development of individual lots is imminent (through the granting of planning permission for development on those particular lots). This allows the opportunity for the individual lot owners to retain as much native vegetation as possible. Clearing the entire site prematurely removes the choice from the individual lot owners and removes the value the habitat could provide in the time between the preparation of a subdivision and the development of an individual lot.*

Primary habitat and native vegetation can be retained and used in a variety of ways on a property:

- It can be retained along parcel boundaries and between buildings to serve as privacy, noise and sound buffers and screening.*
- It can be incorporated into the landscaping schemes for low-maintenance low-cost landscaping. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation.*
- It can serve as an amenity, providing green space and shade for those who live nearby or on the property.*
- Shade provided by retaining mature vegetation can also help to lower cooling demand and utility costs.*
- It can remain as a habitat for endemic wildlife such as anoles, birds and butterflies. This habitat helps to contribute to the conservation of our local species.*
- It can assist with drainage, directly by breaking the momentum of rain, anchoring soil, and taking up water and indirectly through keeping the existing grade and permeable surfaces.*
- It can help reduce carbon emissions by leaving the habitat to act as a carbon sink and allow natural processes to remove carbon dioxide from the atmosphere. Destroying native vegetation releases carbon stored in the plant material, soil and peat.*
- When located in an area of wider primary habitat, wildlife corridors can be created connecting areas of a habitat that would have otherwise been isolated through development, allowing for the movement of animals and the continuation of viable populations.*

Section 41(3) Recommendations

If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed subdivision, the DoE recommends the inclusion of the following condition in any planning permission to minimise impacts on the environment:

- 1. There shall be no land clearing, excavation, filling or development of the resultant parcels without planning permission for such works being granted.*

PLANNING DEPARTMENT ANALYSIS

General

The proposed four (4) lot subdivision is located on the land side of North Side Road in North Side.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot width

Proposed lot 3 (1.16 acre) is a flag shape lot which is 61’ wide at the road instead of the minimum required 80’. The narrower portion of the lot will contain the driveway which leads into the larger portion of the parcel to the rear which exceeds 80’ in width and there is an ample developable area.

2.21 CHARMAINE PHILLIPS (Vista Development Co. Ltd.) Block 2C Parcel 165 (P23-1128) (\$7,500) (MW)

Application for land clearing for a temporary parking lot.

FACTS

<i>Location</i>	North West Point Rd., West Bay
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	1.72 ac. (74,923.2 sq. ft.)
<i>Current use</i>	Vacant

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

- 1) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 2) The site shall not be used for parking once a Certificate of Occupancy has been issued for the development on Block 2C Parcel 198.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

AGENCY COMMENTS

The Authority received and considered comments from the National Roads Authority and Department of Environment.

National Roads Authority

Per your email dated March 5th, 2024, the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

The NRA has no objections or concerns with the above-proposed temporary parking.

Should you have any questions, please do not hesitate to contact the undersigned

Department of Environment (12 March 2024)

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). This review is provided in accordance with Section 41(3) of the National Conservation Act and the Section 41 Guidance Notes issued by the National Conservation Council.

Ecological Overview

As seen in Figure 1 below, the site contains some primary dry forest and shrubland. Primary habitat is mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. These habitats are often very old, existing long before humans and may consist of many endemic and ecologically important species. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human activities. It is likely that the area proposed to be cleared has been impacted as a result of 'edge effects.'



Figure 1. The application site with the parcel boundary highlighted in blue (Aerial Imagery Source: UKHO, 2021).

Advice to the Applicant

The DoE recommends that the applicant only clears what is necessary and retains any mature trees on-site as they can be utilised for shade. Using minimal fill will also help the area recover following the completion of construction of the Serrana development.

APPLICANT’S LETTER

Letter #1

Kindly find uploaded to the OPS system the following documents (inclusive of this letter)

The registered owner of WBS Block 2C Parcel 165, Mrs. Carla Reid (nee Foster), has permitted us to park vehicles only (no containers) on her parcel of land located across from the Serrana site, owned by Elvis Ltd., on Block 2C Parcel 198.

The reason this became necessary is that in discussions with Mr. Hero Jairam, who is the super-structure contractor for Serrana, it was determined that the erection of a tower crane with 3-phase power would require – 1) a large area for the crane 2) a temporary pole with 3-phase power 3) a temporary power enclosure 4) and a 20’ guide wire - all installed on our site. This impacted the area we had designated for container storage to the area we had assumed would be for site vehicles. Therefore, we lost parking areas and we now require additional parking in an off-site area. Mrs. Reid was kind enough to grant us permission for the use of approximately 1/4 acre of her 1-3/4 acre parcel. (See letter from owner providing permission with this application uploaded to OPS.

As per her wishes, we will cut in a roadway through the treed lot, leaving a natural treed buffer between the road and the parking area, as well as the next-door home. Should fill be required,

we will provide the same at our cost, although the land appears flat, high, and dry. We also confirm that we will not take down any tree over 8” in diameter.

We trust this is satisfactory and meets the requirements of Planning. We thank you for your attention to this matter as the tower crane will be installed in early to mid-January.

Letter #2

I write to confirm that I am the registered proprietor of the above mentioned parcel of land which is registered in my maiden name Carla Denise Foster.

I here give permission for Elvis Ltd to apply for planning permission to partially clear and fill a portion of the above mentioned parcel for the purpose of temporary parking for their construction work in the development of Serrana on Block 2C Parcel 198.

Should you require anything further, kindly let me know.

PLANNING DEPARTMENT ANALYSIS

General

The application is for land clearing for a temporary parking lot; 0.35 ac. (15,246 sq. ft.) to be located on North West Point Rd., West Bay. The applicant has proposed the clearing of approximately 0.35 acres (15,246 sq. ft.) of the subject parcel 2C 165 which is currently registered as 1.72 acres. The proposed clearing will be to facilitate a temporary parking lot for approximately 53 vehicles, the purpose of the temporary parking area is to facilitate working parking for the adjacent Serrana development on 2C 198.

There are no concerns with the proposed as this will eliminate the parking of vehicles along the main road. It is suggested that should approval be granted; a condition be included requiring the site to no longer be used for parking once a Certificate of Occupancy has been issued for the adjacent development.

Zoning

The property is zoned Low Density Residential.

2.22 HEALTH CITY CAYMAN ISLANDS (APEC Consulting Engineers Ltd.) Block 13C Parcel 36 (P23-1134) (\$22,500,000) (MW)

Application to modify planning permission to increase the parapet wall height & add an ancillary building.

FACTS

<i>Location</i>	Minerva Dr., West Bay
<i>Zoning</i>	PAD Transect T6 - Urban Centre
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	3.440 ac. (149,846.4 sq. ft.)
<i>Current use</i>	Approved hospital under construction
<i>Proposed building size</i>	77,482.722 sq. ft.
<i>Total building site coverage</i>	17.21%

BACKGROUND

May 12, 2021 – (3) Temporary Real Estate Signs- the application was considered and it was resolved to grant planning permission.

May 26, 2021 – Land Clearing (3.441 Ac.) – the application was considered and it was resolved to grant planning permission.

August 25, 2021 – Hospital, 3 generators & ancillary utility structures- the application was considered and it was resolved to grant planning permission.

December 14, 2021 – Modification to Site & added amenities – the application was considered and it was resolved to grant planning permission.

April 19, 2022 – Two Lot Subdivision- the application was considered and it was resolved to grant planning permission.

August 25, 2021 – Hospital, 3 generators & ancillary utility structures (CPA/17/21; Item 2.7) – the application was considered and it was resolved to grant planning permission.

June 7, 2023 – Modification increase floor area of ancillary building #2 & add 6’ chain link fence (CPA/13/23; Item 2.14) – the application was considered and it was resolved to grant planning permission.

Decision: It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Act (2021 Revision) hereby orders that planning permission CPA/17/21; item 2.7 be modified to increase the parapet wall height & add an ancillary building.

All other conditions of CPA/17/21; item 2.7 remain applicable.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be modified as the application complies with the Development and Planning Regulations (2022 Revision).

PLANNING DEPARTMENT ANALYSIS

General

The application is for a modification to hospital parapet wall height & ancillary building; 253.40 sq. ft to be located on Minerva Dr., West Bay.

Zoning

The property is zoned Low Density Residential and is in the T6 – Urban Centre transect of the Camana Bay PAD. This transect allows for 0’ side and rear setbacks. In this instance, the proposed rear setback is 6’8”.

2.23 FRED WOOD (Caribbean Home Planners) Block 49A Parcel 115 (P24-0143) (\$125,000) (MW)

Application for an addition to a boat house.

FACTS

<i>Location</i>	Briardale Ln., North Side
<i>Zoning</i>	Agricultural Residential
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.46 ac. (20,037.6 sq. ft.)
<i>Parcel size required</i>	21,780 sq. ft.
<i>Current use</i>	Existing boat house storage
<i>Proposed building size</i>	1,200 sq. ft.
<i>Total building site coverage</i>	29.94%

BACKGROUND

April 26, 2017 (CPA/09/17; Item 2.16) – CPA granted planning permission for a boat storage building with conditions.

September 5, 2018 (CPA/20/18; Item 2.21) – CPA granted planning permission for a second boat storage building with conditions.

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

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 3) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

- 4) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 5) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

AGENCY COMMENTS

The Authority received and considered comments from the National Roads Authority and Department of Environment.

National Roads Authority

As per your memo dated February 19th, 2024 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

The NRA has no objections or concerns regarding the above addition to boat house.

Should you have any questions, please do not hesitate to contact the undersigned.

Department of Environment (4 March 2024)

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). This review is provided in accordance with Section 41(3) of the National Conservation Act and the Section 41 Guidance Notes issued by the National Conservation Council.

Site Overview

The application site is man-modified with limited ecological value.

Advice to the Applicant

The applicant should plant native vegetation wherever possible and incorporate it into the landscaping scheme. Native species are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services.

The applicant may wish to consider the use of porous or permeable paved surfaces in areas of hardstanding, such as the proposed driveway and parking area, to allow rainwater infiltration and help manage the impacts of stormwater run-off.

Advice to the Central Planning Authority/Planning Department

Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example, those used in insulating concrete forms (ICFs). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when they enter the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.

If the Central Planning Authority or Department of Planning is minded to approve the proposed development, we recommend the following condition is included:

If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the environment.

PLANNING DEPARTMENT ANALYSIS

General

The application is for an addition to boat house; 1,200 sq. ft. to be located on Briardale Rd., North Side. The applicant has proposed a 1,200 sq. ft. addition to the existing approved boat storage buildings.

There are no concerns with the proposed as a precedence has already been set by the previous approval granted.

Zoning

The property is zoned Agricultural Residential.

2.24 LOOKOUT HOLDINGS LTD. (Abernethy & Associates Ltd.) Block 43A Parcel 61 (P23-0064) (\$4,400) (EJ)

Application for two (2) lot subdivision.

FACTS

<i>Location</i>	Bodden Town Road & Anton Bodden Drive, opposite Bodden Town Clinic and Police Station
<i>Zoning</i>	MDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	4.399 ac. (191,620 sq. ft.)
<i>Parcel size required</i>	7,500 sq. ft.
<i>Current use</i>	Shop

BACKGROUND

April 6, 2005 (CPA/07/05; Item 2.20) – The Authority granted permission commercial plaza.
March 29, 2023 (CPA/08/23; Item 2.4) – It was resolved to adjourn the application for the

following reason:

- 1) The Department is directed to contact the applicant to explain the Authority's concern with future access points for lot A on two busy public roads and the proximity to the intersection of the two roads and to discuss possible options to mitigate that concern.

December 13, 2023 (CPA/30/23; item 2.23) – approval granted for a restaurant on what would be proposed lot A

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

- 1) The surveyor's final drawing **shall include the surveyed dimensions of all lots and must show all required easements** and shall be submitted to the Director of Planning for approval prior to the survey being registered.
- 2) There shall be no land clearing, excavation, filling or development of the resultant subdivided parcels without planning permission for such works being granted.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority, National Roads Authority and the Department of Environment.

Water 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.*

Change-of-Use with Existing Septic Tank:

If the developer proposes to utilize the existing septic tank and/or disposal well, the system shall be inspected and serviced per the Water Authority's Septic Tank Inspection Form.

*The completed inspection form shall be returned to the Water Authority for review and determination as to whether the existing system meets Water Authority design specifications. Any deficiencies noted will require repair or replacement **prior to** final approval for certificate of occupancy.*

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.

National Roads Authority

As per your email of February 14th, 2023, the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

The NRA has no objections or concerns regarding the above proposed subdivision.

Department of Environment

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

The site is man-modified and of limited ecological value. The Department of Environment confirms that we have no comments at this time.

PLANNING DEPARTMENT ANALYSIS

General

The proposed two-lot subdivision is located across from the Bodden Town Clinic on the corner of Bodden Town Road & Anton Bodden Drive.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Access to Parcel A

The proposed meets and exceeds all planning requirements under regulations 9. (7) for this medium density residential zone; however, the proposed 15,050 sq. ft. lot is on a heavy used junction and the Department is concerned with the proposed access to lot A, notwithstanding that the NRA has no concerns as proposed.

Although the proposed is only a two-lot subdivision; the Authority is asked to weigh in and decide on the proposed lot (A) access in order to establish forward planning for this critical junction or if the Authority has any other potential concerns.

SUPPLEMENTARY ANALYSIS

The applicant has submitted a revised plan together with the following letter:

"It has come to our attention that an architectural application has been made for Lot A of this subdivision. The application number is P23-0260. I have uploaded the documents that were

supplied to this application. We have adjusted our subdivision application to match the architectural application. The architectural application should resolve the concerns about the access point for the parcel.”

2.25 CAYMAN REHAB SERVICES (CGMJ) Block 14C Parcel 305 (P24-0097) (\$100,000) (NP)

Application for a change of use from office to medical office.

FACTS

<i>Location</i>	Eucalyptus Building, Shedden Road
<i>Zoning</i>	General Commercial
<i>Office size</i>	837.5 sq. ft.
<i>Current use</i>	Office
<i>Proposed use</i>	Physio Office

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

PLANNING DEPARTMENT ANALYSIS

General

The subject application is for a 837.5 square foot change of use at the Eucalyptus Building on Shedden Road.

The present use of the premises is as an office.

The proposed use of the space is as an expansion to the existing physio business. If approved, the total area of the business would be 2,512.4 square feet.

Zoning

The property is zoned General Commercial.

2.26 ANDREW VINCENT (Frederick & McRae) Block 20B Parcel 118 (P24-0082) (\$1.5 million) (NP)

Application for a change of use from office to medical office.

FACTS

<i>Location</i>	Cayman Centre, Owen Roberts Drive
<i>Zoning</i>	Airport zone
<i>Office size</i>	7,890 sq. ft.
<i>Current use</i>	Office
<i>Proposed use</i>	Medical Office

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

PLANNING DEPARTMENT ANALYSIS

General

The subject application is for a change of use at the Cayman Centre on Owen Roberts Drive.

The present use of the premises is as an office.

The proposed use of the space is as a medical office.

Zoning

The property is zoned Airport.

2.27 MARTIN TROTT (MKS International) Block 44B Parcel 6 (P23-0793) (\$75,000) (KM)

Application for a swimming pool.

FACTS

<i>Location</i>	Manse Road, Bodden Town
<i>Zoning</i>	BRR

<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.31 ac. (13,503 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	House

BACKGROUND

Existing house approved in 2009

February 13, 2024 (CPA/05/24; Item 2.15) –

Decision #1: Prior to a full review under the Development and Planning Act (2021 Revision), The Development Plan 1997 and the Development and Planning Regulations (Rev 2022) it was resolved to adjourn the application and apply for approval from the National Conservation Council pursuant to Section 41(4) of the National Conservation Act as the application would likely have an adverse effect on the critical habitat of a protected species/Marine Protected Area.

Decision #2: If the NCC approves the proposed pool with conditions, then, per the DOE memo dated 26th January 2024 in response to the DPA s7 consultation, in relation to the inkberry plant(s), it was resolved to adjourn the application and refer the matter to the National Conservation Council pursuant to Section 41(3) of the NCA as there may be potential adverse effects.

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

In addition to Building Permit requirements, conditions (1-6) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The applicant shall submit a plan for turtle friendly lighting which minimizes impacts on sea turtles and is prepared in accordance with the Department of Environment's guidelines and approved by the Central Planning Authority.
- 3) The applicant shall obtain written approval from the Department of Environment that there are no turtle nests on site that will be negatively impacted by the commencement of works.
- 4) Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment's written approval must be received by the Planning Department prior to the issuance of the Building Permit.
- 5) Upon fulfillment of condition 2), beachside construction fencing associated with the works shall be positioned at the minimum required high water mark setback, or greater if feasible (to minimise impacts on the turtle nesting habitat) and the fencing shall be erected so that it fully encloses the beach facing area of works and is embedded at least 2 feet into the beach profile to prevent turtles entering the construction site or digging under the fencing, during nesting season. The applicant is directed to liaise with the Department of Environment regarding guidance notes for the appropriate type of fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval must be received by the Planning Department.
- 6) The construction drawings for the proposed swimming pool filtration system shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool filtration system is constructed in accordance with the submitted plans it will conform to public health requirements.

- 7) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.

In addition to obtaining a permit, conditions (8-9) shall be met prior to the commencement of any construction works.

- 8) The applicant shall obtain written approval from the Department of Environment that there are no turtle nests on site that will be negatively impacted by the commencement of works.
- 9) The native Inkberry plant shall be translocated to an appropriate recipient location reviewed and approved by the DoE. The DoE will document the new location of the transplanted Inkberry via GPS.
- 10) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Additionally, once construction has started, conditions (11-17) shall be complied with before a final Certificate of Occupancy can be issued.

- 11) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 12) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 13) Construction sites for in-ground swimming pools and spas shall be provided with construction fencing to surround the site from the time that any excavation occurs up to the time of completion. The fencing shall be not less than 4 feet in height.
- 14) If a turtle friendly lighting plan has been required, confirmation from the Department of Environment that the installed lighting complies with the plan, with final confirmation provided by the Authority or delegate.
- 15) All construction material shall be stockpiled landward of the beachside construction fencing.
- 16) No construction work, vehicle access, storage of equipment/ materials or other operations shall take place on the beach during turtle nesting season (1st May – 30th November) without the express consent of the DoE.

- 17) Any sand that is excavated during construction shall be retained on-site and only with the prior consultation and approval of the DOE will beach quality sand shall be placed along the active beach profile. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it shall be the subject to a separate application for planning permission and separate consultation with the National Conservation Council.
- 18) The applicant shall obtain a Certificate of Completion **prior to the utilization of the pool.**

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the high water mark setback and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required side setbacks per Regulation 15(4)(b)(i) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
 - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997
- 3) The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(f) of the Development and Planning

Regulations (2022 Revision). Pursuant to Regulation 8(11), the Authority may allow a lesser setback having regard to:

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

In this instance, the Authority is of the view that:

- There is a protective reef adjacent to the property and this will assist in minimizing storm surge thus allowing the proposed development to be closer to the high water mark.
- The pool is no closer to the sea than the existing retaining wall so is consistent with the existing development on site.

The Authority also notes that the NCC was consulted on March 6, 2024 per s41(3) of the NCA. On March 15, 2024, NCC provide a memorandum on basis that they had been consulted under s41(4) of the NCA. The CPA determined that no further consultation is required with the NCC as conditions of approval can be included per the comments provided under 41(3) in DOE's s7 DPA memorandum dated January 26, 2024 as well as the 41(5) directed conditions per the March 15 memorandum.

AGENCY COMMENTS

The Authority received and considered s7 DPA comments from the Department of Environment.

Department of Environment

This review is provided by the Director of the Department of Environment (DoE) under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). This review is provided in accordance with Section 41(3) of the National Conservation Act (NCA) and the Section 41 Guidance Notes issued by the National Conservation Council.

Site Overview

The subject parcel is located adjacent to a Marine Protected Area, namely a Marine Reserve, and based on over 20 years of DoE turtle nesting monitoring data, the beach on this site is identified as critical turtle nesting habitat in the National Conservation Council's 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) (issued under Section 17 (7) of the National Conservation Act (2013)). Additionally, the site contains Inkberry (Scaevola plumieri) also called Bay Balsam, which is indigenous to all three Cayman Islands. Inkberry is critically endangered in the Cayman Islands and is a Schedule 1, Part 2 species under the NCA.

Environmental Impacts

Threats to Sea Turtles

All marine turtle species are listed in Part 1 of Schedule 1 to the NCA, as being 'protected at all times'. The main threats to sea turtles from development on turtle nesting beaches are:

Construction on the beach directly or indirectly impacting mature and hatchling sea turtles,

Development on the beach directly removing nesting areas from the critical habitat and indirectly impacting the critical habitat through modification and degradation of the natural beach,

Artificial lighting causing mature females to be deterred from nesting and hatchling turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles, and

Loss of coastal vegetation.

The proposed pool is positioned within the designated critical habitat and does not meet the 75-foot coastal setback. Therefore, there will be direct removal of nesting area from the critical habitat and likely impacts from artificial lighting.

Artificial Lighting

Artificial lighting on and around turtle nesting beaches is one of the greatest threats to the survival of Cayman's endangered sea turtle nesting populations. Bright lights on or near the beach can deter female turtles from nesting and cause baby turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles.

Turtle friendly lighting has been a legal requirement in ordinances in the United States for over 30 years. It is a proven solution to prevent the misorientation of sea turtles whilst safely and effectively lighting beachside properties. The Department strongly recommends the use of turtle friendly lighting on turtle nesting beaches. Figures 1-3 show examples of properties in Grand Cayman that have turtle friendly lighting installed.



Figures 1-3: Properties retrofitted to turtle friendly lighting along Seven Mile Beach, Grand Cayman (Source: DoE, various).

Construction Impacts

Operating heavy machinery during land clearing, demolition and construction presents a threat to *nesting sea turtles*. *Construction and demolition works not only disturb the physical nesting habitat but heavy machinery and associated works can crush or bury baby sea turtles and turtle nests.*

The excavation of the pool will likely result in a large quantity of sand. The sand is a key component of what makes the application site good for sea turtles. Any beach-quality sand excavated must be retained on-site.

Nesting sea turtles often use vegetation as a cue for nesting, and will crawl landwards up the beach until they reach the vegetation, or on a modified beach, a hard structure. When the vegetation is removed for construction, sea turtles can enter construction sites and be harmed. Figures 4 and 5 below show sea turtle tracks directly up to construction sites. The DoE has also been called to respond numerous times to sea turtles who have become trapped in construction sites. Figure 8 shows a sea turtle hatchling which was killed due to heavy equipment being operated on the beach.



Figures 4 & 5: Sea turtle tracks showing that the sea turtle has crawled up the beach until it reached a construction site (Source: DoE and Tammy Kelderman, 2021). The fence in Figure 4 is dangerous to sea turtles as it is sharp, rusty and not secure.



Figures 6 & 7: DoE photos showing turtle tracks within a construction site on a turtle nesting beach. This site did not have temporary beachside construction fencing to prevent turtles from entering the site. The turtle could have or may have been injured by construction materials and debris on-site (Source: DoE, 2023).



Figure 8: A dead sea turtle hatchling, which was killed by heavy equipment operating on the beach (Source: DoE, 2022).

*For these reasons, construction fencing suitable for excluding turtles must be installed prior to the commencement of demolition and/or site works. Mesh fencing, Heras fencing, and chainlink fencing are all **unacceptable** as they can be dangerous to turtles and do not exclude them from the site. Mature green sea turtles weigh around 300 to 400 lbs and are capable and strong diggers.*

Temporary beachside construction fencing must be:

- Located as far landward as possible to leave room/habitat for the turtles to nest during the work;*
- Made from a sturdy/solid material like plywood with no gaps (i.e. not chainlink fencing or the orange plastic fencing with holes as hatchlings can crawl through these and adults can knock it down or become tangled);*
- Embedded at least 2 feet into the sand so that turtles cannot dig it out or crawl under;*
- Installed in a manner that any nailing of the wood will be done so that the sharp ends are located on the landside of the fencing to prevent injury to turtles;*
- Inspected by the DoE after installation and written approval shall be obtained from the DoE that the installed fence is suitable for the exclusion of turtles; and*
- Suitable to contain all excavated material, construction materials and demolition waste*

landward of the fencing.



Figure 9: An example of suitable construction fencing to protect turtles (Source: DoE, 2022).

Development Setbacks

Given the climate change predictions for the region, including sea level rise and increased intensity of storm events (including storm surge), coastal setbacks should not be reduced but instead should be treated as a minimum (as prescribed in the Development and Planning Regulations). It is important to highlight that setbacks seek to protect properties against these inevitable effects of climate change such as coastal flooding and erosion by ensuring that hard structures are not located in an area susceptible to these hazards.

Granting a variance for the proposed pool will result in the direct loss of the critical habitat of a protected species. The width of critical habitat is the sea turtle nesting habitat from the low water mark to the vegetation line (defined as the line of woody/permanent vegetation or the closest impermeable structure). The removal of sand and construction of hard structures on the critical habitat would result in the destruction of that area of critical sea turtle nesting habitat because turtles dig nests in the sand.

Therefore, replacing the critical sea turtle nesting habitat with a pool would have a direct and certain adverse effect on that critical habitat. On the 9th of January 2024, the DoE met with the applicants to discuss the application. During the meeting, the applicants expressed that they have attempted to build their pool as close to the house and as far away from the Mean High Water Mark as possible. The applicants expressed that their architect had instructed that they could not situate the pool right against the house where the proposed deck is because it needed to be a certain distance away from the footing of the house when excavating the sand/digging the foundation. The DoE expressed that it may be possible to elevate the pool to allow for an area for turtles to nest underneath, given the height change. However, the applicants have expressed their concern with this method because of the

depth of the pool desired to accommodate artistic swimming. During the meeting, it was evident that the applicants had considered turtle nesting and the critical habitat designation during the design development and sought to minimise the impacts on turtles within the constraints of the existing development.



Figure 10: UKHO 2021 aerial imagery showing the proposed pool outlined in yellow and the approximate location of the inkberry in blue (DoE, 2024).

The DoE does not support the granting of coastal variances, and if the CPA were minded to refuse the application based on not meeting the minimum coastal setbacks then we would support this position. However, as it relates to turtles, granting approval for the proposed pool would result in the certain and direct loss of approximately 165 square feet of sea turtle critical habitat between the existing retaining wall and the proposed retaining wall as part of the proposed pool. Therefore, we have proposed mitigation measures to address this loss.

Inkberry

Inkberry (*Scaevola plumieri*) is becoming increasingly rare due to increased coastal development and the introduction of the imported and fast-growing invasive species of *Scaevola* (*Scaevola sericea*). The local *Inkberry* is distinguished from the invasive *Scaevola* as its berries are deep blue, unlike the invasive *Scaevola*'s pale white berries. Local *Inkberry* plants also have short round fleshy leaves that are smaller, stiffer, and a more matte-coloured green when compared to the invasive *Scaevola*'s shiny larger green leaves (Figures 11 & 12). Both species are coastal species and tend to be located on the beach. Both have similar looking similar small white half-flowers. *Inkberry* is salt tolerant and provides ornamental value making it great for seaside landscaping. Photos of the existing *Inkberry* on site and its approximate location are shown in Figures 10, 13 and 14.

Figure 11: Comparative photo showing the differences between local Inkberry (*Scaevola plumieri*) and the invasive *Scaevola* plant. Photo source: Ann Stafford, Cayman Nature website.



Figure 12: Comparative photo showing the differences between local Inkberry (*Scaevola plumieri*) and the invasive *Scaevola* plant. Photo source: Ann Stafford, Cayman Nature website.



Figures 13 & 14: DoE site visit photos from 11 August 2021 showing the critically endangered inkberry plant on-site.

Due to the rarity of this plant, should permission be granted for this proposal, this native inkberry should be carefully transplanted to an appropriate recipient location or site.

Impacts on the Marine Protected Area

The site is adjacent to a Marine Reserve (a Protected Area under the NCA). As such, best management practices must be implemented to avoid, minimise and mitigate impacts on the Marine Reserve. In particular, construction-related debris must not enter the marine environment. Poor construction management practices can degrade the environment by:

- *Washing stockpiled aggregates, loose material or bulk material into the marine environment, causing turbidity and impacting water quality; and*
- *Polluting the marine environment with wind-borne debris. Practices such as sanding down ('keying') polystyrene, Styrofoam or insulating concrete forms (ICFs) which are used as part of wall finishing and window moulding can result in polystyrene waste materials getting blown into the sea in significant quantities.*

The Department has witnessed and experienced complaints from members of the public regarding pollution from expanded polystyrene (EPS) beads on construction sites around the island (Figures 15-19). EPS is used in a variety of applications, including thermal insulation in buildings, civil engineering applications and decorative mouldings and panels. During construction, once EPS is cut, tiny microbeads are blown into the air, polluting neighbouring yards, stormwater drains, and nearby water bodies. Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when they enter the food chain. EPS beads that make their way to the sea can be mistaken by fish and birds as fish eggs and have the potential to cause blockages in their digestive systems. These beads are very difficult to remove once they enter the water and they do not naturally break down



Figures 15-17: DoE site visit photos showing the bits of white polystyrene material littering local development sites. The beads from the first two images made their way into the adjacent Marine Reserve and neighbouring properties. Neighbours complained to the DoE about the pollution. Developers attempted to remedy the situation by cleaning neighbouring pools and yards daily but it was impossible to collect all of the beads, especially once they entered the marine environment. A screen was then fastened around the building to contain the beads. The last image was taken at a construction site located on the same critical turtle nesting beach coastline as the application site.



Figures 18 & 19: Cayman Compass photos from a news article showing polystyrene pollution from a development on a turtle nesting beach which is also adjacent to a Marine Protected Area.

Section 41(3) Recommendations

If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed pool, we recommend the inclusion of the following conditions in the approval:

1. *The native Inkberry plant shall be translocated to an appropriate recipient location reviewed and approved by the DoE. The DoE will document the new location of the transplanted Inkberry via GPS.*

Section 41(4) Considerations

The site is designated as the critical habitat of a protected species under the NCA and would result in the introduction of additional development and artificial lighting onto that beach. Without appropriate controls, there would or would likely be an adverse effect on the designated sea turtle critical habitat, namely:

- *Section 2(a) of the NCA: alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife, and*
- *Section 2(j) alterations that may hinder or impede the movement or migration of wildlife.*

In addition, the site is also adjacent to a Marine Protected Area under the NCA. Without appropriate environmental management practices, storage of materials too close to the protected area and inadequate management of construction wastes and debris can result in adverse effects on that protected area through the run-off and escape of materials and debris. Storms, high waves, high tides, rainy weather, or construction practices can result in the material entering the Marine Protected Area. Without appropriate environmental management practices during construction, there would or would be likely to be an adverse effect on the Marine Protected Area, namely:

- *Section 2(f) of the NCA: the discharge of pathogens, dissolved or suspended minerals or solids, waste materials or other substances at levels that may be harmful to wildlife or the ecological or aesthetic value of the area.*

*On the basis of the above information and in accordance with the recent Court of Appeal judgement, in the exercise of powers which have been conferred through express delegation by the National Conservation Council pursuant to section 3(13) of the National Conservation Act (2013), the Director of DoE considers it necessary for **the Central Planning Authority to apply for approval from the NCC under section 41(4) of the NCA prior to determining this application.***

Should the CPA wish to propose conditions as a means of mitigating the adverse impacts identified, please provide those conditions at the time of application for the DoE's review and approval. Once the DoE has received the CPA's application under Section 41(4) we will supply our Section 41(5) response in line within one week. We have provided a draft in Appendix I.

Appendix 1: DRAFT Section 41(5) Conditions

*In the exercise of powers which have been conferred through express delegation by the National Conservation Council, pursuant to section 3(13) of the National Conservation Act (2013) the Director of DoE, therefore, **respectfully directs that the following conditions be imposed by the Central Planning Authority or Department of Planning**, as part of any agreed proposed action for planning approval:*

Prior to Any Site Works

- 1. Prior to the commencement of any site works such as clearing, filling, grading and road construction, the property owner shall contact the Department of Environment to check for the presence of turtle nests; written approval shall be obtained from the Department of Environment that no nests will be impacted by the commencement of works.*

Prior to the Issuance of a Building Permit

- 2. Prior to the issuance of a Building Permit, the applicant shall prepare and submit a plan for review and approval to the Department of Environment for turtle friendly lighting, which minimises the impacts on sea turtles. Guidance on developing a lighting plan can be found in the Department of Environment's Turtle Friendly Lighting: Technical Advice Note (September 2018) available at <https://doe.ky/marine/turtles/tfl/>. The DoE's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*
- 3. Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment's written approval shall be received by the Planning Department prior to the issuance of the Building Permit.*
- 4. Prior to the issuance of a Building Permit, beachside construction fencing associated with the works shall be installed and be positioned 50 feet from the Mean High Water*

Mark. The fencing shall be erected so that it fully encloses the beach-facing area of works and is embedded at least 2 feet into the beach profile to prevent turtles from entering the construction site or digging under the fencing. The applicant shall liaise directly with the Department of Environment for requirements guidance regarding this fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval shall be received by the Planning Department prior to the issuance of the Building Permit.

During Construction

- 5. All construction materials including excavated materials and/or debris shall be stockpiled on the landward side of the construction fencing.*
- 6. If the construction is using insulating concrete forms (ICFs), measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the critical turtle nesting beach and adjacent Marine Protected Area offshore.*
- 7. No construction work, vehicle access, storage of equipment/materials or other operations shall take place on the beach during turtle nesting season (1st May – 30th November yearly) without the express consent of the DoE.*
- 8. Any sand excavated during construction shall be retained on-site and beach-quality sand shall be placed along the active beach profile. If sand is to be placed on the beach during turtle nesting season (1st May – 30th November yearly), the express consent of the DoE is required to ensure that turtle nests are not adversely impacted. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand off-site, it should be the subject of a separate consultation with the National Conservation Council.*

Prior to the Issuance of a Certificate of Occupancy

- 9. Lighting and/or specifications for visible light transmittance shall be installed and maintained in accordance with the turtle friendly lighting plan which has been reviewed and approved by the Department of Environment. Once construction is complete, prior to the issuance of the Certificate of Occupancy, the Department of*

Environment will inspect the installed lighting for compliance with the approved turtle friendly lighting plan. Confirmation of the Department of Environment's written approval of the installed lighting and specifications for visible light transmittance after the inspection must be received by the Planning Department prior to the issuance of the Certificate of Occupancy.

*These conditions are directed to prevent run-off and debris from entering the Marine Protected Area causing turbidity and impacting sensitive marine resources and to prevent the 'take' of sea turtles (Part 1 Schedule 1 species of the National Conservation Act) and adverse impacts on the critical habitat of sea turtles, which 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*) (issued under Section 17 (7) of the National Conservation Act (2013)).*

A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013). We trust that this information will be relayed to the applicant in the Department of Planning's decision letter.

APPLICANT'S LETTER

We are seeking Planning approval for a swimming pool as per site plan submitted and kindly request the following variances:

- 1. 65'-2" from the Mean High Water Mark (vs. 75') for pool.*
- 2. 6' side setback (vs. 20') for pool equipment*
- 3. 10' side setback for pool (vs. 20')*

In order to have a 7' wide deck between pool and existing porch a 65'-2" MHWB setback will be required. There is an existing concrete retaining wall located 69'-10" from the MHWB which will be removed for the new swimming pool. The property at 44B 380 has a swimming pool located approximately 50' from the MHWB. For this reason, asking for a variance from the 75' HWM is consistent with the area.

We feel that having the Department grant the requested variances falls under section 8 (13) in the Development and Planning Regulations:

- *(b) (i) the characteristics of the proposed development is consistent with the character of the surrounding area;*
- *(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.*

PLANNING DEPARTMENT ANALYSIS

General

The proposed swimming pool is located on Manse Road in Bodden Town.

Zoning

The property is zoned Beach Resort Residential.

Specific Issues

1) HWM Setback Variance

The proposed swimming pool is located at 63'.8'' vs 75' from the high-water-mark; therefore, the applicant is seeking an HWM setback variance from the Authority, as the proposed does not meet regulations 8(10)(f) for this beach resort residential zone,

2) Side Setback Variances

In addition to the above mentioned, the applicant is also seeking a 6, 6'.11'' & 10 vs 20' side setback from the proposed pool equipment, steps & pool respectively; therefore, not meeting regulations 15(4)(f) this beach resort residential zone.

SUPPLEMENTARY ANALYSIS

The Authority received and considered the following comments from the NCC.

On 06 March 2024, the Department of Environment (DoE), under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013 (NCA)), received a request for approval under Section 41(4) of the NCA from the Planning Department/Central Planning Authority prior to the granting of planning permission for the aforementioned project.

Under Section 41(5) of the NCA, in the exercise of powers which have been conferred through express delegation by the National Conservation Council, pursuant to Section

3(13) of the National Conservation Act (2013) the Director of DoE, therefore, respectfully directs that the following conditions be imposed by the Central Planning Authority or Department of Planning, as part of any agreed proposed action for planning approval:

Prior to Any Site Works

- 1. Prior to the commencement of any site works such as clearing, filling, grading and road construction, the property owner shall contact the Department of Environment to check for the presence of turtle nests; written approval shall be obtained from the Department of Environment that no nests will be impacted by the commencement of works.*

Prior to the Issuance of a Building Permit

- 2. Prior to the issuance of a Building Permit, the applicant shall prepare and submit a plan for review and approval to the Department of Environment for turtle friendly lighting, which minimises the impacts on sea turtles. Guidance on developing a lighting plan can be found in the Department of Environment's Turtle Friendly Lighting: Technical Advice Note (September 2018) available at <https://doe.ky/marine/turtles/tfl/>. The DoE's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*
- 3. Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment's written approval shall be received by the Planning Department prior to the issuance of the Building Permit.*
- 4. Prior to the issuance of a Building Permit, beachside construction fencing associated with the works shall be installed and be positioned 50 feet from the Mean High Water Mark. The fencing shall be erected so that it fully encloses the beach-facing area of works and is embedded at least 2 feet into the beach profile to prevent turtles from entering the construction site or digging under the fencing. The applicant shall liaise directly with the Department of Environment for requirements guidance regarding this fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval shall be received by the Planning Department prior to the issuance of the Building Permit.*

During Construction

- 5. All construction materials including excavated materials and/or debris shall be stockpiled on the landward side of the construction fencing.*

6. *If the construction is using insulating concrete forms (ICFs), measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the critical turtle nesting beach and adjacent Marine Protected Area offshore.*
7. *No construction work, vehicle access, storage of equipment/materials or other operations shall take place on the beach during turtle nesting season (1st May – 30th November yearly) without the express consent of the DoE.*
8. *Any sand excavated during construction shall be retained on-site and beach-quality sand shall be placed along the active beach profile. If sand is to be placed on the beach during turtle nesting season (1st May – 30th November yearly), the express consent of the DoE is required to ensure that turtle nests are not adversely impacted. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand off-site, it should be the subject of a separate consultation with the National Conservation Council.*

Prior to the Issuance of a Certificate of Occupancy

9. *Lighting and/or specifications for visible light transmittance shall be installed and maintained in accordance with the turtle friendly lighting plan which has been reviewed and approved by the Department of Environment. Once construction is complete, prior to the issuance of the Certificate of Occupancy, the Department of Environment will inspect the installed lighting for compliance with the approved turtle friendly lighting plan. Confirmation of the Department of Environment’s written approval of the installed lighting and specifications for visible light transmittance after the inspection must be received by the Planning Department prior to the issuance of the Certificate of Occupancy.*

*These conditions are directed to prevent run-off and debris from entering the Marine Protected Area causing turbidity and impacting sensitive marine resources and to prevent the ‘take’ of sea turtles (Part 1 Schedule 1 species of the National Conservation Act) and adverse impacts on the critical habitat of sea turtles, which 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*) (issued under Section 17 (7) of the National Conservation Act (2013)).*

A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received

from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013). We trust that this information will be relayed to the applicant in the Department of Planning's decision letter.

2.28 HOWARD CAMPBELL (ACE Engineering Ltd.) Block 48C Parcel 284 (P24-0024) (\$5,000) (EJ)

Application for six (6') concrete wall.

FACTS

<i>Location</i>	Bodden Town Road, Bodden Town.
<i>Zoning</i>	LDR
<i>Parcel size proposed</i>	0.2623 ac. (11,425 sq. ft.)
<i>Current use</i>	House & Swimming Pool

BACKGROUND

January 13, 2023 – Permission granted for a four (4) bedroom house and swimming pool.

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

- 1) The applicant is required to submit revised plans showing the wall with a maximum height of 5 feet.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). Further, the Authority has included a condition of approval requiring revised plans for a 5' wall which will be more in keeping with the character of the area.

AGENCY COMMENTS

The Authority received and considered comments from the Department of Environment.

Department of Environment (March 7, 2024)

This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). The site is man-modified, having previously received approval for the construction of a four-bedroom house with swimming pool (P22-0710 / January 13, 2023).

Best management practices should be adhered to during construction to reduce impacts on the surrounding environment. Control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF) or decorative foam surrounds. Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.

If the Central Planning Authority of Planning Department is minded to grant permission for the proposed fence, we recommend the inclusion of the following conditions in the approval:

- 1. If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris are completely captured on-site and do not impact the surrounding areas or pollute the nearby environment.*

APPLICANT'S LETTER

We are seeking planning permission to construct a 6'- 0" high boundary wall for the subject property. The reason for this request is due to the pool deck which is located to the front of the property. This will be the main entertainment area and would be vulnerable to the 50mph vehicular traffic with it being in a relatively close proximity to the main road. Construction of this reinforced concrete wall would give some protection and create a safer environment for its occupants.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is seeking permission from the Authority for the proposed 6' concrete wall and sliding gate located on the Bodden Town Road.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Wall & fence Road Setback

The applicant is seeking permission for the proposed 6’ concrete wall with sliding gate; the proposal meets Regulation 8(18) setback 4’ from the road. The applicant is seeking a height of 6’ instead of the usual 4’ allowed in residential zones.

3.0 DEVELOPMENT PLAN MATTERS

3.1 CHARLES WATLER

RZ23-0003; Block 32D Parcels 320-322, 339-341 & 355, & Block 38E Parcels 637-638 (RM)

Application for Amendment to Development Plan 1997 from Agricultural/Residential to Medium Density Residential.

FACTS

Location	Lower Valley, Bodden Town
Parcels	32D 320-322, 339-341 & 355 38E 637-638
Current Zoning	Agricultural/Residential
Proposed Zoning	Medium Density Residential
Ownership	Private
Total Parcel Size	47.37 Acres
Subject Zoning Area	47.37 Acres

Point of procedure: It was resolved to forward the application to the Ministry of Planning, Agriculture, Housing, Infrastructure, Transport & Development for onward transmission to Cabinet and Parliament for consideration.

UPDATE

The Central Planning Authority heard the request (RZ23-0003) during meeting 26 on the 8th of November 2023 (CPA/26/23; Item 3.1) and directed the Department to forward the rezoning application for 60 day notification and advertising per Section 11(2) in the Development and Planning Act (2021 Revision). The notice period commenced on December 22nd 2023 and concluded on February 20th 2024, during which time no letters of objection or representations were received by the Department of Planning.

APPLICANT'S LETTER

The applicant is seeking an amendment to the Development Plan from Agricultural/Residential to Medium Density Residential. This rezone concerns nine (9) adjoining parcels which are located to the west of Beach Bay Road in Lower Valley.

The applicant has submitted two letters explaining the purpose of the application. The agent's letter is as follows:

"Please find the attached application to re-zone the above parcels from Agricultural / Residential to Medium Density Residential. A subdivision for Low Density has already been approved, which met the requirement to prove that the land is not suitable for agriculture. The re-zoning to Medium Density Residential will create smaller parcels that will be more affordable for the general public."

Further explanation is provided within the applicant's letter, which is as follows:

"I refer to the accompanying rezoning application, which sets out the applicable parcels (the "Parcels") of the approved sub division P18-0070, to be changed to medium density residential.

We have recently completed phase 1 of this project comprising of 30 house lots where the minimum lot size is 10,000 sft. We developed this subdivision offering the lots to buyers to develop and construct homes themselves and targeted at mid-income levels. Whilst we have had fair interest in these lots we have received considerable requests for slightly cheaper and smaller lots due to the high costs associated with buying, building and financing housing in Cayman.

We recognise housing is a critically important issue in Cayman with many struggling to find reasonably priced housing, not only at the low income level but throughout the earnings spectrum as well. Unfortunately, housing is out of reach for many, particularly young Caymanians. We are therefore confident there is justification in making this application to seek a moderate increase in density so that lots can be offered at around 8,000 sft in size and therefore at lower prices. This would reduce the initial costs of purchasing the land by around 20% and open up the pool of potential buyers.

Rationale for Higher Density

Most of the potential buyers at the mid-level are interested in a house between 2,000 to 2,800 sft, there is very low demand for larger homes in the 4,000 sft region as in years past, as buyers are now more conscious of costs, ongoing maintenance and insurance. Modern design and building trends have also become more efficient and desirable for efficient and smaller dwellings which directly correlate to smaller house lot sizes. We therefore think a slightly smaller lot size would be beneficial and would utilise the Island's precious limited land space much more efficiently and give much needed help at reduced costs.

We have also received significant interest in duplex lots as this presents a great opportunity to better utilise the land and also offer some income production for families. The higher density would allow duplex lot sizes to be reduced to around 8,000 -10,000 sft which could easily accommodate a building of 2,800 sft with each unit at 1,400sft., rather than the current 12,500 sft.

Cost Differential

We expect our typical single house lot price would go from \$185,000 to \$145,000, a reduction of \$40,000 which over time would save much more than this with financing and compounding costs.

With regard to a duplex house lot, the potential price would go from \$225,000 to \$160,000, a reduction of \$65,000.

Climate Change Resiliency and Safety

Most of the subject parcels are about 35-40ft above sea level and the terrain is mostly flat rock or cliff rock and very dry. The parcel is situated on an elevated ridge and can therefore be considered some of the best suited land on Grand Cayman for housing. There would be low flooding risk offering much needed safety during heavy rains and hurricanes. As these events are predicted to become more frequent, having more housing located here will be beneficial to home owners and to the Government. Due to its terrain, the land is not well suited to farming as it is primarily rocky and dry. A review of the Hurricane Ivan flood map will illustrate there was no flooding during that storm on these Parcels.

I trust this letter will provide useful information for your review and please do not hesitate to contact me if you require further information. I do not envision that a moderately higher density, such as medium density, would deteriorate the surrounding area. Furthermore, I think there is genuine need for more medium density land for housing in Bodden Town, particularly in areas which do not need filling such as this parcel, considering our growing population, high costs of housing and climate change risks.

I am aware that only a few hundred feet from this parcel in Beach Bay is property which is zoned Hotel/Tourism, so there is already a precedent established for higher density in this area.

I also, respectfully, request that I be given an opportunity to attend any CPA meeting on this matter.”

DEPARTMENT OF PLANNING ANALYSIS

Background

At a meeting of the Central Planning Authority held on June 27, 2018 (CPA/15/18; Item 2.1) the Authority resolved to grant planning permission for a 178 lot residential subdivision with two (2) road parcels and four (4) LPP parcels (P18-0070). The lot sizes in the approved subdivision range from 10,040 sqft to 15,680 sqft.

Site details

The application concerns nine adjoining parcels, amounting to 47.37 acres in total, which are located to the west of Beach Bay Road in Lower Valley, Bodden Town. Block and Parcel 32D355 is by far the largest of the application parcels at 45.4 acres. The remaining 8 parcels included in the rezone application were created as part of the initial phases of the 2018 subdivision, and are typical low density residential parcels (being either 12,500 or 10,000 sqft.).

The subject parcels are undeveloped, consisting of pasture lands and woodland. The parcels benefit from being relatively elevated, at around 16ft above sea level on the west side and sloping up to around 32ft above sea level towards Beach Bay Road on the eastern boundary.

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 MARVIN E. RUDBERG Block 12E Parcel 40 (CE24-0055) (TY)

The Authority viewed photographs of the deposit of refuse and spoil and determined that a Maintenance of Land notice would be issued.

Decision: It was resolved to authorize the issuance of a Maintenance of Land Notice in accordance with Section 29A of the Development and Planning Act (2021 Revision). Maintenance of Land Notice to take effect at the end of a period of 30 days from the service and compliance with the Maintenance of Land Notice to be completed within the period of 60 days from the date when the Notice takes effect, subject to the provisions of Section 29A(2) and (3) of the Act.

5.2 FANNY CAROLINA MARTIN Block 27D Parcel 172 (CE24-0058) (TY)

The Authority viewed photographs of two vehicles on site and determined that they were not derelict, therefore a Maintenance of Land notice would not be issued.

5.3 OSWELL MCDERMOTT RANKINE Block 58A Parcel 23 (CE24-0059) (AP)

The Authority viewed photographs of several derelict vehicles and determined that a Maintenance of Land notice would be issued.

Decision: It was resolved to authorize the issuance of a Maintenance of Land Notice in accordance with Section 29A of the Development and Planning Act (2021 Revision). Maintenance of Land Notice to take effect at the end of a period of 30 days from the service and compliance with the Maintenance of Land Notice to be completed within the period of 60 days from the date when the Notice takes effect, subject to the provisions of Section 29A(2) and (3) of the Act.

5.4 GLENROY BENJAMIN MANNING Block 14E Parcel 196 (CE24-0172) (BP)

The Authority viewed photographs of the repair of vehicles and determined that a Maintenance of Land notice would be issued.

Decision: It was resolved to authorize the issuance of a Maintenance of Land Notice in accordance with Section 29A of the Development and Planning Act (2021 Revision). Maintenance of Land Notice to take effect at the end of a period of 30 days from the service and compliance with the Maintenance of Land Notice to be completed within the period of 60 days from the date when the Notice takes effect, subject to the provisions of Section 29A(2) and (3) of the Act.

5.5 NEVILLE ANTONIO FAULKNER & MICHELLE ELIZABETH FAULKNER Block 15C Parcel 129 (CE24-0173) (BP)

The Authority viewed photographs of the deposit of refuse and spoil and determined that a Maintenance of Land notice would be issued.

Decision: It was resolved to authorize the issuance of a Maintenance of Land Notice in accordance with Section 29A of the Development and Planning Act (2021 Revision). Maintenance of Land Notice to take effect at the end of a period of 30 days from the service and compliance with the Maintenance of Land Notice to be completed within the period of 60 days from the date when the Notice takes effect, subject to the provisions of Section 29A(2) and (3) of the Act.

5.6 DEPARTMENT OF ENVIRONMENT COMMENTS

It was explained to the Authority that when comments are received from the Department of Environment per consultation under Section 7 of the Development and Planning Act, some memorandums are received that include a heading titled Section 41(3) Recommendations. The Authority determined that applications that received such memorandums must be considered by the Authority and cannot be approved

Administratively.

5.7 ADRIAN BODDEN Block 55A Parcel 360 (P24-0181) (MW)

The Authority was advised of a two lot subdivision that had been submitted where the remainder lot is the entire road parcel throughout the previous phases of the overall subdivision. The Authority determined that the notification radius can be taken from around the proposed new lot and not the entire remainder parcel.

5.8 BRONTE Block 12E Parcel 54 (P24-0240) (MW)

Ian Pairaudeau declared a conflict and was placed in the Zoom waiting room. Christine Maltman declared a conflict and left the meeting room.

The Authority was reminded that on January 22, 2020 (CPA/02/20; item 2.5) approval was granted for 96 apartments. One of the conditions, 10), stated:

“Any sand that is to be excavated during construction should be retained on site and beach quality sand should be put back along the active beach profile of the property.”

The applicant has now submitted an application to modify planning permission, specifically condition 10) and provided the following letter of explanation:

“We are submitting a Modification to Planning Permission to include the following request under our original application:

Sand located within the active beach area will remain undisturbed. Excavated sand below the building footprint is anticipated to result in over 20,000 cubic yards. This large amount of sand can't be retained on site during construction, as it will interfere with the excavation and overall construction of the building. Sand shall be stored at the off-site locations listed below:

- 19A- 4REM6
- 19A-51
- 19A-52

A Construction Operations Plan will be revised to include the above and will be submitted to Planning.”

The Authority considered the matter and determined that the application is reasonable and can be approved.

Decision: It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Act (2021

Revision) hereby orders that planning permission CPA/02/20; item 2.5 be modified by replacing condition 10) with the following condition:

10) Any sand that is to be excavated during construction may be temporarily relocated to Block 19A Parcels 4Rem6, 51 and 52 and as much beach quality sand as possible should be put back along the active beach profile of the property.

All other conditions of CPA/02/20; item 2.5 remain applicable.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be modified as the application complies with the Development and Planning Regulations (2022 Revision).

6.0 CPA MEMBERS INFORMATION/DISCUSSION

The meeting adjourned at 4:10pm. The next regular meeting of the Central Planning Authority is scheduled for *Wednesday, April 3, 2024 at 10:00 a.m.* in in Conference Room 1038, 1st floor, Government Administration Building.



Ian Pairaudeau
Chairman



Ron Sanderson
Acting Executive Secretary

Appendix A

**Gwendolyn McLaughlin
P.O. Box 645
Grand Cayman KY1-1303
Tel: (345) 916 8055**

November 19, 2023

Director of Planning
PO Box 113
Grand Cayman KY1-9000

Dear Sirs,

Notice of Application for Planning Permission by Tropical Architectural Group Ltd. on 5C 77

I am writing to lodge an objection to the above referenced application for planning permission. I reside on Block 4D 445 on Willie Farrington Drive. This objection is being made for the following reasons:

1. Previous Applications

I previously objected to another application by Mr. Jonathan Murphy for a similar development which was refused by the CPA citing the following reason: "the authority is of the view that the Applicant **failed** to demonstrate that the subject site is a suitable location for apartments per Regulation 9(8). In this regard, the authority is of the view that the Apartments are not keeping with the Character of the area in terms of mass, scale and intensity of use and this will detract from the ability of surrounding land owners from enjoying the amenity of the properties." It is my understanding that there was no appeal process followed and that the applicant has proceeded to file a new application. There have been no changes to the residential neighborhood or the new proposed application which will change the grounds on which I based my previous objections. I enclose my previous letter for your information most of which is also repeated below. I reserve the right to make further submissions, especially in light of any response that might be issued by the Applicant in relation to any Regulation question that might be posed. I would be grateful if you would place this letter before the Central Planning Authority (CPA).

2. Buffer Zone

I again wish to point out that this development is going to be located in the vicinity of a buffer zone which is an integral area as it has long served as a buffer that protects the neighborhood during hurricanes. It should be noted that during Hurricane Ivan the sea caused damage to homes in the area with this buffer intact. If this buffer is removed, it could be catastrophic for the homes

in this area when faced with another hurricane as intense as Ivan. The area is low lying and even floods easily during regular rains or when there is high tide. There is also a certain amount of wild life in the zoned area and this development will disturb their natural habitat.

3 Low Density Residential Area

This area currently consists of mostly one story private single residences and this development should respect the character of this area. The proposed development should not be significantly higher than those currently in this area. A development of this magnitude will cause an increase in traffic and will completely change the neighborhood increase the noise level and privacy of existing residents. The fact that the CPA refused the previous application on these grounds supports my objection. In addition, the NRA in their review of the previous application confirmed that this development will have a moderate effect on traffic. It is my understanding that the use of moderate implies that it will cause a traffic issue. I am absolutely convinced of this.

I believe that the proposed development is a direct contravention for a Low Density Residential area. It does not respect the local context of the area and if approved would be entirely out of character with the area and detrimental to all residents living on Willie Farrington Drive.

Accordingly, having lived in this neighborhood since 1979, I am respectfully asking that this application is denied.

Yours sincerely


Gwendolyn McLaughlin

**Gwendolyn McLaughlin
P.O. Box 645
Grand Cayman KY1-1303
Tel: (345) 916 8055**

March 28, 2023

Director of Planning
PO Box 113
Grand Cayman KY1-9000

Dear Sirs,

Notice of Application for Planning Permission by William Santor on 5C 77

I am writing to lodge an objection to the above referenced application for planning permission. This objection is being made because the property is located in a low density area having a Buffer Zone and because it will alter the character of the neighborhood and have a major impact on the traffic flow. Although the current application is for a 12 unit block of apartments, the longer term plans show a much larger development. I reserve the right to make further submissions, especially in light of any response that might be issued by the Applicant in relation to any Regulation question that might be posed. I would be grateful if you would place this letter before the Central Planning Authority (CPA).

Objection No. 1 – Buffer Zone

This development is going to be located in the vicinity of a buffer zone which is an integral area as it has long served as a buffer that protects the neighborhood during hurricanes. It should be noted that during Hurricane Ivan the sea caused damage to homes in the area with this buffer intact. If this buffer is removed, it could be catastrophic for the homes in this area when faced with another hurricane as intense as Ivan. There is also a certain amount of wild life in the zoned area and this development will disturb their natural habitat.

Objection No. 2 - Low Density Residential Area

This area currently consists of one story private single residences and this development should respect the character of this area. The proposed development should not be significantly higher than those currently in this area. A development of this magnitude will cause an increase in traffic and will completely change the neighborhood increasing the noise level and privacy of existing residents.

Accordingly, I am respectfully asking that this application is denied or if approved that conditions be put in place to address the above concerns.

Yours sincerely



Gwendolyn McLaughlin

Popovich, Nicholas

From: Jenny manderson <jen3612@hotmail.com>
Sent: Wednesday, November 22, 2023 7:43 AM
To: Popovich, Nicholas; Planning Info
Cc: Ezmie Smith; Department of Planning; Pandohie, Haroon; Gwen McLaughlin; Jrmoore1067@gmail.com; Howard, Edward
Subject: [EXTERNAL] Re: Notice of Planning Application 5C77

Dear Mr. Popovich,

I would be grateful for an acknowledgment of my letter of 14th November objecting to the planning application referenced above, and to confirmation that it will be forwarded to the CPA for consideration.

I confirm that as of yesterday there was no notice of this application in my postal mail or otherwise.

Kind regards,

Jenny Manderson

On Nov 14, 2023, at 1:14 PM, Jenny manderson <jen3612@hotmail.com> wrote:

Dear Sirs,

I wish to register my objection to the above project on the basis of my earlier objection. The project was refused on 16th August, 2023 by the CPA. I was informed that the refusal was on the grounds that it was not in keeping with the character of the surrounding area. No mention was made of the flooding concerns, or of the concerns expressed by the objectors and the NRA about traffic.

The application is again on the CPA agenda and I have NOT yet been notified and given an opportunity to object.

I must object to the current application since I was not informed of any substantial changes to the earlier plan. I do not object to a residential project in this area but I objected and continue to object to the original application and to any other plan that will create a threat to my home and my neighborhood. The loss of the protective mangrove and wetlands constitutes a danger from rain and storm floods. The number of rooms with over 200 car parking spaces presents an unimaginable traffic hazard on the neighborhood road. The issue of the length of the roadside boundary is also a concern.

Please refer my objection to the CPA.

Kind regards,

Jenny Manderson

On Nov 14, 2023, at 10:36 AM, Popovich, Nicholas <Nicholas.Popovich@gov.ky> wrote:

Good morning,

Thank you for the emails pertaining to our application number P23-0940.

I have reviewed the notification documents provided by the applicant.

The applicant has provided the notice forms and proof of postage for all landowners located within 450 feet of the subject property boundaries.

I would suggest that affected landowners review the subject plans on our website (www.planning.ky) under the "planning notices" portal.

Please look for P23-0940 within that portal to view the plans.

If a landowner has yet to receive the notice in the mail, I would suggest that they contact the CI Post Office staff.

I hope that helps.

Please contact me if you have any questions.

Nick

Nick Popovich M.PL, MCIP, RPP, AICP
Planning Officer | Current Planning



DEPARTMENT OF PLANNING
Cayman Islands Government

Government Administration Building

133 Elgin Avenue | George Town

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✉ nicholas.popovich@gov.ky | www.planning.gov.ky

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From: Ezmie Smith <smithezmie@gmail.com>

Sent: Sunday, November 12, 2023 12:24 PM

To: Department of Planning <Planning.Dept@gov.ky>; Pandohie, Haroon <Haroon.Pandohie@gov.ky>; Popovich, Nicholas <Nicholas.Popovich@gov.ky>

Cc: 'Jenny manderson' <jen3612@hotmail.com>; 'Gwen McLaughlin' <GMcLaughlin@tridenttrust.com>; Jrmoore1067@gmail.com

Subject: [EXTERNAL] RE: Re: Notice of Planning Application 5C77

Sirs

Sorry in error typed 5C113 which should "read 5C13". Apologies.

From: Ezmie Smith [<mailto:smithezmie@gmail.com>]
Sent: Sunday, November 12, 2023 11:43 AM
To: 'Department of Planning' <Planning.Dept@gov.ky>; 'Pandohie, Haroon' <Haroon.Pandohie@gov.ky>; 'Popovich, Nicholas' <Nicholas.Popovich@gov.ky>
Cc: 'Jenny manderson' <jen3612@hotmail.com>; 'Gwen McLaughlin' <GMcLaughlin@tridenttrust.com>; 'Jrmoore1067@gmail.com' <Jrmoore1067@gmail.com>
Subject: Re: Notice of Planning Application 5C77

Dear Sirs,

In respect of the above subject matter kindly see the attachment.

The Notice of application for Planning Permission is only sent to me in respect of 5C113 instead of all the registered owners as listed on the land register. The other owners of the property has been excluded and for what reason. It does not work like this as all registered owners must be served. The previous notices in this matter included all the property owners. This is being brought to your attention to ensure that all registered land owners are properly served.

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I wait for a response as to why the Applicant has ignored the proper requirement.

Regards.

Ezmie Smith

Popovich, Nicholas

From: James Moore <jrmoore1067@gmail.com>
Sent: Tuesday, November 14, 2023 2:37 PM
To: Ezmie Smith
Cc: Department of Planning; Pandohie, Haroon; Popovich, Nicholas; Jenny manderson; Gwen McLaughlin
Subject: [EXTERNAL] Re: Re: Notice of Planning Application 5C77

Hello,

I would like to express my disappointment that this issue is once again being discussed and that the impacted homes and neighbors have not received any official notices or information.

I have not yet received notification or been given the chance to object, even though the application is once again on the CPA agenda.

When hurricane Ivan hit, the entire region was submerged under six feet of salt water. If a storm of that size ever occurs again and all of the mangrove and other vegetation is completely gone, it will only make the situation in the neighborhood worse than it was during Ivan.

It is also conceivable to clear the land here without planning permission, and I wish to strongly protest it. This is incorrect in a lot of ways.

I also want to protest the 1500 feet required by law to notify vestes parties; it is unfortunate to attempt to break the laws.

I have checked out mailing this past weekend and no mailing from the planning dept concerning this application there.

Sincerely
James Moore

On Sun, Nov 12, 2023 at 12:24 PM Ezmie Smith <smithezmie@gmail.com> wrote:

Sirs

Sorry in error typed 5C113 which should "read 5C13". Apologies.

From: Ezmie Smith [mailto:smithezmie@gmail.com]
Sent: Sunday, November 12, 2023 11:43 AM

To: 'Department of Planning' <Planning.Dept@gov.ky>; 'Pandohie, Haroon' <Haroon.Pandohie@gov.ky>; 'Popovich, Nicholas' <Nicholas.Popovich@gov.ky>
Cc: 'Jenny manderson' <jen3612@hotmail.com>; 'Gwen McLaughlin' <GMcLaughlin@tridenttrust.com>;
'Jrmoore1067@gmail.com' <Jrmoore1067@gmail.com>
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Regards.

Ezmie Smith

PO Box

Grand Cayman KY1-

14th November, 2023

Director of Planning

PO Box 113

Grand Cayman KY1-9000

Dear Sirs,

Re: Notice of Application for Planning Permission by 20 North Development Company on 5C 77 dated 2nd November 2023

This objection is made to the above mentioned Application in relation to a Low Density area having a Buffer Mangrove Zone to ensure that it is not destroyed during the development since such huge developments continue to grow larger in the Cayman Islands. We reserve the right to make further submissions, especially in light of any response that might be issued by the Applicant in relation to any Regulation question that might be posed. We would be grateful if you would place this letter before the Central Planning Authority (CPA).

The Mangroves:

Where the development is going to be located is in the vicinity of a Mangrove Area of an integral area. The buffer of mangroves has long served for protection during hurricanes. It has protected erosion in this area and property value.

1. The buffer area is very wet and swampy as it never seems to keep dry. This is important to note and important to surface water runoff. The site plan accounts for a drainage catchment and a deep well unlikely to be insufficient. The Notice of Application for planning permission is for proposed apartments (building 1-12) etc. whereas the site plan information shows up to 12 Building areas, a lot of construction digging would take place for a saturated area to be disturbed. We ask the Central Planning Authority (CPA) to consider this proposed development is an established residential area on Willie Farrington Drive and zoned Low Density.
2. This application also needs to be looked at in the nature of conservation of the kept flooded mangroves. The proposed development falls close by and would be a harmful precedent if approved for such a low lying area. This is important for the CPA to be minded of as this buffer area offers to the privacy to the neighbours as well. Section 26 of the Development and Planning Act sets out the Mangrove Buffer on the Development - shall not be subject of development or clearance other than by the person authorized in that behalf by the authority and to the extent and in the manner, if any, directed by them. There should be no directions to destroy such a protective area taking into consideration hurricanes. Hurricane Ivan certainly proved this.

3. It is a well known area that is within a flooded risk area, the proposed drainage as far as one would say is insufficient from the site plan to satisfy us.
4. The applicant needs to make clear that the Mangroves must be retained and should be identified on the site plan.
5. There is a certain amount of wild life in the zoned area that would be destroyed if such an application is approved.

Low Density Area - Willie Farrington Drive:

1. The development should respect the surrounding character area. The area on the proposed east side of Willie Farrington Drive is dominated by low density single storey houses. This development would be less uniform.
2. The proposed development should not be significantly higher than those found on this particular east side of Willie Farrington Drive as the homes are all single storey buildings in keeping with that side of Willie Farrington Drive as this is an established residential area.
3. The development could have a damaging effect in changing the neighbourhood particularly to that side of Willie Farrington Drive due to the current lay out. If this application is approved in a low density area definitely there will be concerns about possible future development.
4. It is also noted that the road side to the east of Willie Farrington Drive of the proposed development the density of the proposed new development is out of keeping with its surroundings and loss of amenity for neighboring houses. The NRA in their review of the previous application confirmed that this development will have a moderate effect on traffic

Previous Application versus current new application:

The previous application by the Applicant was refused by the Authority on the basis that the Applicant failed to demonstrate that the subject site is NOT a suitable location for apartments per Regulation 9(8). In this regard, the authority is of the view that the Apartments are not keeping with the Character of the area in terms of mass, scale and intensity of use and this will detract from the ability of surrounding land owners from enjoying the amenity of the properties."

It has only been less than 3 months since that decision was made and certainly the layout of the land and the neighbourhood has certainly not changed in such a short while.

The only change to the application is that the units are reduced to 95 units which is a small one for still a large development in a low density zone.

Notice of Application for Planning Permission

We are now in receipt of being served with notice of the proposed application. This application should be denied on the failure of effecting proper service also according to Section 40 of the current Development and Planning Act.

We submit the foregoing reasons as outlined as to why the application should be denied again.

Yours respectfully

James Moore

Rebecca Moore

Rannielee Hyde

PO Box 287

Grand Cayman KY1-1301

12th November 2023

Director of Planning

P.O. Box 113,

Grand Cayman KY1-9000

Cayman Islands

Dear Sir,

Re: Objection Letter to new Notice of Application for Planning Permission on 5C77 from Tropical Architectural Group Ltd dated 02, November 2023

This 3rd new application is now for the purpose of "proposed apartments (Building 1-12);proposed clubhouse, gym and 4 cabanas; proposed swimming pool & deck;30 sq. ft development sign attached to a free-standing wall; (2)signs attached to the building less than 30 sq. ft." for an entity on 5C77. We are writing once again to object to the application on the following additional grounds:

Previous Application(s)

The application was refused by the Central Planning Authority on the 16th August 2023 as per the CPA minutes of that date at 2.5. "Decision: It was resolved to refuse planning permission for the following reasons: 1) "the authority is of the view that the Applicant failed to demonstrate that the subject site is a suitable location for apartments per Regulation 9(8). In this regard, the authority is of the view that the Apartments are not keeping with the Character of the area in terms of mass, scale and intensity of use and this will detract from the ability of surrounding land owners from enjoying the amenity of the properties."

It has only been less than 3 months since this decision was made and certainly the nature of the ground, layout of the land and the neighbourhood has certainly not changed in such a short while.

The Applicant in this new application has not taken the steps laid down in The Development and Planning Act (2021 Revision) according to Section 48 of the Act. The Applicant has not exhausted his rights under the Statute. What has happened here the Applicant has by passed the Statute and gone to a fresh application. The Applicant cannot jump over what is laid down in the Statute. Section 48 (i) states:

"where any person who has applied for Planning Permission, or who has objected after being notified of the application in accordance with regulations under this Act, and who is aggrieved by a decision of the Authority in respect of the Application, may within 14 days of notification of that decision under Section

40, or within such longer period as the Tribunal may in any particular case allow good cause, appeal that decision to the Tribunal on the ground that it is –

- a) erroneous in law
- b) unreasonable
- c) Contrary to the principles of natural justice.”

This is a huge failure on the part of the Applicant and the Courts does not take lightly of an applicant who has failed to exhaust any rights laid down in a Statute and is the same laid down for all quasi bodies. It is outside the scope of the Central Planning Authority to entertain a new application on its final decision where no appeal has been made to the Planning Appeal Tribunal. The Authority now lacks the locus standi for hearing any new application.

New application dated 02 November 2023:

This new application is made under the same sections as the 2 previous applications. It appears that there is the lack of any substantial change. (By reducing the units to 95.NB the plan on the planning application site is not that legible). In order for an application to be considered to be a new application, it must be substantially different from the original application. The Courts will not take kindly to subtle inventions to circumvent the purpose of the law.

New Application sections:

The Development and Planning Act Section 15(4), The Development and Planning Regulations, Regulation 8(12A), 8(12B), 8(12C) and 8 (13) (d) gives rise to additional concerns:

Section 15(4) Development and Planning Act:

- i) Not all parties for 5C13 served as there are other registered owners and not mentioned on the notice of application. So far, a number of owners have to date complained to the planning that they have not received the formal notice of application.
- ii) The Development and Planning Regulations:

Regulation 8 (12A):The new application notice dated 2nd November 2023 proposes apartments (Buildings 1-12) and fails to give account of the number change of units. (Appears to be trying a way through the back door.) This regulation relates to eleven or more apartments or town houses at a radius of four hundred and fifty feet. The size of 5C77 is 6.34 acre according to the land register owned by 20 North Development Co. Ltd. **{1-12 building is still a lot for a low density residential area yet the amount of new units reduced for current application and no reduction to the amount of buildings).**

Regulation 8 (12B): This regulation relates to minor matters of development to be varied by the Authority such that adjoining owners are required to be notified. Not all owners are notified as of yet. Certainly this development is not of a minor matter from the objections heard on the 16th August 2023 based on the 2 previous notices whereby the application was denied.

Regulation 8 (12C): This requirement also mentions where a good cause exists. There is no justification for this with the size of the development and the number of buildings and parking required therefore it is no further justification for a 21 M\$ project. This regulation gives the right to an adjacent owner of legal capacity to lodge an objection stating the grounds. Therefore service on land owners is of importance not to be excluded.

Regulation 8 (13) (d): (if there is such a regulation). The authority must ensure compliance of the Statute of its refusal to grant an application if the applicant does not avail him or herself to adhere to the due process as to what is laid down. Therefore, this application should not be reheard.

We are not sure as to the position of the authority on this new application but still also maintain the objections below as there is really no significant change in the new application if the Authority is of the mind to discard Section 48 of the Act which should not be the case as per the Statute.

Low Density Residential

The reason why this application should be denied is that it is out of line of the character of the neighborhood which is exclusively single storey family homes. In a residential area the applicant shall ensure that the massing, scale, proportion and design of such development are consistent with the historic architectural tradition of the Islands. (Regulation 9 (1)). This new application simply remains a huge development into a small area that is zoned low density residential. On Willie Farrington Drive itself (not to be confused where the bypass comes out on John Jefferson Snr. Drive) there is no such buildings as those proposed by the Applicant. If a serious count was taken from the north to the south of Willie Farrington Drive (see attached Registry Map Extract) that is from the junction to Batabano and Mount Pleasant then to Fosters Republic junction it would prove that there is less than 40 residential homes. A view of the Aerial photography will definitely prove that this area is a very small community. This is all due to the layout of the land therefore it is for the Authority (CPA) in determining whether the applicant has satisfied the requirement of sub regulation 9 (1) to the compatibility of the buildings proposed with the land form. (Regulation 9 (2) (a)).

It is only recently in over more than 30 years only 4 new single storey homes has been built on Willie Farrington Drive that is because of the layout of the land. The few lots that remain vacant are family owned. This speaks for itself why the area is zoned as low density residential.

Harm to the Area

With the surrounding low density developed area this particular large development will take from the neighbours the enjoyment of the tranquility of the area where residents have long enjoyed. This could have a negative impact of the value of properties in the area. Now to have some development of that magnitude spoil such a nice area that is home to us is a disgrace for such a peaceful area.

Studies have proven that when a development of this size in a low-density residential area how the affects can be in respect of new buildings units whereby rents can decrease. This new development due to the large scale will change the face of the neighbourhood and more.

Willie Farrington Drive development as it stands is of a low density subject to the area requirement in law and should not be superseded by the development. The developer should be told that the development proceed in manner consistent with surrounding properties in order to permit the development. If this development is allowed it will only cause an impact of a high density residential when this area is zoned Low Density Residential and is clearly incompatible with the character of a low-density residential area. This could be a serious breach of the law.

In the circumstances we urge the CPA **not to approve** the project to such an unreasonable development by the 3rd new application having failed to comply with Section 48 of the Statute appeal process. There must be compatibility of any building with the land form.

It would be in the interest of the developer to sell off the land as individual plots to build single storey buildings for sale. This too could cause serious problems as this Mangrove land would be under threat of destruction and flooding to adjoining owners homes.

Mangrove Buffer Zone

The proposed development location will result in loss of mangroves and their ecological function. It should be noted that the Ramsar Convention has been extended to the Cayman Islands to keep our mangroves alive according to the Convention. In considering any matter relating to a Mangrove Zone the CPA shall have regard to the ecological function by the mangroves (Regulation 18(1)).

Planned area developments in all areas are permissible of the island and in all zones, except Industrial, Public Open Space AND MANGROVE BUFFER. (Regulation 24(3)).

Type of Land on which the proposed buildings will sit.

The development site consists of tidally flooded area that is considered primary habit tat which is likely would need to be filled in to build up the site. This could result in higher ground for water runoff to affect surrounding residential properties causing flooding to their homes. This would be critical to those homes. It must be ensured that the surrounding properties nearby is not subject to flooding.

Traffic

Traffic from the development of the apartments will lead to the main Willie Farrington Road from the development and certainly owners from the apartment units would rather use Willie Farrington Drive to get on the bypass rather than the south intersection opposite the Fosters Republic since it is closer by to the proposed voluminous apartments units. The proposed developer has not made any mention of another way to enter and exit from the now proposed application on to the bypass which will increase traffic on Willie Farrington Drive. However, the traffic impact in such a low residential density will affect

the residents greatly and has to be considered as a serious objection as the purposed development is not a small one.

Loss of Air and Light

The development as to air and light will be an impact to the closest surrounding properties as the project will be detrimental. These surrounding properties are occupied by single store-homes. The development should be consistent with historical architectural and traditions of the islands. (Regulation 9 (1)).

Noise

Noise could be a contributing factor from such a large development creating a nuisance such as audible noise. There are 4 cabanas for the proposed development.

Conclusion:

It is believed that the proposed development is a direct contravention for a Low Density Residential area. This development does not respect the local context of the area in particular the scale of the development and height of the buildings and would be entirely out of character of the area and detrimental of the whole of Willie Farrington Drive itself.

For the reasons outlined in the foregoing objections this application should be denied in its entirety again. Indeed now it is a clearer that a decision has been made, the Planning Department and the CPA (Central Planning Authority) is functus officio that is it has performed its function and the only thing left is to appeal it or seek a judicial review, which we think is likely to failure to exhaust Statutory remedies.

For the reasons outlined in the foregoing objections this application should be denied in its entirety again.

Yours respectfully

Ezmie Smith in her own right (joint owner)

Ezmie Smith for Nicole Hydes and Elijah Samson(all joint owners)

Popovich, Nicholas

From: Jenny manderson <jen3612@hotmail.com>
Sent: Tuesday, November 14, 2023 1:14 PM
To: Popovich, Nicholas
Cc: Ezmie Smith; Department of Planning; Pandohie, Haroon; Gwen McLaughlin; Jrmoore1067@gmail.com; Howard, Edward
Subject: [EXTERNAL] Re: Notice of Planning Application 5C77
Attachments: image001.png.html; image001.png.html

Dear Sirs,

I wish to register my objection to the above project on the basis of my earlier objection. The project was refused on 16th August, 2023 by the CPA. I was informed that the refusal was on the grounds that it was not in keeping with the character of the surrounding area. No mention was made of the flooding concerns, or of the concerns expressed by the objectors and the NRA about traffic.

The application is again on the CPA agenda and I have NOT yet been notified and given an opportunity to object.

I must object to the current application since I was not informed of any substantial changes to the earlier plan. I do not object to a residential project in this area but I objected and continue to object to the original application and to any other plan that will create a threat to my home and my neighborhood. The loss of the protective mangrove and wetlands constitutes a danger from rain and storm floods. The number of rooms with over 200 car parking spaces presents an unimaginable traffic hazard on the neighborhood road. The issue of the length of the roadside boundary is also a concern.

Please refer my objection to the CPA.

Kind regards,

Jenny Manderson

On Nov 14, 2023, at 10:36 AM, Popovich, Nicholas <Nicholas.Popovich@gov.ky> wrote:

Good morning,

Thank you for the emails pertaining to our application number P23-0940.

I have reviewed the notification documents provided by the applicant.

The applicant has provided the notice forms and proof of postage for all landowners located within 450 feet of the subject property boundaries.

I would suggest that affected landowners review the subject plans on our website (www.planning.ky) under the "planning notices" portal.

Please look for P23-0940 within that portal to view the plans.

If a landowner has yet to receive the notice in the mail, I would suggest that they contact the CI Post Office staff.

I hope that helps.

Please contact me if you have any questions.

Nick

Nick Popovich M.PL, MCIP, RPP, AICP

Planning Officer | Current Planning



Government Administration Building

188 Elgin Avenue | George Town

P.O. Box 118 | Grand Cayman KY1-9000 | CAYMAN ISLANDS

☎ +1 345 244-6501 (Main) | ☎ +1 345 244-6538 (Direct)

✉ nicholas.popovich@gov.ky | www.planning.gov.ky

This email, including any attachment, is strictly confidential and may also be subject to legal professional and other privilege. No confidentiality or privilege is waived by any error in its transmission. It is intended solely for the attention and use of the named addressee(s). If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are not authorized to and must not review, disclose, copy, distribute or retain this message or any part of it. If you have received this email in error, please delete it from your system and notify the sender immediately at the above email address or call 1-345-244-6548.

From: Ezmie Smith <smithezmie@gmail.com>

Sent: Sunday, November 12, 2023 12:24 PM

To: Department of Planning <Planning.Dept@gov.ky>; Pandohie, Haroon <Haroon.Pandohie@gov.ky>; Popovich, Nicholas <Nicholas.Popovich@gov.ky>

Cc: 'Jenny manderson' <jen3612@hotmail.com>; 'Gwen McLaughlin' <GMcLaughlin@tridenttrust.com>; Jrmoore1067@gmail.com

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