Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on July 5, 2023 at 10:00am in Conference Room 1038, 1st Floor, Government Administration Building, and Elgin Avenue.

15th Meeting of the Year CPA/15/23

Mr. Ian Pairaudeau (Chair)
Mr. Handel Whittaker (Deputy Chair) (apologies)
Mr. Joshua Bernard
Mr. Gillard McLaughlin
Mr. Charles Russell Jr.
Mr. Peterkin Berry (arrived at 10:30)
Mr. Peter Campbell (apologies)
Mr. Kenneth Ebanks (via Zoom)
Ms. Danette McLaughlin
Ms. Shakina Bush (apologies)
Ms. Christine Maltman, MCIP, AICP (Acting Chair item 2.3)
Ms. Celecia Bancroft
Mr. Ashton Bodden (via Zoom)
Mr. Haroon Pandohie, AICP, (Executive Secretary)
Mr. Ron Sanderson (Deputy Director of Planning – Current Planning)

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/15/23

2.1 INVINCIBLE INVESTMENT CORPORATION (Andrew Gibb Chartered Architect) Block 11D Parcels 37 and 45 (P20-0053) (P22-0735) ($153,184,000) (MW) 4

2.2 JIMMY BODDEN (iDraft Ltd) Block 20E Parcel 378 (P22-0422) ($120,000) (NP) 46

2.3 LIBANON GROUP (TRIO DESIGN) Block 10E Parcel 56 (P22-0841) ($234,000) (MW) 53

2.4 PATTY NUGENT (CS Design) Block 75A Parcels 248 (P23-0187) ($750,000) (MW) 88

2.5 ROBERT SELKIRK T. WATLER (RSTW Property Development) Block 22D Parcel 299 (P23-0329) ($150,000) (EJ) 83

2.6 COBALT COAST (Lifestyle Holdings Ltd.) Block 4B Parcel 581 (P23-0187) ($750,000) (MW) 88

2.7 NIGEL MITTEN (Bennetts Architectural Designs) Block 5C Parcel 456 (P23-0322) ($25,000) (MW) 96

2.8 ROY EBANKS (Cayman Survey Associates) Block 1D Parcel 303 (P23-0426) ($5,500) (NP) 99

2.9 ALVA MINOTT (LSG Designs) Block 43A Parcel 393 (P23-0228) ($8,200) (EJ) 102

Application for after-the-fact 4’ concrete block wall and garbage enclosure. 102

2.10 DWAYNE SIMPSON (Craftmans Touch) Block 37E Parcel 302 (P23-0185) ($357,000) (EJ) 104

2.11 OWEN ROBERTS INTERNATIONAL AIRPORT (AMR Engineers) Block 20C Parcel 78 (P23-0243) ($640,000) (NP) 108

2.12 ISLAND PRIMARY (Kariba) Block 20E Parcel 87 (P23-0360) ($2,000) (NP) 115

2.13 PETER VAN MARCKE & BENEDICTE VERSTRAETE Block 15C Parcel 78 (P23-0454) ($15,000) (AS) 117

2.14 PETER JACOB & FIONA MACADAM (Paradise Drafting) Block 23C Parcel 244 (P23-0411) ($2.4 million) (NP) 118

5.1 KARLO BARREDO Block 25C Parcel 341 (P22-0748) 126

5.2 MAINTENANCE OF LAND Block 27C Parcel 768 126

6.1 REZONE Block 20D Parcels 468 and 469 (formerly 447, 448 and 451) 127

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**APPLICANTS ATTENDING THE AUTHORITY’S MEETING**

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<th>Time</th>
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<th>Page</th>
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<tr>
<td>Invincible Investments Corporation</td>
<td>11:00</td>
<td>2.1</td>
<td>4</td>
</tr>
<tr>
<td>Jimmy Bodden</td>
<td>2:00</td>
<td>2.2</td>
<td>46</td>
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<tr>
<td>Libanon Group</td>
<td>2:30</td>
<td>2.3</td>
<td>54</td>
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1. 1 **Confirmation of Minutes CPA/14/23 held on 21st June 2023.**

**Moved:** Christine Maltman

**Seconded:** Gillard McLaughlin

**Confirmed**

1. 2 **Declarations of Conflicts/Interests**

<table>
<thead>
<tr>
<th>Item</th>
<th>Member</th>
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<tbody>
<tr>
<td>2.3</td>
<td>Ian Pairaudeau</td>
</tr>
<tr>
<td>2.14</td>
<td>Christine Maltman</td>
</tr>
</tbody>
</table>
2.0 APPLICATIONS

APPEARANCES (Items 2.1 to Item 2.3)

2.1 INVINCIBLE INVESTMENT CORPORATION (Andrew Gibb Chartered Architect) Block 11D Parcels 37 and 45 (P20-0053) (P22-0735) ($153,184,000) (MW)

Application for a hotel annex & related facilities, new conference facility, change of use (spa to banquet kitchen, meeting rooms and retail) & two swimming pools.

Appearance at 11:00

FACTS

<table>
<thead>
<tr>
<th>Location</th>
<th>West Bay Rd., West Bay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>Hotel Tourism</td>
</tr>
<tr>
<td>Notification result</td>
<td>Objector</td>
</tr>
<tr>
<td>Parcel size proposed</td>
<td>8.6 ac. (374,616 sq. ft.)</td>
</tr>
<tr>
<td>Parcel size required</td>
<td>½ ac. (21,780 sq. ft.)</td>
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<tr>
<td>Current use</td>
<td>Existing Hotel</td>
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<tr>
<td>Proposed building size</td>
<td>213,884 sq. ft.</td>
</tr>
<tr>
<td>Total building site coverage</td>
<td>36.4%</td>
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<tr>
<td>Allowable bedrooms</td>
<td>559</td>
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<tr>
<td>Proposed bedrooms</td>
<td>559</td>
</tr>
<tr>
<td>Required parking</td>
<td>385 spaces</td>
</tr>
<tr>
<td>Proposed parking</td>
<td>385 spaces</td>
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</tbody>
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BACKGROUND

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

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

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

June 22, 2016 (CPA/14/16; Item 2.11) The Authority granted planning permission for a 2,912 s.f. hotel addition for administrative offices.

August 3, 2016 (CPA/17/16; Item 2.14) The Authority granted planning permission for a two fuel tanks, sign, pool and cabana renovations, port cochere and 203 s.f. pool bar expansion.
April 12, 2017 (CPA/08/17; Item 2.15) The Authority granted planning permission for modification to CPA Condition of Approval; 1,212 sq. ft.

December 18, 2019 (CPA/26/19; Item 5.1) The Authority granted planning permission for a Conversion of Two Retail Spaces and a Children’s Activity Area to Sushi Eatery and an Expanded Coffee Bar.

February 19, 2020 (CPA/04/20; Item 2.5) The Authority granted planning permission for a laundry facility and storage rooms on Block 11D Parcel 37 to support the hotel use on Block 11D Parcel 45.

February 19, 2020 (CPA/04/20; Item 2.4) The Authority resolved to adjourn an application for a change of use of a spa to a banquet kitchen pending the submission of additional information for the application regarding the proposed parking allocation for the development.

September 16, 2020 (CPA/15/20; Item 2.6) – the application was adjourned in order for the applicant to notify the leasehold owners that fall within the required notification radius.

November 11, 2020 (CPA/19/20; Item 2.1) – the application was considered and it was resolved to refuse planning permission for the Hotel Addition, Conference Facility & Modifications to an Existing Hotel.

October 12, 2022 (CPA/24/22; Item 2.6) – the application was considered and it was resolved to adjourn the application.

March 15, 2023 (CPA/06/23; Item 5.1) – the terms of reference was considered and it was resolved to adjourn the application.

June 21, 2023 (CPA/14/23; Item 2.4) – the application was considered and it was resolved to adjourn the application in order to consult with and obtain comments from the National Roads Authority.

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

Conditions (1-13) 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 submit an updated Traffic Impact Assessment (TIA) that takes into account that there will be no access from West Bay Rd across the northerly boundary of Block 11D Parcels 96 and 97 leading to the proposed off-site parking on Block 11D Parcel 37. Further, the updated TIA must show that the plans accommodate for safe pedestrian movement across West Bay Rd. The updated TIA must be supported by the National Roads Authority (NRA) and approved by the Central Planning Authority (CPA).

2) The applicant must comply with the Traffic Management Strategy c2.1 or as revised due to the updated TIA. Further, the applicant is directed to liaise with the NRA
regarding any traffic improvements associated with the NRA’s Complete Streets Project.

3) The applicant shall provide documentation to the satisfaction of the CPA that the off-site parking spaces shown on the approved plan on Block 11D Parcel 37/1/1 have been secured for the sole and exclusive benefit of the existing and proposed hotel(s) for so long as these hotels remain in existence on Block 11D Parcel 45/3, in any event, for a term not less than the term of the leasehold interest in the hotel property. Such documentation shall include, but may not be limited to, registered covenants that:
   a) Are registered as an appurtenance on title to Block 11D Parcel 45/3 and as an incumbrance on title to Block 11D Parcel 37/1/1 and run with title to ensure they bind successors and assigns in title thereto;
   b) Restrict the use of Block 11D Parcel 37/1/1 for the sole purpose of parking for the hotels on Block 11D Parcel 45/3;
   c) Prohibit the further development of Block 11D Parcel 37/1/1 for so long as it is required for use as parking for the hotels on Block 11D Parcel 45/3.
   d) Direct the Registrar of Lands that the written authorization of the Director of Planning is required for any amendment or discharge of such covenants.

4) The covenants referred to in condition (3) above, shall be:
   a) Provided in draft format for the Authority’s approval, prior to execution; and
   b) Upon the Authority’s approval, executed and resubmitted to the Authority, prior to registration.

5) The applicant shall submit a revised site plan showing:
   a) no drive aisle connection from West Bay Rd across the northerly boundaries of Block 11D Parcels 96 and 97 leading to the proposed off-site parking on Block 11D Parcel 37; and
   b) removal of the pedestrian promenade on Block 11D Parcel 133 (for which an application has not been made) - and the proposed pedestrian crosswalk on West Bay Rd.

6) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.

7) 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.

8) 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.

9) 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.

10) Upon fulfilment of condition 7), beachside construction fencing associated with the works shall be positioned at least 75 feet from the high water mark, 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 property owner shall contact the DoE to check for the presence of turtle nests prior to the installation of the fence and written approval shall be obtained from the DoE that no nests will be impacted by the installation of the fence. The DoE shall inspect the fence after installation and written approval shall be obtained from the DoE that the installed fence is suitable for the exclusion of turtles.

11) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

12) 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.

13) 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.

14) 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

In addition to Building Permit requirements, condition (15) listed below shall be met before a Building Permit can be issued.

15) The applicant shall submit the Stormwater Management plan required in condition 12) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.

16) 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 (17-18) shall be met prior to the commencement of any construction works.

17) Submission of a stamped receipt from the Registrar of Lands indicating all the documentation referred to in conditions (3) and (4) above has been submitted for registration.

18) 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.

19) 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.

20) 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.

21) 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.

22) 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 (23-28) shall be complied with before a final Certificate of Occupancy can be issued.

23) Proof (i.e. stamped copies from the Registrar of Lands) that the documentation required in conditions (3), (4) and (17) has been registered on title of Blocks 11D Parcel 37/1/1 and Block 11D Parcel 45/3.

24) As a turtle 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.
25) All construction material shall be stockpiled landward of the beachside construction fencing.

26) 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.

27) 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.

28) If the development includes access gates, the applicant shall provide written confirmation from the Department of Public Safety Communications (DPSC) that the access gate(s) includes acceptable measures to allow access for emergency service vehicles and personnel.

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

29) 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.

The applicant is reminded again that planning permission for the proposed Pedestrian Promenade has not yet been sought and will be the subject of a separate application.

The applicant is reminded that the existing dedicated Public Rights-of-Way (PROWs) along the north and south boundaries shall be kept free and clear of all obstructions.

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 application is for a hotel in the Hotel/Tourism zone and complies with the relevant requirements such as setbacks, site coverage, density and building height. The matter of off-site parking is addressed separately below.

2) The Authority had previously required a detailed Traffic Impact Assessment which was prepared and submitted to both the NRA and the CPA, both of which support the study subject to some minor revisions.

3) Conditions of approval have been included to ensure turtle friendly lighting is installed on site in accordance with the relevant requirements.
4) Regarding off-site parking:

a) The Authority queried the Department about the required number of parking spaces as the Facts section of the Agenda states 454 parking spaces are required, but the Analysis section of the Department’s report states that 385 spaces are required. The Department replied that the Facts section was erroneous as it should have read 385 spaces are required. The Department noted that the baseline for the parking calculation is the existing 198 spaces that currently serve the hotel and added to that total is the parking requirement for the new hotel and associated facilities which brings the required total number of parking spaces to 385. The Authority accepted this analysis.

b) On February 19, 2020, planning permission was granted for a laundry facility and 358 parking spaces on the current subject parcel Block 11D Parcel 37. The reason for the decision at that time was that the parking was in association with the laundry facility and not the hotel, which, for the current applicant, is not applicable, given the applicant’s intention to use the same parcel as off-site parking for the existing and proposed hotels on Block 11D Parcel 45.

c) The current applicant is simply stating they plan to use the already approved parking spaces which is a situation that would have likely occurred in any event and to refuse the request would be unreasonable.

d) The Authority is of the view that hotel operations have evolved globally and in order to maximize valuable hotel land, the option of valet parking utilizing off-site parking facilities is common. The Authority noted the comments from the Cayman Islands Department of Tourism which indicated the importance of the additional hotel room stock and conference facility space on the site, which necessitated the request for off-site parking and shuttle service.

e) Although the amount of off-site parking exceeds the allowable ratio per Regulation 8(1)(c), the Authority is of the view that reasons a) through e) above form the basis per Regulation 8(13)(b) for allowing the amount of off-site parking being requested by the applicant.

5) The Authority is of the view that there are no objections that raised sufficient grounds for refusing permission. More specifically:

- Conditions of approval have been included to ensure that there is no vehicular access from West Bay Road across the northerly boundaries of the objector’s land (Block 11D Parcels 96 and 97) leading to the off-site parking on Block 11D Parcel 37.
- The objector raised no land use related concerns with the off-site parking and, as noted above, it has already been approved. Additionally, when asked if the objector objects to the applicant using the easement, but not the carpark, the objector’s Attorney replied that is correct.
- The Objector makes reference to a parking requirement of 454 spaces as noted
on the Agenda and that it seems now that 385 spaces are being accepted. This matter is addressed above in reason 4) a).

- Any unauthorized use of the existing parking for either the applicant’s or objectors’ land is outside of the remit of the Authority.

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

Water Authority

Existing Water Authority Infrastructure

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

The developer is advised that the Water Authority has existing wastewater infrastructure along the boundary between parcel 11D37 and 11D113 (erroneously identified as 17D262 on the site location plan A1-104; parcel subdivided in February 2020). Unfortunately, as this 6-inch sewer force main was installed more than 30 years ago (i.e., before the advent of GPS equipment), the exact location of this force main is unknown, and therefore it could be on either property.

As access to the wastewater infrastructure must be maintained at all times to accommodate maintenance and repair, no structures shall be built over this pipeline, and adequate space provided for maintenance vehicles and backhoes.

- The developer shall notify the Water Authority’s Engineering Department at 949-2837, EXT: 3003, as soon as possible to ensure that:
  o the site-specific connection requirements are relayed to the developer*
  o any existing sewerage appurtenances on the property can be clearly marked to prevent damage (for which the developer would be held responsible)
  o 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 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 developer shall notify the Water Authority’s Customer Service Department at 814-2144 to make application for sewerage service additions.

* The existing Westin Hotel already has a connection to the public sewerage system via a sewer manhole on parcel 11D45. Please note that this manhole is very close to the south end of the proposed new ballroom. The proposed new laundry facility will need to be connected, via a wastewater pump station, to the 6-inch sewer force main situated along the boundary between parcel 11D37 and 11D113.
The Authority will not be responsible for delays due to insufficient notice from the developer.

**Grease Interceptor Required**
A grease interceptor with a minimum capacity of 6,000 US gallons is required to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the WBBSS. Where two tanks are used to achieve the required capacity, they shall be installed in series with the larger tank first (600 US gallon minimum).

**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.

**Lint Interceptor Required - Commercial, Institutional & Coin-op Laundries**
An approved lint interceptor is required for commercial, institutional and coin-operated laundries. The developer is required to submit specifications for all laundry (washer) equipment to the Water Authority for determination of the required capacity of interceptor. Specifications can be sent via email to development.control@waterauthority.ky

**Hair Interceptor Required**
An approved hair interceptor is required for the proposed salon. The developer is required to submit a plan of the salon that includes the number of service chairs and wash basins to determine the capacity of interceptor required. Details can be sent via email to development.control@waterauthority.ky

**Generator and Fuel Storage Tank(s) Installation:**
In the event underground fuel storage tanks (USTs) are used the Authority requires the developer to install monitoring wells for the USTs. The exact number and location(s) of the monitoring wells will be determined by the Authority upon receipt of a detailed site plan showing location of the UST(s) and associated piping. The monitoring wells shall comply with the standard detail of the Water Authority linked below. All monitoring wells shall be accessible for inspection by the Authority. In the event above ground fuel storage tanks (ASTs) are used, monitoring wells will not be required. [https://www.waterauthority.ky/upimages/download/USTMonitoringWellFeb2013_1445632994.pdf](https://www.waterauthority.ky/upimages/download/USTMonitoringWellFeb2013_1445632994.pdf)

**Water Supply**
Please be advised that the proposed development site is located within the Cayman Water Company’s (CWC) piped water supply area.
- The developer is required to notify the Cayman Water Company without delay, to be advised of the site-specific requirements for connection.
- The developer shall provide water supply infrastructure per CWC’s specification and under CWC’s supervision.
If there are questions or concerns regarding the above, please email them to:
development.control@waterauthority.ky

National Roads Authority
Memorandum #1

As per your memo dated August 2nd 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 impact of a proposed ten storey hotel addition of 249,640 sq.ft. and 18,410 sq.ft. of conference space for a total area of 290,846 sq. ft. of Resort area onto both West Bay Road and the Esterley Tibbetts Highway (ETH) could be considered moderate to significant at this location. Based on this the CPA may wish to consider asking the applicant to do a simple Traffic Impact Assessment (TIA) to clearly ascertain how these proposed upgrades will affect the surrounding road system.

The applicant has proposed to work in conjunction with the NRA to upgrade West Bay Road using the accepted Complete Street concept. This is a good basis in which to handle the increase in traffic that will occur with this proposed project.

Access and Traffic Management Issues

The Complete Streets concept in theory and as proposed along West Bay Road by the applicant is acceptable to the NRA. We will work closely with the applicant to advise and provide any necessary input on what we feel is best suited for West Bay Road. The crossing(s) as part of the Complete Streets Project will need to go to the Traffic Management Panel for ultimate approval.

The proposed parking management and operational plan version 2 is acceptable to the NRA.

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 twenty-four (24) ft.

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

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

Stormwater Management Issues

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.

- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.

- Construct a gentle ‘hump’ at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto West Bay Road/Esterley Tibbetts Highway. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.

- Curbing is required for the parking areas to control stormwater runoff.

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

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

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

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

Memorandum #2

As per your memo dated March 7th 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 is satisfied with the TIA proposal presented by the applicant’s agent for the above project on Block 11D Parcel 45.

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

Memorandum #3

As per your memo dated May 25th, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Overall the NRA is satisfied with the layout, presentation, assessment, findings and conclusion of the Traffic Impact Statement presented to us for the Westin Grand Cayman Expansion project in May 2023.

The only area of concern is section 4.4 Proposed Road Developments in Study Area in regards to the ‘Complete Streets’ project. The applicant notes that ‘The NRA propose to develop their ‘Complete Streets’ project along the section of WBR within the study area’. As noted within the CPA Condition letter dated November 7th 2022, ‘The Assessment will assist the Authority in making a fully informed decision, regarding traffic impact, including the proposed off-site parking, and the pedestrian/vehicular interface along West Bay Road.’ The Complete Streets project along this section of West Bay Road is vital to the safe integration of the pedestrian/vehicular interface as noted within the CPA Condition letter. The report does note that the applicant intends on using some of the features for vulnerable road users in the vicinity of the resort. It would be helpful if this note was fleshed-out as to how they intend to use said features within the assessment, as it is important to the success of this project.

The NRA further notes that prior discussions with the applicant centered around the Complete Streets concept and that we (the NRA) and the applicant would work together on the development of this concept as it is the best way for this project to succeed. Therefore, the NRA is asking the CPA to have the applicant amend the TIS to note that the NRA and the Westin design team will work together on a design concept for the development of a Complete Streets concept for this project within this section of West Bay Road.

Department of Environmental Health

In order for the department to complete the environmental health assessment of this application the following additional information is required:

1. The applicant must submit the following for review and approval:
   a) Detailed floor plans for the 3 Meal restaurant, Sky Bar, pool bar and restaurant; all kitchens within this proposal.
   b) Detailed floor plans for the Salon
   c) Each treatment room shall have a hand wash sink installed.
   d) Approved BCU mechanical drawings for the kitchen hoods.
   e) Mechanical drawings for the laundry

2. In addition, a swimming pool application for the new pool and the Spa pool must be submitted for review and approval prior to constructing the pool.
3. The purpose of the underground cistern should be stated.

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).

EIA Screening Background

The application site is man-modified and is the current location of the Westin Grand Cayman Seven Mile Beach Resort and Spa (Westin). The site is adjacent to the Seven Mile Beach Marine Reserve (a Protected Area under the National Conservation Act (NCA)). It is located on a turtle nesting beach; approximately 253 feet from 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)).

The DoE reviewed and provided comments for two similar proposals from the Applicant in 2020. Both applications were screened for an Environmental Impact Assessment (EIA) given the scale and location of the project, as outlined in Schedule 1 of the National Conservation Council’s Directive for EIAs issued under section 3(12)(j) and which has effect under section 43(2)(c) of the NCA.

The DoE reviewed and provided comments for two similar proposals from the Applicant in 2020. Both applications were screened for an Environmental Impact Assessment (EIA) given the scale and location of the project, as outlined in Schedule 1 of the National Conservation Council’s Directive for EIAs issued under section 3(12)(j) and which has effect under section 43(2)(c) of the NCA.

The modifications from the previous proposal have been reviewed and the current proposal is not likely to have additional significant effects and the identified environmental aspects detailed in the Screening Opinion do not change. Therefore, EIA Screening Opinion dated 03 July 2020 remains valid.

The Screening Opinion (enclosed) concluded that the proposed development does not require an EIA. This conclusion was endorsed by the National Conservation Council, as outlined in the enclosed letter, dated 13 July 2020. Possible adverse impacts of the proposal have been highlighted in the sections below and conditions have been recommended to minimise those adverse effects.

Impacts on Turtle Nesting

The beach of the subject parcel is a turtle nesting beach. All marine turtle species are listed in Part 1 of Schedule 1 to the NCA, as being ‘protected at all times’. There are currently adverse impacts from the existing resort to nesting and hatchling sea turtles from the artificial lighting which directly illuminates the nesting beach. The Applicant has not indicated the use of turtle friendly lighting in the proposed development. Historical nesting on the site has been concentrated to the south (see Figure 1). Currently, a low-level restaurant building occupies the southern section of the resort. With the construction of the proposed 10-storey hotel tower, the impacts of artificial lighting on the historical
nesting area of the beach are likely to be amplified due to the cumulative increase in lighting.

Figure 1: LIS 2018 aerial imagery with the outline of the proposed new buildings from the Applicant’s site plan overlaid. Green sea turtle nests are shown in green and Loggerhead turtle nests are shown in orange. The red line delineates the designated critical sea turtle habitat.

The DoE welcomes the removal of the hard structures (including portions of the proposed pool deck, the proposed outdoor seating area, walkways and the proposed fire lane) which were previously included in the 2020 proposal and located within the 130-foot coastal setback and areas which previously experienced turtle nesting.

The DoE reached out to the Applicant’s agent to confirm that these structures will not be added at a later stage and received the following response:

“We have taken the walkways and fire lane access route off the application documentation until we have properly resolved with the Fire Department how appropriate lanes and turnaround geometry can be effected within the 130’-0” setback zone to their and the satisfaction of the Central Planning Authority in due course- this would require the input of landscape designers and be the subject of an entire beach walk installation exercise.”
Any hard structures located within the 130-foot setback i.e. the fire lane on the beach will decrease the size of the potential turtle nesting habitat. The DoE strongly recommends that all hard structures including the fire lane and any future walkways be designed to meet the minimum 130-foot coastal setback rather than encroaching on the nesting beach.

We have also found that large objects and structures left on the beach overnight act as an impediment to turtle nesting. We have experienced less nesting in areas where structures such as rows of beach chairs are left out overnight suggesting it may deter nesting females. We recommend removing as many beach chairs as possible from the beach or stacking them to one side overnight during the turtle nesting season (May-November) to allow the turtles room to nest.

Artificial lighting on turtle nesting beaches is another threat to the survival of Cayman’s endangered sea turtle nesting populations. Bright lights on 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.

The DoE has been working with properties along Seven Mile Beach in areas of critical turtle nesting habitat to retrofit to turtle friendly lighting. We have also reviewed and approved numerous turtle friendly lighting plans. Turtle friendly lighting has been well received and there are now several retrofitted properties (see Figures 2-4).

In addition, turtle friendly lighting has been a legal requirement in areas of the United States for over 20 years, shown below (Figures 5-10) are Westin Resorts in the U.S. with turtle friendly lighting. We recommend that any exterior lighting which may be visible from the beach and forms a part of this proposal is turtle friendly.

Turtles are a part of the Cayman Islands’ history and its culture. Turtle friendly properties present a unique opportunity for low season ecotourism. Beaches with safer turtle nesting conditions such as those free from artificial lighting and large structures have allowed many residents and guests to see turtle nests and turtle hatchlings in their natural habitat for the first time. Should the applicant wish to learn more about creating a turtle friendly property, we encourage the applicant to reach out to the DoE for more information.

Figures 2-4: Local condos on Seven Mile Beach Grand Cayman which have been retrofitted to turtle friendly lighting.
Climate Change

The proposed development is likely to both contribute to climate change and be affected by climate change; this has been discussed in the attached Screening Opinion. The effects of climate change on the proposed development are most likely to be related to an increase in the intensity of storm events, sea-level rise and more intense but fewer rain events.1

We are not aware of any climate-resilient design features or alternative forms of energy being proposed with this application. However, the DoE recommends that, wherever possible, sustainable design features are included in large-scale development projects such as this. For example:

- The incorporation of renewable energy, especially given the target that 70% of energy generation be renewably sourced by the year 2037 within the National Energy Policy 2017-2037, i.e. the installation of solar carports at on/off-site parking locations to introduce opportunities for renewable energy integration and reduce solar heat gain of asphalt surfaces through shading.

- The incorporation of high reflectivity and high emissivity hardscape materials (pavers, etc.) into the design, and the minimization of asphalt parking or provide alternate surfacing to reduce the heat island effect.

- The use of greywater systems for irrigation.

- The use of native vegetation and drought-tolerant vegetation in the landscaping scheme.
Native coastal vegetation is best suited for the habitat conditions of the site and requires less maintenance (i.e. minimizes the demand for potable water for irrigation) which makes it a very cost-effective choice.

1 Climate Studies Group. (2014). Climate Profile for the Cayman Islands. The University of the West Indies for Smith Warner International Ltd.

When designed effectively landscaping can assist with shoreline protection of structures; provide appropriate shading and cooling of buildings, hardscape and people; attenuate noise and provide windbreaks to trap airborne particles/debris.

**Construction Debris Impacts on Marine Protected Area**

We have experienced developments along the coast inadvertently polluting the marine environment from wind-borne debris. The DoE has witnessed and experienced complaints from members of the public regarding pollution from expanded polystyrene (EPS) beads on construction sites around the island.

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 it enters 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. It is almost impossible to collect the polystyrene beads once they have become wind-borne.

We strongly recommend that Best Management Practices are adopted during the construction process to ensure that construction-related debris does not enter the MPA.

**Impacts Regarding the Removal of Sand Reserves**

Although the subject parcel is predominantly man-modified, it still consists of massive sand reserves as shown in Figure 14 and the removal of these reserves is a concern. The reserves are important to the resilience of the beach system and are a natural source of sand which replenishes the beach profile after major storms. A significant amount of sand may result from the excavation of the foundations and pool. Once excavated and removed from the beach system, these sand reserves can never be recovered, making the beach system increasingly more vulnerable to erosion, which is exacerbated by the impacts of climate change, especially sea-level rise. We recommend that any excavated sand is kept on-site and placed landward of the High-Water Mark to retain sand reserves and create depth in the beach profile.
Figure 14: Digital Terrain Model (DTM) for the application site. The higher areas of the site are indicated in red and orange and show the beach ridge and sand reserves within the site.

CONCLUSION & RECOMMENDATIONS & DIRECTED CONDITION

This application has been screened for an EIA under section 43(2)(c) of the National Conservation Act. The Screening Opinion (enclosed) concluded that the proposed development does not require an EIA. This conclusion was endorsed by the National Conservation Council, as outlined in the enclosed letter, dated 13 July 2020.

Although the application does not require an EIA, several potential adverse impacts were identified and have been discussed in this review.

DIRECTED CONDITION

The site is adjacent to an MPA. Without appropriate environmental management practices, the construction of the proposed development is likely to cause an adverse effect on a Protected Area under the NCA, namely the discharge of 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 (Section 2(f) of the NCA). The construction-related impacts as a result of stockpiling excavated sediments and construction materials...
too close to the water must be mitigated through the inclusion of conditions as directed under Section 41(5) of the NCA.

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

1. **All construction materials shall be stockpiled a minimum of 75ft from the Mean High Water Mark.**

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

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, appeal against it 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).

In addition, to prevent heavy machinery destroying nests and to minimise the threat of artificial lighting on nesting and hatchling sea turtles the DoE recommends the following conditions of approval:

2. The applicant shall, prior to the issuance of a Building Permit, prepare and submit a turtle friendly lighting plan which minimises the impacts of artificial lighting on sea turtles. The plan shall be reviewed and approved by the Department of Environment, in accordance with the DoE’s Turtle Friendly Lighting: Technical Advice Note (September 2018) available from [https://doe.ky/marine/turtles/tfl/](https://doe.ky/marine/turtles/tfl/).

3. Prior to the commencement of works, the applicant or applicant’s agent shall contact the DoE to check for the presence of turtle nests; written approval shall be obtained from the DoE that no nests will be impacted by the commencement of works.

4. Beachside construction fencing associated with the works shall be installed and positioned at least 75 feet from the coastal property boundary and as far landward as possible to minimise impacts on the turtle nesting habitat. 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 property owner shall contact the DoE to check for the presence of turtle nests prior to the installation of the fence and written approval shall be obtained from the DoE that no nests will be impacted by the installation of the fence. The DoE shall inspect the fence after installation and written approval shall be obtained from the DoE that the installed fence is suitable for the exclusion of turtles.

5. All construction material shall be stockpiled landward of the beachside construction fencing.
6. 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.

7. 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 turtle nesting beach and adjacent Marine Protected Area offshore.

8. Exterior 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 DoE.

9. Once construction is complete and the exterior lighting fixtures and specifications for visible light transmittance have been installed, prior to the issuance of the Certificate of Occupancy, the DoE will inspect the exterior lighting and/or specifications for visible light transmittance for compliance with the approved turtle friendly lighting plan.

10. 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.

11. 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.

To improve climate resiliency and retain historical turtle nesting habitat we recommend the inclusion of the following conditions:

12. Any sand that is to be excavated during construction should be retained on-site and beach quality sand should 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 should be the subject of a separate consultation with the National Conservation Council.

13. A revised plan shall be submitted showing all hard structures including the fire lane and ancillary features setback a minimum of 130 feet from the High-Water Mark as per Planning Regulations.

We also strongly recommend:

- A high-level assessment of visual impact, daylight and sunlight on the receptors in the units of the Villas of the Galleon.

**Additional Recommendations to the Applicant**

The DoE recommends that, wherever possible, sustainable design features are included in development projects such as this. For example:
• The incorporation of renewable energy, especially given the target that 70% of energy generation be renewably sourced by the year 2037 within the National Energy Policy 2017-2037, i.e. the installation of solar carports to introduce opportunities for renewable energy integration and reduce solar heat gain of asphalt surfaces through shading.

• The incorporation of high reflectivity and high emissivity hardscape materials (pavers, etc.) into the design, and the minimization of asphalt parking or providing alternate surfacing to reduce the heat island effect.

• The use of greywater systems for irrigation.

• The use of native vegetation and drought-tolerant vegetation in the landscaping scheme.
  
  o Native coastal vegetation is best suited for the habitat conditions of the site and requires less maintenance (i.e. minimizes the demand for potable water for irrigation) which makes it a very cost-effective choice.
  
  o When designed effectively landscaping can assist with shoreline protection of structures; provide appropriate shading and cooling of buildings, hardscape and people; attenuate noise and provide windbreaks to trap airborne particles/debris.

• The removal of large structures such as beach chairs from the nesting beach overnight during the turtle nesting season (May-November yearly) to allow the turtles room to nest.

Updated Screening Opinion for Invincible Investment Corporation Proposed Westin Stage III Hotel Annex & Conference Facilities

03 July 2020

Executive Summary

The National Conservation Council’s (NCC) Directive for Environmental Impact Assessments (EIAs) notes that all activities listed in Schedule 1 will be considered against the screening criteria outlined in the Directive to determine whether an EIA may be required.

A Screening Opinion was issued on 22 April 2020 for a similar development on this site. However, the planning application that was the subject of this Screening Opinion was subsequently withdrawn by the applicant. A revised submission has been made and this Screening Opinion has been updated to reflect the revised proposals. The updated proposal includes the following:

• The change of use of 18 existing guestrooms in the Westin Resort to be variously retrofitted as retail/hotel back-of-house and meeting spaces. • The change of use of existing retail space in Westin Resort (Spa) to be retrofitted as a banquet kitchen for general resort catering requirements as well as specific catering for banquets to be hosted in the conference facility.
• Change of use of existing retail space in Westin Resort (Spa) to be retrofitted as a temporary laundry/back-of-house operation. The application’s submission states that the laundry facility is to serve existing 343 key Westin Resort during demolition of existing restaurants, laundry and other back-of-house facilities. Post-demolition this laundry facility will be dismantled and relocated to new premises within the Annex. This space will then revert to back-of-house functions (hotel administration offices etc.).

• The demolition of the existing restaurant block south of the existing guestroom block (restaurants, kitchen, back-of-house and staff facilities, administration and laundry facilities), existing covered walkways adjacent to the restaurant block and the pump room adjacent to the existing Governor’s Ballroom.

• The construction of a new 10-storey hotel tower with 234 guestrooms, restaurant, lounge bar, fitness/wellness facilities and a spa-including a rooftop bar and lounge with landscaped pool and deck. This brings the total room stock (existing and proposed) to 559 guest rooms. This building will be constructed on the site of the above-mentioned demolished infrastructure.

• The construction of a new subdivisible conference facility and ballroom with pre-conference areas, and related facilities. The proposed conference facility is 19,048 sq. ft. (and replaces the existing 10,000 sq. ft. facility). 2

• The construction of a second outdoor pool.

• The construction of a fire lane on a section of beach along the southern parcel boundary.

The site is located at Block 11D Parcel 45 and is the current location of the Westin Grand Cayman Seven Mile Beach Resort and Spa (Westin). The beach of the subject parcel is a turtle nesting beach, located approximately 253 ft from proposed Critical Habitat under the Draft Conservation Plan for Sea Turtles (2019).

The planning application was considered against the screening criteria outlined in the EIA Directive.

There are moderate adverse impacts on ecology due to increased artificial lighting and loss of turtle nesting habitat due to hard structure encroachment on the nesting beach. There may be minor beneficial effects to socioeconomics regarding increased room stock which has the potential to increase local expenditure. There may be minor adverse impacts for noise and vibration during construction and a range of adverse impacts regarding the cumulative over-development of Seven Mile Beach. These effects should be considered by the Central Planning Authority. There could also be adverse impacts involving driver delay and pedestrian amenity. These effects should be considered by both the Central Planning Authority and the National Roads Authority. Compared to the existing development on-site, the effects of climate change are considered to be negligible. There may also be adverse effects to visual impact, daylight, sunlight and overshadowing that should be considered further due to the prominence of the proposed southern hotel tower on the beach and we have recommended additional studies to assess these effects.
The Department of Environment is of the opinion that the proposed development does not require an EIA. Conditions have been recommended to minimize those adverse effects which have been identified.

Introduction

The process for determining whether an Environmental Impact Assessment (EIA) is needed is a statutory process that is governed by the National Conservation Law (NCL). This first stage, where the relevant authorities decide if a development is an EIA development (i.e. requires an EIA) is called screening.

The National Conservation Council’s (NCC) Directive for Environmental Impact Assessments (EIAs) issued under section 3(12) (j) and which has effect under section 43(2) (c) of the NCL, notes that all activities listed in Schedule 1 will be considered against the screening criteria outlined in sections 2 to 3 of Schedule 1 of the Directive to determine whether an EIA may be required. The proposed development falls within Schedule 1, i.e. hotel and resort development adjacent to a Marine Protected Area.

The screening criteria include:

- The type and characteristics of a development;
- The location of a development; and
- The characteristics of the potential impact.

These screening criteria have been considered with respect to the proposed development in order to determine whether an EIA is required.

The Site

The site is located at Block 11D Parcel 45 and is the current location of the Westin Grand Cayman Seven Mile Beach Resort and Spa. The application site is owned by the Crown and leased to the applicant. It is an area of 8.6 acres located on Seven Mile Beach. The site is located on a sea turtle nesting beach, located approximately 253 feet from proposed Critical Habitat under the Draft Conservation Plan for Sea Turtles (2019). The site location and its proximity to proposed critical turtle nesting habitat in the area are shown in Figure 1.

The existing development is not considered to be an architectural heritage asset and currently forms a 5-storey hotel consisting of 343 guest rooms, a pool, a spa facility, 10,000 sq. ft. of meeting and conference space and 2 restaurants. The existing landscaping and hard structures are set back approximately 120 to 160 feet from the Mean High-Water Mark.

The site is adjacent to a Marine Protected Area – the Seven Mile Beach Marine Park.
Figure 1: Aerial imagery showing the site location and the distance of the application
site (circled yellow) to habitat identified as critical for nesting in the Draft Conservation Plan for Sea Turtles (2019) shown as a red line.

**Proposed Development**

**Description of the Proposed Development**

The updated proposal for development includes the following:

- The change of use of 18 existing guestrooms in the Westin Resort to be variously retrofitted as retail/hotel back-of-house and meeting spaces.

- The change of use of existing retail space in Westin Resort (Spa) to be retrofitted as a banquet kitchen for general resort catering requirements as well as specific catering for banquets to be hosted in the conference facility.

- Change of use of existing retail space in Westin Resort (Spa) to be retrofitted as a temporary laundry/back-of-house operation. The application’s submission states that the laundry facility is to serve existing 343 key Westin Resort during demolition off existing restaurants, laundry and other back-of-house facilities. Post-demolition this laundry facility will be dismantled and relocated to new premises within the Annex. This space will then revert to back-of-house functions (hotel administration offices etc.).

- The demolition of the existing restaurant block south of the existing guestroom block (restaurants, kitchen, back-of-house and staff facilities, administration and laundry facilities), existing covered walkways adjacent to the restaurant block and the pump room adjacent to the existing Governor’s Ballroom.

- The construction of a new 10-storey hotel tower with 234 guestrooms, restaurant, lounge bar, fitness /wellness facilities and a spa- including a rooftop bar and lounge with landscaped pool and deck. This brings the total room stock (existing and proposed) to 559 guest rooms. This building will be constructed on the site of the above-mentioned demolished infrastructure.

- The construction of a new subdivisible conference facility and ballroom with pre-conference areas, and related facilities. The proposed conference facility is 19,048 sq. ft. (and replaces the existing 10,000 sq. ft. facility).

- The construction of a second outdoor pool.

- The construction of a fire lane on a section of beach along the southern parcel boundary.

The applicant has also included a concept for a proposed pedestrian pathway linking Block 11D Parcel 45 with Block 11D Parcel 37, however, this pedestrian path does not appear to form a part of this proposal and may come under a separate application (if planning permission is required at all).

A previous proposal for a banquet kitchen fit-out under Planning Ref: P19-1186 has been withdrawn and combined with the current proposal under Planning Ref: P20-0196. Also,
associated with this proposal but under a separate and previous application is a proposed 9,970 sq. ft. laundry and administration facility (Planning Ref: P19-1187 for the original application and P20-0053 for the modification) located on a separate parcel (Block 11D Parcel 37). The building on Block 11D Parcel 37 is intended to house a dedicated in-house laundry facility with the capacity of handling up to 600 guest keys equivalent laundry processing including washing, drying and pressing all linen and cotton goods required to serve those keys daily. The facility also includes electrical and mechanical equipment rooms and service workshops for servicing and maintaining general Westin furniture, equipment, fixtures and fittings.

A concept for an enhanced pedestrian pathway has been discussed briefly in the Transport section of this Screening Opinion. The laundry and administration facility has not been considered.

Planning History
The site was the previous location of the Galleon Beach Resort. The Galleon Beach Resort closed, and the building was demolished between 1971 and 1994. The new hotel building was constructed between 1994 and 1999 and is the current location of the Westin Grand Cayman Seven Mile Beach Resort and Spa.

Characteristics of Potential Impact
The baseline conditions, the potential impact of the proposed development and any likely significant effects have been qualitatively assessed for each of the below environmental aspects. Having due regard to air quality, architectural and archaeological heritage, flood risk and water quality and ground conditions, there are not considered to be adverse environmental impacts in these areas.

Ecology
The site is located on a sea turtle nesting beach, located approximately 253 feet from proposed Critical Habitat under the Draft Conservation Plan for Sea Turtles (2019), see Figure 1. Based on the DoE’s 20 years of monitoring sea turtle populations, the site has experienced nesting from green (Chelonia mydas) sea turtles in the past however there is still the potential for loggerhead (Caretta caretta) sea turtles to also nest on the beach. There are currently adverse impacts to nesting and hatching sea turtles from the artificial lighting which directly illuminates the nesting beach from the existing resort. The Applicant has not indicated the use of turtle friendly lighting in the proposed development. Historical nesting on the site has been concentrated to the south (see Figure 2). Currently, a low-level restaurant building occupies the southern section of the resort. With the construction of the proposed 10-storey hotel tower, the impacts of artificial lighting on the historical nesting area of the beach is likely to be amplified due to the cumulative increase in lighting.
Figure 2: LIS 2018 aerial imagery with the Applicant’s site plan overlaid. The approximate minimum coastal setback of 130 feet is shown in purple. Green sea turtle nests are shown in green and Loggerhead turtle nests are shown in orange. Note that all historic nests on the site are within the proposed development’s footprint.

The Applicant has not requested any variances to the Development and Planning Regulations coastal setbacks, however, as shown in Figure 2, portions of the proposed pool deck, the proposed outdoor seating area and the proposed fire lane are all located within the 130-foot setback from the Mean High Water Mark. These areas of the proposed development also have historical turtle nests located within their footprints. Hard structures located within the 130-foot setback e.g. the fire lane on the beach, decrease the size of the potential turtle nesting habitat.

The Applicant has not provided a Landscaping Plan with this proposal. Current landscaping on-site consists of nonnative landscaping plants and invasive casuarina trees. The Applicant could include the use of native vegetation in new landscaping associated with the proposed development.

Overall, the proposed development is likely to have moderate adverse impacts on ecology through increased artificial lighting and hard structure encroachment on the turtle nesting beach. However, we do not believe these impacts require an EIA. There is the potential to minimize these impacts through the inclusion of the following conditions:
• All hard structures shall be set back a minimum of 130 feet from the Mean High-Water Mark and there shall be no fire-lane construction on the active beach or within the 130-foot setback.

• The applicant shall prepare and submit a plan to the Department of Environment for turtle friendly lighting, which minimises the impacts on sea turtles. All lighting shall be installed in accordance with the plan, to be approved by the DoE. Guidance on developing a lighting plan can be found in the DoE’s Turtle Friendly Lighting: Technical Advice Note (September 2018).

• Prior to the commencement of works, the property owner shall contact the DoE to check for the presence of turtle nests; written approval shall be obtained from the DoE that no nests will be impacted by the commencement of works.

• No construction work, vehicle access, storage of equipment/materials or other operations should take place on the beach during turtle nesting season (1st May – 30th November) without the express consent of the DoE.

• No construction materials shall be sited within the 130-foot setback and shall be placed as far back from the beach as possible to maximise nesting habitat. Any materials on the beach during turtle nesting season (May to November) shall be fully enclosed in fencing embedded at least 2 feet into the sand.

• Any sand excavated as part of the construction works shall remain on-site and be returned to this beach system. If the volume of sand is deemed too great to retain all sand on-site, any removal from the site shall be the subject of a separate consultation with the Council.

**Noise and Vibration**

The surrounding noise environment is relatively quiet and predominated by road traffic noise. While the proposed development is not likely to generate additional noise during operation, it has the potential to temporarily generate noise through demolition, clearing, filling and construction. There are adjacent residential receptors to the north and south, and commercial and residential receptors to the east. The effect is not considered to be significant and therefore it is the role of the Central Planning Authority to consider ways to minimise or mitigate the effects of the temporary noise associated with the construction of the proposed development.

**Socioeconomics**

From the time of its development, the land use of the application site has been Hotel/Tourism-related.

The application site currently consists of a hotel with 343 guest rooms, a pool, a spa facility, 10,000 sq. ft. of meeting and conference space and 2 restaurants. The Applicant is proposing a change of use for 18 of the existing guest rooms to retail, meeting spaces, back-of-house facilities, and the addition of 234 guest rooms. This brings the total room stock (existing and proposed) to 559 guest rooms.
Also being proposed within the new 10-storey hotel tower is a multi-functional 3-meal restaurant, lounge bar, fitness/wellness facilities, a spa and a rooftop bar and lounge with landscaped pool and deck. The proposed conference facility is 19,048 sq. ft.

The increased room stock of 234 rooms and doubling of the conference facility square footage may increase local expenditure and create additional jobs therefore there may be negligible to minor beneficial socioeconomic effects.

**Transport**

The Applicant has requested a variance to allow for an off-site parking allowance of 90.77% compared with the current allowance under the Development & Planning Law Regulations s.8(1)(c) which states in a Hotel/Tourism zone 25% of the parking spaces may be located not more than 500 feet from the respective building. The identified off-site parking area on Block 11D Parcel 37 is located approximately 516 feet away from the Westin resort building. Block 11D Parcel 37 is another Crown-owned parcel being leased to the Applicant. This parcel also houses the Sunshine Suites Resort.

The Applicant currently provides 198 parking spots to accommodate the Westin facility. The Applicant also provides Sunshine Suites guests (who share the Westin Resort’s amenities) access to two 10-person electric shuttle carts which run continuously between the two resorts. There is also an existing crosswalk over West Bay Road to the south of the Westin for pedestrians to cross the street.

The applicant is proposing 35 parking spots to remain for the application site (Block 11D Parcel 45) and the provision of 344 off-site parking spots located at Block 11D Parcel 37. The Applicant has also included a concept for a pedestrian pathway in their submissions. Although the pedestrian pathway does not form a part of the current Planning Proposal, the Applicant offers to create an enhanced pedestrian and non-vehicular experience along West Bay Road to encourage guests and residents to explore local shopping and restaurant destinations located along the proposed landscaped roadway. The enhanced pedestrian pathway concept will need to be reviewed and approved by the National Roads Authority at a later date. The Applicant states in their Parking Operational Plan that concept is part of the “West Bay Road beautification initiative – the initial pioneer project based on the National Roads Authority’s ‘Complete Street’ principles and concepts to create a more amenable West Bay Road pedestrian experience through the use of landscape, traffic calming and incorporating a safe pedestrian and shuttle crossing point with user request and scheduled crossing control systems”.

With the increased room-stock and the proposed doubling of the size of the conference facility, there may be potential trip generation impacts as well as a steady flow of guests crossing West Bay Road via the pedestrian crossing which could potentially slow vehicular flow or cause driver delay.

Should the enhanced pedestrian pathway concept be implemented, there may be minor beneficial impacts on pedestrian amenity. However, as it stands, allocating over 90% of the facility’s parking to an off-site facility with the existing pedestrian crossing could have adverse impacts on pedestrians and possibly vehicular flow. The enhanced pedestrian pathway does not form a part of this proposal and current congestion at the resort is not considered significant, however, the accommodation of off-site parking and its impacts on
pedestrians and the surrounding area should be considered by the National Roads Authority and Central Planning Authority.

**Climate Change**

Climate change is likely to have severe impacts on the Cayman Islands, including the site. The Cayman Islands are inherently vulnerable to climate change because of the small size, remoteness, low-lying areas and other environmental factors, demography and economy.

The proposed development is likely to both contribute to climate change and be affected by climate change. The proposed development is likely to contribute to climate change during construction and operation. There will be vehicle movements and resource consumption associated with construction and operation.

The effects of climate change on the proposed development are most likely to be related to an increase in the intensity of storm events, sea-level rise and more intense but fewer rain events.

The existing landscaping and hard structures are set back approximately 120 to 160 feet from the Mean High Water Mark. The existing development to remain and proposed development are predominantly set back 130 feet from the Mean High Water Mark except for portions of the proposed pool deck, the proposed outdoor seating area and the proposed fire lane. Regardless of the setback, the risk of the effects of climate change remain and structures located within the 130-foot coastal setback are at a greater risk of wave inundation.

No climate-resilient design features or solar /alternative form of energy has been included in the proposal. The proposal should incorporate renewable energy to provide climate change resilience and mitigation, particularly considering the prediction for an increased number of warmer days and nights.

Compared to the existing development on-site, there are negligible effects concerning climate change. However, we strongly recommend that all structures including walkways and fire lanes are located landward of the 130-foot coastal setback and the inclusion of renewable energy and other climate-resilience features to adapt for and minimize the effects of climate change.

**Visual Impact; Daylight, Sunlight and Overshadowing**

The proposed development will be set back 20 feet from the northern and southern parcel boundaries. The neighbouring property to the north (The Governor’s House) is located a little over 20 feet from their southern boundary. The southern neighbouring property’s (Villas of the Galleon) northern side setback ranges from 8 feet to 14 feet. The application site and the neighbouring properties to the north and south all have a similar setback from the Mean High-Water Mark ranging from 120-160 feet (see Figure 3).


2 Climate Studies Group. (2014). Climate Profile for the Cayman Islands. The University of the West Indies for Smith Warner International Ltd.
Figure 3: Location of the application site and neighbours. The image illustrates the similar coastal setbacks of the application site (circled in red) and the properties to the north and south.

With the demolition of the southern single-storey building and the construction of a 10-storey hotel tower in its place, even if repositioned to comply with the minimum required setback under the Development and Planning Regulations, it will be very visually prominent on the beach. When the proposed 10-storey hotel tower is constructed it may block daylight, sunlight and views from the northern units of the neighbouring residential property to the south (Villas of the Galleon) (see Figure 4).
Figure 4. The proposed 10-storey hotel tower will predominantly be set within the existing footprint of the southern building (see red arrow) which may block daylight, sunlight and views from the units within northern units of the neighbouring residential property, Villas of the Galleon (bright blue roofs).

We do not believe an EIA is required to assess these effects; however, we strongly recommend that the Planning Department/CPA require the following:

• A high-level assessment of the visual impact on the receptors from the Villas of the Galleon and the Governor’s House; and

• An assessment of daylight, sunlight and overshadowing for Villas of the Galleon.

Cumulative Effects

There have been several sites which have been redeveloped along Seven Mile Beach over the years (i.e. the Kimpton site previously the Courtyard Marriott, the Ritz Carlton Grand Cayman site, previously Holiday Inn and the current application site, previously the Galleon Beach Resort). Full-scale redevelopments and major renovations to sites along Seven Mile Beach are likely to continue with the increased 10-storey building height allowance in Hotel/Tourism zone 2.

Draft National Planning Framework for Public Consultation (November 2018) lists a goal of Hotel/Tourism zones as “The prevention of the over-development of sites and to ensure that the scale and density of development are compatible with and sensitive to the physical characteristics of the site.”

As building heights increase, the character of Seven Mile Beach will change. More people will be introduced onto the beach and the demolition of low-rise structures to be replaced with high-rise buildings like the proposed hotel tower will cause visual amenity effects as
the view of Seven Mile Beach from the beach, from the water and West Bay Road changes from low-rise to high-rise.

Consideration should also be given to the land uses of the surrounding areas. The applicant is proposing that 35 parking spots will remain at the application site (Block 11D Parcel 45) and that they will provide 344 off-site parking spots located at Block 11D Parcel 37. Block 11D Parcel 37 currently houses the Sunshine Suites Resort.

Neighbouring parcels between the Application site (Block 11D Parcel 45) and the proposed off-site parking site (Block 11D Parcels 96 & 97) consist of The Falls Shopping Centre and the Residences at the Falls. Adjacent to these 3 parcels (Block 11D Parcels 37, 96 & 97) is the Regatta Business Park (Block 11D Parcel 113).

Should the proposed off-site parking parcel (Block 11D Parcel 37) be redeveloped in future, the over-development of the application site (Block 11D Parcel 45) could mean that the Applicant may be unable to accommodate parking on the application site. At this time, in the absence of a Seven Mile Beach Tourism Corridor Area Plan, this matter should be considered by the Central Planning Authority.

Conclusions

The Department of Environment is of the opinion that the proposed development does not require an EIA. There are moderate adverse impacts on ecology due to increased artificial lighting and loss of turtle nesting habitat due to hard structure encroachment on the nesting beach; we have recommended conditions to minimize these impacts below. There could be minor impacts for noise and vibration during construction and impacts regarding the cumulative over-development of Seven Mile Beach. These effects should be considered by the Central Planning Authority. There may be minor beneficial effects to socioeconomics regarding increased room stock and the doubling of the size of the conference facility which has the potential to increase local expenditure. There are impacts to transport and pedestrian amenity, which should be considered by both the Central Planning Authority and the National Roads Authority. Whilst the effects of climate change in comparison to the existing development on-site are negligible, the proposed development should be required to meet minimum coastal setbacks and incorporate the use of renewable energy and other climate-resilient features to minimize its effects. There may also be adverse effects to visual impact, daylight, sunlight and overshadowing that should be considered further due to the prominence of the proposed southern hotel tower on the beach and we have recommended additional studies to assess these effects.

The moderate adverse impacts on ecology can be minimized through the inclusion of the below conditions as part of the planning permission:

- All hard structures shall be set back a minimum of 130 feet from the Mean High-Water Mark and there shall be no fire-lane construction on the active beach or within the 130-foot setback.
- The applicant shall prepare and submit a plan to the Department of Environment for turtle friendly lighting, which minimises the impacts on sea turtles. All lighting shall be installed in accordance with the plan, to be approved by the DoE.
Guidance on developing a lighting plan can be found in the DoE’s Turtle Friendly Lighting: Technical Advice Note (September 2018).

• Prior to the commencement of works, the property owner shall contact the DoE to check for the presence of turtle nests; written approval shall be obtained from the DoE that no nests will be impacted by the commencement of works.

• No construction work, vehicle access, storage of equipment/materials or other operations should take place on the beach during turtle nesting season (1st May – 30th November) without the express consent of the DoE.

• No construction materials shall be sited within the 130-foot setback and shall be placed as far back from the beach as possible to maximise nesting habitat. Any materials on the beach during turtle nesting season (May to November) shall be fully enclosed in fencing embedded at least 2 feet into the sand.

• Any sand excavated as part of the construction works shall remain on-site and be returned to this beach system. If the volume of sand is deemed too great to retain all sand on-site, any removal from the site shall be the subject of a separate consultation with the Council.

We also strongly recommend:

• A high-level assessment of visual impact, daylight and sunlight on the receptors in the units of the Villas of the Galleon; and

• The inclusion of climate-resilient features and/or renewable energy sources to increase climate change resiliency.

After considering the Screening Opinion detailed above, the NCC is required to issue its decision to the originating entity on the requirement for an EIA, pursuant to Section 43 (1).

Fire Department

Approved for Planning Permit Only  31 May 23

Department of Tourism

1) Project at a Glance

The Department of Tourism has been asked to provide comments on the Planning Application for the project named “Amended Application for Planning Consent: Motivation” Westin Grand Cayman Resort located at Block 11D Parcel 45.

2) Tourism Recommendations

The Department of Tourism (DOT) has reviewed the documentation provided on the above proposed project.
*Original plans outlined that the Westin Grand Cayman Resort was to use the Block 11D and Parcel 45 for the expansion of a laundry facility. This project scope has been revised to include a new hotel tower, laundry facility and an additional conference facility.*

As outlined by the developer, the new hotel tower will be 10 stories with 234 guest rooms, a multi-functional 3 meal restaurant, lounge bar, fitness and wellness facilities including a spa, roof-top bar and lounge with landscaped pool and deck. This tower will also house a new laundry facility. The new conference facility will include sub-divisible conference facilities and ballroom with pre-conference areas and related facilities.

*It is noted within the application that these additional features will remove significant parking space for the hotel. The applicant has outlined that accommodated parking will be allocated at a site 400ft away from the property. This site would provide parking for staff and employee parking with a continuous shuttle back and forth to the parking facility and hotel. This area would also provide parking bays totalling 384 to accommodate the 559 guest rooms that the hotel would service, should, these additional plans be approved. The developer has proposed shuttle service and valet from this location and an effective, identifiable and well-lit pedestrian crossing point on West Bay Road. Consideration should be given to the guest experience and safety with regards to this proposed plan for parking. The expanded rooms and conference facility adds to the competitive capabilities of the destination. This will position the Cayman Islands Government significantly in the MICE market.*

*With regards to the additional tower and facilities, the Department of Tourism has no further questions. The CIDOT do emphasize the importance of the shuttle service and the safety of those being transported at all times.*

**CIAA**

No objection on current design.
## APPLICANT AND OBJECTOR SUBMISSIONS

### Applicant’s submissions

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<th>Document</th>
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<td>Motivation letter</td>
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<tr>
<td>July 26, 2022</td>
<td>Amended Motivation letter_1</td>
<td>B</td>
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<td>July 26, 2022</td>
<td>Parking Management Strategy v1</td>
<td>C</td>
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<tr>
<td>August 2, 2022</td>
<td>Amended Motivation letter_2</td>
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<td>August 29, 2022</td>
<td>Parking Management Strategy draft v2</td>
<td>E</td>
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<td>September 2, 2022</td>
<td>Response to NCC</td>
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<td>September 29, 2022</td>
<td>Response to NRA</td>
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<td>October 12, 2022</td>
<td>Presentation for CPA/24/22; 2.6</td>
<td>H</td>
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<td>February 15, 2023</td>
<td>Cover letter and TIA Terms of Reference</td>
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<td>May 5, 2023</td>
<td>Parking Management Strategy v2.1</td>
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<td>Cover letter for response to objection</td>
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<td>June 23, 2023</td>
<td>Further response to objection</td>
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### Objector’s submissions

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<tr>
<th>Date</th>
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<td>August 26, 2022</td>
<td>Notice of objection</td>
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<td>September 21, 2022</td>
<td>Objection letter</td>
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<td>May 24, 2023</td>
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<td>June 7, 2023</td>
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<td>June 20, 2023</td>
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PLANNING DEPARTMENT ANALYSIS

General
The applicant is requesting planning permission for a Hotel Annex & Related Facilities; 213,884 sq. ft., New Conference Facility, Change of Use (Banquet Kitchen, Meeting Rooms, Retail) & 2 Swimming Pools. The application includes the following elements:

• 234 guest rooms
• Two restaurants
• Conference rooms
• Ground level pool
• Rooftop pool
• Off-site parking
• Floor plan modifications to existing hotel.

Zoning
The property is zoned Hotel Tourism

Specific Issues
1) Zoning
The proposed annex complies with the maximum building height as it will have 10 stories and measures at 114’8”. The site is located within the Seven Mile Beach corridor, where there are a few 10 storey developments in various stages of construction.

The immediate adjacent properties are relatively low-density development within the main tourism corridor. To the north is the Governor’s residence and a public beach. To the south is Villas of the Galleon, a three-storey multi-family development. Across West Bay Road is a two-storey commercial centre and Regatta Office Park.

2) Parking
Based on the information provided by the applicant, the overall development requires 385 parking spaces. A breakdown of the required number of spaces per use is provided below.
### Table

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<th>Item</th>
<th>Detail</th>
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<tr>
<td>Existing parking spaces</td>
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<td>198</td>
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<tr>
<td>Proposed hotel rooms</td>
<td>216 beds</td>
<td>109</td>
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<tr>
<td>Restaurants (net effective additional area)</td>
<td>9,600 sq ft</td>
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<tr>
<td>Conference facilities (net additional area)</td>
<td>4,641 sq ft</td>
<td>16</td>
</tr>
<tr>
<td>Spa &amp; Salon (net additional area)</td>
<td>4,909 sq ft</td>
<td>17</td>
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<tr>
<td>Total spaces required</td>
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The proposed hotel annex and conference facility reduces the number of on-site parking spaces from the existing 198 spaces to 35 and proposes 350 off-site parking spaces for a total of 385 spaces.

Regulation 8(1)(c) allows up to 50% of the required parking to be located not more than 500’ from the respective building. Based on the proposed expansion, up to 182 spaces may be located off-site. The applicant is proposing 350 off-site parking spaces or 91% of the required total versus the maximum allowable 50%. In terms of distances, the off-site parking would be about 447’ to the new hotel annex, 548’ to the existing hotel and 410’ to the conference facility.

Proposed access to the off-site site is through an existing driveway that supports the Cayman Falls commercial centre and apartments.

The applicant has provided details as to how this access way will be improved (See Westin Parking Management Strategy V2.1) (Appendix J).

The Authority is recommended to discuss whether the off-site scheme, lack of on-site parking, and shared access is functional for two hotels along a major tourism corridor.

At 10:30am, Joe Gould, Peter Brogan, Ronan O’Keeffe, Jim Mauer, Waide DaCosta and Andrew Gibb appeared on behalf of the applicant. Robert Jones and Malcolm Davies appeared on behalf of Meow Ltd. U. Flanagan and Ronnie Anglin signed the attendance sheet as objectors, but they are not objectors on record and therefore were present only as members of the public. Summary notes are provided as follows:

- The Authority noted that the Traffic Impact Assessment (TIA) has essentially been accepted by the NRA with a few changes so there is no need to spend a lot of time on that issue.
- The Authority explained the meeting procedure and asked the applicant to present the application.
- Mr. Gould proceeded to explain the application:
  - 10 storey hotel with 234 guest rooms
  - It includes a restaurant and wellness centre
  - There is a conference facility and banquet kitchen
  - They need an off-site parking variance
- The 385 parking spaces that are required was proving problematic
- The off-site parking location is better for the hotel patronage and the surrounding owners
- The parking is conveniently located by Sunshine Suites which is the same owner as the Westin and they share management
- They worked with the NRA regarding the TIA and the impact on traffic patterns
- He summarized the conclusions in the TIA
- Access to and from the off-site parking will be through an enhanced pedestrian walkway and they have entered into discussions with the owners of Regatta to secure the pedestrian walkway
- They have a letter from Dart regarding the walkway and he proceeded to read it
- Vehicles will access the off-site parking from the Esterley Tibbetts Highway (ETH) and through the Sunshine Suites road
- The hotel expansion will increase the value of the Cayman Islands tourism base
- The Department of Tourism supports the proposal and he summarized their report
- The conference facility will help the business community
- Time is of the essence and they want to proceed

- The Authority asked if the letter from Dart has been submitted or was it just recently received. Mr. Gould replied it was recently received and someone else from the applicant team noted it was received on July 4, 2023.
- The Authority asked for the objector’s input.
- Mr. Jones provided several comments:
  - The application is the same as in 2020 except that now there is 90% off-site parking versus the 50% that is allowed and there is no exceptional circumstance for it that they can see
  - There is a fundamental problem with the premise that 11D 45 has a right-of-way over 11D 96 and 97 to get to 11D 37, but it does not have such a right-of-way. There is an issue of dominant and servient tenements and that issue is slightly blurred because the applicant is a lessee of both parcels 37 and 45, but parcel 37 doesn’t have the right to grant parcel 45 the right, that is, they can’t make their benefit bigger without the consent of his client.
  - He referenced case and land laws and various sections pertaining to who benefits from a right-of-way and he addressed some legal terminology regarding dominant and servient tenements. He referred to page 834 of the Peacock vs Custins case and summarized two paragraphs that mean you
cannot increase the scope of access as the terms of the right-of-way are based on the original grant which means there is trespass for whatever is not permitted by the grant. The right-of-way is for the dominant tenement only, in this case that is access for parcel 37, and it is not for the applicant to grant use of the right-of-way to others. The applicant is inviting the world to cross his client’s land when his client hasn’t granted that right to the applicant. The Westin therefore mis-states its ability to grant the access as his client says that is not within their gift of easement.

- His client didn’t agree to allow parcel 37 as parking for parcel 45. He advised he can provide copies of the case he referenced.

• The Authority asked if the applicant is opposed to the documents being introduced.

• Mr. DaCosta noted that he hasn’t seen them and provided several comments:
  - the application has been delayed in order to ensure the objector had the right to be heard
  - if the objector is relying on an authority now that should have been made available in advance.
  - his client does own the parcel and does have the right to get to West Bay Rd
  - there has been an erosion of the easement by encroachment
  - his client owns parcel 37 and they can get access to the ETH
  - if they are saying their easement can’t be used, that doesn’t preclude off-site parking on parcel 37 and it shouldn’t stop the CPA from looking at the application because they can get access through Sunshine Suites and to the ETH
  - he hasn’t seen the documents referred to by Mr. Jones

• The Authority noted that the documents and arguments are in the objector’s letters in the Agenda.

• Mr. Jones noted that they have referenced these points in their letters and as far back as 2020.

• Mr. DaCosta noted that he doesn’t want to muddy the waters with what happened in 2020 and let’s look at the application at present. These submissions insult their intelligence. His client has the right to develop their parcel. If they put a building on parcel 37 people could traverse the easement. They haven’t had the opportunity to review the submissions, but for the purpose of transparency they will allow it.

• The Authority asked if the applicant is saying that the application will stand without the easement and Mr. DaCosta replied that is correct.

• The Authority asked for clarification from the objector that they object to using the easement, but not the carpark and Mr. Jones replied that is correct.
Mr. Jones noted that the TIA envisions valet parking that would use his client’s right-of-way and also, the TIA is based on the premise that the right-of-way exists for the applicant, but it doesn’t.

Mr. O’Keeffe interjected that regarding the TIA they assumed there would be traffic from the north and south and the use of the ETH. He noted that it was envisaged that employees will use the ETH from the south and north.

The Authority noted that right now the TIA is based on the use of access that the objector says they don’t have.

Mr. O’Keeffe noted that for traffic from the north, 50% would use the ETH and 50% would use the right-of-way.

The Authority asked if the TIA can be redone based on no access from the right-of-way and Mr. O’Keeffe replied yes. The Authority asked how long would that take and Mr. O’Keeffe replied it was a matter of days.

Mr. Gould noted he wanted to make sure he understood what was being said. He noted that the access at the south that Sunshine Suites uses and leads to the ETH exists and asked if the objector is suggesting that a guest at the Westin that goes to Sunshine Suites is trespassing.

Mr. Jones replied it is a pedestrian access, not vehicular.

The Authority noted that the objector is saying the applicant doesn’t have the right to use the right-of-way as they propose for a carpark.

Mr. Gould asked if the objector is using the same argument for the south and north and Mr. Jones replied yes.

Mr. Jones noted they aren’t talking about Sunshine Suites as pedestrian are using the south access. His client is concerned with valet parking over his land.

Mr. DaCosta noted it is registered as a 30’ right-of-way, but it has been encroached on.

The Authority noted the matter is getting confusing. The Authority noted there are two easements, one to the north and one to the south and in the Agenda, the 2015 document is for the north easement. The Authority clarified that the south access is part of the application and was addressed by the TIA. The Authority noted that the south easement is 30’ and the north easement is obstructed by buildings.

Mr. Jones advised that the north easement at the road is 24’ wide, there is an encroachment that narrows it to 21’ and at the widest it is 25’ and that the registered easement documents were revised to reflect the narrowed width.

The Authority sought clarification that Mr. DaCosta is saying the north easement should be 30’ as well and Mr. DaCosta replied yes.

Mr. Jones read the land register and regarding the north access the document says it is pedestrian and the south access is just for valet parking at Sunshine Suites.

The Authority sought clarity that in the TIA the south access is just for valet parking.
• Mr. DaCosta noted that the applicants say there is a prescriptive easement along the south for two decades. He also noted that in order for Meow to comply with setbacks for their existing residential development in the back his client agreed to a variance.

• Mr. Gibb explained the background to that residential application and the need for a variance and the good gesture from his client to assist Meow.

• Mr. DaCosta noted that along the south boundary there is a 30’ prescriptive right-of-way used by the public and the TIA supports that. He noted they are concerned about the north boundary as that was supposed to be 30’, but the objector has encroached that.

• The Authority asked if at the south there is a 30’ prescriptive easement then why did the Registrar register an easement in 2015.

• Mr. Jones replied that it could be because pedestrians are using it. He reiterated that the applicant can’t enlarge their right as his client granted a right for Sunshine Suites to get to and from their property from West Bay Rd, but this does not allow them to extend this right to other properties on the beach.

• The Authority noted that regarding the north access, the actual width of the easement varies and they are proposing two way traffic across it and it is not the typical width for this and in addition they are proposing pedestrian access through the easement, but it seems the applicant is saying they can do away with that access.

• A member of the applicant team noted that the 2021 proposal included pedestrian access through Regatta.

• The Authority noted that the application doesn’t include safe pedestrian access as the promenade is not part of this application. The Authority asked how the applicant will ensure safe two way vehicular traffic when pedestrians will be using it too.

• A member of the applicant team noted they have a letter from Dart giving approval for pedestrian access across their land so it will only be vehicles using the north access. The Authority noted this was a letter of potential intent and not yet a registered or legal right-of-way.

• Mr. Gibb advised that the pedestrian promenade is included in the application, it is shown graphically and is referred to in the traffic analysis and is shown on the site plan so they do consider it part of the application. He noted that the road will be 22’ wide for two way traffic and adjusted with pedestrian access on Regatta. He noted part of the license with Dart is to allow the road to be adjusted for a 22’ width.

• The Authority noted that the pedestrian promenade is on Regatta land (i.e. a different parcel) then that block and parcel should be included in the application because the application only refers to parcel 45. The Authority reminded the applicants that it had raised this issue with them during the October 2022 CPA meeting.
Mr. Jones noted the applicant is asking to be granted planning permission on the assumption that something happens.

The Authority noted the promenade may be shown on the renderings, but it is not part of the application. The Authority also noted that the promenade is shown in different locations on three Parking Management Strategies so which one is correct.

Mr. Gould replied they showed different options when working with the NRA to do the TIA and consider street improvements and their last conversation had the crosswalk with a dog leg to the right.

Mr. Gibb noted there is a letter from NRA that says the final location of the pedestrian crossing is subject to the NRA body that controls those matters.

The Authority explained they just wanted to understand which one to look at.

The Authority collected the documents referenced by Mr. Jones (see Appendix V) and the letter from Dart noted by the applicant (see Appendix W).

2.2 JIMMY BODDEN (iDraft Ltd) Block 20E Parcel 378 (P22-0422) ($120,000) (NP)

Application for a duplex addition to create three apartments.

**Appearance at 2:00**

**FACTS**

- **Location**: Melody Lane in George Town
- **Zoning**: Medium Density Residential
- **Notification Results**: No objections
- **Parcel size**: 10,010.1 sq ft
- **Parcel size required**: 20,000 sq ft
- **Current use**: Duplex
- **Proposed use**: Triplex
- **Building Footprint**: 459.3 sq ft
- **Building Area**: 459.3 sq ft
- **Units Permitted**: 4
- **Units Proposed**: 3
- **Bedrooms Permitted**: 7
- **Bedrooms Proposed**: 4
- **Parking Required**: 5
- **Parking Proposed**: 5
BACKGROUND

April 12, 2023 (CPA/9/23: Item 2.13) – The Authority resolved to adjourn the application in order for the applicant to address the Authority regarding suitability for apartments and lot size.

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

Conditions (1-3) 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 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.**

3) 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.

4) 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.

5) 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.

6) 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.
7) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

8) 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) Per Regulation 9(8) of the Development and Planning Regulations (2022 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
   - There are no physical constraints on the site that would prevent the development of apartments.
   - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
   - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.

3) With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).

4) The proposed application does not comply with the minimum required lot size per Regulations 9(7)(f) 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; 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, National Roads Authority, Department of Environmental Health, Department of Environment and Fire Department.

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 DoE confirms that we have no comments at this time.

Water Authority Cayman

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

Wastewater Treatment & Disposal
- The development is currently served by an existing 1,500 US gallon septic tank. The Water Authority deems this capacity acceptable in accommodating the calculated wastewater output of this development.
- Existing wastewater treatment infrastructure will require inspection. Please see the required form for completion listed below.

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.

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.

**Department of Environmental Health**

*DEH has no objections to the proposal in principle.*

**National Roads Authority**

As per your email dated February 15th, 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 addition.*

**Fire Department**

*The Fire Department has no concerns with the proposal.*

**APPLICANT’S LETTER**

We write on behalf of our client Mr. Jimmy Bodden, as the client is near to retirement and is taking the required steps to ensure that he can meet/maintain his required monthly income.

*We are seeking approval from the Central planning Authority for “an additional unit” to creating a triplex development, and a lot size variance.*

**The application meets the required setbacks, site coverage of 18.41% (allowable 30%).**

*Based on the planning law for the size of the lot and zoning the allowable development is five (5) units, & seven (7) bedrooms, the proposed development falls below the allowable for the lot size with three (3) units and four (4) bedrooms*

**Lot size variance**

*The proposed development is located in a Medium Density Residential zone; the subject parcel is surrounding by a mix of developments within the area, residential homes duplexes and apartments the proposed development complies with all required setbacks for a MDR zoned development.*

We are seeking a lot size variance under regulation 8(13) (b) & (d) of 10,010.09 sqft vs 20,000 sqft, under the following conditions

1. *The characteristics of the proposed development are consistent with the character of the surrounding area. “Look and type of development use”*

2. *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.

3. Where lesser setbacks are proposed for a development or a lesser lot size is proposed for a development, the Authority shall in addition be satisfied that the adjoining property owners have been notified of the application. “We confirm that all required land owners have been notified.”

4. No objection has been received from the surrounding property owners affected by the lesser lot size condition during the notification period.

5. The proposed development is located near to other apartment developments within the area with similar lot size condition and type of development three units. (see appendix I)

Appendix 1 – Aerial view of both sites to drew a comparison of the subject property and the similar development site and there close proximity to each other
Location: 20E 118
Lot size: 11,787.34 sqft
Development type: APARTMENT
PLANNING DEPARTMENT ANALYSIS

**General**

The subject property is located on Melody Lane in George Town. The proposal is for an addition to a duplex to create a triplex with 5 parking spaces.

**Zoning**

The property is zoned Medium Density Residential.

**Specific Issues**

1) **Suitability**

   While there are no apartments on this immediate portion of Melody Lane there are other apartments or townhouses in this general area of George Town.

2) **Lot Size**

   Regulation 9(7)(f) states that the minimum lot size for apartments and townhouses in a MDR zone is 20,000 square feet. The application is for a total of 3 townhouses on a parcel with 10,010.1 square feet. The CPA should discuss whether a variance is warranted in this instance. It is noted that the application does comply with density, setback, site coverage and parking requirements.

**SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans.

At 2:00pm, Tony Lattie appeared on behalf of the applicant. Summary notes are provided as follows:

- The Authority asked Mr. Lattie to address the concerns raised in the Agenda.
- Mr. Lattie provided several comments:
  - the purpose of the application is so his client can increase his income
  - his client works at Kirks and is turning 70 and wants some help with his retirement
  - his client has an approved duplex and wants a third unit for income so he can retain his current life style
  - the proposal meets site requirements as shown on the site plan
  - they could get 5 units given the lot size, but are asking for 3 so they are not over-developing the site
  - they do need a lot size variance
  - there is a similar property on 20E 118 that is similar in size and number of units
- The Authority asked if that was a duplex or triplex and Mr. Lattie replied it was a triplex.
The Authority noted his client doesn’t have the required lot size, he needs almost double what he has. The Authority asked if the exceptional circumstance is that his client is retiring and needs the income and Mr. Lattie replied yes.

The Authority asked if his client would be living here and Mr. Lattie replied no, he lives at another property.

Mr. Lattie explained his client needs to generate income because he can’t survive on $1000 per month.

2.3 LIBANON GROUP (TRIO DESIGN) Block 10E Parcel 56 (P22-0841) ($234,000) (MW)

Application for land clearing for a temporary laydown yard for material storage.

Appearance at 2:30

Ian Pairaudeau declared a conflict and left the meeting room. Christine Maltman sat as Acting Chair.

FACTS

Location West Bay Rd., West Bay
Zoning Hotel Tourism
Notification result Objectors
Parcel size proposed 7.68 ac. (334,540.8 sq. ft.)
Parcel size required ½ ac. (21,780 sq. ft.)
Current use Vacant
Proposed building size 25,600 sq. ft.
Total building site coverage 7.65%

BACKGROUND

November 25, 2020 – 108 Apartments with Associated Facilities and 24,464 sq. ft. Self-Storage Structure – the application was considered and it was resolved to grant planning permission. (CPA/20/20; Item 2.1) on Block 11D Parcels 86, 87 & 89. The proposed land clearing and laydown yard is directly associated with this previously approved project, which is located a little over a mile south of the current subject site.

June 7, 2023 (CPA/13/23; item 2.6) – the current application was adjourned in order to consult with and obtain comments from the National Roads Authority
Decision: It was resolved to grant planning permission for two (2) years only, subject to the following conditions:

1) The site shall cease to be used as a construction laydown yard and all associated materials, equipment and containers removed from the site no later than two (2) years from the date of this decision.

2) The applicant shall submit a revised site plan showing an access gate at the entry/exit on the Esterley Tibbetts Highway setback a minimum of 50’ from the easterly property boundary.

3) The 25’ vegetative buffer shown on the submitted plans shall be retained at all times and any proposal to remove it will require a separate application for planning permission.

4) The entry/exit on West Bay Road shall only be used for small service vehicles related to the telecommunications tower on site, it shall not be used by large trucks and equipment associated with the use of the construction laydown yard.

5) Any buildings, structures, site lighting or construction fencing/hoarding will require separate applications for planning permission.

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.

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 Plan 19997 and the Development and Planning Regulations (2022 Revision). More specifically:

   A) The application is for a temporary construction laydown yard- it is not permanent, in fact, the Authority is granting permission for two years only. The Authority would argue that the provisions of The Development Plan 1997 are mainly applicable to permanent buildings and uses, but is of the view nonetheless, that the proposal will allow for the orderly development of a mixed use commercial/residential development further south along West Bay Road on 11D 86, 87 & 89 and this is consistent with the goals of Section 1.3 (a), (b) and (c) of The Plan.

   Further, Section 1.4 of The Plan states that the designated land use in each zone is not in any way inflexible and while zoning is intended to indicate the primary use of each zone, other development may be permitted if it can be demonstrated that it will not adversely affect the primary use of the zone. In this instance, the use is temporary (2 years) and the Authority is of the view that it will not adversely affect
the ability of the site to be developed in the future for the intended primary use as set out in Section 3.04 of The Plan.

B) Regulation 10(2) states that in certain cases unrelated development may be permitted by the Authority within the Hotel/Tourism zone, but it will be required to conform to the setback requirements applicable to hotels as well as to all other requirements applicable to its own particular type of development. In this instance, the proposal does not include any buildings or structures other than the temporary storage of 40’ storage containers and the area identified on the site plan for those containers complies with the setback requirements applicable in the Hotel/Tourism zone. Further, the Authority is satisfied that the proposed laydown yard complies with the requirements particular to that type of development per the provisions of Regulations 8(8)(b) and 12(2).

3) As noted above, the Authority considered the comments of the Department of Environment and would note that the applicant is required to retain a 25’ vegetative buffer around most of the perimeter of the site thus preserving existing mangroves. The DOE’s comments regarding the methodology of how to develop the site for the intended use are, quite frankly, completely outside of the remit of that agency and are an overreach into the operational details under the responsibility of the applicant. Finally, the Authority has imposed a condition that any site lighting requires a separate application for planning permission and would be subject to separate consultation with the Department of Environment.

4) The Authority is of the view that the objectors did not raise sufficient grounds for refusing permission, more specifically:

- The use has been approved for two years only and a condition of approval has been included requiring the removal of all materials, equipment and containers to be removed from the site no later than two years from the date of the decision.
- The applicant is required to retain a 25’ wide vegetative buffer around most of the perimeter of the site which will help as a visual screen, act as a noise buffer and retain existing mangroves.
- The applicant is restricted to using the Esterley Tibbetts Highway for the movement of trucks, materials, equipment and containers. West Bay Road can only be used by service vehicles associated with the telecommunications tower on site.
- Any site lighting, fencing or buildings are subject to separate applications for planning permission which would require notification of adjacent land owners.
- Any nuisance caused by a previous use of the site cannot be considered indicative of the proposed use of the site, especially in light of the various conditions of approval that have been imposed.
- The referenced refusal for an application for a similar use on 23C 233 is not directly relevant. That proposal was for the permanent use of the site and included a site office building and a restroom building. Further, the site is zoned Neighbourhood Commercial which includes a need for the community test.
which does not apply in the Hotel/Tourism zone. In no manner, is the Authority bound by the decision for this application when considering the current application for a temporary construction laydown yard.

**AGENCY COMMENTS**

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

**National Roads Authority**

As per your email dated June 6th, 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 with the above-proposed development. We nonetheless wish to caution the applicant that the existing right-of-way between Block 10E Parcels 56 and 66 should not be used as an access to the Esterley Tibbetts Highway.

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

**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 majority of the landcover at the site is primary tidally flooded mangrove habitat (approximately 4 acres), as shown in Figure 1 and 2 below. There is a man-modified area near the current access road. The clearing and filling of this area for a temporary use (materials storage) will cause irreversible loss of the mangroves and the ecosystem services they provide. In 2008, the status of imperiled species was assessed and collated in the Cayman Islands National IUCN Red List. The status of black mangrove was assessed as Endangered. White mangrove and buttonwood were assessed as Vulnerable. Red mangrove was assessed as Near-Threatened due to loss caused by development and clearing.

The Ramsar Convention (1971) has also been extended to the Cayman Islands, requiring a commitment to work towards the wise use of our mangrove and other wetlands through national plans, policies and legislation, management actions and public education. All of the four mangrove species are protected species under Schedule 1, Part 2 of the National Conservation Act (NCA) and the Mangrove Conservation Plan (2020) has been adopted. Mangroves are also noted for their role in shoreline protection, carbon sequestration and storage, storm water drainage and retention, filtering of sediment and pollutants and as habitat for threatened species including diverse fauna, such as crustaceans, insects and birds. Clearing the site for temporary storage of construction materials is not considered to be a wise use of our mangroves and other wetlands.
Figure 1: A habitat map showing the landcover and the site (Source: DOE, 2013).
Clearing the site for a temporary use also removes the choice to retain native vegetation within the future development of the site. Once planning permission for a permanent development has been received, the DoE encourages applicants not to undertake land clearing until development is imminent to allow ecosystem services to continue to function until they are ready to begin construction. Mangroves in particular could provide useful buffering from neighboring developments and the road, and provide stormwater management and amenity to any future development. Premature clearing removes the value the habitat could provide in the time between the clearing and the actual development of the parcel for a permanent use.

However, we acknowledge that the applicant has (by submitting their application) indicated they have a need for a temporary laydown site. Since part of the site is man-modified, the DoE recommends that the proposal is reconfigured using principles of lean construction and inventory management to reduce the total footprint of the development. As shown in Figure 1, the man-modified area is approximately 2 acres, which provides a relatively large area for materials stockpiling.

In addition, based on over 20 years of DoE turtle nesting monitoring data, the beach adjacent to this site is designated as critical turtle nesting habitat in the National Conservation Council’s Interim Directive for the designation of Critical Habitat of sea turtles. As per Sections 41 (4) and (5) of the National Conservation Act, 2013 (NCA), this...
designation of critical habitat means that adverse impacts to the habitat either have to be avoided or be able to be mitigated with the imposition of conditions of approval. All marine turtle species are listed in Part 1 of Schedule 1 to the National Conservation Act, 2013, as being ‘protected at all times’ in the Cayman Islands.

Depending on the type of lighting used for the laydown area, artificial lighting could present a threat to turtle nesting and hatchling sea turtles. Bright lights on the beach can deter female turtles from nesting and cause hatchlings to crawl away from the sea. Our main concern is that very tall, very bright, flood lights could impact the sea turtle critical turtle nesting habitat if they are directed towards the beach. We have noted this type of lighting is often used on construction sites.

Firstly, we recommend that the CPA require the applicant to reduce the development footprint and avoid clearing primary mangrove habitat for a temporary construction use. Using only the man-modified areas would still provide an area of 2 acres to work within.

Secondly, if the CPA is minded to grant approval of the proposed land clearing, we recommend the inclusion of the following conditions:

- Any lighting proposed as part of these works should be designed in such a way so as to ensure that the point source of light or any reflective surface of the light fixture shall not directly, indirectly, or cumulatively illuminate the beach, nor shall it be directly or indirectly visible to an observer standing on the beach, so as not to impact turtle nesting.

**APPLICANT’S LETTER**

**Letter #1 (31 May 2023)**

On behalf of the Application, Libanon Corporation, we wish to provide some additional information to support the application referenced P22-0841.

**Background**

A Laydown planning has been applied for under P22-0841, which is located on Parcel 10 E blocks 49/56/66 (“London House Site”, or “Site”). The Laydown has been applied to assist with a sister development, commonly known as Governors Village, which is being developed on Parcel 11 D Block 86/87/89, granted under planning reference P20-0774. The construction of Governors Village is underway and is due to complete by 2025.

Both Land parcels have common shareholders, and the use of the London House Site as a landing zone is required due to the current global economic conditions that are impacting supply chains and inflationary pressures on materials for the current development. Forward purchase of materials, and storage of same, is required to deal with these previously unforeseen global challenges.
A Laydown planning has been applied for under P22-0841, which is located on Parcel 10 E blocks 49/56/66 (“London House Site”, or “Site”). The Laydown has been applied to assist with a sister development, commonly known as Governors Village, which is being developed on Parcel 11 D Block 86/87/89, granted under planning reference P20-0774. The construction of Governors Village is underway and is due to complete by 2025.

Both Land parcels have common shareholders, and the use of the London House Site as a landing zone is required due to the current global economic conditions that are impacting supply chains and inflationary pressures on materials for the current development. Forward purchase of materials, and storage of same, is required to deal with these previously unforeseen global challenges.

Further Information

Respectfully, we wish to provide the Central Planning Authority with some additional information which we believe may assist the Board members in their decision making.

Constructions Operations Plan

• Over the period May/June 2022, the Dept of Planning approved the use of the Site for storage of top soil from the Governors Village site. A total of 13,343 cubic yards of top soil was stored on the Site between 21st May 2022 and 13th June 2022. All deliveries were completed by the General Contractor for the Governors Village project between the hours of 7.28am and 5.09pm.

Historic Use of Site

• During the construction of the neighbouring Renaissance development at 10E7, the Site was used as a laydown yard by the developers. During this activity, a significant portion of the Site was cleared and remains cleared to present day. Please see Appendix A.

• In 2019, the CPA granted approval for 10 car parking spaces to be added to the Site to support the London House condominiums at 10E66.

Surrounding Land Parcels

Significant development has been completed and is planned for the surrounding areas to the Site.

• Circa 2013, adjacent lands were cleared to support the expansion of Esterly Tibbets Highway. See Appendix B.

• In 2009, the CPA granted approval for the Commonwealth to develop the adjacent parcel 10E43. This development was completed by 2013. See Appendix B.
• In 2019, the CPA granted approval to develop The Shores on parcel 10E65, adjacent to the Commonwealth.

Environmental

• With reference to the submitted application, a 25’ vegetation buffer will be maintained around the perimeter of the site.

We ask that the CPA look favorably on this application, and we look forward to sharing any additional information that the CPA may require.

Appendix A – Renaissance Construction 2007

Appendix B – Esterly Tibbetts Highway & Commonwealth Garage and Tennis

Google Earth dated 3/24/2013
Letter #2
See Appendix U

OBJECTIONS
Letter #1
As an owner at the Renaissance villa 20
I am totally opposed to that project and the nuisance for the environment across our property

Letter #2
On November 1, we received the notice of the Application for Planning Permission by Libanon Corporation. The proprietors of Strata Plan 10A hereby object to the application by LIBANON CORPORATION for a “Temporary laydown yard for material storage & land clearing”.
The plan as submitted is vague, imprecise, unclear, and so lacking in purpose or specificity that it must be held in abeyance with no further consideration until the applicant supplies:

1. Certain, clear, distinct, and explicit descriptions of every aspect and its purpose;
2. Demonstration that the above is in full compliance with all regulations regarding the lawful use of the property; and
3. Proof that all impacted and interested parties have been not only notified but have had ample opportunity to comment on the project

Further, that the applicant presented all the required information to the relevant government regulatory agencies and has in fact received plausible evidence that they have had an opportunity to review the plans in detail and further that the applicant must file the conclusions and recommendations by said agencies with the Planning Board relative to this application.

A large portion of 10E/66 is already being used as storage for materials. The delivery of these materials took place over a period of weeks during all hours of the day and night, including weekends and public holidays. The noise produced was extreme to the point of disrupting any opportunity for sleep during the nights. Complaints to the authorities were not answered and no action was taken. Therefore, we have no confidence that anything will be different with this expansion of the proposed use on the property. A container yard in this neighbourhood with trucks of material and containers being delivered at all hours and days would create an unacceptable ongoing nuisance to local residents and visitors.

Our property has many full-time resident owners who will be adversely affected by the proposed use, as will our vacationing owners and guests, who are finally returning following COVID. This will negatively impact our right to quiet enjoyment and is not suitable to the surrounding area.

There is no time frame provided in the application and we fear this is only the thin end of the wedge by which the property will continue to be used as a laydown yard for years to come. What is the definition of temporary? Is there a project to which this application is tied? Or is it intended as a blanket application that will keep renewing.

The proposal includes the removal of important and endangered mangroves which provide ongoing benefit to the surrounding area and our island. Any application to remove these mangroves should be denied.

Furthermore, there is existing storm water management on the site that does not appear to be addressed in the application.

Letter #3

Please allow me to introduce myself, my name is [redacted], and I’m the Property Manager for the Proprietors Strata Plan #122 The Heritage Club Block and Parcel 10E8.

As a Strata, we strongly object to the application that has been submitted by Libanon Corporation for the “LAND CLEARING & TEMPORARY LAYDOWN YARD FOR MATERIAL STORAGE”.

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This application yet again feels as though due process has been ignored, the site has been in use for some time and permission is only now being sought after the fact. Since May of 2022, the site has been an active work zone, at times used during all hours of the day & night by heavy equipment. There has been no site supervision, regard for noise levels, traffic interruptions, or road cleanup.

The application is exceptionally vague and fails to adequately address a number of concerns:

• Does this application meet the zoning requirements for the area?
• What will the day-to-day function of the site be? Is this being used to support already approved projects, if yes are they not restricted to those existing sites?
• What is their definition of temporary? For what period of time? How will this be enforced?
• What are there proposed hours of operation? Given the disturbance to the area earlier in the year, this should be clearly outlined so as to not adversely affect the peace and tranquility of the existing neighborhood.
• This is out of place in this neighborhood. We are concerned, not only for those who reside permanently but also for visitors who are finally starting to return to the island after 2 years.
• Environmental concerns over the removal of vegetation. Will the site be returned to its natural state after the “temporary” project is complete?
• Have the relevant CI Government authorities been asked to give comments on the site’s impact on traffic, environment, storm & wastewater management?
• Will there be site supervision, monitoring, security & appropriate cleanup (during & post)?

We are grateful for your time and hope that the concerns we’ve raised will be considered as part of the application process. We look forward to receiving an invitation to the hearing so that our objection may be heard. We also reserve the right to expand upon our concerns and add to them should additional information be provided by the applicant.

Should you require additional information please let me know.

Letter #4

On 18 October 2022 we received notification of the application at caption. Please accept this correspondence as formal notice of our objection.

Parcels 10E56 and 10E66 are in a Hotel / Tourism zone. The Application proposes that these parcels be cleared and developed as a temporary laydown yard for container, equipment, and material storage.

No attempt to justify the need for the size of the facility has been made. In particular, the Application does not specify:

1. The purpose behind the proposed land clearing;
2. The purpose behind the temporary storage;
3. How long the temporary storage facility will be in use;
4. The consequences of the likely traffic, noise and disturbance that will be occasioned by the heavy vehicles and machinery, and the impacts upon road safety; and
5. The type of construction area proposed.

We reserve the right to expand upon the reasons for this objection in reply to any justifications that may subsequently be filed by the Applicant.

The area proposed for the storage containers is vast. To put the area of proposed development in to perspective, the area covered by this project is 7.68 acres. The Government Administration Building, its ancillary buildings, and adjoining parking lot covers an area of 6.71 acres. For a temporary laydown and construction area, the scale of this project is of mammoth proportions and will turn these parcels into an eyesore.

While the placement of huge commercial storage containers might be appropriate within an industrial or commercial zone, this unexplained proposal is entirely unsuitable in the hotel and tourism zone. The area is surrounded by high end, low density, residences, pristine beaches and turtle nesting sites. Additionally, and of most importance to note, within the parcels grow protected and critically endangered mangroves species.

While the development is said to be “temporary”, the destruction of our native tropical flora and fauna occasioned by the land clearing will be permanent and change the character of our neighbourhood forever. We would be very surprised if the Department of Environment could ever sanction the wanton ecological destruction proposed.

We look forward to receiving an invitation to the hearing so that our objections may be heard, and reserve the right to expand upon, and add to, these points when further details are provided by the Applicant.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for Land clearing (7.68 Ac.) & temporary laydown yard for material storage to be located on West Bay Rd., West Bay.

**Zoning**

The property is zoned Hotel Tourism.

**Specific Issues**

1) Zoning

Regulation 10(2) states “in certain cases unrelated development may be permitted by the Authority within a Hotel / Tourism zone but it will be required to conform to the setback requirements applicable to hotels as well as to all other requirements applicable to its own particular type of development.” The applicant has proposed to clear the subject site and utilize it as a temporary laydown yard for material storage as part of the approved Governor’s Village Development (P20-0774 / CPA/20/20; Item 2.1) on
Block 11D Parcel 86.

The applicant is currently proposing a material & container storage area for (80) containers & (30) parking spaces which will remain on site as the Governor’s Village Development continues in addition the applicant has proposed a 25’ landscape buffer will be retained as added security and sight buffer.

SUPPLEMENTARY ANALYSIS

The NRA was consulted as required and their comments are provided above.

There have been no changes to the plans.

At 2:30pm, C. Burns, Mike Stroh and J. Samuel Jackson appeared on behalf of the applicant. Nicholas DaCosta, Wendy Moore and Nicholas Dixie appeared as objectors. Summary notes are provided as follows:

- As a point of order, the Authority confirmed from those present who were the objectors on record and there were representatives from The Renaissance strata, The Commonwealth strata and Heritage Club strata. Ms. Enescot was not present.

- The Authority noted the meeting procedure is for the applicant to present and then the objectors and it was noted that members have read all of the submissions so there is no need to repeat them.

- Mr. Jackson explained he would try and follow his letter. He provided several comments:
  - As a matter of housekeeping, the application includes 10E 56 and 66, not 49
  - The original letter erroneously referred to parcel 49
  - There is another issue in that the original Planning report referred to suitability, which only applies to residential zones, but it has now been removed from the report
  - The Department did refer to the relevant provisions of Regulation 10(2) which he read
  - Setbacks don’t apply to fill, they apply to buildings, so they have satisfied 10(2)
  - The actual development is the clearing of a portions of the land and some has already been cleared, so the only physical development is some clearing and fill
  - The site will remain in a filled state until other plans are determined for the site at which time they will have to re-notify
  - The site is needed for the Governors Village project that is intended to be completed by the end of the first quarter of 2025 then all items will be removed from the site
  - This is a large site readily available for the storage of items needed for Governors Village as there is no room on that site
- This is not an uncommon proposal
- The Governors Village project is about 1 ¼ mile south
- There will be ease of transportation along the Esterley Tibbetts Highway (ETH)
- This will ease congestion on other roads as using this site will avoid the serious traffic issue of trucking through the Industrial Park and using the Butterfield roundabout, which NRA says is the busiest in the Cayman Islands
- The site will be ring fenced by natural vegetation
- They are happy to only use the access on the ETH for hauling materials as it was built by the NRA
- They won’t use the old Salt Creek road, but they will honour the right-of-way for those that are licensed to use it
- This will not cause harm to any recognized planning interest

- The Authority noted that they have read his letter and does he need to continue to go through it. Mr. Jackson advised he needs another 10 minutes. The Authority indicated he could have 1 minute and then maybe more.
- Mr. Jackson referred to the DOE’s comments in which they say there is no adverse impact under the National Conservation Act, sections 41(3) and (4). He noted the NRA is a non-issue as they are not using Salt Creek Rd and will use the already constructed access point on the ETH.
- Mr. Dixie explained he has sent his documents to the Deputy Director, Mr. Sanderson, and Mr. Jackson has seen them. He noted his documentation references another CPA decision regarding the K & B application, an authority regarding consistency in decision making and the NCC guidance notes and he has his speaking notes.
- The Authority explained they have the objection letters, but not his documentation.
- Mr. Jackson advised he is okay with the introduction of Mr. Dixie’s documents as he has seen them.
- Mr. Dixie provided copies of his documents (see Appendix X) and then provided several comments:
  - DOE’s comments are emphatic and damning in terms of the removal of mangroves, a protected species which are threatened
  - He read section 2 of the National Conservation Act regarding adverse effect and the NCC’s guidance notes on implementing sections 41(2) and (3) of the Act and the provision of location triggers and activity triggers
  - Clearing this site for this use is not a wise use of the land and the mangroves will be removed for the convenience of a temporary laydown yard
  - Regarding the need for a laydown yard in the Hotel/Tourism zone, he would refer to The Development Plan
- Mr. Jackson referred to Regulation 10(2) and is correct, it is discretionary, but you need to look at Section 3.04 of the Plan to ensure the needs of the tourism industry are met

- The objectors have raised concerns with the use of the site already in terms of dust

- They have heard from the applicant that the ETH will be used by trucks, but that means driving up to the roundabout and back and that is not realistic, trucks will use West Bay Rd

- He asks whose needs will this benefit and the answer is the developer, as it will reduce the cost of construction – it is all about money

- Governors Village will be completed by the end of the first quarter of 2025 whether or not this application is approved and it will be at the expense of the loss of mangroves, a protected species

- At no point with the Governors Village application was the need for a laydown yard made known, why was it not part of Governors Village or The Shores, this is salami slicing

- Trucks will have to go into the Industrial park for Customs so this is all about saving money

- There is the previous CPA decision for the K & B application in the Neighbourhood Commercial zone which was refused. He read the reasons for the decision

  The Authority is of the view that the proposed industrial construction compound is not a less intense form of development than would be found in a GC zone as there will be heavy equipment and trucks coming and going to the site with construction activity on site in relation to the stockpiling of fill material as well as other construction material and equipment.

  The applicant did not demonstrate to the Authority that the proposed use would cater principally for the needs of persons resident in, or in the vicinity of, the zone. To the contrary, the Authority is of the view that the proposed use would only cater to the needs of the applicant.

- This application is only about the needs of the developer, it is not about the needs of the people in the area

- They have said the site was used like this in the past for the Renaissance, but at least it could be argued that was in the interest of the people that would live there, it was not for another development down the road

- This is about saving money at the expense of the removal of a protected species

- Governors Village will be developed anyway

  • The Authority asked if the other objector had anything to add and the response was there was not much to add.
• The Authority asked if Mr. Jackson wished to rebut.

• Mr. Jackson noted that regarding the application Mr. Dixie referred to, it is his understanding that it was approved subject to conditions. He noted he looked at the July 12, 2021 decision, but maybe it was adjourned, then refused and then approved.

• The Authority explained that the application started as a laydown yard which was refused and then an application for a warehouse was submitted and that was approved.

• Mr. Jackson provided several comments:
  - The K & B decision has no bearing on this matter as that site was zoned Neighbourhood Commercial so there is the issue of the needs of the community, which comes from the Chelverton application for warehouses on the site where Governors Village has now been approved
  - It was found in the Chelverton case that the needs of the community test had not been satisfied
  - Specific regulations for the Neighbourhood Commercial zone came into effect in 1997 because there is a limited supply of that zone and Government wanted to ensure application catered to the needs of the community
  - Those same provisions are not included in Regulation 10, there is Regulation 10(2) and nothing more
  - The Development Plan is of no assistance as the application doesn’t offend that Plan
  - They don’t have to demonstrate need, there is ample case law in that regard, there is a presumption in favour of planning permission
  - He referred to the Cranford Hall case and noted that a presumption in favour of planning permission underpins the planning framework in Cayman
  - The idea that anyone has to demonstrate or prove the worthiness of an application is misguided
  - Onus of proof has no place in a planning application
  - If a developer saves money that means there will be a better price for the product
  - If a developer can’t offer competitive prices then there will be a failed product or higher prices
  - Section 1.2 of The Development Plan states that “The general aim of the plan is to maintain and enhance the quality of life in the Cayman Islands by effectively directing development so as to safeguard the economic, cultural, social and general welfare of the people, and subject thereto the environment.”
  - The objector says the application should be shut down because of a protected species, but why didn’t the DOE say so
- He noted that section 41 of the National Conservation Act says the decision to
determine if an adverse effect is likely to occur is for the CPA, not DOE and
that has been agreed to by the DOE

- The DOE has not said there will be an adverse effect, if it had, there would be
a different outcome

- It is for the CPA to refer to 41(3) or (4)

- There is purportedly a protected species on site, but that issue is under review

- The case that Mr. Dixie refers to was regarding identical applications and the
need for the same decision, that is not the case here – it would be Wednesbury
unreasonable

• The Authority noted that the DOE has flagged the need to clear more land than
what has already been cleared. The Authority noted that Governor Village is at the
3rd level so they have done the major infrastructure work and asked do they need to
use the entire site to finish the project.

• Mr. Jackson explained his instructions are that what has been cleared will be used
to store fill and peat from Governors Village and they will need containers for
furnishings and finishes. He noted the containers will be there for the short term. He
also noted there will be no steel bending or such as this is just a laydown yard. He
explained they wouldn’t fill it if they didn’t need it.

• Mr. Jackson explained that the Cayman Islands Parliament decided to zone this in
1997 as Hotel/Tourism so it was always planned that the site would be cleared and
filled.

• Mr. Stroh advised that they need to store finishes, millwork and doors. He noted
there are hundreds and hundreds of sofas and chairs that need to be stored and it is
better to have a controlled environment with pallet control.

• Mr. Jackson explained the Authority can impose relevant approval conditions. He
noted that Mr. Dixie says West Bay Road will be used, but how so if CPA puts in
a condition – it would be a breach of planning control.

• The Authority asked if there is a fence and Mr. Jackson replied no, they will use
natural vegetation.

• Mr. Stroh explained there will be a 25’wide dense landscape buffer and he doubts
the site will be seen from the road.

• Mr. Jackson noted there will be a 25’vegetative buffer along West Bay Road too
because there will be no trucks entering or leaving there.

• The Authority asked if they plan to clear the site except for the 25’ buffer and Mr.
Jackson replied yes.

• The Authority asked if there is no fencing will there be security or lighting.

• Mr. Stroh replied the items will be in locked containers, but he would imagine there
will be a security guard.
• The Authority asked Mr. Jackson for a copy of the Cranford Hall case which he provided (see Appendix Y).
2.4  PATTY NUGENT (CS Design) Block 75A Parcels 248 (P23-0371) ($10,000) (MW)

Application for a seawall.

FACTS
Location: Austin Connolly Dr., East End
Zoning: Beach Resort/Residential
Notification result: No Objectors
Parcel size proposed: 0.45 ac. (19,602 sq. ft.)
Current use: Existing residence

BACKGROUND
October 25, 2017 (CPA/22/17; item 2.9) – approval granted for a similar seawall on the adjacent property (75A 262) for Ocean Frontiers/Compass Point

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the proposed high water mark setback and the need for the wall.

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).

The application site is located between Austin Conolly Drive and the Caribbean Sea. The site is man-modified, featuring a single residential property. The coastline of the property consists of a perched beach atop ironshore (refer to Figures 1 and 2).
Figure 1: Aerial imagery of the subject parcel (outlined in red) (Source: UK Hydrographic Office, 2021)
The DoE does not support the armouring of the coastline. Armouring the coastline with seawalls disrupts natural processes that shape and maintain beaches. Seawalls can have several negative effects:

- **They prevent the natural movement of sand along the coastline, leading to beach erosion.** As waves crash against the seawall, the energy that would typically dissipate on the beach is reflected back into the water, causing increased erosion.
- **Seawalls can also trap sand behind them, preventing it from replenishing the beach and resulting in a loss of sand and narrowing of the beach over time.**
- **Seawalls also alter the natural dynamics of beaches, including the movement of sediment.** These changes can disrupt the beach ecosystem, affecting the habitat of various species and other marine life that rely on beaches for nesting, feeding or breeding.
- **Seawalls can significantly alter the aesthetic appeal of the beach.** They create a hard, artificial barrier that contrasts with the natural beauty of a sandy beach. The presence of a seawall will also diminish the recreational value of the beach due to a narrower shoreline and loss of public access along the shoreline.
As has been demonstrated elsewhere on the island, the interference from seawalls on natural processes not only leads to beach loss directly in front of the seawall, but also adjacent areas that are not protected by seawalls. It can also cause unintended consequences elsewhere along the coast.

The cover letter states that the rationale for the wall is to provide protection from storm waves, surge and Northeasterly winds during inclement weather.

The applicant states in the cover letter that they hope the seawall will help protect the beach and the house from damaging surge and waves. However, the DoE maintains that any benefit provided by the proposed 2'-0” high seawall will be minimal. The 2'-0” high wall will not prevent windborne erosion of the beach from occurring, and will disrupt natural deposition processes eventually resulting in a loss of sand behind the wall. Given that the site is a perched beach, the source of sand here is from larger waves, storms and tides. Therefore, the wall will likely cut off the source of sand for the beach, while the lack of vegetation, exposed sand and beach grooming practices are likely to exacerbate windborne erosion. Maintaining the beach behind the seawall in the future is very likely to involve the repetitive renourishment or replenishment of large quantities of sand over time.

The location of the proposed seawall (refer to Figure 3) falls far short of the minimum setback under the Development and Planning Regulations. Setbacks seek to reduce the impacts of storm-related damage on coastal infrastructure, and the importance of setbacks is amplified when considered within the context of climate change predictions for the region (including sea-level rise and increased intensity of storm events).

It has always been the DoE’s preference and long standing recommendation that there should not be any hard structures on an active beach or close to the MHWM.
DoE CONCLUSION & RECOMMENDATIONS

For reasons outlined in this review, the DoE recommends the refusal of this application. We strongly recommend that the opportunity be taken to explore alternative options for beach armouring such as the planting of coastal vegetation to help stabilise the sand and absorb both wave and wind energy. The DoE does not support the granting of a variance to the minimum coastal setback for this seawall.

If the Central Planning Authority or Planning Department is minded to approve this development, we strongly recommend the following conditions are included in any grant of planning permission.

1. Prior to the commencement of works, the contractor shall provide a written construction methodology statement for review and approval by the Department of Environment. The construction methodology shall include but is not limited to, details of the stages and method of construction, details of any equipment required for the works, the access route for equipment and any mitigation measures proposed to prevent run-off and debris from entering the marine environment. The methodology should also state the proposed location for any stockpiled construction materials as well as a timeline for the duration of the works.
2. Works shall stop during inclement weather conditions and during exceptionally high tides.
3. Construction materials and debris shall be stockpiled at least 75 feet landward of the Mean High Water Mark.
4. Silt containment measures shall be put into place to prevent sediment laden runoff from entering the marine environment.
5. Any sand excavated during construction should be retained on site, and beach quality sand should be placed back 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 should be the subject of a separate consultation with the National Conservation Council.

APPLICANT’S LETTERS

Letter #1

As owners of 75A/248 located in East End, we wish to apply for the permission to construct a sea wall across our property which will be a continuation of the exact same sea wall, in size, finish and look at that of the sea wall located at our adjacent dive resort property called Ocean Frontiers/ Compass Point, East End. You will note, we have included multiple photos of the approved dive resort sea wall to ensure the sea wall will be constructed properly, tastefully and with Cayman Stone on the existing ironshore rock to maintain the beauty of the East End shoreline while offering added protection to 75A/248 from storm waves, surge and Northeasterly winds during inclement weather. The strong winds an higher than normal waves during storms displace the sand causing constant
replenishment requirements. From about 30 or 40 feet ironshore from the highwater mark down to the shoreline the sand is only a few inches deep. Underneath is solid rock which gets exposed after storm waves come over the ironshore. The seawall will potentially and hopefully help protect the beach and the house from damaging surge and waves in the event of a storm. This has been the case at Ocean Frontiers/Compass Pint. In a storm as powerful as Ivan the protection would be minimal, but in tropical storms and weaker hurricanes is has proved beneficial on that property. Because we knew the former Caymanian owners of 75A/248 very well (Edsel & Jan Panton) by virtue of being neighbors and owning the adjacent dive shop, we know first hand the damage that occurred to the house without a seawall. At the time, the Panton’s owned East End Gardens and Gifts Landscape company and the property was surrounded by trees, plants, shrubs to help maintain erosion of sand etc. due to wind and bad storms, none of which helped retain their beach or protect their home like a sea wall might have.

As the original owners of Ocean Frontier (which opened 25 years ago) no turtle nesting has occurred in this area during our time or the Panton’s time when they owned Sparrowhawk Point, due to the ironshore water’s edge. As owners of a dive resort and full-time residents of Grand Cayman, we are extremely eco-conscious and have a vested interest in doing no harm to our environment and would never consider a sea wall if it was a turtle nesting site or do damage to our dive shop, Ocean Frontiers, or our neighbors.

As such, we respectfully request that you approve the request to construct a sea wall on 75A/248.

**Letter #2**

With reference to the subject above, we hereby request for the following variance:

- **High Water Mark setback**

  The owner wishes to build a sea wall along the high-water mark line of Block 75A Parcel 248, which will be a continuation of the existing sea wall on the adjacent property (parcel 262).

  As per Regulation 8(11) seaside setback variance may be permitted at a lesser distance than what’s prescribed, having regard to: (e) the location of adjacent development.

  Enclosed is a cover letter from the owner further explaining the intent of the seawall including photos of the adjacent properties for reference.

  We have notified adjoining property owners via registered mail, and we are currently not aware of any objections to the setback, or any other matters related to the proposed sea wall.

  Given the above, we ask that you consider our request. Should you need further information, please do not hesitate to contact us.

  Thank you!
PLANNING DEPARTMENT ANALYSIS

General
The application is for a proposed seawall; 2’-0” high – 3’-2” high to be located on Austin Connolly Dr., East End.

Zoning
The property is zoned Beach Resort Residential.

Specific Issues
1) HWM Setback
   Regulation 8(10)(c) states “in areas where the shoreline is ironshore (except hotel and tourist related zones), all structures and buildings, including ancillary buildings, walls and structures, shall be setback a minimum of fifty feet from the high water mark.”
   The proposed seawall would be approximately 0’-0” at its closest point & 9’-11” at its furthest point from the HWM a difference of 50’-0” & 40’-1” respectively.
   The Authority should assess if there is sufficient reason in accordance with Section 8(11) to warrant granting the HWM setback variance.

Additional Applicant Site Photo
2.5 ROBERT SELKIRK T. WATLER (RSTW Property Development) Block 22D Parcel 299 (P23-0329) ($150,000) (EJ)

Application for boat and equipment storage.

FACTS
<table>
<thead>
<tr>
<th>Location</th>
<th>Princess Street, Red Bay Estate</th>
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<tbody>
<tr>
<td>Zoning</td>
<td>LDR</td>
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<tr>
<td>Notification result</td>
<td>No objectors</td>
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<tr>
<td>Parcel size proposed</td>
<td>2.37 ac. (103,237 sq. ft.)</td>
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<td>Parcel size required</td>
<td>10,000 sq. ft.</td>
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<td>Current use</td>
<td>Storage shade structure</td>
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<td>Proposed building size</td>
<td>3,680 sq. ft.</td>
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<td>Total building site coverage</td>
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<td>Allowable units</td>
<td>CPA</td>
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<td>Proposed units</td>
<td>2</td>
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<tr>
<td>Required parking</td>
<td>4</td>
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**BACKGROUND**

July 22, 2020 (CPA/11/20; Item 2.9) – the CPA granted permission for a boat storage shade structure (P19-1314).

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the proposed use of the site and the impact on the surrounding residential area.

**AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, National Roads Authority, 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**

- The developer shall provide a [septic tank](#) with a capacity of at least **1,000 US gallons** for the proposed, based on the following calculations:
- 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. The minimum well casing diameter for this development shall be 4”.** 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). Site Built Tanks shall be coated with Epoxytec CPP or ANSI/NSF-61 certified equivalent.

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)


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](http://www.waterauthority.ky/water-infrastructure)

**National Roads Authority**
As per your email dated May 22\textsuperscript{nd}, 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 with the above-proposed development.

\textbf{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 is primarily man-modified. A review of Lands and Survey Department’s historical aerial imagery confirms that the site has experienced repeated instances of land clearing over the years. However, there has been significant regrowth of now mature vegetation as shown in Figure 1.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure1.png}
\caption{Aerial imagery showing the application site in red (Source: UKHO, 2021).}
\end{figure}

The DoE recommends that the applicant clears only the development footprint (proposed area for boat and equipment storage structures, hardscape, parking areas, etc.) and retains as much native vegetation as possible outside of this and incorporate it into the landscaping scheme. Although much of the existing vegetation on the subject parcel has previously been disturbed, it can be an ecologically valuable habitat. Retaining vegetation,
(even in a partially disturbed area) can still provide benefits to the property owner and the surrounding area. For example, retaining vegetation can:

- Provide habitat and food for wildlife;
- Provide sound and privacy buffers from the road and neighbouring properties and developments;
- Provide mature vegetation which can enhance landscaping and immediately offer shade;
- Assist with the management of run-off and drainage; and
- Reduce the amount of greenhouse gas emissions by avoiding the unnecessary clearing of land which releases carbon dioxide into the atmosphere.

Lastly, the applicant may wish to incorporate Sustainable Drainage Systems (SuDS) into the site’s stormwater management. SuDS are drainage solutions that provide an alternative to the direct channeling of surface water through pipes and deep wells. By mimicking natural drainage regimes, SuDS aim to reduce surface water flooding, improve water quality and enhance the amenity and biodiversity value of the environment. SuDS achieve this by lowering flow rates, increasing water storage capacity, and reducing the transport of pollution to the water environment. Measures could include permeable and sustainable materials within the parking area.

**Fire Department**

*Please Depict Proposed/existing Fire well and Fire Hydrant 603.1.3.1 Water supply.*
Approved fire hydrants shall be provided for all buildings to meet the necessary fire flow requirements as determined by the fire official. Where public water supply is inadequate or not available, an approved alternative water source.

**PLANNING DEPARTMENT ANALYSIS**

**General**
The proposed boat storage and equipment storage shelters are located on Princess Street, off Selkirk Drive in Red Bay Estate.

**Zoning**
The land is zoned Low Density Residential.

**Specific Issues**

1) **Suitability**
The applicant is seeking permission to construct two structures; a 2,080 sq. ft. boat storage and a 1,600 sq. ft. equipment storage consisting of two 40’ shipping containers located in this low-density residential zone. The Authority is asked to determine if the proposed structures are suitable for this area, especially the shipping containers. The Authority should be made aware that on July 22, 2020 (CPA/11/20; Item 2.9) – the
CPA granted permission for similar boat storage shade structures, but not shipping containers.

2) Parking

The proposal does not show any parking or how the property will be traversed, bearing in mind the length of some vehicles hauling boats with trailers.

2.6 COBALT COAST (Lifestyle Holdings Ltd.) Block 4B Parcel 581 (P23-0187) ($750,000) (MW)

Applications to modify planning permission and for additions to the hotel as follows:

- revise the existing floor plan layout
- add a 5,033 sq ft, 3 story extension with a covered pool deck, guest gym with office, games room/owners lounge & storage
- relocate and expand the existing bar
- extension to existing covered roof by pool deck
- new lower pool deck
- addition of office and staff toilet for restaurant
- renovation/ extension to existing bathrooms

FACTS

Location: Sea Fan Dr., West Bay
Zoning: Beach Resort Residential
Notification result: No Objectors
Parcel size proposed: 1.18 ac. (51,400.8 sq. ft.)
Parcel size required: ½ Acre (21,780 sq. ft.)
Current use: Existing Hotel
Proposed building size: 5,033 sq. ft.
Total building site coverage: 18.3%
Required parking: 35 (34.94)
Proposed parking: 32

BACKGROUND

June 21, 2000 – Proposed amendment to planning permission – 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 an apparent insufficient amount of parking for the development on site.
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

The Water Authority’s requirements for the proposed development are as follows:

Wastewater Treatment

Please be advised that the proposed development cannot be accommodated by the existing wastewater treatment system.

Currently, this development is served by an aerobic treatment unit (ATU) with total treatment capacity of 3,698 gpd. The proposed additions would increase flows beyond the existing treatment capacity and therefore will require an additional on-site aerobic wastewater treatment system with a treatment capacity of at least 1,402 gpd. The required capacity is based on the following:

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<td>Restaurant</td>
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</tbody>
</table>

The Water Authority will accept the continued usage of the existing treatment system for the Cobalt Coast Resort, without additional treatment capacity, under the following circumstances ONLY:

- System maintenance by a Registered Service Provider (as per the Water Authority’s Standard Service Report) shall be increased in frequency to every 3 weeks.
  - The Water Authority must receive a copy of the updated service contract.
- Additional grease interceptor capacity is added for the restaurant (see grease interceptor section below).
- The existing grease trap shall be serviced and maintained as per the manufacturer’s guidelines.

Should the requirements stated not be met by the developer/owner, this development shall require additional wastewater treatment capacity via an ATU.

At Max for Current ATU

The developer is advised that the calculated wastewater output for the proposed additions on this parcel exceeds the treatment capacity of the existing ATU. Further development on this parcel, including any change of use which increases the estimated wastewater flows shall require additional wastewater treatment capacity via an additional ATU.

Under-Sink Grease Interceptor
The development is currently served by a 30GPM grease interceptor. The proposed renovations and additions require further treatment capacity to reach the required total of 80GPM.

An additional grease interceptor with a minimum flow rate specification of 50 gallons per minute (GPM) is required to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the ATU. The developer is required to submit plumbing drawings and the specifications of the proposed grease interceptor for review, approval and subsequent inspection by the Water Authority which is a condition for approval of Certificate of Occupancy. Specifications can be sent via email to development.control@waterauthority.ky

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

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

National Roads Authority
As per your memo dated April 24th, 2023, the NRA has reviewed the above-noted planning proposal. Please find below our comments and recommendations based on the site plan and information made available.

Road Capacity Issues
The traffic demand to be generated by a hotel addition consisting of eight rooms; 1,555 sq. ft. of dining room space; and 368 sq. ft. of bar room space has been assessed in accordance with ITE Codes 310 – Hotel, 931 – Quality Restaurant, and 925 – Drinking Place respectively. Thus:

1. the assumed average trip rates per additional room provided by ITE Code 310 for estimating the daily, AM and PM peak hour trips are 8.17, 0.53 and 0.60 respectively;

2. the assumed average trip rates per additional 1,000 sq. ft. of dining room space provided by ITE Code 931 for estimating the daily, AM and PM peak hour trips are 89.95, 0.81 and 7.49 respectively; and

3. the assumed average trip rates per additional 1,000 sq. ft. of bar space provided by ITE Code 925 is 11.34 for PM peak hour trips only. Both the daily and AM trip rates are undetermined.

The anticipated traffic to be added to Sea Fan Drive is as follows:
Based on these estimates, the impact of the proposed addition on Sea Fan Drive 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 between twenty-two (22) and twenty-four (24) feet wide.

A six (6) foot sidewalk shall be constructed on Sea Fan Drive within the property boundary, to NRA specifications.

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 runoffscheme. 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 Sea Fan 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 details need to be provided as per NRA specifications.

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:

Given that the property is located at the end of the road and the property being serviced and the property across the street are the same owner, consideration can be given to allow the servicing as per the drawing.

DEH has no objections to the proposed in principle.

This development requires (1) 8 cubic yard container serviced once per week.

NOTE: The drain for the enclosure must be plumbed to a garbage enclosure disposal well as per the Water Authority’s specifications. Contact development.control@waterauthority.ky for deep well details.

Kitchen
Any renovations to the kitchen must be submitted to DEH for review and approval. Specifications for all bar equipment must be submitted for review and approval.

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 site is man-modified and of limited ecological value. We note that the proposed additions meet the minimum 50-foot coastal setback prescribed in the Development and Planning Regulations (2022). The site is located on an exposed coastline. Given the climate change predictions for the region, including sea-level rise and increased intensity of storm events (including storm surge), we encourage applicants to maximise setbacks where possible and to incorporate climate-resilient features such as raised/wash-through foundations and piled structures to increase the development’s climate resiliency.

We are encouraged that the proposal does not include shoreline modification or works on the ironshore. The DoE prefers that the ironshore is left in its natural state and not altered. Aside from forming an important habitat, the ironshore assists with the damping of wave energy and represents a unique and visually appealing vista. Developing directly on the ironshore or driving heavy machinery over the ironshore removes many of these important physical and aesthetic characteristics.

We recommend that best management practices 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.

It is possible that there may be beach-quality sand excavated during the works, resulting from deposits from wave activity during storms or from previous nourishment activities. As beach-quality sand is an important, non-renewable resource, we recommend that any beach-quality sand is treated carefully and placed in front of the development footprint along the active coastal zone.

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

1. All construction materials and debris shall be stockpiled at least 50 feet from the Mean High Water Mark to prevent material and debris from entering the marine
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 environment.

3. *Any sand excavated during construction shall be retained on-site and beach-quality sand shall be placed along the active coastal zone. 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.*

**Considerations for the Applicant**

*We recommend the applicant considers:*

- Leaving the ironshore in a natural state, undisturbed by heavy machinery or any other works including but not limited to the hardening of the ironshore e.g. placement of impermeable material on the ironshore i.e. concrete or pathways.

- Elevating the proposed decks on piles to increase the development’s climate resiliency.

- Incorporating sustainable design features where possible, especially renewable energy installations given the target that 70% of energy generation be renewably sourced by the year 2037 (Cayman Islands National Energy Policy 2017-2037). Photovoltaic solar panels, for example, could be installed on suitable roof spaces or over parking spaces.

- Planting and incorporating native coastal plants into the landscaping scheme. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. Native coastal vegetation incorporates a variety of salt and wind-tolerant flora. 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.

**Fire Department**

Approved For Planning Permit Only, 29 May 23

**APPLICANT’S LETTER**

*We would like to request a variance for parking. 32 spaces proposed, 34.94 spaces*
required.

Why should a variance be granted? – Planning have calculated that the bar and restaurant is 3,588 sq.ft which is pushing our parking requirement numbers over what we had originally calculated. The bar and restaurant is 2,000 sq.ft. total and no additional parking is required per our calculations.

We are not increasing the operating capacity of the bar/restaurant. We have just relocated an existing bar and replaced it with offices and toilet for the restaurant.

I refer to 8(13) of the planning regulations. We feel that these are reasonable variance requests and hope the board will find these acceptable.
PLANNING DEPARTMENT ANALYSIS

General
The application is for a modification to floor layout & addition; 5,033 sq. ft., 3 story extension with a covered pool deck, guest gym with office, games room/owners lounge & storage. Relocation of existing bar, extension to existing covered roof by pool deck, new lower pool deck, addition of office and staff toilet for restaurant & renovation/extension to existing bathrooms located on Sea Fan Dr., West Bay.

Zoning
The property is zoned Beach Resort Residential.

Specific Issues
1) Parking
The applicant requires a total of 35 parking spaces and is providing 32. The applicant has provided a letter of variance to address this issue.

2.7 NIGEL MITTEN (Bennetts Architectural Designs) Block 5C Parcel 456 (P23-0322) ($25,000) (MW)
Application for a 4’ concrete wall with 4’-7” columns and 4’ high sliding gate.

FACTS
Location
Willie Farrington Dr., West Bay
Zoning
Low Density Residential
Notification result
No objections
Parcel size proposed
0.5646ac. (24,593.976 sq. ft.)
Current use
Existing Residence & Approved Apartments
Proposed building size
-

BACKGROUND
April 24, 2019 – Six (6) Unit Apartment complex – the application was considered and it was resolved to grant planning permission. (CPA/08/19; Item 2.5)
Decision: It was resolved to grant planning permission, subject to the following conditions:

1) The applicant shall submit a revised plan showing the sliding gate setback a minimum of 12’ from the roadside parcel boundary.

2) The land owner(s) that benefit from the existing pedestrian right-of-way shall be provided the ability to pass through the sliding gate.

3) 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 since with the imposition of a condition of approval requiring the gate to be setback 12’ the application complies with the Development and Planning Regulations (2022 Revision). Also, the Authority is of the view that the height of the fence is in keeping with the character of the area.

AGENCY COMMENTS
The Authority received and considered comments from the National Roads Authority.

National Roads Authority

As per your memo dated May 22nd, 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 4’ concrete fence with 4’–7’ columns and a 4’ high sliding gate. However, please note that the parcel was changed from 5C Parcel 44 to Block 5C Parcel 456.

APPLICANT’S LETTER

I wish to apply for a four-foot concrete fence wall along a portion of 5C 456 that is on Willie Farrington Drive in West Bay. The purpose of the concrete fence wall is to create privacy and security in front of the house at #26 Willie Farrington Drive. The house is tenanted and as landlord I have received multiple complaints from tenants that vehicles are parking on my property to visit the neighbouring property often times blocking in my tenants. Police have had to be called on numerous occasions to sort this matter out.

At the entrance to the property’s parking area, I will also be installing a rolling four-foot-tall aluminium gate with a similar design shown in attached photo. This would allow my tenants to close the gate in the evening s that the yard is secure.

Please find attached with this application:
- Site plan with elevation highlighting the area of the four-foot concrete fence wall
PLANNING DEPARTMENT ANALYSIS

General
The application is for a 4'-0" concrete wall with 4'-7" high columns and 4’ high sliding gate located on Willie Farrington Dr., West Bay.

Zoning
The property is zoned Low Density Residential.

Specific Issues

1) Fence Roadside Setback
Regulation 8(18) of The Development and Planning Regulations (2022 Revisions) states “walls and fences adjacent to a road shall be setback a minimum of 4 feet from the roadside parcel boundary, and vehicular gates adjacent to a road shall be setback a minimum of 12’ from the roadside parcel boundary”. The proposed 4'-0” fronting concrete wall would be setback approximately 6'-10” from the edge of Willie Farrington Dr. which is acceptable per the Regulations however the proposed 4’ high aluminum sliding gate would only be 8'-4” from the road edge a difference of 3'-8” respectively..

2) Fence Height
The CPA fence guideline 4.3.1 stipulates that “In residential and tourism-related zones, no part of a solid wall or fence should exceed 48 inches in height”- The proposed 4’ high concrete fence with columns 4’-7” in height shown at the fronting boundary would have a difference in height of 7” (columns) respectively.
2.8 ROY EBANKS (Cayman Survey Associates) Block 1D Parcel 303 (P23-0426) ($5,500) (NP)

Application for a 2 lot subdivision.

FACTS

<table>
<thead>
<tr>
<th>Location</th>
<th>Watercourse Road in West Bay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>Low Density Residential</td>
</tr>
<tr>
<td>Notification Results</td>
<td>No objectors</td>
</tr>
<tr>
<td>Parcel size</td>
<td>22,561 sq ft</td>
</tr>
<tr>
<td>Parcel size required</td>
<td>10,000 sq. ft. for dwellings</td>
</tr>
<tr>
<td>Parcel width required</td>
<td>80 feet for dwellings</td>
</tr>
<tr>
<td>Proposed lot sizes</td>
<td>13,730 sq ft &amp; 6,865 sq ft</td>
</tr>
<tr>
<td>Current use</td>
<td>Two houses and a shed</td>
</tr>
</tbody>
</table>

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

1) Proposed Lot Ralston shall be granted a minimum 14’ wide vehicular right-of-way over proposed Lot Roy.

2) 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) With the exception of the size of the Ralston lot and the front setback for the Ralston lot and rear setback of the Roy lot, 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 front and rear setbacks per Regulations 9(8)(d) 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 lot size and setbacks as follows:

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

b) The subdivision is merely separating existing dwellings so that each is on its own lot to assist in settling a family estate—nothing physically changes on the ground. The subdivision line between the two houses splits the distance between them equitably and the Authority finds the resultant setbacks to be acceptable.

c) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

d) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

AGENCY COMMENTS

The Authority received and considered comments from the Water Authority (Cayman).

Water Authority Cayman

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

Existing Septic Tanks

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

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

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

APPLICANTS LETTER

Please find attached our application to Subdivide (by Partition) 1D 303 into 2 lots so as to separate the shares of Roy Ebanks (2/3rd) and Ralston Ebanks (1/3rd).
This parcel only has a 15’ frontage onto Watercourse Road as created by GB200 in 1975. We have therefore shown a 15’ proposed access easement to reach lot “Ralston” adjacent to the boundary common to ID 305.

Due to the shape of the parent parcel, the requirement to keep the houses on separate lots and meet the 2/3rd and 1/3rd shares separation we request Variances on the following:
- Lot Area for “Ralston”.
- Dimensions for those under 80’.
- Setbacks from existing structures.

We make specific reference to Regulation 8(13)(b), and believe this will not have a detrimental effect on the adjacent properties.

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

PLANNING DEPARTMENT ANALYSIS

General
The subject property is located on Watercourse Road in West Bay.

The property currently has a one storey dwelling and a two storey dwelling on it as well as a storage shed.

The proposal is to divide the existing parcel so that each proposed parcel has a dwelling. One of the proposed parcels (Ralston’s) would also have a shed on the parcel.

Zoning
The property is zoned Low Density Residential.

Specific Issues
1) Width of the proposed lots (15’ & 69’ vs 80’)
Roy’s lot would have a width of 15 feet and Ralston’s lot would have a width of 69 feet. Regulation 9(8)(g) states that the minimum lot width for a detached house or duplex shall be 80 feet.

The Authority should discuss whether variances for lot width is warranted in this instance.

2) Ralston Lot Area (6,865 sq ft vs 10,000 sq ft)
Regulation 9(8)(d) requires a minimum lot area of 10,000 square feet for a dwelling. Ralston’s lot is proposed to have an area of 6,865 square feet.

The Authority should discuss whether a variance is warranted in this instance.

3) Ralston Lot Front Setback (12’4” vs 20 ft)
Regulation 9(8)(i) requires a minimum 20 foot front setback.
The proposal is for Ralston’s lot to have a front setback of 12’4”.
The Authority should discuss whether a variance is warranted in this instance.

4) Ralston Lot Rear Setback (7’7” vs 20’)
Regulation 9(8)(i) requires a minimum 20 foot rear setback.
The proposal is for Ralston’s lot to have a rear setback of 7’7” to the existing shed.
The Authority should discuss whether a variance is warranted in this instance.

5) Ralston Lot Side Setback (6’6” and 8’9” vs 15”)
Regulation 9(8)(j) requires a one storey structure to have a setback of 10 feet and a two storey structure to have a setback of 15 feet.
The proposed setback to the one storey shed is 6’6” and the proposed side setback to the two storey house is 8’9”.
The Authority should discuss whether variances are warranted in this instance.

6) Roy Lot Rear Setback (12’1” vs 20’)
Regulation 9(8)(i) requires a minimum 20 foot rear setback.
The proposal is for Roy’s lot to have a rear setback of 12’1”.
The Authority should discuss whether a variance is warranted in this instance.

2.9 ALVA MINOTT (LSG Designs) Block 43A Parcel 393 (P23-0228) ($8,200) (EJ)
Application for after-the-fact 4’ concrete block wall and garbage enclosure.

FACTS
Location Dewsbury Avenue
Zoning LDR
Parcel size proposed 0.2371 ac. (10,328 sq. ft.)
Parcel size required 10,000 sq. ft.
Current use House

BACKGROUND
January 17, 2020 – The Department granted permission for a house (P19-0331).
March 28, 2022 – The Department granted permission for a house (P22-0186).
**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 wall is in keeping with the character of the area and will not detract from the ability of the surrounding owners from enjoying the amenity of their land.

**AGENCY COMMENTS**

The Authority received and considered comments from the National Roads Authority.

**National Roads Authority**

As per your memo dated June 1st, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

• The proposed wall on Dewsbury Avenue needs to be set back 4’ as per Planning Regulations.

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

**APPLICANT’S LETTER**

I write this letter with the full understanding that I am at fault to be in this position. Being completely ignorant of the law (Regulations 8 (i8) I went ahead and constructed my fence to match my neighbours and a few others in the surrounding area. Had I been aware of what the law required I would have complied as I did with the construction of my residence.

A such, I am asking for if the board would be lenient in the face of my ignorance and grant me the required variance in order for me to keep the existing fence wall as they are allowed to do based on Regulations 8 (i 3). Your kind consideration will be greatly appreciated.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The after-the-fact 4’ wall and garbage enclosure are located around the perimeter of the subject parcel which is located on Dewsbury Avenue in Bodden Town.
**Zoning**

The property is zoned Medium Density Residential.

**Specific Issues**

1) **Wall road setback**

   The applicant is seeking the Authority permission for the after-the-fact setback variance for the 4’ concrete wall with 4.6’ columns located at 0’ vs 4’ from the road which does not meet regulations 8 (18) which requires all walls and fences adjacent to the road to be setback a minimum of four feet from the road side parcel boundary.

2) **Garbage Enclosure Side Setback**

   The applicant has located the garbage enclosure at 0’ vs 6’ from the north side setback boundary as required by regulations 8 (7).

**2.10 DWAYNE SIMPSON (Craftmans Touch) Block 37E Parcel 302 (P23-0185) ($357,000) (EJ)**

Application for a duplex.

**FACTS**

- **Location**: Northampton Way & Bernice Drive
- **Zoning**: LDR
- **Notification result**: No objectors
- **Parcel size proposed**: 0.2773 ac. (12,079 sq. ft.)
- **Parcel size required**: 12,500 sq. ft.
- **Current use**: Vacant
- **Proposed building size**: 1,784.59 sq. ft.
- **Total building site coverage**: 14.77%

**BACKGROUND**

NA
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 and front setback, 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 front setback per Regulations 9(8)(e) 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 lot size and 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.

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).

The application site is man-modified and of limited ecological value. We recommend that the applicant plants and incorporates native vegetation 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. The applicant may also wish to consider the use of porous or permeable surfaces in areas of hardstanding.

Lastly, 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 is completely captured on-site and does not impact the surrounding areas.

APPLICANT’S LETTER

With respect to our submission for a proposed duplex on block 37E parcel 302 located on Dominica Dr, Bodden Town, Grand Cayman, we hereby request a variance as follows:

1. A Lot size variance is also requested. The required is 12,500sf and the proposed is 11,918.61 sf.

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 duplex is located on the corner of Northampton Way & Bernice Drive.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Minimum lot size

The applicant is seeking permission for the proposed duplex; however, a lot size variance is required for the existing 12,079 sq. ft. vs 12,500 sq. ft. parcel, therefore not meeting regulations 9 (8)(e).

2) Minimum front setback

The proposed septic tank does not meet Regulation 9(8)(i) which is at 12’ vs 20’ from Bernice Drive; consequently, the applicant is seeking a setback variance, bearing in mind that the subject parcel is a corner lot.
2.11 OWEN ROBERTS INTERNATIONAL AIRPORT (AMR Engineers) Block 20C Parcel 78 (P23-0243) ($640,000) (NP)

Application for an airport facilities warehouse.

FACTS

Location: Owen Roberts Airport in George Town
Zoning: Airport Lands
Notification Results: No objections
Footprint & Building Area: 3,194.1 sq ft
Required Parking: 4 Spaces
Proposed Parking: 17 spaces

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

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) 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) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

4) 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.

5) 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.

6) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the
In addition to Building Permit requirements, condition (7) listed below shall be met before a Building Permit can be issued.

7) The applicant shall submit the Stormwater Management plan required in condition 4) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.

8) 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.

9) 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

10) 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.

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

Additionally, once construction has started, condition (12) shall be complied with before a final Certificate of Occupancy can be issued.

12) The applicant shall provide written confirmation from the Department of Public Safety Communications (DPSC) that the access gate(s) includes acceptable measures to allow access for emergency service vehicles and personnel.
13) 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) 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 is of the view that the proposed fence is setback sufficiently from the road so as not to create any visual impairment.

AGENCY COMMENTS

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

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 site is man-modified and of limited ecological value. We note that the pond located to the west is outside of the footprint of the development. This pond forms part of the drainage regime for the site and we recommend that this pond is not filled or impacted by the works. Measures to protect the pond from run-off should be implemented during construction.

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 works, 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.

Water Authority Cayman

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

Wastewater Treatment & Disposal

- The developer shall provide a septic tank(s) with a capacity of at least 1,000 US gallons for the proposed warehouse.
- 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. The minimum well casing diameter for this development shall be 4". 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 5'0" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

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). Site Built Tanks shall be coated with Epoxytec CPP or ANSI/NSF-61 certified equivalent.
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)


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**

As per your memo dated April 21st, 2023 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 the above proposed ORIA CIAA Facilities Warehouse of 3,194.10 sq. ft. has been assessed in accordance with ITE Code 150-Warehouse. The anticipated traffic to be added onto Owen Roberts Drive is as follows:

<table>
<thead>
<tr>
<th>Expected Daily Trip</th>
<th>AM Peak Hour Total Traffic</th>
<th>AM Peak In 79%</th>
<th>AM Peak Out 21%</th>
<th>PM Peak Hour Total Traffic</th>
<th>PM Peak In 25%</th>
<th>PM Peak Out 75%</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>
Based on these estimates, the impact of the proposed development onto Owen Roberts Drive is considered to be minimal.

**Access and Traffic Management Issues**

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

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

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

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

**Stormwater Management Issues**

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.

- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.

- Construct a gentle ‘hump’ at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Owen Roberts Drive. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.

- Curbing is required for the parking areas to control stormwater runoff.

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

- Sidewalk detail needs to be provided as per NRA specifications. See
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

Please ensure a SOS (Siren Operated System) is installed on the motorized gate.

Department of Environmental Health

Solid Waste Facility:
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.

Table 1: Minimum Enclosure Dimensions

<table>
<thead>
<tr>
<th>Number of Containers</th>
<th>Minimum Dimensions (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Width</td>
</tr>
<tr>
<td>3</td>
<td>2.50</td>
</tr>
</tbody>
</table>

PLANNING DEPARTMENT ANALYSIS

General
The proposed 3,194.1 square foot warehouse would be situated along Owen Roberts Drive, just east of the Airport Fire Station. The proposed warehouse includes 17 new parking spaces for staff and visitors.

**Zoning**

The property is zoned Airport Lands and the Authority’s typical approach to this designation is to apply the zone requirements of the use proposed. In this instance the proposed use is Industrial and those zone requirements have been used during the review of the proposal.

**Specific Issues**

1) **Height of fence and use of barbed wire**

   The proposed fence height is 8 feet and the CPA guidelines state a maximum fence height of 6 feet.

   In addition, the proposed fence would be topped with barbed wire. The use of barbed wire has generally been discouraged throughout the Island.

2.12 **ISLAND PRIMARY (Kariba) Block 20E Parcel 87 (P23-0360) ($2,000) (NP)**

Application for a sign.

**FACTS**

<table>
<thead>
<tr>
<th><strong>Location</strong></th>
<th>Unnamed road off of Linford Pierson Highway</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Notification result</strong></td>
<td>No objections</td>
</tr>
<tr>
<td><strong>Zoning</strong></td>
<td>Low Density Residential</td>
</tr>
<tr>
<td><strong>Current Use</strong></td>
<td>School under construction</td>
</tr>
<tr>
<td><strong>Proposed Use</strong></td>
<td>Wall Sign</td>
</tr>
<tr>
<td><strong>Sign Area</strong></td>
<td>32 sq ft</td>
</tr>
</tbody>
</table>

**BACKGROUND**

March 9, 2022 (CPA/07/22; Item 2.1) – The Authority granted planning permission for a new school on the subject property.
**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).

**PLANNING DEPARTMENT ANALYSIS**

**General**

The proposed wall sign would be located at the entrance driveway to the school and read “Island Primary” plus a tree logo

**Zoning**

The property is zoned Low Density Residential.
2.13 PETER VAN MARCKE & BENEDICTE VERSTRAETE Block 15C Parcel 78 (P23-0454) ($15,000) (AS)

ATF application for a 5’-4” vinyl perimeter fence.

**FACTS**

*Location*  
Liguinea Cir

*Zoning*  
LDR

*Parcel Size*  
.29 AC (12,632 sq. ft.)

*Current Use*  
Residential

**BACKGROUND**

NA

**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). Further, the Authority is of the view that the height of the fence is in keeping with the character of the area.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The ATF application is for a 64” vinyl fence at the sides and rear of the subject parcel.

**Zoning**

The property is zoned low density residential.

**Specific Issues**

1) Fence height
The Authority has typically supported a 4’ fence height in residential areas. The applicant has erected a 5’-4” chain-link fence along both sides and the rear of the property. The Authority needs to determine if the fence height is acceptable in this instance.

2.14 PETER JACOB & FIONA MACADAM (Paradise Drafting) Block 23C Parcel 244 (P23-0411) ($2.4 million) (NP)

Application for a house addition, carport, cabana, & trellis.

Christine Maltman declared a conflict and left the meeting room.

FACTS

Location: Prospect Point Road in George Town
Zoning: Beach Resort Residential
Notification Results: No objections
Parcel size: 40,946.4 sq ft
Parcel size required: 10,000 sq ft
Current use: House, Pool & Seawall
Proposed use: House addition, Carport, Cabana, & Trellis
Building Footprint: 6,407 square feet
Building Area: 7,578 square feet

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

Conditions (1-2) 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 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 A found on the Planning Department’s website (www.planning.ky) under About/Draft Policies.

3) 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.

4) 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.
5) 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.

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 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 high water mark setback, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).

3) The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(b) 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 the proposed cabana and trellis are situated on an existing concrete patio and are no closer to the sea than the existing ancillary features. Therefore, the setback of the proposed development is consistent with the established development character of the site.

4) Pursuant to Regulation 15(4)(b)(iii) of the Development and Planning Regulations (2022 Revision), the Authority deems the side setbacks for the cabana and trellis to be as shown on the submitted plans and finds the setbacks not to be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the
neighbourhood, or to the public welfare and is consistent with the provisions of Section 2.6 of The Development Plan 1997.

**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).*

The subject parcel is man-modified and features an existing residential property. The existing residential property consists of a house with pool, pool deck and seawall (refer to Figure 1).

![Figure 1: Aerial imagery showing the subject parcel with the existing structures on site (Aerial Imagery Source: UKHO, 2021).](image)

Although some of the proposed additions do not meet the minimum setback from the Mean High Water Mark (MHWM) under the Development and Planning Regulations, the DoE notes that all proposed additions are to be landward of the existing structures on site (refer to Figure 2). We recommend that the applicant retains the existing coastal vegetation. This
works as a nature-based solution to help stabilise the coastline and protect against coastal erosion.

Retaining the benefits of coastal vegetation is important, especially in the context of climate change predictions for the region, including sea level rise and the increased intensity of storm events (including storm surge) as well as the nature of this coastline.

Figure 2: Aerial imagery with the location of the proposed additions highlighted in red. (Aerial Imagery Source: UKHO, 2021).

The site is adjacent to a Marine Reserve (a Protected Area under the National Conservation Act (NCA)), the South Sound Marine Reserve. 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 DoE has witnessed and experienced complaints from members of the public regarding pollution from expanded polystyrene (EPS) beads on construction sites around the island. 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 it enters 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.

**DIRECTED CONDITIONS**

The site is 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, 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:

1. All construction materials and debris shall be stockpiled at least 75 ft from the Mean High Water Mark to prevent material from entering the Marine Protected Area. If beachside construction fencing is required or will be installed, all construction materials, fill, sand, equipment and/or debris shall be stockpiled landward of the beachside construction fencing.

2. 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.

These conditions are directed to prevent run-off and debris from entering the Marine Protected Area causing turbidity and impacting sensitive marine resources.

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.

**OTHER RECOMMENDED CONDITIONS**

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

Any beach quality sand excavated during construction shall be retained on site and placed along the active beach profile. If there is an excess of sand that cannot be accommodated on site, and the applicant would like to move sand off-site, it should be the subject of a separate consultation with the Central Planning Authority and National Conservation Council.

**APPLICANT’S LETTER**

We are writing on behalf of our client who wishes to renovate and add onto their recently purchased home on Old Prospect Road. Due to the irregular shape of the parcel and positioning of the original structure, 4# setback variances are being requested for your consideration.

The parcel is zoned Beach Resort / Residential.

The property has an existing irregular shaped seawall for approximately 90% of it’s shoreline. It ranges in height from approximately 4 feet high to 11 feet high measured from it’s base at the shoreline.

The shoreline is mostly loose rock and boulders and very difficult to walk across, see attached photo for your reference.

Our client requests that the following setback variances be considered:

1. High Water Mark setback of 52’-11” to the proposed cabana in lieu of the required 75’-0” distance.
2. High Water Mark setback of 65’-11” to proposed trellis in lieu of the required 75’-0” distance.
3. Side yard setback of 6’-10” to proposed trellis in lieu of the required 20’-0”. This is being requested for privacy from the neighbouring school / church to the west.
4. Rear yard setback for 10’-0” to proposed carport in lieu of the required 20’-0”. This request is again for added privacy.

We do not feel that any of these variances would impact the adjacent neighbours or neighbourhood detrimentally. Items 1 and 2 are behind an existing seawall and in keeping with previous approvals for neighbouring properties along the same shoreline.

Item 4 is in keeping with residential zones LDR on MDR which is the typical land use in this neighbourhood.
We therefore kindly request the CPA’s review of the above points and hopefully agree that this project presents no negative or un-suitable aspects to the existing neighbourhood.
PLANNING DEPARTMENT ANALYSIS

General
The subject property is located on Prospect Point Road in Prospect and contains a house, pool, and seawall.

The proposal is for a house addition to the east, a new freestanding carport, a new cabana, and a trellis addition to the house on the west side.

Zoning
The property is zoned Beach Resort Residential.

Specific Issues
1) Seaside setback to cabana (52’11” vs 75’)
   Regulation 8(10)(f) requires a minimum 75 foot seaside setback where the coastline is beach.

   The applicant is proposing a 52’11” seaside setback to the cabana.

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

2) Seaside setback to trellis (65’11” vs 75’)
   Regulation 8(10)(f) requires a minimum 75 foot seaside setback where the coastline is beach.

   The applicant is proposing a 65’11” seaside setback to the proposed trellis addition to the house on the west side.

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

3) Side setbacks – West Side (10’ & 6’10” vs 20’)
   Regulation 15(4)(b) states that side setbacks shall be a minimum of 20 feet.

   The proposed west side setback is 10 feet to the proposed carport and 6’10” to the proposed trellis addition.

   The applicant has submitted a variance letter and the Authority should discuss whether the requests are justified in this instance.
3.0 DEVELOPMENT PLAN MATTERS

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 KARLO BARREDO Block 25C Parcel 341 (P22-0748)

The Authority was advised that planning permission had been granted for an after-the-fact gazebo with conditions that the applicant apply for a permit within 3 months and obtain a C of C. within 6 months. The applicant’s agent has contacted the Department explaining that he was not aware he needed to apply for a permit for a gazebo and now the permit for the pool is being delayed. The Authority determined that the applicant could be granted an additional 3 months from today’s date to apply for a permit and obtain a C of C.

**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 granted on November 6, 2019 be modified to replacing conditions 1) and 3) with the following conditions:

“1) The applicant is required to apply for a Permit from the Director of Planning no later than October 5, 2023.

2) The applicant shall obtain a Certificate of Completion no later than January 5, 2024.”

All other conditions of planning permission CPA/24/22; item 2.19 remain applicable.

5.2 MAINTENANCE OF LAND Block 27C Parcel 768

The Authority was reminded of the recent house explosion on Bayfield Crescent. Some concern has been expressed from the owners in the area that the site debris needs to be cleaned up especially as we are entering hurricane season. Given the difficult situation the owners of the parcel are now facing, the Authority decided that a Maintenance of Land Notice would not be issued at this time as other options could be explored to have the site debris cleaned up.
6.0 **CPA MEMBERS INFORMATION/DISCUSSION**

6.1 **REZONE Block 20D Parcels 468 and 469 (formerly 447, 448 and 451)**
The members asked for an update and details on this rezoning application and the Director advised he would look into the matter and report back to the members.

6.2 **CPA MEETING INVITATION LETTERS**
The members queried if the letters inviting applicants and objectors to CPA meetings could be revised to include a reminder to check the Department’s website for details of the application that would be found in the Agenda posted on the website.
The meeting adjourned at 4:30pm. The next meeting of the Central Planning Authority is scheduled for *Wednesday, July 19, 2023 at 10:00 a.m.* in Conference Room 1038, 1st floor, Government Administration Building.

Ian Paiarudeau  
Chairman

Haroon L. Fanoohie  
Executive Secretary

c.c.  All members of the Central Planning Authority
Appendix A
14 July 2022

The Director of Planning, Planning Department
Government Administration Building
133, Elgin Avenue, George Town
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT: MOTIVATION
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility
(‘Ballroom’), Change-of-Use (Banquet Kitchen, Meeting Rooms, Retail) & 2
Pools

We act for Applicant /Owner /lessee Invincible Investment Corporation as
agent, and hereby make application to the Central Planning Authority for
planning consent for

• change-of-use from guestrooms to new meeting rooms;
• a new 10 storey Hotel Annex; and
• a new Conference Facility

at the Westin Grand Cayman Resort, West Bay Road, Seven Mile Beach (parcel
11D45). The application includes two new guest swimming pools at 1st floor and
10th floor decks respectively.

**DEVELOPMENT SCOPE:**

A **New Hotel Annex:**

New 10-storey hotel tower with 234 guestrooms, multi-functional 3-meal
restaurant, lounge bar, fitness /wellness facilities including a spa, roof-top bar
and lounge with landscaped pool and deck

Approximate area: **255,912** sq ft
B    **New Conference Facility:**

New sub-divisible conference facility and ballroom with pre-conference areas, and related facilities

Approximate area: **19,048 sq ft**

C    **Change of Use:**

C1    Existing guestrooms in Westin Resort to be variously retrofitted as *meeting space*

Approximate area: **2,139 sq ft**

C2    Existing guestrooms in Westin Resort to be variously retrofitted as *retail space/hotel Back-of-House space*

Approximate area: **3,056 sq ft**

C3    Existing retail space in Westin Resort (Spa) to be retrofitted as a *banquet kitchen* for general resort catering requirements as well as specific catering for banquets to be hosted in the Conference facility

Approximate area: **3,578 sq ft**

C4    Existing retail space in Westin Resort (Spa) to be retrofitted as a *temporary laundry /Back-of-House operation*¹

Approximate area: **2,901 sq ft**

¹ Temporary laundry is to serve the existing 343 key Westin Resort while demolition of existing restaurants, laundry and other BOH facilities and consequent construction and completion of the new Hotel Annex is effected. This temporary laundry is to be dismantled and installed in new premises within the Hotel Annex and the space will revert to BOH functions (hotel administration offices etc) **NOTE: Applicant intends making application to CPA in due course to modify planning consent grant CPA/04/20 Item 2.5 (P19-1187) to omit this Laundry facility.**
**PLANNING DATA:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>Parcel 11D45 Area:</td>
<td>8.60 Ac, 374,616 sq ft</td>
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<tr>
<td>Maximum permitted Coverage:</td>
<td>40.00%, 149,847 sq ft</td>
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<tr>
<td>Existing Building Coverage:</td>
<td>92,819 sq ft</td>
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<td>Existing Covered Walkway Coverage:</td>
<td>2,845 sq ft</td>
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<td>Total Existing Building Coverage:</td>
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<td>Total Existing Building Coverage %:</td>
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<td>Total Demolitions:</td>
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<tr>
<td>New Hotel Annex (Tower):</td>
<td>35,478 sq ft</td>
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<tr>
<td>New Conference Facility (Ballroom):</td>
<td>19,048 sq ft</td>
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<tr>
<td>New Covered Walkways:</td>
<td>10,971 sq ft</td>
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<td>New Total Building Coverage:</td>
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<td>New Total Building Coverage %:</td>
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<td>Existing Walkway, Roads &amp; Decks Coverage:</td>
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<td>27.15%</td>
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<tr>
<td>less demolitions:</td>
<td>(27,892) sq ft</td>
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<td>73,826 sq ft</td>
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<tr>
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<td>9.71%</td>
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<tr>
<td><strong>Density Allowance:</strong></td>
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<td>Maximum Allowable Guestrooms (65 rooms/acre):</td>
<td>559 rooms</td>
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<td>Existing Guestrooms (Westin):</td>
<td>343 rooms</td>
</tr>
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<td>less: Guestrooms Change-of-Use:</td>
<td>(18 rooms)</td>
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<tr>
<td>New Guestrooms (Hotel Annex):</td>
<td>234 rooms</td>
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<tr>
<td>Total Proposed Guestroom Provision:</td>
<td>559 rooms</td>
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<tr>
<td>Total Proposed Guestroom Provision %:</td>
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<td><strong>Development Area (Gross):</strong></td>
<td></td>
</tr>
<tr>
<td>Existing:</td>
<td></td>
</tr>
<tr>
<td>Total Existing Building Area:</td>
<td>213,955 sq ft</td>
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<td>less: demolitions</td>
<td>(23,071) sq ft</td>
</tr>
<tr>
<td>Total proposed Existing Building Area:</td>
<td>190,884 sq ft</td>
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</tbody>
</table>
Proposed:

New Hotel Annex Area: 255,912 sq ft
New Conference Facility Area: 19,048 sq ft
Change-of-Use Area: 11,674 sq ft

Total Proposed Planning Consent Area: 306,368 sq ft

PARKING PROVISION ANALYSIS:

Parking provision required on parcel 11D45 for existing: 198 bays

[Historic derivation of the existing parking provision at the Westin Resort is as outlined in our Existing Parking Analysis dated 14 July 2022 and as submitted in support of this application.]

New parking provision requirements:

<table>
<thead>
<tr>
<th>Facility Type</th>
<th>Bay Size (sq ft)</th>
<th>Area (sq ft)</th>
<th>Bay Requirement</th>
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</thead>
<tbody>
<tr>
<td>Hotel Annex Guestrooms</td>
<td>1 bay /2 rooms</td>
<td>1,244^2</td>
<td>7 bays</td>
</tr>
<tr>
<td>Restaurant Facilities (net new /adjusted areas)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-Meal Restaurant</td>
<td>1 bay /200 sq ft</td>
<td>1,244^2</td>
<td>7 bays</td>
</tr>
<tr>
<td>3-Meal Kitchen</td>
<td>1 bay /200 sq ft</td>
<td>1,929^3</td>
<td>(10) bays</td>
</tr>
<tr>
<td>Banquet Kitchen</td>
<td>1 bay /600^4 sq ft</td>
<td>3,578  sq ft</td>
<td>6 bays</td>
</tr>
<tr>
<td>Sky Bar + Kitchen</td>
<td>1 bay /200 sq ft</td>
<td>4,291</td>
<td>22 bays</td>
</tr>
<tr>
<td>Foyer Coffee Bar</td>
<td>1 bay /200 sq ft</td>
<td>1,435</td>
<td>8 bays</td>
</tr>
<tr>
<td>Conference</td>
<td>1 bay /300 sq ft</td>
<td>9,420</td>
<td>32 bays</td>
</tr>
<tr>
<td>Meeting Rooms^5</td>
<td>1 bay /300 sq ft</td>
<td>(920)</td>
<td>(4) bays</td>
</tr>
<tr>
<td>Retail Space</td>
<td>1 bay /300 sq ft</td>
<td>7,810</td>
<td>27 bays</td>
</tr>
<tr>
<td>Reversion of ‘old’ Spa</td>
<td>1 bay /300 sq ft</td>
<td>(2,901)</td>
<td>(10) bays</td>
</tr>
</tbody>
</table>

^2 5,540 sf demolished replaced by new 6,784 sf facility
^3 5,945 sf demolished replaced by new 4,016 sf facility
^4 difference between 1 bay /300 sf retail (spa) and 1 bay /200 sf restaurant (kitchen)
^5 conference venue in demolished restaurant block
Total Additional Parking Bay Provision required: 181 bays

Total Parking Provision required: 384 bays

**Request and Motivation for Variance to allow increase in Allowable Off-Site Parking Provision:**

**Off-Site Parking Allowance (s.8(1)(c) Development & Planning Regulations 2022):**

This Regulations provides that in a Hotel/Tourism zone, 50% of the parking spaces may be located not more than five hundred feet from the respective building, as part of a Parking Management Strategy prepared to the satisfaction of the Central Planning Authority.

Total Required Parking: 384 bays
- 50% Parking to be located on subject parcel 11D45: 192 bays
- 50% Parking to be located on remote parcel 11D37: 192 bays

The Westin Resort Parking Management Strategy (in draft form and subject to review and acceptance by the Central Planning Authority in due course as part of this application for planning consent) is submitted to the Authority in fulfilment of regulation 8(1)(c) as part of this application for planning consent.

**Off-Site Parking Location Parcel 11D37:**

Parcel 11D37, also leased by Applicant, is the site intended for locating off-site parking provision allowed under regulation 8(1)(c) and is located within 500ft of the Resort buildings as intended by the regulation.

**Parking Provision Variance Motivation- 90% Off-Site Parking Provision Allowance:**

We respectfully request that the Central Planning Authority grants Applicant a variance in terms of s. 8(13)(b) Development & Planning Law Regulations to allow the off-site parking currently provided for in terms of s.8(1)(c) to be increased from a maximum of 50% to approximately 90% as derived below without loss of amenity for or to the detriment of guests and residents in the Seven Mile Beach Corridor neighbourhood.
This variance, if granted, will permit Applicant to provide resort parking as follows:

Total Required Parking: 384 bays

- approx 9% Parking to be located on subject parcel 11D45: 35 bays
- approx 91% Parking to be located on remote parcel 11D37: 349 bays

Actual Total Provided Parking: 384 bays

We motivate the grant of this variance in Applicant’s belief that

- the development proposal as comprised in this application for planning consent, 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 that

- several factors implicit in the developed environment of the West Bay Road corridor along Seven Mile Beach give rise to the need to ‘shed’ required parking provision from parcels west of West Bay Road (i.e. with Seven Mile Beach frontage) onto parcels east of West Bay Road that are less sensitive to loss of amenity so that parcels west of West Bay Road will enjoy significantly enhanced amenity due to such re-allocation of parking provision.

Applicant also believes that in responding to these various factors as drivers for improvement and in increasing significantly the percentage of off-site parking currently allowed under Regulations, the level of amenity for both guests and residents in this important hospitality and residential precinct of Seven Mile Beach be significantly enhanced.

Our proposed specific developmental responses in enhancing amenity in this regard are inter alia to:

1. allow more efficient use of the available land on those parcels in order to create better hospitality product with more amenable beach and landscape experiences for guests and residents;
2. reduce vehicular access to those resorts as far as possible by restricting the need for localised casual parking adjacent points of entry and arrival;

3. provide more remote parking facilities for the dedicated use of resort staff served by pedestrian route and shuttle service access to the resort to eliminate the predilection by staff for parking on road verges and sidewalks in the immediate precinct of the resort;

4. create a better pedestrian and non-vehicular experience along West Bay Road as a pleasant and safe alternative to beach walks etc that encourage guests and residents to explore local shopping and restaurant destinations located along these landscaped roadways; and to

5. divert as far as possible vehicles from needing to access resorts only from West Bay Road and providing parking opportunities accessible off Esterley Tibbetts Highway for guests and residents and with easy pedestrian access to the destination resort itself.

We thank you for your consideration of this application for planning consent.

Yours sincerely

[Signature]
Appendix B
26 July 2022

The Director of Planning, Planning Department
Government Administration Building
133, Elgin Avenue, George Town
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT: MOTIVATION
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility
(‘Ballroom’), Change-of-Use (Banquet Kitchen, Meeting Rooms, Back-of-
House) & 2 Pools

We act for Applicant /Owner /lessee Invincible Investment Corporation as
agent, and hereby make application to the Central Planning Authority for
planning consent for

- a new 10 storey Hotel Annex including a Spa; and
- a new Conference facility with ancillary banquet kitchen
- existing Westin Resort change-of-use space to new meeting rooms,
  ‘back-of house’ services and a Kid’s Club facility;

at the Westin Grand Cayman Resort, West Bay Road, Seven Mile Beach (parcel
11D45). The application includes two new guest swimming pools at 1st floor and
10th floor decks respectively.

DEVELOPMENT SCOPE:

A  New Hotel Annex:

New 10-storey hotel tower with 234 guestrooms, multi-functional 3-meal restaurant,
lounge bar, wellness facilities, roof-top bar and lounge with landscaped pool and deck
Approximate area: **249,640** sq ft

**B New Conference Facility:**

New sub-divisible conference facility and ballroom with pre-conference areas, and related facilities

Approximate area: **18,410** sq ft

**C Change of Use (existing Westin Resort):**

C1 18 existing guestrooms in Westin Resort to be retrofitted as

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
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</thead>
<tbody>
<tr>
<td>6 guestrooms to meeting space</td>
<td>2,139 sq ft</td>
</tr>
<tr>
<td>3 guestrooms as hotel guest-only</td>
<td>1,063 sq ft</td>
</tr>
<tr>
<td>‘Kid’s Club’ facility</td>
<td></td>
</tr>
<tr>
<td>9 guestrooms as hotel guest-only facilities or ‘back-of-house’, services /corridor space</td>
<td>3,215 sq ft</td>
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</table>

C2 Existing retail space in Westin Resort (existing Spa) to be retrofitted as a banquet kitchen for general resort catering requirements as well as specific catering for banquets to be hosted in the Conference facility

<table>
<thead>
<tr>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,578 sq ft</td>
</tr>
</tbody>
</table>

C3 Existing retail space in Westin Resort (existing Spa) to be retrofitted as a temporary laundry /'back-of-house’ operation

<table>
<thead>
<tr>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,901 sq ft</td>
</tr>
</tbody>
</table>

Total approximate area: **12,896** sq ft

---

1 Temporary laundry is to serve the existing 343 key Westin Resort while demolition of existing restaurants, laundry and other BoH facilities and consequent construction and completion of the new Hotel Annex is effected. This temporary laundry is to be dismantled and installed in new premises within the Hotel Annex and the space will revert to BOH functions (hotel administration offices etc). **NOTE:** Applicant intends making application to CPA in due course to modify planning consent grant CPA/04/20 Item 2.5 (P19-1187) to omit this Laundry facility.
BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT: MOTIVATION
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility
(‘Ballroom’), Change-of-Use (Banquet Kitchen, Meeting Rooms, BoH) & 2 Pools

PLANNING DATA:

Parcel 11D45 Area: 8.60 Ac 374,616 sq ft
Maximum permitted Coverage: 40.00% 149,847 sq ft
Existing Building Coverage: 92,819 sq ft
Existing Covered Walkway Coverage: 2,845 sq ft
Total Existing Building Coverage: 95,664 sq ft
Total Building Coverage %: 25.54%

less:
Total Demolitions: (23,071) sq ft

add:
New Hotel Annex (Tower): 34,506 sq ft
New Conference Facility (Ballroom): 18,410 sq ft
New Covered Walkways: 10,971 sq ft

New Total Building Coverage: 136,480 sq ft
New Total Building Coverage %: 36.43%

Existing Walkway, Roads & Decks Coverage: 101,720 sq ft
Existing Walkway, Roads & Decks Coverage %: 27.15%

less demolitions /breakup: (38,044) sq ft

New Total Walkway, Roads & Decks Coverage: 63,676 sq ft
New Total Walkway, Roads & Decks Coverage %: 17.00%

Density Allowance:

Maximum Allowable Guestrooms (65 rooms/acre): 559 rooms
Existing Guestrooms (Westin): 343 rooms
less: Guestrooms Change-of-Use: (18 rooms)
New Guestrooms (Hotel Annex): 234 rooms

Total Proposed Guestroom Provision: 559 rooms
Total Proposed Guestroom Provision %: 100.00%

Development Area (Gross):

Existing:
Total existing Building Area: 213,955 sq ft
less: demolitions (23,071) sq ft
Total amended existing Building Area: 190,884 sq ft
Proposed:

<table>
<thead>
<tr>
<th>Area</th>
<th>Square Feet</th>
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<tbody>
<tr>
<td>New Hotel Annex Area</td>
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<tr>
<td>New Conference Facility Area</td>
<td>18,410</td>
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<tr>
<td>Change-of-Use Area</td>
<td>12,896</td>
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<tr>
<td><strong>Total Proposed Planning Consent Area</strong></td>
<td><strong>280,946</strong></td>
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**PARKING PROVISION ANALYSIS:**

Parking provision required on parcel 11D45 for existing Resort:

198 bays

New parking provision requirements:

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<th>Parking Provision</th>
<th>Additional Allocation</th>
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<tr>
<td>Restaurant Facilities</td>
<td>109 bays</td>
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<td>3-Meal Restaurant</td>
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<td>1 bay /200 sq ft</td>
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<tr>
<td>Banquet Kitchen</td>
<td>1 bay/600 sq ft</td>
</tr>
<tr>
<td>Sky Bar + Kitchen</td>
<td>1 bay /200 sq ft</td>
</tr>
<tr>
<td>Foyer Coffee Bar</td>
<td>1 bay /200 sq ft</td>
</tr>
<tr>
<td>Conference</td>
<td>1 bay /300 sq ft</td>
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<tr>
<td>Meeting Rooms</td>
<td>1 bay /300 sq ft</td>
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<tr>
<td>Retail Space</td>
<td>17 bays</td>
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<td>New Spa</td>
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<td>Reverse exist Spa</td>
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<td><strong>Total Additional Parking Bay Provision</strong></td>
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<tr>
<td><strong>Total Parking Provision</strong></td>
<td><strong>385 bays</strong></td>
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</table>

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2 Refer to Exhibit A ‘Existing Parking Provision Analysis’ dated 26 July 2022

3 4,950 sf demolished replaced by new 7,784 sf facility

4 5,198 sf demolished replaced by new 4,016 sf facility

5 difference between 1 bay /300 sf retail (spa) and 1 bay /200 sf restaurant (kitchen)

6 existing conference venue in restaurant block to be demolished
Request and Motivation for Variance to allow increase in Allowable Off-Site Parking Provision:

Off-Site Parking Allowance (s.8(1)(c) Development & Planning Regulations 2022):

This Regulations provides that in a Hotel/Tourism zone, 50% of the parking spaces may be located not more than five hundred feet from the respective building, as part of a Parking Management Strategy prepared to the satisfaction of the Central Planning Authority.

Total Required Parking: 385 bays

50% Parking to be located on subject parcel 11D45: 193 bays
50% Parking to be located on remote parcel 11D37: 192 bays

The draft Westin Resort Parking Management Strategy (subject to review and acceptance by the Central Planning Authority) is submitted to the Authority in fulfilment of Regulation 8(1)(c), Development & Planning Act (2021 Revision) as part of this application for planning consent.

Off-Site Parking Location Parcel 11D37:

Parcel 11D37, also leased by Applicant, is the site intended for locating the off-site parking provision provided for under Regulation 8(1)(c) and is located within 500ft of the Resort buildings as intended by the regulation.

Parking Provision Variance Motivation- 90% Off-Site Parking Provision Allowance:

We respectfully request that the Central Planning Authority grants Applicant a variance in terms of s. 8(13)(b) Development & Planning Law Regulations to allow the off-site parking currently provided for in terms of s.8(1)(c) to be increased from a maximum of 50% to approximately 90% as derived below without loss of amenity for or to the detriment of guests and residents in the Seven Mile Beach Corridor neighbourhood.

This variance, if granted, will permit Applicant to provide resort parking as follows:
Total Required Parking: 385 bays

- approx 9% Parking to be located on subject parcel 11D45: 35 bays
- approx 91% Parking to be located on remote parcel 11D37: 350 bays

Total Provided Parking: 385 bays

Total parking provision on parcel 11D37: 443 bays

- existing parking provision: 85 bays
- additional parking (planning consent P20-0053): 358 bays

less parking allocations: (93) bays

- Sunshine Suites (132 guestrooms): 66 bays
- Sunshine Grill (approx 2,280 sq ft restaurant): 12 bays
- Laundry facility (consent P20-0053): 15 bays

Unallocated bays on parcel 11D37 available for additional Regulation 8(1)(c) parking in favour of Westin Resort ‘overflow’ requirements: 350 bays

We motivate the grant of this variance in Applicant’s belief that:

- the development proposal as comprised in this application for planning consent, 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 that

- several factors implicit in the developed environment of the West Bay Road corridor along Seven Mile Beach give rise to the need to ‘shed’ required parking provision from parcels west of West Bay Road (i.e. with Seven Mile Beach frontage) onto parcels east of West Bay Road that are less sensitive to loss of amenity so that parcels west of West Bay Road will enjoy significantly enhanced amenity due to such re-allocation of parking provision.

Applicant also believes that in responding to these various factors as drivers for improvement and in increasing significantly the percentage of off-site parking
currently allowed under Regulations, the level of amenity for both guests and residents in this important hospitality and residential precinct of Seven Mile Beach be significantly enhanced.

Our proposed specific developmental responses in enhancing amenity in this regard are *inter alia* to:

1. allow more efficient use of the available land on those parcels in order to create better hospitality product with more amenable beach and landscape experiences for guests and residents;

2. reduce vehicular access to those resorts as far as possible by restricting the need for localised casual parking adjacent points of entry and arrival;

3. provide more remote parking facilities for the dedicated use of resort staff served by pedestrian route and shuttle service access to the resort to eliminate the predilection by staff for parking on road verges and sidewalks in the immediate precinct of the resort;

4. create a better pedestrian and non-vehicular experience along West Bay Road as a pleasant and safe alternative to beach walks etc that encourage guests and residents to explore local shopping and restaurant destinations located along these landscaped roadways; and to

5. divert as far as possible vehicles from needing to access resorts only from West Bay Road and providing parking opportunities accessible off Esterley Tibbetts Highway for guests and residents and with easy pedestrian access to the destination resort itself.

We thank you for your consideration of this application for planning consent.

Yours sincerely
Appendix C
The Westin Grand Cayman Resort, Hotel Annex & Conference Centre
Parking Management Strategy (draft v.1)

26 July 2022
Existing Parking Conditions
(refer Diagram A)

Applicant currently provides 198 parking spots to accommodate 343 guestrooms, a 3-meal restaurant (for guest use only), a specialty restaurant and approximately 10,000 sq ft of retail, meeting and conference space. Staff and employees use about 80 of these bays per shift and rental cars about 20 bays. This leaves around 100 parking bays for social and local traffic needs.

Applicant provides the neighbouring Sunshine Suites resort guests access to the Westin Resort facilities. These guests and other pedestrians patronising the Cayman Falls shops and restaurants are left to cross West Bay Roads as they see fit and many elect not use the current pedestrian crossing due to its inconvenient location.

Attendees of locally hosted conferences, galas and charity events (which have in the past included the Cayman Arts Festival, Cayman National Orchestra concerts, the Governor’s Award luncheon, the CARIFTA Games Congress, the Royal Cayman Islands Police training course and breakfast and the Miss Cayman Islands Universe Pageant) are left to find parking and many patrons, finding themselves frustrated at the apparent lack of ‘convenient’ parking directly outside the Westin Resort, attempt to leave their vehicles along roadway verges in the area or on adjacent properties or vacant lots.

This situation, not just for the new Hotel Annex and Conference Centre as proposed, but even for the existing Westin Resort as it stands, is not conducive to the amenity of the neighbourhood for its guests and residents, and presents an opportunity for structural and operational improvement of its parking facilities.

Existing Parking Utilisation

The current Westin Resort daily parking utilisation for its 343 guest rooms averages out at 20 rental vehicles- 16 sourced at Owen Roberts International Airport and 4 sourced at the Resort and kept parked on the premises.

There are approximately 80 parking bays used per shift by Resort employees.

On any given day, there are approximately 100 parking bays occupied either by Resort guests or employees on shift. The balance of the 198 provided parking is variously occupied by local patrons, other staff or visitors or are vacant (estimated between 15 and 20 bays when conference facilities are not in use). The net Utilisation Ratio is therefore 0.5 per available guestroom based on guest and employee use of available parking spaces.

Refer to the attached supplementary Parking Deployment, Use & Efficiency analysis.

Future Parking Utilisation

Based on the above Utilisation Ratio of 0.5, Applicant forecasts daily parking utilisation of its proposed 559 guestrooms at 32 parking bays for rental cars (combination of airport and on-premises rental vehicles) and approximately 130 parking bays used per shift by Resort employees.

This yields a total forecasted parking requirement of 162 bays.

Based on a projected provision of 385 parking bays in compliance with Development & Planning Regulations, there would be an excess of 223 parking bays available for Resort ‘special events’ hosted in its conference and other meeting facilities.
Proposed Improved Parking Facilities
(refer Diagram B)

In terms of the variance as requested of the Central Planning Authority in Applicant's letter motivating the grant of planning permission for a new Hotel Annex and Conference Centre and notwithstanding that the area proposed to accommodate off-site parking is only 380 ft away from the Westin Resort itself (a leisurely 2-minute walk), Applicant as resort operator, proposes to adopt the following procedures in order to establish a Parking Management Strategy as required under regulation 8(1)(c) as varied in terms of this motivation, that alleviates the congestion issues listed above:

• Provide approximately 140 bay dedicated Resort staff/employee parking
• Provide a dedicated shuttle connection to the Resort for use by staff, guests and residents if they so desire or require
• Provide a total of 385 parking bays to accommodate 559 guestrooms and related facilities- a ratio of 0.69 parking bays per room compared to the existing Resort's lower ratio of 0.58 parking bays per room (Planning Regulations stipulates 0.5 parking bay per guestroom)
• Provide more flexibility in parking provision for evening gala and entertainment events for local residents and patrons
• Create in partnership with the National Roads Authority¹ and adjacent neighbours, a landscaped street-scape where the resort fronts onto West Bay Road consistent with the expectations of a 1st class 5 star resort destination and similar and equal to the landscaping created at Camana Bay
• Create an effective, identifiable and well-lit pedestrian crossing point as incorporated with and part of the landscaped street-scape allowing safe crossing of West Bay Road for both pedestrians and shuttles at all times of day and night
• Create more certainty for a direct connection and parking availability for guests and residents in contrast to cruise-searching hoping to find parking
• Eliminate potential traffic generated by 130 Resort employees entering and leaving via West Bay Road by encouraging them to use Esterley Tibbetts Highway to enter and exit their assigned parking areas
• Implement and enforce employee parking restrictions using the latest GPS technology
• Provide a 5 star valet parking service with sufficient staging area (an amenity now expected in all major high-end resorts internationally, and rapidly becoming the expectation locally) that provides a useful and convenient way of Resort guests and patrons to efficiently access the Resort facilities
• Provide parking monitors to adjacent neighbors during high demand periods to ensure parking enforcement
• Eliminate casual and haphazard parking along West Bay Road and adjacent properties (and a nuisance to Cayman Falls shopping centre on West Bay Road opposite the Resort)
• Provide excess parking that could be utilised for other local events (such as receptions at the adjacent Governor's Residence)

The Parking Management Strategy should be maintained as a dynamic and comprehensive structural and integrated operational parking management plan that deploys a significantly more efficient parking system at a higher capacity and level of convenience without loss of amenity for guests and residents alike.

¹ As part of the Authority's proposed West Bay Road beautification initiative based on the Authority's 'Complete Street' principles and concepts to create a more amenable West Bay Road pedestrian experience in phases through the use of landscape, traffic calming installations and incorporating a safe pedestrian and shuttle crossing points with user request crossing control systems along West Bay Road
Parking Operational Plan & Features

Applicant intends as part of giving effect to the primary objective of creating and maintaining a comprehensive structural and integrated operational parking provision strategy, to deploy the following components (refer route map in Diagram C):

**Valet Parking service**

for Resort guests and local patrons indicated as blue / orange routes

Staging at the Westin Resort’s proposed Arrival Forecourt will use 27 dedicated staging bays as an operational ‘hub’. Valets, stationed at the Resort Arrival Forecourt or in the off-site parking lot, are dispatched using radio or WiFi communications.

Vehicles parked by valets are taken from the Forecourt to the Main Parking Area along the orange route as indicated (south along West Bay Road then left into the Sunshine Suites Resort access roadway, past the Resort and into the Parking Area), and returned to the Forecourt along the blue route as indicated (exit the Main Parking Area left into Esterley Tibbetts Highway, left into Lime Tree Bay Avenue, left into West Bay Road then right into the Westin Resort Forecourt ingo).

**Shuttle service**

**Shuttle for employees**

Employee shuttle indicated as dark blue dashed route

A shuttle service is available for employees who are required under the Parking Management Strategy to park their vehicles in a designated part of the Main Parking Area, and from which a shuttle bus will depart and return at primary shift change hours and as needed upon request.

The route of the employee shuttle will be left into Esterley Tibbetts Highway, left into Lime Tree Bay Avenue, left into West Bay Road then right into the Banquet Kitchen service lay-by, back onto West Bay Road, right into the Hotel Annex service lay-by, then returning south along West Bay Road then left into the Sunshine Suites Resort access roadway, past the Resort and into the employee section of the Main Parking Area.

**Resort Guest Shuttle**

Shuttle for self-park/local events (using electric carts) indicated as blue chainlink route

Resort guests and local patrons may wish to avail themselves of the Resort Guest Shuttle, which will be a shuttle service using high-capacity passenger carts departing and arriving as needed on guest or patron request.

This shuttle will use the access roadway leading from the Main Parking Area past the north side of the Cayman Falls shopping centre to cross over West Bay Road (adjacent to the re-located pedestrian crossing) into the Resort Forecourt ingo and return along the same route to the Main Parking Area.

The frequency of this shuttle will be based on guests’ and patrons’ requests, Resort conference functions at the time as well as restaurant brunch service, late lunch service, evening service etc and high Resort guest occupancy demand.

**Mandated Parking Zones**

**Resort Arrival Forecourt**

The Resort Arrival Forecourt will be designated for these parking and vehicular uses only- casual arrival with the intent of using valet parking will be
acceptable, but casual long-term parking use of any of the parking bays will not be permitted:

• Taxi or non-guest /patron driver drop-off at either Annex or Westin portes cochere- taxi to leave the Forecourt after drop-off

• Taxi arrival and park (anticipating a fare or a called-in fare pick-up)- taxi occupies a designated bay by pre-arrangement with Resort operator for a designated time

• Vehicles awaiting valet dispatch to Main Parking Area or vehicles returned from Main Parking Area by valets to departing Resort guests or patrons, who after collecting their vehicle, leave the Resort Forecourt (NOTE: additional queuing space will be available in the new parking lot callable upon need)

• Parking for disabled Resort guests and patrons

Main Parking Area

The Main Parking Area will be partitioned into zones that will provide

• prime parking areas intended for Resort guests and patrons along with rental car parking and storage located closest to the Resort to the east of the Cayman Falls residential precinct- to be used by valets to park vehicles after guest drop-off in the Resort Forecourt

• secondary parking areas intended for staff parking only and which use will be mandated by the Resort operator, and located east of the prime parking area designated for Resort guest and patron use. Employee’s vehicles are to have appropriate identification, and if found in a non-assigned parking space including Resort and Conference Centre guest and patron parking zones, Sunshine Suites and Cayman Falls parking zones, will result in a sanction imposed by the Resort operator as employer.

Pedestrian Crossing Zone

An essential component of the Parking Management Strategy is the provision of an effective and efficient means of crossing West Bay Road on the way from the Main Parking Area to the Resort Forecourt, the two Resort portes cochere and the Conference Centre entrance.

The crossing point itself is intended to be incorporated in the National Roads Authority plans for ‘streetification’ of the West Bay Road precinct which intends creating a more amenable West Bay Road pedestrian experience in phases through the use of landscape, traffic calming installations and a clear identification of a pedestrian zone that would include the crossing point over West Bay Road in a safe and seamless manner.

Owner will work hand in hand with adjacent neighbors and the NRA to coordinate on the installation of a fully compliant and safe streetscape.

Pedestrian Promenade

This is the land- and hard-scape walkway that provides the main pedestrian connection between the Resort pedestrian crossing point on West Bay Road and the Main Parking Area. It is approximately 380' long including the pedestrian crossing, 8' to 10' wide and which would take no longer than 2 minutes to traverse at a leisurely pace.

The pavilion roof and vertical screening interspersed with lush landscaping and efficient but unobtrusive safety lighting provides a pleasant ambulatory experience for those Resort guests and patrons taking advantage of the convenient connectivity with the Resort Forecourt, Annex, Westin and Conference Centre entrances.
Main Parking Area Access Street

This roadway is a 22'-0" right-of-way over the Cayman Fall centre property along its north boundary in favour of the leasehold proprietor (Sunshine Suites owner) of parcel 11D37 on which the Main Parking Area is located.

This street allows 2-way vehicular traffic access directly from West Bay Road to the Main Parking Area, and more importantly, when suitably upgraded, is the traffic route over which Resort guests and patrons access this parking area as well as the route used by the courtesy Resort Guest Shuttle service only. Valet service will operate only along the 'orange' and 'blue' routes as indicated on Diagram C.

In full co-operation with the owners of the Leeward Office Park, the pedestrian traffic will be routed through the Pedestrian Promenade which effectively separates the vehicular traffic on the adjacent right-of-way street from pedestrian use of the Promenade.
CONFERENCE CENTRE

PEDESTRIAN LINK FROM MAIN PARKING AREA

RESORT FORECOURT
 ARRIVAL INGO

night view of pedestrian crossing

MAIN PARKING AREA
 VEHICULAR ACCESS

WESTIN RESORT, HOTEL ANNEX & CONFERENCE CENTRE: PARKING MANAGEMENT STRATEGY (draft v.1/220726)
## Parking Deployment, Use & Efficiency

### Current Parking Utilization

<table>
<thead>
<tr>
<th></th>
<th>Avg Daily</th>
<th>Parking</th>
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</thead>
<tbody>
<tr>
<td>Rental Cars - Overnight Guest</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On-site rental</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Off-site rental</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>20</strong></td>
<td><strong>20</strong></td>
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</tbody>
</table>

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td><strong>Total Daily Parking</strong></td>
<td><strong>80</strong></td>
<td><strong>100</strong></td>
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<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Parking (excluding Regatta)</td>
<td>198</td>
<td>0.50 (Demand/Available spaces)</td>
</tr>
<tr>
<td>Parking bay per room</td>
<td>0.61</td>
<td></td>
</tr>
</tbody>
</table>

### Forecasted Utilization

- **Employees (based on current ratio)**
- **Overnight Guest (based on current ratio)**

### Future Parking Requirement (keeping existing PLUS code requirement for the Hotel Annex)

<table>
<thead>
<tr>
<th></th>
<th>Rooms/Area</th>
<th>Parking requirements</th>
<th>Required Parking</th>
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</thead>
<tbody>
<tr>
<td>Hotel Guestrooms</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Westin Existing</td>
<td>325 Keys</td>
<td>2:1 Ratio</td>
<td>163</td>
</tr>
<tr>
<td>Add'l rooms</td>
<td>234 Keys</td>
<td>2:1 Ratio</td>
<td>117</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>559 Keys</td>
<td>2:1 Ratio</td>
<td>280</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Parking bay per room</th>
<th>0.69</th>
</tr>
</thead>
</table>

### Planned Supply

- West of West Bay Road (parcel 11D45)
- New Main Parking Area (parcel 11D37)

### Forecasted Need

- **Overnight Guest**
- **Employees**

### Total Forecasted Need (Current Demand x Available spaces)

**223**

### Excess available for Special Events

**162**

**We would ask for 91% off-site parking variance for employee parking **shuttle to be provided****
Appendix D
02 August 2022

The Director of Planning, Planning Department
Government Administration Building
133, Elgin Avenue, George Town
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT: MOTIVATION
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility
(‘Ballroom’), Change-of-Use (Banquet Kitchen, Meeting Rooms, Back-of-
House) & 2 Pools

We act for Applicant /Owner /lessee Invincible Investment Corporation as
agent, and hereby make application to the Central Planning Authority for
planning consent for

• a new 10 storey Hotel Annex including a Spa; and
• a new Conference facility with ancillary banquet kitchen
• existing Westin Resort change-of-use space to new meeting rooms,
  ‘back-of house’ services and a Kid’s Club facility;

at the Westin Grand Cayman Resort, West Bay Road, Seven Mile Beach (parcel
11D45). The application includes two new guest swimming pools at 1st floor and
10th floor decks respectively.

DEVELOPMENT SCOPE:

A New Hotel Annex:

New 10-storey hotel tower with 234 guestrooms, multi-functional 3-meal restaurant,
lounge bar, wellness facilities, roof-top bar and lounge with landscaped pool and deck
Approximate area: **195,414 sq ft**

B  **New Conference Facility:**

New sub-divisible conference facility and ballroom with pre-conference areas, and related facilities

Approximate area: **18,410 sq ft**

C  **Change of Use (existing Westin Resort):**

C1  **18** existing guestrooms in Westin Resort to be retrofitted as

6 guestrooms to meeting space  **2,139 sq ft**

3 guestrooms as hotel guest-only
‘Kid’s Club’ facility  **1,063 sq ft**

9 guestrooms as hotel guest-only facilities or
‘back-of-house’, services /corridor space  **3,215 sq ft**

C2  Existing retail space in Westin Resort (existing Spa) to be retrofitted as a banquet kitchen for general resort catering requirements as well as specific catering for banquets to be hosted in the Conference facility  **3,578 sq ft**

C3  Existing retail space in Westin Resort (existing Spa) to be retrofitted as a temporary laundry /‘back-of-house’ operation

**2,901 sq ft**

Total approximate area: **12,896 sq ft**

---

1 Temporary laundry is to serve the existing 343 key Westin Resort while demolition of existing restaurants, laundry and other BoH facilities and consequent construction and completion of the new Hotel Annex is effected. This temporary laundry is to be dismantled and installed in new premises within the Hotel Annex and the space will revert to BOH functions (hotel administration offices etc) NOTE: Applicant intends making application to CPA in due course to modify planning consent grant CPA/04/20 Item 2.5 (P19-1187) to omit this Laundry facility.
**PLANNING DATA:**

Parcel 11D45 Area: 8.60 Ac 374,616 sq ft

Maximum permitted Coverage: 40.00% 149,847 sq ft

Existing Building Coverage: 92,819 sq ft

Existing Covered Walkway Coverage: 2,845 sq ft

Total Existing Building Coverage: 95,664 sq ft

*Total Building Coverage %:* 25.54%

less:

Total Demolitions: (23,071) sq ft

add:

New Hotel Annex (Tower): 34,506 sq ft

New Conference Facility (Ballroom): 18,410 sq ft

New Covered Walkways: 10,971 sq ft

New Total Building Coverage: 136,480 sq ft

*New Total Building Coverage %:* 36.43%

Existing Walkway, Roads & Decks Coverage: 101,720 sq ft

*Existing Walkway, Roads & Decks Coverage %:* 27.15%

less demolitions /breakup: (38,044) sq ft

New Total Walkway, Roads & Decks Coverage: 63,676 sq ft

*New Total Walkway, Roads & Decks Coverage %:* 17.00%

**Density Allowance:**

Maximum Allowable Guestrooms (65 rooms/acre): 559 rooms

Existing Guestrooms (Westin): 343 rooms

less: Guestrooms Change-of-Use: (18 rooms)

New Guestrooms (Hotel Annex): 234 rooms

Total Proposed Guestroom Provision: 559 rooms

*Total Proposed Guestroom Provision %:* 100.00%

**Development Area (Gross):**

Existing:

Total existing Building Area: 213,955 sq ft

less: demolitions (23,071) sq ft

Total amended existing Building Area: 190,884 sq ft
## Proposed:

- **New Hotel Annex Area:** 195,474 sq ft
- **New Conference Facility Area:** 18,410 sq ft
- **Total Proposed Planning Consent Area:** 213,884 sq ft

**Total Change-of-Use Area:** 12,896 sq ft

### PARKING PROVISION ANALYSIS:

Parking provision required on parcel 11D45 for existing Resort:

- **198 bays**

**New parking provision requirements:**

- **Additional guestroom allocation (216 guestrooms ±1 bay /2 rooms):** 109 bays

**Restaurant Facilities (net new /adjusted areas):**

- 3-Meal Restaurant 1 bay /200 sq ft 2,834 sq ft: 15 bays
- 3-Meal Kitchen 1 bay /200 sq ft (1,182) sq ft: (6) bays
- Banquet Kitchen 1 bay /600 sq ft 3,578 sq ft: 6 bays
- Sky Bar + Kitchen 1 bay /200 sq ft 4,291 sq ft: 22 bays
- Foyer Coffee Bar 1 bay /200 sq ft 1,271 sq ft: 8 bays

**Event Space (net new /adjusted areas):**

- Conference 1 bay /300 sq ft 7,297 sq ft: 25 bays
- Meeting Rooms 6 1 bay /300 sq ft (2,656) sq ft: (9) bays

**Retail Space:**

- New Spa 1 bay /300 sq ft 7,810 sq ft: 27 bays
- Reverse exist Spa 1 bay /300 sq ft (2,901) sq ft: (10) bays

**Total Additional Parking Bay Provision required:** 187 bays

**Total Parking Provision required:** 385 bays

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2 Refer to Exhibit A ‘Existing Parking Provision Analysis’ dated 26 July 2022

3 4,950 sf demolished replaced by new 7,784 sf facility

4 5,198 sf demolished replaced by new 4,016 sf facility

5 difference between 1 bay /300 sf retail (spa) and 1 bay /200 sf restaurant (kitchen)

6 existing conference venue in restaurant block to be demolished
Request and Motivation for Variance to allow increase in Allowable Off-Site Parking Provision:

Off-Site Parking Allowance (s.8(1)(c) Development & Planning Regulations 2022):

This Regulations provides that in a Hotel/Tourism zone, 50% of the parking spaces may be located not more than five hundred feet from the respective building, as part of a Parking Management Strategy prepared to the satisfaction of the Central Planning Authority.

Total Required Parking: 385 bays
50% Parking to be located on subject parcel 11D45: 193 bays
50% Parking to be located on remote parcel 11D37: 192 bays

The draft Westin Resort Parking Management Strategy (subject to review and acceptance by the Central Planning Authority) is submitted to the Authority in fulfilment of Regulation 8(1)(c), Development & Planning Act (2021 Revision) as part of this application for planning consent.

Off-Site Parking Location Parcel 11D37:

Parcel 11D37, also leased by Applicant, is the site intended for locating the off-site parking provision provided for under Regulation 8(1)(c) and is located within 500ft of the Resort buildings as intended by the regulation.

Parking Provision Variance Motivation- 90% Off-Site Parking Provision Allowance:

We respectfully request that the Central Planning Authority grants Applicant a variance in terms of s. 8(13)(b) Development & Planning Law Regulations to allow the off-site parking currently provided for in terms of s.8(1)(c) to be increased from a maximum of 50% to approximately 90% as derived below without loss of amenity for or to the detriment of guests and residents in the Seven Mile Beach Corridor neighbourhood.

This variance, if granted, will permit Applicant to provide resort parking as follows:
Total Required Parking: 385 bays

- approx 9% Parking to be located on subject parcel 11D45: 35 bays
- approx 91% Parking to be located on remote parcel 11D37: 350 bays

Total Provided Parking: 385 bays

Total parking provision on parcel 11D37: 443 bays

- existing parking provision 85 bays
- additional parking (planning consent P20-0053): 358 bays

less parking allocations: (93) bays

- Sunshine Suites (132 guestrooms): 66 bays
- Sunshine Grill (approx 2,280 sq ft restaurant): 12 bays
- Laundry facility (consent P20-0053): 15 bays

Unallocated bays on parcel 11D37 available for additional Regulation 8(1)(c) parking in favour of Westin Resort ‘overflow’ requirements: 350 bays

We motivate the grant of this variance in Applicant’s belief that

- the development proposal as comprised in this application for planning consent, 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 that

- several factors implicit in the developed environment of the West Bay Road corridor along Seven Mile Beach give rise to the need to ‘shed’ required parking provision from parcels west of West Bay Road (i.e. with Seven Mile Beach frontage) onto parcels east of West Bay Road that are less sensitive to loss of amenity so that parcels west of West Bay Road will enjoy significantly enhanced amenity due to such re-allocation of parking provision.

Applicant also believes that in responding to these various factors as drivers for improvement and in increasing significantly the percentage of off-site parking
currently allowed under Regulations, the level of amenity for both guests and residents in this important hospitality and residential precinct of Seven Mile Beach be significantly enhanced.

Our proposed specific developmental responses in enhancing amenity in this regard are *inter alia* to:

1. allow more efficient use of the available land on those parcels in order to create better hospitality product with more amenable beach and landscape experiences for guests and residents;

2. reduce vehicular access to those resorts as far as possible by restricting the need for localised casual parking adjacent points of entry and arrival;

3. provide more remote parking facilities for the dedicated use of resort staff served by pedestrian route and shuttle service access to the resort to eliminate the predilection by staff for parking on road verges and sidewalks in the immediate precinct of the resort;

4. create a better pedestrian and non-vehicular experience along West Bay Road as a pleasant and safe alternative to beach walks etc that encourage guests and residents to explore local shopping and restaurant destinations located along these landscaped roadways; and to

5. divert as far as possible vehicles from needing to access resorts only from West Bay Road and providing parking opportunities accessible off Esterley Tibbetts Highway for guests and residents and with easy pedestrian access to the destination resort itself.

We thank you for your consideration of this application for planning consent.

Yours sincerely
Appendix E
Existing Parking Conditions

Applicant currently provides 198 parking spots to accommodate 343 guestrooms, a 3-meal restaurant (for guest use only), a specialty restaurant and approximately 10,000 sq ft of retail, meeting and conference space. Staff and employees use about 80 of these bays per shift and rental cars about 20 bays. This leaves around 100 parking bays for social and local traffic needs.

Applicant provides the neighbouring Sunshine Suites resort guests access to the Westin Resort facilities. These guests and other pedestrians patronising the Cayman Falls shops and restaurants are left to cross West Bay Roads as they see fit and many elect not use the current pedestrian crossing due to its inconvenient location.

Attendees of locally hosted conferences, galas and charity events (which have in the past included the Cayman Arts Festival, Cayman National Orchestra concerts, the Governor’s Award luncheon, the CARIFTA Games Congress, the Royal Cayman Islands Police training course and breakfast and the Miss Cayman Islands Universe Pageant) are left to find parking and many patrons, finding themselves frustrated at the apparent lack of ‘convenient’ parking directly outside the Westin Resort, attempt to leave their vehicles along roadway verges in the area or on adjacent properties or vacant lots.

This situation, not just for the new Hotel Annex and Conference Centre as proposed, but even for the existing Westin Resort as it stands, is not conducive to the amenity of the neighbourhood for its guests and residents, and presents an opportunity for structural and operational improvement of its parking facilities.

Existing Parking Utilisation

The current Westin Resort daily parking utilisation for its 343 guest rooms averages out at 20 rental vehicles - 16 sourced at Owen Roberts International Airport and 4 sourced at the Resort and kept parked on the premises.

There are approximately 80 parking bays used per shift by Resort employees.

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(refer route map in Diagram C):

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for Resort guests and local patrons
indicated as blue / orange routes

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Shuttle for employees

Employee shuttle indicated as dark blue dashed route

A shuttle service is available for employees who are required under the Parking Management Strategy to park their vehicles in a designated part of the Main Parking Area, and from which a shuttle bus will depart and return at primary shift change hours and as needed upon request.

The route of the employee shuttle will be left into Esterley Tibbetts Highway, left into Lime Tree Bay Avenue, left into West Bay Road then right into the Banquet Kitchen service lay-by, back onto West Bay Road, right into the Hotel Annex service lay-by, then returning south along West Bay Road then left into the Sunshine Suites Resort access roadway, past the Resort and into the employee section of the Main Parking Area.

Resort Guest Shuttle

Shuttle for self-park/local events (using electric carts) indicated as blue chainlink route

Resort guests and local patrons may wish to avail themselves of the Resort Guest Shuttle, which will be a shuttle service using high-capacity passenger carts departing and arriving as needed on guest or patron request.

This shuttle will use the access roadway leading from the Main Parking Area past the north side of the Cayman Falls shopping centre to cross over West Bay Road (adjacent to the re-located pedestrian crossing) into the Resort Forecourt ingo- and return along the same route to the Main Parking Area.

The frequency of this shuttle will be based on guests’ and patrons’ requests, Resort conference functions at the time as well as restaurant brunch service, late lunch service, evening service etc and high Resort guest occupancy demand.

Mandated Parking Zones

Resort Arrival Forecourt

The Resort Arrival Forecourt will be designated for these parking and vehicular uses only- casual arrival with the intent of using valet parking will be
acceptable, but casual long-term parking use of any of the parking bays will not be permitted:

• Taxi or non-guest /patron driver drop-off at either Annex or Westin portes cochere- taxi to leave the Forecourt after drop-off

• Taxi arrival and park (anticipating a fare or a called-in fare pick-up)- taxi occupies a designated bay by pre-arrangement with Resort operator for a designated time

• Vehicles awaiting valet dispatch to Main Parking Area or vehicles returned from Main Parking Area by valets to departing Resort guests or patrons, who after collecting their vehicle, leave the Resort Forecourt (NOTE: additional queuing space will be available in the new parking lot callable upon need)

• Parking for disabled Resort guests and patrons

Main Parking Area

The Main Parking Area will be partitioned into zones that will provide

• prime parking areas intended for Resort guests and patrons along with rental car parking and storage located closest to the Resort to the east of the Cayman Falls residential precinct- to be used by valets to park vehicles after guest drop-off in the Resort Forecourt

• secondary parking areas intended for staff parking only and which use will be mandated by the Resort operator, and located east of the prime parking area designated for Resort guest and patron use. Employee’s vehicles are to have appropriate identification, and if found in a non-assigned parking space including Resort and Conference Centre guest and patron parking zones, Sunshine Suites and Cayman Falls parking zones, will result in a sanction imposed by the Resort operator as employer.

Pedestrian Crossing Zone

An essential component of the Parking Management Strategy is the provision of an effective and efficient means of crossing West Bay Road on the way from the Main Parking Area to the Resort Forecourt, the two Resort portes cochere and the Conference Centre entrance.

The crossing point itself is intended to be incorporated in the National Roads Authority plans for ‘streetification’ of the West Bay Road precinct which intends creating a more amenable West Bay Road pedestrian experience in phases through the use of landscape, traffic calming installations and a clear identification of a pedestrian zone that would include the crossing point over West Bay Road in a safe and seamless manner.

Owner will work hand in hand with adjacent neighbors and the NRA to coordinate on the installation of a fully compliant and safe streetscape.

Pedestrian Promenade

This is the land- and hard-scaped walkway that provides the main pedestrian connection between the Resort pedestrian crossing point on West Bay Road and the Main Parking Area. It is approximately 380’ long including the pedestrian crossing, 8’ to 10’ wide and which would take no longer than 2 minutes to traverse at a leisurely pace.

The pavilion roof and vertical screening interspersed with lush landscaping and efficient but unobtrusive safety lighting provides a pleasant ambulatory experience for those Resort guests and patrons taking advantage of the convenient connectivity with the Resort Forecourt, Annex, Westin and Conference Centre entrances.
**Main Parking Area Access Street**

This roadway is a 22'-0” right-of-way over the Cayman Fall centre property along its north boundary in favour of the leasehold proprietor (Sunshine Suites owner) of parcel 11D37 on which the Main Parking Area is located.

This street allows 2-way vehicular traffic access directly from West Bay Road to the Main Parking Area, and more importantly, when suitably upgraded, is the traffic route over which Resort guests and patrons access this parking area as well as the route used by the courtesy Resort Guest Shuttle service only. Valet service will operate only along the ‘orange’ and ‘blue’ routes as indicated on Diagram C.

In full co-operation with the owners of the Leeward Office Park, the pedestrian traffic will be routed through the Pedestrian Promenade which effectively separates the vehicular traffic on the adjacent right-of-way street from pedestrian use of the Promenade.
Educating Grand Cayman Residents about new parking provisions at the Westin Resort

It is an important component of the success of the Parking Management Strategy that all residents, guests and patrons of the Westin Resort and Conference Centre are informed of the proposed new Main Parking Area and how they will get to know about it, know how to access and exit it, and more significantly, are aware of its benefits and advantages.

A series of public relations and notification exercises involving e-mail campaigns, social media, online information (e.g. on the resort website), and print media, are to be derived as part of the Parking Management Strategy that will inform the public, local residents, guest and patrons on these key issues in an easily accessible and understandable manner - by the time the Resort and Conference Centre development is complete and open for business, the using public (local residents, Resort guests and patrons as well as conference attendees) should be absolutely familiar with the location of, access to and connection with the Resort and Conference Centre facilities - whether access to them from the Main Parking Area is by walking up the Pedestrian Promenade or by shuttle service, or availing themselves of parking valet service available at the Resort forecourt off West Bay Road.

Location of and Access to and from the Main Parking Area

The location of the Main Parking Area is to be clearly defined by easily-legible maps and diagrams that indicate its area and parking bay layout, and the different zones for Westin staff and Westin guests and patron are clearly delineated.

Access routes to and from Esterley Tibbetts Highway as well as from West Bay Road are to be clearly defined and whether the routes are one-way or two-way roads - the intention to inform the public how easy these access points are to reach and use.

The communication of location awareness should ensure from an early point in the Resort and Conference Centre development, local residents are informed of the location and benefits of the Main Parking Area as and when they choose to visit the Resort itself or an event hosted at any of the Resort or Conference Centre facilities.

Access to and Use of the Resort Forecourt & Porte Cochere

As important to the public's awareness of the location and benefits of the Main Parking Area, is the awareness of the purpose of the Resort and Conference Centre Forecourt and Portes Cochere, and more particularly, the very limited availability of parking in the Forecourt.

Local residents and Resort patrons should be made aware not only of the convenience of using the Main Parking Area, but that the Forecourt is primarily for guest and patron drop-off purposes only, some limited ADA and disabled persons parking provision and a taxi-rank. There is also provision for small tour bus lay-byes at the Conference Centre porte cochere to allow passenger alighting.

Valet Parking Service

Guests and patrons intending to use the Forecourt area should be fully aware that a competent valet parking service is available to them at the Forecourt on a drop-off and collect basis, and as in other major urban centres and cities around the world, making use of a valet parking service provided by hospitality operators, is common, convenient and safe both from a security aspect as well as no risk of damage to the vehicle being parked or retrieved by a suitable experienced valet.

Availability & Use of Shuttle Services

Local residents and Resort patrons should be made aware at an early stage of the Resort development, of the deployment and operation of a competent and convenient shuttle service to and from the Main Parking Area to the various Resort
and Conference Centre Porte Cocheres and drop-off points.

It is intended that the shuttle service be dynamic and responsive to Resort events, facility use and bespoke Conference Centre events such as weddings, service club meetings, graduation balls, concerts etc, and that different shuttle services would be deployed specifically to meet the needs of these different events.

**Road Wayfinding & Signage**

A critical component of the Parking Management Strategy is the design and deployment of a competent wayfinding and signage system that informs and instructs the using public (local residents, Resort guests and patron as well as conference attendees) as to proximity of and access to the Main Parking Area.

Signs informing location and direction to the parking areas should be informative and should reinforce correct route adoption- the intention is, along with the public education programme referred to herein, to allow users a clear indication of how to access the Main Parking Area, where to park within it, and how and where to exit to ensure access to north-bound or south-bound connector roads.

The Resort ownership is to engage an experienced third-party signage and wayfinding consultant to assist with the derivation of a competent wayfinding and signage deployment that satisfies industry best practice as well as providing the directions and route reinforcement critical to the success of the parking management plan serving the Resort and its facilities as being convenient, useful and to the entire satisfaction of the Resort guests, patrons and staff members.
Westin Resort and The Falls Shops & Offices: A Symbiotic Relationship?

Located directly opposite the Westin Resort on West Bay Road is The Falls- a 2-storey strip mall consisting of ground floor shops and restaurants including Captain Marvin’s Watersports, Legendz Bar, Eats Café, diner and Yoshi Sushi restaurant, with several offices and business service outlets on the upper level.

The Falls property statistics

- Gross area (including covered walkways is estimated at 36,000 sq ft
- Provided parking is estimated at 84 spaces, giving a provided parking ratio of 1 bay per 464 sq ft development area
- Planning requirements for parking provision are 1 bay per 300 sq ft, giving The Falls an apparent parking deficit of some 36 bays
- 9,000 sq ft is restaurant space which requires under planning regulations a parking provision requirement of 1 bay per 200 sq ft- the parking deficit should accordingly be increased to 50 bays

This significant shortfall of parking provision has a negative effect on the relationship between The Falls and the Westin Resort opposite, as there exists a negative perception between the owners of The Falls and the Westin Resort that The Falls is losing potential customer parking space to Westin Resort guests, patrons and staff- particularly when large events are hosted at the Westin putting parking availability pressure on all immediately available parking spaces on both properties. It is likely that at The Falls’ busy restaurant and bar patronage time (lunch and evening service) there is a parking availability shortfall resulting in the Westin Resort parking provision being used by The Falls patrons.

Notwithstanding this parking shortfall at The Falls, there is considerable patronage of The Falls’ retail businesses by guests resident at the Westin Resort, particularly the food and beverage outlets that offer a different food and bar experience to that of the Resort. The benefits of this custom to The Falls is appreciated by the food and beverage operators there, as these customers do not use parking facilities and so reduces pressure on the limited parking availability at The Falls.

This Parking Management Strategy would not be complete without addressing this parking provision issue. Westin Resort ownership regards resolution of this matter and the establishment of a working relationship with The Falls ownership that mitigates the mutually negative effects of this under-provision of parking spaces at The Falls and the irregular ‘fly’ parking occurring at the centre due to overall parking provision shortages in this immediate precinct of Seven Mile Beach resulting from patronage pressure at both Resort and The Falls. Aspects of this relationship re-set that should be recognised in the context of this Parking Management Strategy include

- provision of dedicated Westin Resort employee parking in the new Main Parking Area- parking restrictions will be enforced using the latest GPS technology which will prevent Resort employees from parking in The Falls retail parking spaces in both short term long terms
- deployment of parking monitor personnel at The Falls during high demand periods to ensure parking enforcement at Westin Resort expense, including during periods of construction activity at the Resort
- provision of improvements to the ROW road way over The Falls property serving the Main Parking Area and provision of landscaping between the Falls and Regatta Office Park to enhance the general amenity of these areas for mutual benefit to the Resort and The Falls
- provision of a dedicated shuttle connection to the Resort for use by staff, guests and patrons which is to further organise and regulate overall parking lot usage vs the alternative of ‘fly’ parking alternatives
• provision of a total of 345 parking bays in the new Main Parking Area which would allow for overflow parking to be available for use by patrons of The Falls, particularly Eats Café, Legendz Bar, and Yoshi Suchi restaurant

• provision of pre-organised parking plans based on time of arrival and departure to better accommodate evening gala events hosted at the Westin Resort and Conference Centre for local residents and patrons as well as informing The Falls restaurants and businesses of these events

• provision of an effective, identifiable and well-lit pedestrian crossing point inviting more custom by Resort guests and patrons to visit The Falls’ various restaurants, retail and service outlets

• elimination of casual, haphazard and sometimes illegal ‘fly’ parking occurring along the verges of West Bay Road and Safehaven Drive, and in and around adjacent properties such as The Falls, Sunshine Suites and adjacent to the Governor’s Residence

• provision of excess parking capacity that could be utilised for other local events such as receptions hosted at the adjacent Governor’s Residence, guests and patrons of which otherwise would have been tempted to park at The Falls, Governor’s Square as well as at the Westin Resort itself
PEDESTRIAN PROMENADE
LINK TO WESTIN RESORT
FROM MAIN PARKING AREA

view of Resort pedestrian link from Leeward parking area
Parking Deployment, Use & Efficiency

Current Parking Utilization

<table>
<thead>
<tr>
<th>Parking</th>
<th>Avg Daily</th>
<th>Parking</th>
<th>On-site rental</th>
<th>Off-site rental</th>
<th>Total</th>
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<tr>
<td>Rental Cars - Overnight Guest</td>
<td></td>
<td></td>
<td>4</td>
<td>16</td>
<td>20</td>
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<tr>
<td>Forecasted Utilization</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Employees</td>
<td>80</td>
<td></td>
<td></td>
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<tr>
<td>Existing Parking (excluding Regatta)</td>
<td>198</td>
<td>Utilization Factor</td>
<td>0.50</td>
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<tr>
<td>Parking bay per room</td>
<td>0.61</td>
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Forecasted Need (keeping existing PLUS code requirement for the Hotel Annex)

<table>
<thead>
<tr>
<th>Required Parking</th>
<th>Parking requirements</th>
<th>Parking bay per room</th>
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<tbody>
<tr>
<td>Hotel Guestrooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Westin Existing</td>
<td>325Keys</td>
<td>2:1 Ratio</td>
</tr>
<tr>
<td>Add’l rooms</td>
<td>234Keys</td>
<td>2:1 Ratio</td>
</tr>
<tr>
<td></td>
<td>559</td>
<td>2:1 Ratio</td>
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<tr>
<td>Commercial Area</td>
<td></td>
<td></td>
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<tr>
<td>Existing Westin Commercial Parking</td>
<td>Current Condition</td>
<td>27</td>
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<tr>
<td>Restaurant</td>
<td>6,500 incr sf</td>
<td>1 per 300 sf</td>
</tr>
<tr>
<td>Conference</td>
<td>8,500 incr sf</td>
<td>1 per 300 sf</td>
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<tr>
<td>Spa &amp; Salon</td>
<td>5,100 incr sf</td>
<td>1 per 300 sf</td>
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<tr>
<td>Total Required</td>
<td></td>
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<tr>
<td></td>
<td>Parking bay per room</td>
<td>0.69</td>
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Planned Supply

<table>
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<tr>
<th>Parking</th>
<th>Available</th>
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<tbody>
<tr>
<td>West of West Bay Road (parcel 11D45)</td>
<td>35</td>
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<tr>
<td>New Main Parking Area (parcel 11D37)</td>
<td>350</td>
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</tbody>
</table>

Forecasted Utilization

| Current Utilization Ratio | (Demand/Available spaces) | 0.50 |
| Forecasted Need | |
| Overnight Guest | (based on current ratio) | 32 |
| Employees | (based on current ratio) | 130 |
| Total Forecasted Need | (Current Demand x Available spaces) | 162 |

Excess available for Special Events

| Parking bay per room | 0.69 |

Planning currently allows for 50% off-site parking variance

| Current Parking Requirement per Code | 385 |
| Allowed off-site parking | 192 |

| Current Parking Requirement based on Current Utilization | 162 |
| Allowed off-site parking | 81 |

We would ask for 91% off-site parking variance for employee parking **shuttle to be provided**
Appendix F
Date: 02 September 2022

To: Central Planning Authority (“CPA”)

Re: National Conservation Council (“NCC”) & Department of Environment (“DoE”) as agent, Memorandum dated 23 August 2022:

Review: Application for planning consent P22-0735
Westin Resort: New Hotel Annex, Conference Centre & Associated Facilities on Parcel 11D45, West Bay Beach North, Grand Cayman

The Director of Environment’s comments on behalf of the National Conservation Council are noted and commended.

DIRECTED CONDITION

Applicant recognises and supports this directive to CPA to impose this Directive as a condition of planning consent.

1. All construction materials shall be stockpiled a minimum of 75ft from the Mean High Water Mark.

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

RECOMMENDED CONDITIONS

Applicant agrees with the imposition of the following conditions of planning consent as recommended by the Department of Environment (DoE):

2. The applicant shall, prior to the issuance of a Building Permit, prepare and submit a Turtle Friendly Lighting Plan which minimises the impacts of artificial lighting on sea turtles. The plan shall be reviewed and approved by the DoE in accordance with their published advisory “Turtle Friendly Lighting: Technical Advice Note” dated September 2018.
(i) Exterior lighting and/or specifications for visible light transmittance shall be installed and maintained in accordance with the above Turtle Friendly Lighting Plan.

(ii) On completion of construction and exterior lighting fixtures and specifications for visible light transmittance have been installed, DoE shall, prior to the issuance of the Certificate of Occupancy by the Department of Planning, inspect the exterior lighting and specifications for visible light transmittance thereof, for compliance with the above Turtle Friendly Lighting Plan.

3. Prior to the commencement of construction work, applicant shall contact DoE to check for the presence of turtle nests for written approval that no nests will be impacted by the commencement of such work.

4. Beach-side construction fencing associated with the works shall be installed and positioned by applicant at least 75 feet from the coastal property boundary and as far landward as possible to minimise impacts on the turtle nesting habitat. 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. Written approval shall be obtained by applicant from DoE that no nests will be impacted by the installation of the fence. DoE shall inspect and approve the fence after installation for suitability for the exclusion of turtles.

5. All construction material shall be stockpiled landward of the beach-side construction fencing.

6. No construction work, vehicle access, storage of equipment and materials or other operations shall take place on the beach seaward of the construction fencing during turtle nesting season (01 May to 30 November annually) without the express consent of DoE.

7. If the construction contemplates using insulating concrete forms, measures (such as screens or other enclosures along with vacuuming) shall be deployed 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 turtle nesting beach and adjacent Marine Protected Area.

8. Any beach sand excavated during construction shall be retained on-site and shall be placed along the active beach profile.

(i) If beach sand is to be placed on the beach during turtle nesting season (1st May – 30th November yearly), the express consent of DoE is required to ensure that turtle nests are not adversely impacted.

(ii) If there is an excess of beach sand that cannot be accommodated on-site, the removal of such sand off-site by applicant if so desired, shall be the subject of a separate consultation with the National Conservation Council.

ANDREW GIBB  FCIOB RIBA MAPM LEED AP

Applicant Agent
Appendix G
Date: 29 September 2022

To: Central Planning Authority (“CPA”)

Re: National Roads Authority (“NRA”), Memorandum RDS/DEV/11D dated 05 September 2022:
Review: Application for planning consent P22-0735
Westin Resort: New Hotel Annex, Conference Centre & Associated Facilities on Parcel 11D45, West Bay Beach North, Grand Cayman

The Transportation Planning Unit’s comments on behalf of the National Roads Authority are noted and commended.

We understand and accept that

ROAD CAPACITY:

• we will work with NRA to derive a Complete Street concept and design for the section of West Bay Road onto which the proposed development site 11D45 fronts, and which will incorporate the components of landscaping, traffic calming and pedestrian crossing points that are integral to Complete Street proposals;

• if so directed by CPA as a condition of planning consent grant or adjournment, we will undertake a Traffic Impact Assessment at NRA’s advice and direction in order to determine the effects of the proposed development on this location, as NRA believe them to be moderate to significant;

• we will employ external consultants¹ to carry out this Assessment in compliance with NRA and CPA requirements.

ACCESS & TRAFFIC MANAGEMENT:

• the proposed pedestrian crossing which are a part of the Complete Streets Project as envisaged for this section of West Bay Road and an integral component part of our proposal to re-locate a substantial portion of the

¹ To be appointed from a list of qualified firms approved for this purpose by NRA
required parking supporting our development proposal, will need to be approved by the NRA Traffic Management Panel;

• the proposed Parking Management Strategy (v.2) as submitted in support of our application for planning consent in terms of Regulation 8(1)(c), is acceptable to NRA and is to be implemented as a condition of planning consent grant.

ROAD DESIGN & STORMWATER MANAGEMENT:

• all standard roadwork horizontal geometry and stormwater management requirements as recommended by NRA, to be imposed on applicant as conditions of planning consent grant.

ANDREW GIBB  FCIOB RIBA MAPM LEED AP

Applicant Agent
Appendix H
Table of Contents

• Overview of Expansion Plan

• Autograph Collection Resort: Branding Overview

• Parking Variance Request

• Overview of Parking Mitigation Plan
The Future of The Westin Grand Cayman: Expansion Project Overview
The Westin Grand Cayman today

• 343 luxuriously appointed guestrooms

• 11,400sf. of unparalleled meeting space, including an 500-person capacity ballroom

• Rejuvenating 7,000 sf Hibiscus Spa featuring 11 treatment rooms

• State-of-the-art WestinWORKOUT fitness studio

• 6 world-class restaurants and bars plus the ever-popular Cayman Coffee Exchange

• Oceanfront resort pool situated along 700 feet of pristine shoreline on the famed Seven Mile Beach
Expansion Project Overview

- Construction of a new 10-storey resort tower affiliated with Marriott’s Autograph Collection brand.
- 234 new modern guestrooms with stunning ocean views
- Rooftop pool and restaurant
- Resort style pool located adjacent to Seven Mile Beach
- Luxuriously appointed spa featuring 15 treatment rooms
- Ocean-facing restaurant with al fresco dining
- Construction of a new conference facility including a new 9,400sf ballroom
- New parking facilities on east side of West Bay Road (just north of Sunshine Suites)
Expansion Project Overview

Density Allowance:

Maximum Allowable Guestrooms (65 rooms/acre): 559 rooms
Existing Guestrooms (Westin):
  less: Guestrooms Change-of-Use: 343 rooms
  New Guestrooms (Hotel Annex): (18 rooms)
  New Guestrooms (Hotel Annex): 234 rooms
Total Proposed Guestroom Provision:
Total Proposed Guestroom Provision %: 559 rooms 100.00%
### Expansion Project Overview

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
<th>Coverage</th>
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</thead>
<tbody>
<tr>
<td>Parcel 11D45 Area</td>
<td>8.60 Ac</td>
<td>374,616 sq ft</td>
</tr>
<tr>
<td>Maximum permitted Coverage</td>
<td></td>
<td>40.00% 149,847 sq ft</td>
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<tr>
<td>Existing Building Coverage</td>
<td></td>
<td>92,819 sq ft</td>
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<tr>
<td>Existing Covered Walkway Coverage</td>
<td></td>
<td>2,845 sq ft</td>
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<tr>
<td>Total Existing Building Coverage</td>
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<td>95,664 sq ft</td>
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<td><strong>Total Building Coverage %:</strong></td>
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<td>25.54%</td>
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<tr>
<td><strong>Total Demolitions:</strong></td>
<td></td>
<td>(23,071) sq ft</td>
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<tr>
<td>New Hotel Annex (Tower):</td>
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<td>34,506 sq ft</td>
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<td>New Conference Facility (Ballroom):</td>
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<td>18,410 sq ft</td>
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<tr>
<td>New Covered Walkways:</td>
<td></td>
<td>10,971 sq ft</td>
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<tr>
<td><strong>New Total Building Coverage:</strong></td>
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<td><strong>136,480</strong> sq ft</td>
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<td><strong>New Total Building Coverage %:</strong></td>
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<td><strong>36.43%</strong></td>
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<td>Existing Walkway, Roads &amp; Decks Coverage</td>
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<td>101,720 sq ft</td>
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<td><strong>Existing Walkway, Roads &amp; Decks Coverage %:</strong></td>
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<td><strong>27.15%</strong></td>
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<tr>
<td>less demolitions /breakup:</td>
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<td>(38,044) sq ft</td>
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<td><strong>New Total Walkway, Roads &amp; Decks Coverage:</strong></td>
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<td><strong>63,676</strong> sq ft</td>
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<td><strong>New Total Walkway, Roads &amp; Decks Coverage %:</strong></td>
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<td><strong>17.00%</strong></td>
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Exterior - Before
Exterior - After
Exterior Model (West view)
Exterior Model (East view – West Bay Road entrance)
Hotel Entrances along West Bay Road

- Westin Entrance
- Autograph Collection Entrance
- New Conference Center
New Conference Center and Event Lawn

Existing Westin

New Conference Center Entrance

New Outdoor Event Lawn
Autograph Collection Hotel – Ground Floor / Lobby Level
Autograph Collection Hotel – Pool Area, Lobby, and Restaurant

- View from new Autograph Collection lobby
- Ocean-front restaurant with outdoor dining
- Resort style pool
- Poolside bar
- View from new Autograph Collection lobby
Level 2 – Spa, Fitness Center, and Guestrooms
View from Rooftop Bar
Infinity Edge Rooftop Pool
Autograph Collection Resort: Branding Overview
Autograph Collection Resort: The Vic

THE VIC

RESORT & SPA
7 MILE BEACH • GRAND CAYMAN

AUTOGRAPH COLLECTION® HOTELS
What is The Vic?

Balancing Grand Cayman's colourful past with a decidedly modern 'British Beach' experience,

THE VIC IS

ADVENTUROUS
PLAYFUL
SMART
RELAXED
REFINED

×

BRITISH IN INTENT. BEACH IN NATURE.
Having traveled great distances, our guests arrive at last, stepping squarely onto the X as they’re greeted at the front desk.
The Vic – Entrance and Arrival Experience
The Vic – Ground Floor Plan & Inspiration

**X MARKS THE SPOT**
Stepping literally over the X that marks the spot, they’ve officially arrived in paradise proper.

**THE LOBBY**

**STOWAWAY READING ROOM**
Curious and clever guests may discover our secret library on their own; for others it will take a tip from our staff.

**HEADS UP**
Head-turning display of 20 antique diving helmets. Restored in shining, polished brass.

**PROPER TEA RITUAL**
Each afternoon at 4pm sharp, guests are invited to enjoy a proper British high tea, alongside delectable sweets.
The Vic – Lobby Rendering (1 of 3)
The Vic – Guestroom Rendering
The Vic – Guestroom Rendering
The Vic – Guestroom Rendering
The Vic – Guest Bathroom Rendering
The Vic – Sir Bobo Restaurant
The Vic – Sir Bobo Restaurant
The Vic – Crown & Glory – Rooftop Poolside Bar & Lounge

CROWN & GLORY
The Vic – Crown & Glory – Rooftop Poolside Bar & Lounge
The Vic – Crown & Glory – Rooftop Poolside Bar & Lounge (outdoor seating)
The Vic – Crown & Glory – Rooftop Poolside Bar & Lounge (top-down view)
REIGN
A ROYAL SPA
AT THE VIC
The Vic – Reign – A Royal Spa at The Vic (Reception)
The Vic – Reign – A Royal Spa at The Vic (Vitality Pool)
The Vic – Reign – A Royal Spa at The Vic (Treatment Room)
Parking Variance Request
Parking Provision Analysis

Parking provision required on parcel 11D45 for existing Resort: 198 bays

New parking provision requirements:

Additional guestroom allocation (216 guestrooms ±1 bay /2 rooms): 109 bays

Restaurant Facilities (net new /adjusted areas)

<table>
<thead>
<tr>
<th>Facility</th>
<th>Bay</th>
<th>Square Feet</th>
<th>New Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-Meal Restaurant</td>
<td>1</td>
<td>2,834³</td>
<td>15 bays</td>
</tr>
<tr>
<td>3-Meal Kitchen</td>
<td>1</td>
<td>(1,182⁴)</td>
<td>(6) bays</td>
</tr>
<tr>
<td>Banquet Kitchen</td>
<td>1</td>
<td>3,578</td>
<td>6 bays</td>
</tr>
<tr>
<td>Sky Bar + Kitchen</td>
<td>1</td>
<td>4,291</td>
<td>22 bays</td>
</tr>
<tr>
<td>Foyer Coffee Bar</td>
<td>1</td>
<td>1,271</td>
<td>8 bays</td>
</tr>
</tbody>
</table>

Restaurant Facilities (adjusted areas)

Event Space (net new /adjusted areas)

<table>
<thead>
<tr>
<th>Space</th>
<th>Bay</th>
<th>Square Feet</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conference</td>
<td>1</td>
<td>7,297</td>
<td>25 bays</td>
</tr>
<tr>
<td>Meeting Rooms⁶</td>
<td>1</td>
<td>(2,656)</td>
<td>(9) bays</td>
</tr>
</tbody>
</table>

Retail Space

<table>
<thead>
<tr>
<th>Space</th>
<th>Bay</th>
<th>Square Feet</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Spa</td>
<td>1</td>
<td>7,810</td>
<td>27 bays</td>
</tr>
<tr>
<td>Reverse exist. Spa</td>
<td>1</td>
<td>(2,901)</td>
<td>(10) bays</td>
</tr>
</tbody>
</table>

Total Additional Parking Bay Provision required: 187 bays

Total Parking Provision required: 385 bays
## Parking Utilization Analysis (1 of 2)

### Current Parking Utilization

<table>
<thead>
<tr>
<th>Rental Cars - Overnight Guest</th>
<th>Avg Daily</th>
<th>Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-site rental</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Off-site rental</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Total</td>
<td>20</td>
<td>20</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employees</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>80</td>
<td>80</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Existing Parking (excluding Regatta)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking bay per room</td>
<td>0.61</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Utilization Factor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(Demand/Available rooms)</td>
<td>0.50</td>
</tr>
</tbody>
</table>

### Total Daily Parking

<table>
<thead>
<tr>
<th>Utilization Factor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(Demand/Available rooms)</td>
<td>100</td>
</tr>
</tbody>
</table>

### Future Parking Requirement (keeping existing PLUS code requirement for the Hotel Annex)

<table>
<thead>
<tr>
<th>Hotel Guestrooms</th>
<th>Rooms/Area</th>
<th>Parking requirements</th>
<th>Required Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2:1 Ratio</td>
<td></td>
</tr>
<tr>
<td>Westin Existing</td>
<td>325Keys</td>
<td>163</td>
<td></td>
</tr>
<tr>
<td>Add’l rooms</td>
<td>234Keys</td>
<td>117</td>
<td></td>
</tr>
<tr>
<td></td>
<td>559</td>
<td>280</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commercial Area</th>
<th>Existing Westin Commercial Parking</th>
<th>Current Condition</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant</td>
<td>6,500 incr sf</td>
<td>1 per 300 sf</td>
<td>45</td>
</tr>
<tr>
<td>Conference</td>
<td>8,500 incr sf</td>
<td>1 per 300 sf</td>
<td>16</td>
</tr>
<tr>
<td>Spa &amp; Salon</td>
<td>5,100 incr sf</td>
<td>1 per 300 sf</td>
<td>17</td>
</tr>
</tbody>
</table>

| Total Required  |                                    |                    |                  |
|-----------------|                                    | 385               |

<table>
<thead>
<tr>
<th>Parking bay per room</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.69</td>
</tr>
</tbody>
</table>
# Parking Utilization Analysis (2 of 2)

<table>
<thead>
<tr>
<th>Planned Supply</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>West of West Bay Road (parcel 11D45)</td>
<td>35</td>
</tr>
<tr>
<td>New Main Parking Area (parcel 11D37)</td>
<td>350</td>
</tr>
<tr>
<td><strong>Available</strong></td>
<td><strong>385</strong></td>
</tr>
</tbody>
</table>

## Forecasted Utilization

<table>
<thead>
<tr>
<th>Current Utilization Ratio</th>
<th>(Demand/Available spaces)</th>
<th>0.50</th>
</tr>
</thead>
</table>

### Forecasted Need

- **Overnight Guest** (based on current ratio) | 32
- **Employees** (based on current ratio)        | 130

### Total Forecasted Need

**(Current Demand x Available spaces)** | **162**

### Excess available for Special Events

**Plus, Current Parking Variance allows for the Westin Grand Cayman to “off-park” in the Regatta (now Leeward) office park opposite the Resort**

### Parking Variance

Planning currently allows for 50% off-site parking variance.

<table>
<thead>
<tr>
<th>Current Parking Requirement per Code</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowed off-site parking</td>
<td>192</td>
</tr>
<tr>
<td>On-site parking</td>
<td>193</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Current Parking Requirement based on Current Utilization</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowed off-site parking</td>
<td>81</td>
</tr>
<tr>
<td>On-site parking</td>
<td>81</td>
</tr>
</tbody>
</table>

We would ask for 91% off-site parking variance for employee parking **shuttle to be provided**
Applicant requests a variance to allow the off-site parking to be increased from a maximum of 50% to 90%.
Applicant’s proposal would include 385 total parking spaces available for the Westin and the Vic hotels.
Parking Mitigation Plan
Current Condition
Proposed Condition

AFTER-HOUR PARKING @ REGATTA BUSINESS PARK
(LEEWARD OFFICES)

WEST BAY ROAD

WEST BAY ROAD IMPROVEMENTS PENDING OWNER & GOVERNMENT APPROVAL

PARKING AND STAGING

GOV'T BALLROOM

BANQUET KITCHEN

WESTIN HOTEL

THE VIC

SUNSHINE SUITES

ESTERLY TIBBETTS HWY

LIME TREE BAY AVE

500' R

500' R
Parking Lot – Proposed Landscaping and Mood Imagery
Parking Lot – Proposed Pedestrian Promenade

1) PROMENADE FROM PARKING TO HOTEL WEST BAY ROAD CROSSING

2) PROMENADE FROM PARKING TO HOTEL WEST BAY ROAD CROSSING

3) WEST BAY ROAD WITH TRAFFIC-CALMING PAVING & BANDING & UPGRADED PLANTING WITHIN RAISED MEDIAN
Parking Lot – Proposed Pedestrian Promenade

+/- 380'-0"

PEDESTRIAN PROMENADE FROM PARKING AREA TO HOTEL RESORT

22'-0" WIDE VEHICLE ACCESS ROAD FROM PARKING AREA TO HOTEL RESORT UPGRADED W/ TINTED PATTERNED ASPHALT

UPGRADED LANDSCAPING & HARDSCAPE TO CAYMAN FALLS / ROAD INTERFACE ZONE
Parking Lot – Proposed Pedestrian Crossing Safety Features
Parking Lot – Proposed Pedestrian Crossing – View from West Bay Rd.
Parking Lot – Proposed Pedestrian Crossing – Aerial View

CONFERENCE CENTRE

RESORT FORECOURT
ARRIVAL INGO

night view of pedestrian crossing

WEST BAY ROAD

PEDESTRIAN LINK FROM MAIN PARKING AREA

MAIN PARKING AREA
VEHICULAR ACCESS
Parking Lot – Proposed Pedestrian Crossing – View from Parking Lot

HOTEL ANNEX

WESTIN RESORT

CONFERENCE CENTRE

WEST BAY ROAD

PEDESTRIAN PROMENADE LINK TO WESTIN RESORT FROM MAIN PARKING AREA

view of Resort pedestrian link from Leeward parking area
Local Events: Major Driver of Parking Demand

- The Westin historically hosts 12-18 local annual events, conferences, and/or galas that exceed 100 local attendees. In 2019, Westin hosted 16 events over 100 attendees with only 6 of these events in excess of 300 attendees. In 2018, Westin hosted 13 events in excess of 100 attendees with only 2 exceeding 300.

- These local events create the most parking demand, because those attendees are typically driving themselves to the event.

- It is expected that the offsite parking lot and the pedestrian crosswalk across West Bay Road will be most heavily utilized before and after these events.

- Our parking mitigation ensures that these events, while limited in number, will be executed safely.

**EXAMPLE EVENT TIMELINE (6:00PM – 10:00PM EVENT):**

- Employees arrive
- Guests arrive
- Guests depart
- Employees depart

- Shuttle Service between Hotel and Offsite Parking Lot (continuous)
- Crossing guard at illuminated West Bay Road pedestrian crosswalk
- Valet parking service for event guests
- Parking Monitor provided in The Falls parking lot to ensure no illegal parking
Government House

- Government House, located adjacent to the Westin to the north, frequently hosts events including dinners, galas, and receptions.
- Government House has very limited parking, and individuals attending these events typically park along West Bay Road or in the parking lots of nearby businesses.
- Event attendees at Government House will be welcome to park in the new proposed parking lot on the east side of West Bay Road. This will significantly relieve congestion along West Bay Road and create a safer experience for event attendees and drivers alike.
Regatta Business Park

- Regatta Business Park, located on the east side of West Bay Road directly across from the Westin and new proposed Conference Center, would be a beneficiary of the proposed expansion.
- Dart, the owner of the Regatta Business Park, has expressed their support for the expansion.
- The tenants of the Regatta Business Park will benefit from the new pedestrian crossing across West Bay Road, as it will give them safer access to the Westin resort, the new Autograph Collection resort, and the resorts’ restaurants and amenities.
- Currently, the Regatta’s patrons do not have a convenient cross walk available for safe maneuvering of West Bay Road.
The Falls

- The Falls – a 2-storey strip mall with restaurants, offices, shops, and residences – has a parking shortfall.
- Patrons of the Falls’ restaurants are utilizing the Westin’s existing parking spaces during high demand periods (lunch and dinner) adversely impacting the current parking for Westin guests and creating an unsafe passage of West Bay Road.
- Subject to availability, the proposed parking expansion on the east side of West Bay Road would benefit the tenants of the Falls.
- The new dedicated pedestrian cross walk will provide safe passage to the Falls’ office tenants who wish to utilize the Westin’s food and beverage outlets.
Villas of the Galleon

• The Villas of the Galleon is a condominium property located immediately south of the new proposed tower along Seven Mile Beach.

• The strata of the Villas of the Galleon is supportive of the proposed expansion of the Westin resort and the new Autograph Collection tower and the associated parking mitigation plan.

• The strata and the condominium owners look forward to taking advantage of the new amenities and dining outlets.

• The strata has no outstanding objections to the expansion project.
Thank You
Appendix I
15 February 2023

Your Ref: CPA/24/22: Item 2.6

The Director of Planning, Planning Department
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT P22-0735:
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility (‘Ballroom’),
Change-of-Use (Banquet Kitchen, Meeting Rooms, Back-of-House) & 2 Pools

Traffic Impact Analysis: Submission of Terms of Reference for CPA Approval

We act for Applicant /Owner /lessee Invincible Investment Corporation as agent.

The Central Planning Authority (CPA), in response to our application for the above planning consent (adjourned for this purpose), required that Applicant produce and submit for their consideration a Traffic Impact Analysis (TIA) of the planning consent application scope, and where the Terms of Reference (ToRs) for such TIA as approved by the National Roads Authority (NRA) be submitted to CPA for their consideration and approval in due course.

The proposed ToRs for the TIA in draft form and dated February 2023 are appended hereto as Annexure A. Also appended as Annexure B is an email communication from NRA dated 14 February 2023 approving the proposed draft ToRs.

Yours sincerely

[Signature]
THE WESTIN GRAND CAYMAN EXPANSION PROJECT

PROPOSED TRAFFIC IMPACT STATEMENT

TERMS OF REFERENCE

FEBRUARY 2023

Draft

ANNEXURE A
THE WESTIN GRAND CAYMAN EXPANSION PROJECT
PROPOSED TRAFFIC IMPACT STATEMENT
TERMS OF REFERENCE

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THE WESTIN GRAND CAYMAN EXPANSION PROJECT
PROPOSED TRAFFIC IMPACT STATEMENT
TERMS OF REFERENCE

1.0 INTRODUCTION

A major expansion is planned for the Westin Grand Cayman on West Bay Road. These terms of reference (ToR) scoping report present the proposed methodology that will be employed during the preparation of the Traffic Impact Statement (TIS). APEC Consulting Engineers Ltd (APEC) will be undertaking a traffic study, analysis of existing and future traffic and an assessment of the potential impacts of the expanded resort on the public road network.

Figure 1 - Proposed expansion

1.1 PROPOSED SCOPE OF ASSESSMENT

The TIS will follow the National Roads Authority (NRA) requirements ‘Terms of Reference and Guidelines for Conduct of Traffic Impact Study in the Cayman Islands, March 2013’.

It shall assess the traffic impacts associated with the resort on the surrounding road network and assess all possible mitigation measures. This assessment will be presented through a TIS. The TIS will be organized in such a way as to set out the existing situation, present the proposed development and determine what impact, if any, the site-generated traffic will have on the surrounding road network.
2.0 PROPOSED METHODOLOGY

2.1 BACKGROUND AND EXISTING CONDITIONS
The TIS will provide background information on the proposed project including its location and proponent. The existing road network surrounding the proposed site will be described by way of site plan / map. This will include descriptions of traffic controls of nearby intersections. Details of existing pedestrian, cycle and public transport facilities will also be provided.

2.2 PROPOSED DEVELOPMENT
A summary will be provided of the site development, including the proposed increase in guest rooms, the new conference / ballroom facility and reconfiguration of the vehicle parking. A detailed description of any project construction phasing will be provided.

Other information included as part of this assessment will include:

- Information on likely hours of operation of the resort, number of employees, classification of vehicles on site and estimation of number of vehicles remaining on site and number of vehicles using surrounding road network
- Internal Layout (Traffic circulation, pedestrian routes, visibility and road width, speed control measures) and the proposed use of a shuttle service between the resort and the surface car park during peak periods
- On-site and remote parking (Provision, disabled percentage, layout & impact from valet and pedestrian crossings)
- Public Transport (provision, access from site)

2.3 STUDY AREA
The study area for the TIS will include the following neighbouring public roads:

- West Bay Road
- Esterly Tibbetts Highway
- Safehaven Drive
- Lime Tree Bay Avenue

The following intersections will be included in the network model:

- West Bay Road /Safehaven Drive
- North exit from Sunshine Suites onto Esterly Tibbetts Highway
- Lime Tree Bay Avenue /West Bay Road
- Westin Resort north service access with West Bay Road
- Westin Resort main entrance access with West Bay Road
- The Falls Centre north service lane (Sunshine Suites VROW) /West Bay Road
- The Falls Centre south service lane (Sunshine Suites access) /West Bay Road
- Westin Resort south service access with West Bay Road
2.3.1 **TRAFFIC DATA**

Data of the traffic flows on the existing road network within the study area will be gathered by way of a combination of automatic traffic counters\(^1\) (on West Bay Road) and manual turning movement counts (at the identified intersections) undertaken by APEC staff and / or associates. The proposed locations are included in Appendix A. Traffic data from automatic traffic counters will be collected for a period of at least 7 days. This traffic data will be analyzed to assess current traffic flow (annual average daily traffic and peak hourly flows), speed and classification through the study area.

We will request traffic count data from the 2016 / 2017 NRA island-wide traffic count project. Initial review of the traffic count shows that data should be available for West Bay Road and the Esterly Tibbetts Highway.

Data on the current operation of the existing Westin Resort will be reviewed, including data from the hotel operator on current car park usage, stayover statistics, staffing levels, etc.

A summary will be presented of any committed / proposed road developments in the study area that will be undertaken in the future. In addition, any proposed significant developments that may impact the traffic flows in the study area will be assessed.

2.4 **TRAFFIC ANALYSIS**

The traffic data from 2016 / 2017 (if available), the data from 2012 along with updated data gathered as part of this study will be analyzed in order to estimate the likely traffic flows associated with the Westin Expansion.

An assessment will be undertaken of the existing road capacity based on existing traffic volumes in accordance with Institution of Transportation Engineers (ITE) Manual MTTE2. This assessment will be presented in table format showing the existing capacities on the road network within the study area.

The TIS will undertake traffic analysis based on the following approach:

- Existing and projected traffic volumes (including turning movements),
- Description of existing road network within study area and any proposed road(s) / accesses
- Traffic controls (where applicable)
- Project trip generation
- Project generated trip distribution and assignment
- Level of service of the existing and of the future / horizon conditions, both with and without the project
- References to other traffic impact studies (as may be necessary)

2.4.1 **TRIP GENERATION / ATTRACTION**

An estimate will be made of the likely trips generated by the Westin Expansion. Peak times of operation will be identified during the day and during the week. The impact of the proposed remote surface car park will be incorporated.

\(^1\) PicoCount 2500 counter with pneumatic road tubes
2.4.2 **Assessment Year / Design Year Horizon**

The assessment / design year(s) will be selected in order to undertake the traffic impact analysis. We propose to assess the impacts at 5 and 10 years following opening of the facility. Future traffic flows will be calculated based on NRA forecasts for traffic growth. It is proposed that a 3% growth rate be used, however we will review this in line with expected growth rates for tourism in general for the Cayman Islands.

2.5 **Capacity Analysis**

Intersection capacity analysis will be undertaken based on traffic associated with the expansion. Impacts, if any, on the current levels of service will be calculated. The impact on transportation route(s) to and from the resort and its remote car park will be assessed. Roads (existing and any proposed modifications, including the proposed West Bay Road enhancements) that may be affected by the Westin related traffic will be highlighted. The scope of this assessment will include both the near-term (Year 5) and overall long-term (Year 10) in order to determine the resulting transportation impacts of the traffic operations on the surrounding road network, particularly during the morning and evening peak hour conditions.

2.6 **Mitigation**

Roadway improvements or traffic management strategies will be recommended, if required, to mitigate unsafe conditions or increased traffic congestion along transportation routes. Other strategies that may be required could include requiring truck (deliveries, etc) movements to be undertaken during off-peak periods.
RE: 23001 - Westin TIA: Draft Terms of Reference

Pandohie, Marion <Marion.Pandohie@nra.ky>
Tue 14 Feb 2023 5:40 PM
To: Denis P. Murphy <Denis@apec.com.ky>; Andrew Gibb <andrew.gibb@gibbarchitect.com>
Cc: Ronan O'Keeffe <Ronan@apec.com.ky>; Pearse Murphy <Pearse@apec.com.ky>; Thibeault, Denis <Denis.Thibeault@nra.ky>

Good Afternoon Denis,

I hope all is well.

I have taken a look at the ToR and it appears ok.

Thank you.

Cheers,

Mrs. Marion Pandohie, MCRP, MPA & AICP
Transportation Planner/Information Manager

370 North Sound Road (PWD Compound), P.O. Box 10426, Grand Cayman KY1-1004, Cayman Islands
Main Tel: 345-946-7780 | Direct Tel: 345-640-8408 | Cell: 345-525-0666 | Email: marion.pandohie@nra.ky

Dogs' lives are too short. Their only fault, really

From: Denis P. Murphy [mailto:Denis@apec.com.ky]
Sent: Tuesday, February 14, 2023 9:53 AM
To: Pandohie, Marion <Marion.Pandohie@nra.ky>; Andrew Gibb <andrew.gibb@gibbarchitect.com>
Cc: Ronan O'Keeffe <Ronan@apec.com.ky>; Pearse Murphy <Pearse@apec.com.ky>; Thibeault, Denis <Denis.Thibeault@nra.ky>
Subject: [EXTERNAL] Re: 23001 - Westin TIA: Draft Terms of Reference

Good morning Marion

I am following up on the above. Do you have any comments on the ToR before it is submitted to Planning?

Regards

ANNEXURE B
Appendix J
The Westin Grand Cayman
Resort, Hotel Annex & Conference Centre
Parking Management Strategy (draft v.2.1)

05 May 2023
Existing Parking Conditions
(refer Diagram A)

Applicant currently provides 198 parking spots to accommodate 343 guestrooms, a 3-meal restaurant (for guest use only), a specialty restaurant and approximately 10,000 sq ft of retail, meeting and conference space. Staff and employees use about 80 of these bays per shift and rental cars about 20 bays. This leaves around 100 parking bays for social and local traffic needs.

Applicant provides the neighbouring Sunshine Suites resort guests access to the Westin Resort facilities. These guests and other pedestrians patronising the Cayman Falls shops and restaurants are left to cross West Bay Roads as they see fit and many elect not use the current pedestrian crossing due to its inconvenient location.

Attendees of locally hosted conferences, galas and charity events (which have in the past included the Cayman Arts Festival, Cayman National Orchestra concerts, the Governor’s Award luncheon, the CARIFTA Games Congress, the Royal Cayman Islands Police training course and breakfast and the Miss Cayman Islands Universe Pageant) are left to find parking and many patrons, finding themselves frustrated at the apparent lack of ‘convenient’ parking directly outside the Westin Resort, attempt to leave their vehicles along roadway verges in the area or on adjacent properties or vacant lots.

This situation, not just for the new Hotel Annex and Conference Centre as proposed, but even for the existing Westin Resort as it stands, is not conducive to the amenity of the neighbourhood for its guests and residents, and presents an opportunity for structural and operational improvement of its parking facilities.

Existing Parking Utilisation

The current Westin Resort daily parking utilisation for its 343 guest rooms averages out at 20 rental vehicles- 16 sourced at Owen Roberts International Airport and 4 sourced at the Resort and kept parked on the premises.

There are approximately 80 parking bays used per shift by Resort employees.

On any given day, there are approximately 100 parking bays occupied either by Resort guests or employees on shift. The balance of the 198 provided parking is variously occupied by local patrons, other staff or visitors or are vacant (estimated between 15 and 20 bays when conference facilities are not in use). The net Utilisation Ratio is therefore 0.5 per available guestroom based on guest and employee use of available parking spaces.

Refer to the attached supplementary Parking Deployment, Use & Efficiency analysis.

Future Parking Utilisation

Based on the above Utilisation Ratio of 0.5, Applicant forecasts daily parking utilisation of its proposed 559 guestrooms at 32 parking bays for rental cars (combination of airport and on-premises rental vehicles) and approximately 130 parking bays used per shift by Resort employees.

This yields a total forecasted parking requirement of 162 bays.

Based on a projected provision of 385 parking bays in compliance with Development & Planning Regulations, there would be an excess of 223 parking bays available for Resort ‘special events’ hosted in its conference and other meeting facilities.
Proposed Improved Parking Facilities
(refer Diagram B)

In terms of the variance as requested of the Central Planning Authority in Applicant’s letter motivating the grant of planning permission for a new Hotel Annex and Conference Centre and notwithstanding that the area proposed to accommodate off-site parking is only 380 ft away from the Westin Resort itself (a leisurely 2-minute walk), Applicant as resort operator, proposes to adopt the following procedures in order to establish a Parking Management Strategy as required under regulation 8(1)(c) as varied in terms of this motivation, that alleviates the congestion issues listed above:

- Provide approximately 140 bay dedicated Resort staff/employee parking
- Provide a dedicated shuttle connection to the Resort for use by staff, guests and residents if they so desire or require
- Provide a total of 385 parking bays to accommodate 559 guestrooms and related facilities- a ratio of 0.69 parking bays per room compared to the existing Resort's lower ratio of 0.58 parking bays per room (Planning Regulations stipulates 0.5 parking bay per guestroom)
- Provide more flexibility in parking provision for evening gala and entertainment events for local residents and patrons
- Create in partnership with the National Roads Authority and adjacent neighbours, a landscaped street-scape where the resort fronts onto West Bay Road consistent with the expectations of a 1st class 5 star resort destination and similar and equal to the landscaping created at Camana Bay
- Create an effective, identifiable and well-lit pedestrian crossing point as incorporated with and part of the landscaped street-scape allowing safe crossing of West Bay Road for both pedestrians and shuttles at all times of day and night
- Create more certainty for a direct connection and parking availability for guests and residents in contrast to cruise-searching hoping to find parking
- Eliminate potential traffic generated by 130 Resort employees entering and leaving via West Bay Road by encouraging them to use Esterley Tibbetts Highway to enter and exit their assigned parking areas
- Implement and enforce employee parking restrictions using the latest GPS technology
- Provide a 5 star valet parking service with sufficient staging area (an amenity now expected in all major high-end resorts internationally, and rapidly becoming the expectation locally) that provides a useful and convenient way of Resort guests and patrons to efficiently access the Resort facilities
- Provide parking monitors to adjacent neighbors during high demand periods to ensure parking enforcement
- Eliminate casual and haphazard parking along West Bay Road and adjacent properties (and a nuisance to Cayman Falls shopping centre on West Bay Road opposite the Resort)
- Provide excess parking that could be utilised for other local events (such as receptions at the adjacent Governor's Residence)

The Parking Management Strategy should be maintained as a dynamic and comprehensive structural and integrated operational parking management plan that deploys a significantly more efficient parking system at a higher capacity and level of convenience without loss of amenity for guests and residents alike.

---

1 As part of the Authority’s proposed West Bay Road beautification initiative based on the Authority’s ‘Complete Street’ principles and concepts to create a more amenable West Bay Road pedestrian experience in phases through the use of landscape, traffic calming installations and incorporating a safe pedestrian and shuttle crossing points with user request crossing control systems along West Bay Road
Parking Operational Plan & Features

Applicant intends as part of giving effect to the primary objective of creating and maintaining a comprehensive structural and integrated operational parking provision strategy, to deploy the following components

(refer route map in Diagram C):

Valet Parking service

for Resort guests and local patrons
indicated as blue / orange routes

Staging at the Westin Resort’s proposed Arrival Forecourt will use 27 dedicated staging bays as an operational ‘hub’. Valets, stationed at the Resort Arrival Forecourt or in the off-site parking lot, are dispatched using radio or WiFi communications.

Vehicles parked by valets are taken from the Forecourt to the Main Parking Area along the orange route as indicated (south along West Bay Road then left into the Sunshine Suites Resort access roadway, past the Resort and into the Parking Area), and returned to the Forecourt along the blue route as indicated (exit the Main Parking Area left into Esterley Tibbetts Highway, left into Lime Tree Bay Avenue, left into West Bay Road then right into the Westin Resort Forecourt ingo).

Shuttle service

Shuttle for employees

Employee shuttle indicated as dark blue dashed route

A shuttle service is available for employees who are required under the Parking Management Strategy to park their vehicles in a designated part of the Main Parking Area, and from which a shuttle bus will depart and return at primary shift change hours and as needed upon request.

The route of the employee shuttle will be left into Esterley Tibbetts Highway, left into Lime Tree Bay Avenue, left into West Bay Road then right into the Banquet Kitchen service lay-by, back onto West Bay Road, right into the Hotel Annex service lay-by, then returning south along West Bay Road then left into the Sunshine Suites Resort access roadway, past the Resort and into the employee section of the Main Parking Area.

Resort Guest Shuttle

Shuttle for self-park/local events (using electric carts) indicated as blue chainlink route

Resort guests and local patrons may wish to avail themselves of the Resort Guest Shuttle, which will be a shuttle service using high-capacity passenger carts departing and arriving as needed on guest or patron request.

This shuttle will use the access roadway leading from the Main Parking Area past the north side of the Cayman Falls shopping centre to cross over West Bay Road (adjacent to the re-located pedestrian crossing) into the Resort Forecourt ingo-and return along the same route to the Main Parking Area.

The frequency of this shuttle will be based on guests’ and patrons’ requests, Resort conference functions at the time as well as restaurant brunch service, late lunch service, evening service etc and high Resort guest occupancy demand.

Mandated Parking Zones

Resort Arrival Forecourt

The Resort Arrival Forecourt will be designated for these parking and vehicular uses only- casual arrival with the intent of using valet parking will be
acceptable, but casual long-term parking use of any of the parking bays will not be permitted:

- Taxi or non-guest /patron driver drop-off at either Annex or Westin portes cochere- taxi to leave the Forecourt after drop-off
- Taxi arrival and park (anticipating a fare or a called-in fare pick-up)- taxi occupies a designated bay by pre-arrangement with Resort operator for a designated time
- Vehicles awaiting valet dispatch to Main Parking Area or vehicles returned from Main Parking Area by valets to departing Resort guests or patrons, who after collecting their vehicle, leave the Resort Forecourt (NOTE: additional queuing space will be available in the new parking lot callable upon need)
- Parking for disabled Resort guests and patrons

**Main Parking Area**

The Main Parking Area will be partitioned into zones that will provide

- prime parking areas intended for Resort guests and patrons along with rental car parking and storage located closest to the Resort to the east of the Cayman Falls residential precinct- to be used by valets to park vehicles after guest drop-off in the Resort Forecourt
- secondary parking areas intended for staff parking only and which use will be mandated by the Resort operator, and located east of the prime parking area designated for Resort guest and patron use. Employee’s vehicles are to have appropriate identification, and if found in a non-assigned parking space including Resort and Conference Centre guest and patron parking zones, Sunshine Suites and Cayman Falls parking zones, will result in a sanction imposed by the Resort operator as employer.

**Pedestrian Crossing Zone**

An essential component of the Parking Management Strategy is the provision of an effective and efficient means of crossing West Bay Road on the way from the Main Parking Area to the Resort Forecourt, the two Resort portes cochere and the Conference Centre entrance.

The crossing point itself is intended to be incorporated in the National Roads Authority plans for ‘streetification’ of the West Bay Road precinct which intends creating a more amenable West Bay Road pedestrian experience in phases through the use of landscape, traffic calming installations and a clear identification of a pedestrian zone that would include the crossing point over West Bay Road in a safe and seamless manner.

Owner will work hand in hand with adjacent neighbors and the NRA to coordinate on the installation of a fully compliant and safe streetscape.

**Pedestrian Promenade**

This is the land- and hard-scaped walkway that provides the main pedestrian connection between the Resort pedestrian crossing point on West Bay Road and the Main Parking Area. It is approximately 380' long including the pedestrian crossing, 8' to 10' wide and which would take no longer than 2 minutes to traverse at a leisurely pace.

The pavilion roof and vertical screening interspersed with lush landscaping and efficient but unobtrusive safety lighting provides a pleasant ambulatory experience for those Resort guests and patrons taking advantage of the convenient connectivity with the Resort Forecourt, Annex, Westin and Conference Centre entrances.
Main Parking Area Access Street

This roadway is a 20’-0’ right-of-way over the Cayman Fall centre property along its north boundary in favour of the leasehold proprietor (Sunshine Suites owner) of parcel 11D37 on which the Main Parking Area is located.

This street allows 2-way vehicular traffic access directly from West Bay Road to the Main Parking Area, and more importantly, when suitably upgraded, is the traffic route over which Resort guests and patrons access this parking area as well as the route used by the courtesy Resort Guest Shuttle service only. Valet service will operate only along the ‘orange’ and ‘blue’ routes as indicated on Diagram C.

In full co-operation with the owners of the Leeward Office Park, the pedestrian traffic will be routed through the Pedestrian Promenade which effectively separates the vehicular traffic on the adjacent right-of-way street from pedestrian use of the Promenade.
Educating Grand Cayman Residents about new parking provisions at the Westin Resort

It is an important component of the success of the Parking Management Strategy that all residents, guests and patrons of the Westin Resort and Conference Centre are informed of the proposed new Main Parking Area and how they will get to know about it, know how to access and exit it, and more significantly, are aware of its benefits and advantages.

A series of public relations and notification exercises involving e-mail campaigns, social media, online information (e.g. on the resort website), and print media, are to be derived as part of the Parking Management Strategy that will inform the public, local residents, guest and patrons on these key issues in an easily accessible and understandable manner- by the time the Resort and Conference Centre development is complete and open for business, the using public (local residents, Resort guests and patrons as well as conference attendees) should be absolutely familiar with the location of, access to and connection with the Resort and Conference Centre facilities- whether access to them from the Main Parking Area is by walking up the Pedestrian Promenade or by shuttle service, or availing themselves of parking valet service available at the Resort forecourt off West Bay Road.

Location of and Access to and from the Main Parking Area

The location of the Main Parking Area is to be clearly defined by easily-legible maps and diagrams that indicate its area and parking bay layout, and the different zones for Westin staff and Westin guests and patron are clearly delineated.

Access routes to and from Esterley Tibbetts Highway as well as from West Bay Road are to be clearly defined and whether the routes are one-way or two-way roads- the intention to inform the public how easy these access points are to reach and use.

The communication of location awareness should ensure from an early point in the Resort and Conference Centre development, local residents are informed of the location and benefits of the Main Parking Area as and when they choose to visit the Resort itself or an event hosted at any of the Resort or Conference Centre facilities.

Access to and Use of the Resort Forecourt & Porte Cochere

As important to the public’s awareness of the location and benefits of the Main Parking Area, is the awareness of the purpose of the Resort and Conference Centre Forecourt and Portes Cochere, and more particularly, the very limited availability of parking in the Forecourt.

Local residents and Resort patrons should be made aware not only of the convenience of using the Main Parking Area, but that the Forecourt is primarily for guest and patron drop-off purposes only, some limited ADA and disabled persons parking provision and a taxi-rank. There is also provision for small tour bus lay-byes at the Conference Centre porte cochere to allow passenger alighting.

Valet Parking Service

Guests and patrons intending to use the Forecourt area should be fully aware that a competent valet parking service is available to them at the Forecourt on a drop-off and collect basis, and as in other major urban centres and cities around the world, making use of a valet parking service provided by hospitality operators, is common, convenient and safe both from a security aspect as well as no risk of damage to the vehicle being parked or retrieved by a suitable experienced valet.

Availability & Use of Shuttle Services

Local residents and Resort patrons should be made aware at an early stage of the Resort development, of the deployment and operation of a competent and convenient shuttle service to and from the Main Parking Area to the various Resort
and Conference Centre Porte Cochères and drop-off points.

It is intended that the shuttle service be dynamic and responsive to Resort events, facility use and bespoke Conference Centre events such as weddings, service club meetings, graduation balls, concerts etc, and that different shuttle services would be deployed specifically to meet the needs of these different events.

Road Wayfinding & Signage

A critical component of the Parking Management Strategy is the design and deployment of a competent wayfinding and signage system that informs and instructs the using public (local residents, Resort guests and patron as well as conference attendees) as to proximity of and access to the Main Parking Area.

Signs informing location and direction to the parking areas should be informative and should reinforce correct route adoption- the intention is, along with the public education programme referred to herein, to allow users a clear indication of how to access the Main Parking Area, where to park within it, and how and where to exit to ensure access to north-bound or south-bound connector roads.

The Resort ownership is to engage an experienced third-party signage and wayfinding consultant to assist with the derivation of a competent wayfinding and signage deployment that satisfies industry best practice as well as providing the directions and route reinforcement critical to the success of the parking management plan serving the Resort and its facilities as being convenient, useful and to the entire satisfaction of the Resort guests, patrons and staff members.
Westin Resort and The Falls Shops & Offices: A Symbiotic Relationship?

Located directly opposite the Westin Resort on West Bay Road is The Falls- a 2-storey strip mall consisting of ground floor shops and restaurants including Captain Marvin’s Watersports, Legendz Bar, Eats Café, diner and Yoshi Sushi restaurant, with several offices and business service outlets on the upper level.

The Falls property statistics

- Gross area (including covered walkways) is estimated at 36,000 sq ft
- Provided parking is estimated at 84 spaces, giving a provided parking ratio of 1 bay per 464 sq ft development area
- Planning requirements for parking provision are 1 bay per 300 sq ft, giving The Falls an apparent parking deficit of some 36 bays
- 9,000 sq ft is restaurant space which requires under planning regulations a parking provision requirement of 1 bay per 200 sq ft- the parking deficit should accordingly be increased to 50 bays.

This significant shortfall of parking provision has a negative effect on the relationship between The Falls and the Westin Resort opposite, as there exists a negative perception between the owners of The Falls and the Westin Resort that The Falls is losing potential customer parking space to Westin Resort guests, patrons and staff- particularly when large events are hosted at the Westin putting parking availability pressure on all immediately available parking spaces on both properties. It is likely that at The Falls’ busy restaurant and bar patronage time (lunch and evening service) there is a parking availability shortfall resulting in the Westin Resort parking provision being used by The Falls patrons.

Notwithstanding this parking shortfall at The Falls, there is considerable patronage of The Falls’ retail businesses by guests resident at the Westin Resort, particularly the food and beverage outlets that offer a different food and bar experience to that of the Resort. The benefits of this custom to The Falls is appreciated by the food and beverage operators there, as these customers do not use parking facilities and so reduces pressure on the limited parking availability at The Falls.

This Parking Management Strategy would not be complete without addressing this parking provision issue. Westin Resort ownership regards resolution of this matter and the establishment of a working relationship with The Falls ownership that mitigates the mutually negative effects of this under-provision of parking spaces at The Falls and the irregular ‘fly’ parking occurring at the centre due to overall parking provision shortages in this immediate precinct of Seven Mile Beach resulting from patronage pressure at both Resort and The Falls. Aspects of this relationship re-set that should be recognised in the context of this Parking Management Strategy include

- provision of dedicated Westin Resort employee parking in the new Main Parking Area- parking restrictions will be enforced using the latest GPS technology which will prevent Resort employees from parking in The Falls retail parking spaces in both short term long terms
- deployment of parking monitor personnel at The Falls during high demand periods to ensure parking enforcement at Westin Resort expense, including during periods of construction activity at the Resort
- provision of improvements to the ROW roadway over The Falls property serving the Main Parking Area and provision of landscaping between the Falls and Regatta Office Park to enhance the general amenity of these areas for mutual benefit to the Resort and The Falls
- provision of a dedicated shuttle connection to the Resort for use by staff, guests and patrons which is to further organise and regulate overall parking lot usage vs the alternative of ‘fly’ parking alternatives
• provision of a total of 345 parking bays in the new Main Parking Area which would allow for overflow parking to be available for use by patrons of The Falls, particularly Eats Café, Legendz Bar, and Yoshi Suchi restaurant

• provision of pre-organised parking plans based on time of arrival and departure to better accommodate evening gala events hosted at the Westin Resort and Conference Centre for local residents and patrons as well as informing The Falls restaurants and businesses of these events

• provision of an effective, identifiable and well-lit pedestrian crossing point inviting more custom by Resort guests and patrons to visit The Falls' various restaurants, retail and service outlets

• elimination of casual, haphazard and sometimes illegal 'fly' parking occurring along the verges of West Bay Road and Safehaven Drive, and in and around adjacent properties such as The Falls, Sunshine Suites and adjacent to the Governor’s Residence

• provision of excess parking capacity that could be utilised for other local events such as receptions hosted at the adjacent Governor's Residence, guests and patrons of which otherwise would have been tempted to park at The Falls, Governor’s Square as well as at the Westin Resort itself
PEDESTRIAN PROMENADE LINK TO WESTIN RESORT FROM MAIN PARKING AREA

view of Resort pedestrian link from Leeward parking area
## Parking Deployment, Use & Efficiency

### Current Parking Utilization

<table>
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<tr>
<th>Rental Cars - Overnight Guest</th>
<th>Avg Daily Parking</th>
<th>Parking</th>
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<tr>
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<tr>
<td>Total</td>
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| Employees                     | 80                | 80     |

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<th>Existing Parking (excluding Regatta)</th>
<th>Utilization Factor</th>
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<td>Parking bay per room</td>
<td>(Demand/Available rooms)</td>
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### Forecasted Utilization

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<tr>
<td>Overnight Guest</td>
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<td>Employees</td>
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<td>Total Forecasted Need</td>
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### Planned Supply

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### Commercial Area

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<td>Conference</td>
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<td>Spa &amp; Salon</td>
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<table>
<thead>
<tr>
<th>Total Required</th>
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<tbody>
<tr>
<td>Parking bay per room</td>
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We would ask for 91% off-site parking variance for employee parking **shuttle to be provided**
Appendix K
15 May 2023

The Director of Planning, Planning Department
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT P22-0735:
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility (‘Ballroom’),
Change-of-Use (Banquet Kitchen, Meeting Rooms, Back-of-House) & 2 Pools


We act for Applicant /Owner /lessee Invincible Investment Corporation as agent.

The Central Planning Authority (CPA) in response to our application for the above planning consent (adjourned for this purpose) required that Applicant produce and submit for their consideration, a Traffic Impact Analysis (TIA) of the planning consent application project scope, and where the Terms of Reference (ToRs) for such TIA were approved by CPA under Item 5.1 CPA/06/23.

The final TIA as prepared by APEC Consulting Engineers and dated May 2023, is hereby submitted to the Department of Planning for consideration by CPA in due course.

Yours sincerely

[Signature]
Appendix L
THE WESTIN GRAND CAYMAN EXPANSION PROJECT

TRAFFIC IMPACT STATEMENT

May 2023

Final for Submission
# THE WESTIN GRAND CAYMAN EXPANSION PROJECT
## TRAFFIC IMPACT STATEMENT
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**APPENDIX A** - CPA approved Terms of Reference of the Traffic Impact Statement

**APPENDIX B** - Automatic Traffic Count Data

**APPENDIX C** - Manual Traffic Count Data

**APPENDIX D** - Assessment Horizon Traffic Flow Data
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<tr>
<td>Base Year</td>
<td>Year of Data Collection (2023)</td>
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<td>CFP</td>
<td>Cayman Falls Plaza</td>
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<td>Cayman Islands Government</td>
</tr>
<tr>
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</tr>
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</tr>
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<td>Esterley Tibbetts Highway</td>
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<td>GFA</td>
<td>Gross Floor Area</td>
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<td>HGV</td>
<td>Heavy Goods Vehicle</td>
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<tr>
<td>LOS</td>
<td>Level of Service</td>
</tr>
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<td>LTBA</td>
<td>Lime Tree Bay Avenue</td>
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<td>Planned opening year plus 10 years (2035)</td>
</tr>
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<td>Northbound</td>
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<td>Near-Term Assessment Year</td>
<td>Planned opening year plus 5 years (2030)</td>
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<td>National Roads Authority</td>
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<td>Opening Year</td>
<td>Planned opening year of Expanded resort (2025)</td>
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<td>SB</td>
<td>Southbound</td>
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<tr>
<td>SD</td>
<td>Safehaven Drive</td>
</tr>
<tr>
<td>SF</td>
<td>Square Foot / Feet</td>
</tr>
<tr>
<td>SSR</td>
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</tr>
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<td>TIA</td>
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</tr>
<tr>
<td>TOR</td>
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</tr>
<tr>
<td>WB</td>
<td>Westbound</td>
</tr>
<tr>
<td>WBR</td>
<td>West Bay Road</td>
</tr>
</tbody>
</table>
1.0 INTRODUCTION

The Westin Grand Cayman Seven Mile Beach Resort has applied to the Central Planning Authority (CPA) for permission to construct an expansion to the resort. The CPA has requested that a Traffic Impact Statement be prepared to outline the impacts of the proposed expansion on the surrounding road network. APEC Consulting Engineers Ltd (APEC) were engaged to undertake a traffic study, including an analysis of existing and future traffic and an assessment of the potential impacts of the expanded resort on the public road network.

The proposed Westin Expansion is located on the site of the existing resort on West Bay Road (WBR). The majority of vehicle parking facilities will be provided at an off-site carpark located across WBR, accessed via an at-grade pedestrian crossing. The proposed expansion is expected to open in 2025.

The Traffic Impact Statement (TIS) is organized to set out the existing situation, present the proposed development and determine what impact, if any, the expansion generated traffic and relocated carpark will have on the surrounding road network. This report summarises the traffic study, analysis of existing & predicted future traffic flows and outlines the potential traffic and transport impacts of the expanded resort.

A Terms of Reference (TOR) was prepared which outlined the proposed methodology for this traffic impact assessment. This was issued to the client, the NRA and the CPA for review in February 2023. The CPA approved the TOR at meeting 06/23 on 15 March 2023 and had no comments to add. The CPA approved Terms of Reference is included in Appendix A.
2.0 BACKGROUND AND EXISTING CONDITIONS

The proposed Westin Resort expansion is located on the site of the existing Westin Resort to the west of West Bay Road (WBR) between Safehaven Drive (SD) and Lime Tree Bay Avenue (LTBA). The resort is accessible only via West Bay Road, through three access points – the northern service entrance, the southern service entrance, and the main access driveway located at the middle of the site. The resort is located across the road from the Cayman Falls Plaza (CFP) and Sunshine Suites Resort (SSR).

2.1 STUDY AREA

The study area for this impact assessment consists of the roads neighbouring the development, as listed below:

- West Bay Road
- Safehaven Drive
- Lime Tree Bay Avenue
- Esterley Tibbetts Highway

The following intersections / accesses are located within the study area:

- Lime Tree Bay Avenue / West Bay Road,
- Westin Resort North service access on West Bay Road,
- Regatta Office Park exit only onto West Bay Road,
- Westin Resort main entrance access on West Bay Road, directly across from
- The Cayman Falls Plaza north service lane on West Bay Road,
- Westin Resort South service access on West Bay Road, directly across from
- The Cayman Falls Plaza south service lane (Sunshine Suites access) on West Bay Road,
- West Bay Road / Safehaven Drive,
- Left In and Left Out accesses to Sunshine Suites on Esterley Tibbetts Highway

Refer to the Figure 1 showing the study area and location plan.

WBR is a two-way single carriageway road. LTBA and SD are both two-way road with central paved / grassed medians. Esterley Tibbetts Highway (ETH) is a two-way dual carriageway with curbed & grassed median. The intersections on West Bay Road are unsignalised stop-controlled intersections. The accesses on West Bay Road are all unsignalised priority controlled.
Figure 1 – Study Area location plan showing existing road network
2.1.1 PUBLIC TRANSPORT
An existing bus service operates within the study area along both WBR and the ETH. According to the Public Transport Unit within CIG (CaymanTransport.ky), bus routes 1 and 2 travel along WBR passing the resort, while bus route 3 operates on the ETH within close proximity to the resort. The frequency of the bus service is not known, however they have been observed to be quite frequent (approx. every 15 mins during peak periods). There is a bus shelter across the road from the resort, for passengers wishing to go towards George Town. Additionally, the bus service in Cayman typically stops upon request of the passengers. The resort is readily accessible by public transport.

2.1.2 PEDESTRIAN / BICYCLE FACILITIES
There are currently extensive pedestrian facilities within the study area. There is a continuous sidewalk on the west side of WBR while there is also a significant length of sidewalk on the east side of WBR, opposite the resort. There is a pedestrian crossing on WBR between the Westin Resort and Cayman Falls Plaza. This crossing is button actuated by pedestrians when they wish to cross the road.

There are no dedicated off-road facilities for bicycles within the study area, however bicycles regularly travel within the shoulder along WBR and the ETH in both directions. There is a short-term bike rental kiosk across the road from the Westin resort, adjacent the Cayman Falls Plaza. There are also electric scooters readily available for rent along WBR.

2.2 TRAFFIC DATA
Data of the existing traffic flows on the surrounding road network within the study area was gathered by way of a combination of automatic traffic counters\(^1\) and turning movement counts undertaken by APEC staff.

2.2.1 EXISTING TRAFFIC VOLUMES - AUTOMATIC TRAFFIC COUNTERS
Traffic data from automatic traffic counters was collected at three locations between March 28 and April 21, 2023.

- West Bay Road (adjacent the Ritz Hotel Resort, slightly south of the Westin resort) – 11 complete days of data (7 weekdays)
- Lime Tree Bay Avenue (East of intersection with West Bay Road) – 23 complete days of data (14 weekdays)
- Esterley Tibbetts Highway, Northbound (adjacent Sunshine Suites Resort) – 5 complete days of data (3 weekdays)

Refer to Figure 2 for traffic count locations.

\(^1\) PicoCount 2500 counter with pneumatic road tubes
Figure 2 – Traffic Count Location Plan
The baseline traffic flow in the study area was established to assess the impact of the proposed resort expansion on the surrounding road network. **Table 1** through **Table 3** present a summary of the results from the automatic traffic counts.

<table>
<thead>
<tr>
<th></th>
<th>Northbound</th>
<th>Southbound</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Weekday</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morning (AM) Peak</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>07:30 – 08:30</td>
<td>366</td>
<td>433</td>
<td>799</td>
</tr>
<tr>
<td>Average Weekday</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evening (PM) Peak</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16:30 – 17:30</td>
<td>618</td>
<td>382</td>
<td>1000</td>
</tr>
<tr>
<td>Average Weekday ADT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>7835</td>
<td>5195</td>
<td>13030</td>
</tr>
</tbody>
</table>

**Table 1 – West Bay Road Traffic Volume**

<table>
<thead>
<tr>
<th></th>
<th>Eastbound</th>
<th>Westbound</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Weekday</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morning (AM) Peak</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>07:30 – 08:30</td>
<td>153</td>
<td>368</td>
<td>521</td>
</tr>
<tr>
<td>Average Weekday</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evening (PM) Peak</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16:30 – 17:30</td>
<td>298</td>
<td>248</td>
<td>546</td>
</tr>
<tr>
<td>Average Weekday ADT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3023</td>
<td>3855</td>
<td>6878</td>
</tr>
</tbody>
</table>

**Table 2 – Lime Tree Bay Avenue Traffic Volume**

<table>
<thead>
<tr>
<th></th>
<th>Northbound</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Weekday</td>
<td></td>
</tr>
<tr>
<td>Morning (AM) Peak</td>
<td></td>
</tr>
<tr>
<td>08:00 – 09:00</td>
<td>845</td>
</tr>
<tr>
<td>Average Weekday</td>
<td></td>
</tr>
<tr>
<td>PM Peak</td>
<td></td>
</tr>
<tr>
<td>17:00 – 18:00</td>
<td>1486</td>
</tr>
<tr>
<td>Average Weekday ADT</td>
<td></td>
</tr>
<tr>
<td></td>
<td>14074</td>
</tr>
</tbody>
</table>

**Table 3 – Esterley Tibbetts Highway Northbound Traffic Volume**

The data from the automatic traffic counters has been included in **Appendix B**.
The data gathered from the automatic counters were used to establish the morning (AM) and evening (PM) peak periods. These were later verified by way of manual traffic counts at intersections within the study area – refer to Section 2.2.2.

2.2.2 EXISTING TRAFFIC VOLUMES – MANUAL TURNING MOVEMENT COUNTS

Manual turning movement counts were undertaken at the following locations on April 19th, 2023 during both the morning and afternoon peak periods:

- Lime Tree Bay Avenue / West Bay Road,
- Westin Resort North service access on West Bay Road,
- Regatta Office Park exit only onto West Bay Road,
- Westin Resort main entrance access on West Bay Road, directly across from The Cayman Falls Plaza north service lane on West Bay Road,
- Westin Resort South service access on West Bay Road, directly across from The Cayman Falls Plaza south service lane (Sunshine Suites access) on West Bay Road,
- West Bay Road / Safehaven Drive,
- Left In and Left Out accesses to Sunshine Suites on Esterley Tibbetts Highway

Refer to Figure 2 for traffic count locations.

The traffic data gathered during the manual turning movement counts is summarised in the figures below.

This manual traffic count data is included in Appendix C.
Figure 3 – Intersection of West Bay Road & Lime Tree Bay Avenue – Morning Peak

Figure 4 – Intersection of West Bay Road & Lime Tree Bay Avenue – Evening Peak
Figure 5 – Westin North Access on West Bay Road – Morning Peak

Figure 6 – Westin North Access on West Bay Road – Evening Peak
Figure 7 – Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road – Morning Peak

Figure 8 – Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road – Evening Peak
Figure 9 – Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road – Morning Peak

Figure 10 – Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road – Evening Peak
Figure 11 – Intersection of West Bay Road & Safehaven Drive – Morning Peak

Figure 12 – Intersection of West Bay Road & Safehaven Drive – Evening Peak
Figure 13 – Sunshine Suites Access / Egress on Esterley Tibbetts Highway – Morning Peak

Figure 14 – Sunshine Suites Access / Egress on Esterley Tibbetts Highway – Evening Peak
2.2.3 **Existing / Base Year Peak Hour Traffic Flow Analysis**

Analysis has been undertaken of the existing traffic flows within the study area to establish the current Level of Service (LOS) on the surrounding roads. This analysis is based on the manual traffic counts undertaken in April 2023.

Interrogation of the available data has established the traffic flows on the surrounding road network during both the morning and evening peak hours. The vehicle classification information from the available data was used to apportion heavy goods vehicles (HGVs), buses, bicycle/motorcycles and passenger cars on the road network within the analysis models. The focus of this analysis review will be on roads within the study area.

Level of service (LOS) is a term used to qualitatively describe the operating conditions of a roadway based on measures related to speed and travel time, freedom to manoeuvre, traffic interruptions, and comfort and convenience. The LOS ranges from A (least congested) to F (most congested). **Table 4** shows the definitions of each level of service.

<table>
<thead>
<tr>
<th>Level of Service</th>
<th>General Operating Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Free flow</td>
</tr>
<tr>
<td>B</td>
<td>Reasonably free flow</td>
</tr>
<tr>
<td>C</td>
<td>Stable flow</td>
</tr>
<tr>
<td>D</td>
<td>Approaching unstable flow</td>
</tr>
<tr>
<td>E</td>
<td>Unstable flow</td>
</tr>
<tr>
<td>F</td>
<td>Forced or breakdown flow</td>
</tr>
</tbody>
</table>

**Table 4 - General Definitions of Levels of Service**

Based on previous discussions with the NRA, the minimum LOS standard for roads within the Cayman Islands is LOS “D”. Any step below LOS “D” would require mitigation action to improve the traffic flow.

The traffic flow data was analysed using Sidra Intersection\(^2\), version 7 using the in-built capacity calculations. The six main intersections/accesses within the study area were analysed as part of the overall WBR network. Refer to **Figure 15** and **Figure 16** showing the resulting Level of Service for the WBR network during the morning and evening peak hours. Note that the model outputs show the network indicatively and do not show the comparative scale between intersections/accesses. The model inputs, however, do include the relative distance between the side roads.

---
\(^2\) Sidra Intersection is a software package used for intersection and network capacity, level of service and performance analysis, and signalised intersection and network timing calculations by traffic design, operations, and planning professionals.
The LOS is colour-coded on the following diagrams as follows:

LOS A  LOS B  LOS C  LOS D  LOS E  LOS F

From data gathered during the traffic count on the ETH, it has been shown that the traffic flow into and out from the Sunshine Suites access is approx. 1% of the northbound traffic flow during the morning peak and 3% during the evening peak. Due to these insignificant flows, it is deemed unnecessary to model this intersection / access.

During the manual traffic counts, it was observed that frequent actuation of the pedestrian crossing by those wishing to cross the road between the Westin and Cayman Falls Plaza caused some queuing, at times, along WBR. This was due to short intervals between pedestrians pressing the button to activate the crossing lights. This queuing was observed to be 8-10 vehicles at worst.
The results of modelling the WBR network in the study area as a whole, which includes the six intersections / accesses analysed above during the morning peak period is shown in Figure 15. The results show that WBR operates at LOS A along this entire length during the morning peak period. The results also show that most approaches / accesses to WBR experience LOS B or C, with the Westin main entrance / exit experiencing LOS D.
The results of modelling the WBR network during the evening peak period is shown in Figure 16. The results show that WBR operates at LOS A along this entire length, while the side road approaches / accesses experience LOS B or C.

Figure 16 – Sidra Model – West Bay Road Network - 2022 - PM Peak - Lane LOS
2.3 Operation of Existing Westin Resort

To estimate the volume of vehicles accessing the proposed Westin Resort Expansion, it is necessary to undertake some analysis of the current operation and guests of the Westin Resort. The existing resort possesses 343 guestrooms, 11,400 square feet (SF) of meeting / event space, spa, fitness studio and six dining options. According to documents accompanying the planning submission, the existing resort has a Gross Floor Area (GFA) of 213,955 SF. Refer to Figure 17 giving an overview of the layout of the existing resort.

Based on information provided by the hotel operator, it is understood that hotel guests typically arrive between 2:00pm - 5:00pm with approximately 75 check-ins daily during peak season (November to April) and 65 check-ins per day on average throughout the year. Most guests arrive in groups of two or more per vehicle, so the average impact is 35-40 vehicles per days for arrivals during this time period. Hotel guest departures generally occur between 10:00am – 1:00pm, in similar quantities to those arriving.

Hotel guests arrive mostly by air and travel directly from the Owen Roberts International Airport (ORIA) to the hotel. Most flights land at ORIA between 10:00am – 3:00pm, and it typically takes hotel guests 60 - 90 minutes from deplaning to arrive at the Westin (including time to clear customs, utilize the facilities, collect their luggage, and coordinate transportation). Most guests departing the resort between 10:00am and 1:00pm for mid-day or afternoon flights.

Figure 17 – Existing Westin Resort Layout
The majority of guests (+/- 80%), arrive via taxi. Of the remaining guests, about 10% arrive by pre-arranged shuttle transports (e.g. groups) and 10% arrive by rental cars. There are rental cars available on site at the resort for those guests that may wish to rent a vehicle during their stay.

There are shuttle buses that are used by some hotel guests (mainly groups) for coordinated off-site tours / excursions and / or evening “dine arounds” on island. The excursion shuttles typically depart in the morning between 7:00am – 11:00am, and “dine around” buses depart around 6:00pm. For these events, groups typically utilize anywhere from 5 to 8 buses (which can accommodate approximately 30 individuals) depending on the numbers of guests in their group.

Waste collection and service deliveries are typically scheduled to occur between 10:00am - 4:00pm, outside the peak hours on WBR. These typically utilise the northern or southern service access to the Westin site.

The Westin Resort parking lot is used by employees, hotel guests, rental cars and by food & beverage (F&B) guests. There are currently 198 parking spaces provided on the Resort site. Based on data provided by the resort management, the resort currently employees 350 employees during peak season and approximately 298 employees on average throughout the year. The management track the usage of the parking spaces. The charts in Figure 18 and Figure 19, the peak and average parking space usage along with typical arrival times by user (i.e. hotel employees, hotel guests, and F&B guests) is shown. As can be seen from the charts, most of the parking is utilised by resort employees. It is clear from the data provided and based observations during the traffic counts that a significant proportion of employees arrive by bus.

![Figure 18 – Existing Parking Utilisation – Peak Season](image)

Figure 18 shows the current estimated hour-by-hour typical parking usage by the three usage groups mentioned above on an “average” day.
Large meetings / events held at the Westin’s conference facilities occur typically 10-16 times per year. Patrons for these events can either avail of valet service or self-park their vehicles. Most events are aimed at hotel guests / groups and as such generate limited traffic flow on the surrounding road network. For those events that are aimed at the local residents, these events typically occur outside of the peak periods for traffic flow.
3.0 PROPOSED DEVELOPMENT

The proposed Westin Resort Expansion incorporates the construction of a new 10-storey resort tower with 234 guestrooms, a rooftop pool and restaurant, resort style pool, a new spa featuring 15 treatment rooms, a new restaurant, new conference facility including a new 9,400 SF ballroom. According to documents accompanying the planning submission, the proposed expansion will occupy a GFA of 213,884 SF.

In addition to the above, new parking facilities will be provided on the east side of WBR (to the north of Sunshine Suites). The new carpark will provide 350 parking spaces a short walk from the Resort site. A proposed pedestrian promenade will connect the off-site parking to West Bay Road for patrons to access the resort. The proposed expansion will remove most of the on-site parking spaces, leaving approx. 34 spaces on the Resort site. Parking for disabled persons will be provided per Department of Planning requirements. Refer to Figure 20 showing an overview of the expanded resort.

![Figure 20 – Proposed Resort Expansion](image)

The existing access points for the Westin Resort will change after construction of the expansion. The existing three accesses, ‘South’, ‘Main’ and ‘North’ will be amalgamated into a single entry and exit loop. It is proposed that the existing pedestrian crossing on WBR between the Westin Resort and Cayman Falls Plaza will be removed. A new pedestrian crossing is proposed slightly north of the existing location, at the western end of the proposed pedestrian promenade. Refer to Figure 21 which shows the site layout.
There will be two service yards provided within the expanded resort, at the north and south ends of the site. Service deliveries are expected to occur outside of the peak hours of traffic flow on WBR, similar to the current operation of the resort.

The proposed layout of the resort drop-off and parking lot is shown in Figure 22. The layout provides several drop-off locations for the various aspects of the resort and shows the proposed layout of sidewalks to provide safe manoeuvres for pedestrians. Speed control measures will be provided within the Westin resort by traffic islands to limit vehicle speed to further enhance safety.
It is expected that traffic travelling to the expanded Westin Resort will travel to the site in a similar manner as they currently travel to the existing resort. Resort guests will use similar means of travel as they currently do - taxi, shuttle bus, rental car, etc. Guests will be dropped off at the porte cochere entrance where they will enter the resort. In the event that the guests arrive by rental car or their own vehicle they will be met by a valet service. The valet service will then park the vehicle in the off-site parking to the east of WBR and that employee member will travel back to the hotel by foot or electric buggy.

There will be limited parking available within the Westin site following the expansion. The majority of parking will be provided at the off-site parking lot adjacent Sunshine Suites Resort. All resort employees will be required to park in the off-site parking lot - this will be monitored and enforced by the resort management team to ensure compliance. Based on the data provided by resort management, the resort is expected to employ 570 employees during peak season and approximately 485 employees on average throughout the year. It is proposed to alter the employee shift times such that they do not occur during the peak periods on WBR / LTBA. The forecasted peak and average parking space usage are shown in Figure 23 and Figure 24, respectively. It is expected that employees will utilise the ETH to access this carpark. The resort proposes to implement measures to monitoring and control this so that essentially all employees will use the ETH.
Figure 24 shows the forecasted hour-by-hour typical parking usage by the three main usage groups on an "average" day.

The Westin conference centre will allow for major local events to be held once the expansion is opened. Parking for these events will be available at the off-site parking lot. These events are expected to typically occur outside of the traffic peak hours, as per the existing situation. Guests will have the option of availing of valet service at the drop-off or to self-park and access the conference centre on foot or by electric buggies. These buggies will travel from the off-site parking lot along the roadway parallel to the pedestrian boulevard and cross WBR to drop-off patrons at the event. Guests travelling on foot will use the new pedestrian crossing to safely cross WBR.
4.0 FUTURE CONDITIONS

4.1 TRIP GENERATION / ATTRACTION
In order to assess the impact of the expanded Westin Resort on the surrounding road network, it is first necessary to estimate the likely trip generation during the peak hours. The proposed expansion increases the size of the resort by 94%. To undertake a robust analysis, the existing trip generation is doubled compared to the existing resort – 200% of existing traffic flow entering and exiting the Westin.

4.2 ASSESSMENT YEAR HORIZONS
As part of the impact assessment of the proposed Westin Resort expansion, the analysis has identified three assessment year horizons to fully evaluate the potential impacts. These horizons are the Opening Year of the facility, the Near-Term Year (5 years after opening) and Medium-Term Year (10 years after opening). It is expected that the Opening Year of the facility will be 2025, therefore giving a Near-Term assessment year of 2030 and Medium-Term Year assessment of 2035. The Base Year for traffic flow is 2023, the year traffic flow data was gathered.

In addition to the Westin expansion related trips, other factors combine to generate future traffic flows. These include background traffic increases based on population growth and increased car ownership. The NRA developed a Travel Demand Model (TDM) following an island-wide traffic study undertaken by them in 2017. Based on this model and the anticipated population growth on island, the NRA predict annual growth in traffic flow to be 4% on arterial roads such as the ETH and 2% on other roads. Based on this, the traffic flows on the surrounding arterial and other road network can be expected to increase from the Base Year by the growth rates outlined in Table 5.

<table>
<thead>
<tr>
<th>Assessment Year Horizon</th>
<th>Growth Rate</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Arterial Roads</td>
</tr>
<tr>
<td></td>
<td>(4% per annum)</td>
</tr>
<tr>
<td>Opening Year 2025</td>
<td>8%</td>
</tr>
<tr>
<td>Near-Term Year 2030</td>
<td>32%</td>
</tr>
<tr>
<td>Medium-Term Year 2035</td>
<td>60%</td>
</tr>
</tbody>
</table>

Table 5 – Assessment Year Growth Rates

4.3 TRIP DISTRIBUTION
Following the opening of the expanded resort, traffic patterns associated with the resort will be expected to change. Resort / hotel guests arriving by taxi, shuttle bus or car will arrive at the hotel entrance where they will enter the resort. In the event that the guests arrive by their own vehicle or a rented vehicle then they will be met by a valet service. The valet team will then park the vehicle in the off-site parking across WBR.
Employees travelling to the expanded resort will be required to park at the off-site parking. Additionally, and as noted above, the existing resort access points will be revised to a single entry and single exit roadway on a loop (see Figure 21).

It is expected that taxis and shuttle buses currently arriving at the Westin resort will continue to arrive at the expanded resort, albeit in increased numbers due to the expansion. Based on data previously presented herein, most of the cars parking at the resort are for employees. These vehicles will divert to parking at the off-site parking lot and the employees will use the new pedestrian crossing on WBR to get to the resort. This will increase the pedestrian flow across WBR, thereby resulting in reduced capacity for traffic flow along WBR.

In order to provide a robust analysis for the pedestrian crossing impact on WBR traffic flow, it is assumed that all cars that currently travel to the Westin resort will divert to using the off-site parking. It is assumed that those vehicles travelling from locations south of the Westin will use both WBR and the ETH to access the off-site parking – assumed to be a 50% split on each roadway. Those using WBR are expected to use the northern Cayman Falls access to travel to the parking lot. The existing Cayman Falls northern access is currently utilised for parking on one side - it will be necessary to eliminate that in future in order to provide unobstructed two-way vehicle manoeuvres. For those employee vehicles travelling from locations north of the Westin, it is expected that 100% of them will use WBR and the northern Cayman Falls access to enter the off-site parking lot. All vehicles leaving the off-site parking lot are expected to use the ETH.

4.4 PROPOSED ROAD DEVELOPMENTS IN STUDY AREA

The NRA propose to develop their ‘Complete Streets’ project along the section of WBR within the study area. The project incorporates traffic calming measures and provides enhanced facilities for vulnerable road users – pedestrians and cyclists. The timeline for the completion of this work is not known at this time, however the design team for the Westin expansion do intend to include some of these features in the vicinity of the resort. There are no other proposed road developments currently planned within the study area.

This TIS does not include an assessment of future developments within the study area other than the proposed Westin Resort expansion. It is assumed that any such development will be subject to separate assessment and permitting process. However, it is assumed that traffic flow from any such development will be in line with background growth as outlined above.

4.5 FUTURE TRAFFIC DATA

The predicted traffic flows within the study area for the three assessment years outlined above have been estimated. Data is presented for two scenarios - the ‘without development’, i.e. the existing situation continuing with background traffic growth, and ‘with development’, with the resort expansion operational. These scenarios draw traffic flow comparisons between the scenario where the development is realised and a scenario where the development does not proceed. The traffic flows have been estimated using the traffic data presented in Section 2.2.2, the trip generation presented in Section 4.1, the altered traffic patterns outlined above and the growth rates identified in Table 5.

The traffic flow figures for future assessment years are presented in Appendix D.
4.6 **Traffic Analysis**

Analysis of the predicted future traffic flows on the surrounding network has been undertaken. As outlined above, the predicted future traffic flows are due to both the expansion of the Westin resort and background growth on the road network. The road network was analysed for both scenarios, the without development and the with development / expansion.

Traffic analysis has been undertaken for the three Assessment Horizons – Opening Year (2025), Near-Term Year (2030) and the Medium-Term Year (2035). The traffic flow data was analysed using Sidra Intersection software, as it was for the Base Year Peak Hour Traffic Flow Analysis in Section 2.2.3. Findings are presented based on the analysis undertaken. Note that the model outputs show the network indicatively and do not show the comparative scale between intersections / accesses. The model inputs, however, do include the relative distance between the side roads.

A reminder that the LOS is colour-coded on the following diagrams as follows:

<table>
<thead>
<tr>
<th>LOS A</th>
<th>LOS B</th>
<th>LOS C</th>
<th>LOS D</th>
<th>LOS E</th>
<th>LOS F</th>
</tr>
</thead>
</table>

Based on interrogation of the traffic flow data for the ETH and the Sunshine Suites access / egress on that road, it can be seen that the opening of the Westin resort expansion is expected to increase traffic flow through the access / egress by 3% relative to the traffic flow on the ETH during both the morning and evening peak periods. Due to these insignificant increases in traffic flow, it is deemed unnecessary to model this intersection / access.

4.6.1 **Opening Year Assessment Horizon – 2025**

Refer to Figure 25 and Figure 26 showing the predicted Level of Service for each approach / lane to each intersection / access on the network for the without and with development scenarios during the 2025 opening year assessment horizon for the morning peak period.

The results show that Lime Tree Bay Avenue will experience a reduction in LOS from B to E following the opening of the Westin expansion - likely due to additional employee arrivals. The increase in pedestrian flow across WBR will cause some reduction in LOS to WBR traffic flow. There is expected to be a reduced LOS on the roadway exiting from the Westin resort caused by the amalgamation of the existing three access roadways and the increased traffic flow on WBR due to background growth. This will not impact the surrounding road network.

Refer to Figure 27 and Figure 28 showing the predicted Level of Service on the network for the without and with development scenarios during the 2025 opening year assessment horizon for the evening peak period.

The results show that the increase in pedestrian flow across WBR will also cause some reduction in LOS during the evening peak period. The Westin exit roadway onto WBR will also experience a reduced LOS during the evening peak.
Figure 25 – Sidra Model – West Bay Road Network – 2025 Without Dev’ - AM Peak - Lane LOS
Figure 26 – Sidra Model – West Bay Road Network – 2025 With Dev’ - AM Peak - Lane LOS
Figure 28 – Sidra Model – West Bay Road Network – 2025 With Dev’ - PM Peak - Lane LOS
4.6.2 **NEAR-TERM ASSESSMENT HORIZON – 2030**

Refer to **Figure 29** and **Figure 30** showing the predicted Level of Service for each approach / lane to each intersection / access on the network for the without and with development scenarios during the 2030 near-term assessment horizon for the morning peak period.

The results show that Lime Tree Bay Avenue will experience a further reduction in LOS from B to F following the opening of the Westin expansion. The increase in pedestrian flow across WBR will continue to cause a reduction in LOS to WBR traffic flow. The roadway exiting from the Westin resort is expected to experience a reduction in LOS.

Refer to **Figure 31** and **Figure 32** showing the predicted Level of Service on the network for the without and with development scenarios during the 2030 near-term assessment horizon for the evening peak period.

The results show that the increase in pedestrian flow across WBR will also cause some reduction in LOS during the evening peak period. The amalgamation of the existing Westin access roadways into a single exit roadway onto WBR will result in a reduced LOS for that approach. The elimination of the Westin South access is expected to result in an improvement on traffic flow on the Sunshine Suites approach due to reduction of conflicting traffic movements.
Figure 29 – Sidra Model – West Bay Road Network - 2030 Without Dev’ - AM Peak - Lane LOS
Figure 30 – Sidra Model – West Bay Road Network - 2030 With Dev’ - AM Peak - Lane LOS
Figure 31 – Sidra Model – West Bay Road Network – 2030 Without Dev’ - PM Peak - Lane LOS
Figure 32 – Sidra Model – West Bay Road Network – 2030 With Dev’ - PM Peak - Lane LOS
4.6.3 MEDIUM-TERM YEAR ASSESSMENT HORIZON - 2035

Refer to Figure 33 and Figure 34 showing the predicted Level of Service for each approach / lane to each intersection / access on the network for the without and with development scenarios during the 2035 medium-term assessment horizon for the morning peak period.

The results show that the increase in traffic flow, predominately due to background growth, will cause a reduction in the LOS on many of the side road and access approaches to WBR. The increase in pedestrian flow across WBR will continue to cause a considerable reduction in LOS to WBR traffic flow. The roadway exiting from the Westin resort is expected to experience a reduction in LOS. The elimination of the Westin South access is expected to result in an improvement on traffic flow on the Sunshine Suites approach due to reduction of conflicting traffic movements.

Refer to Figure 35 and Figure 36 showing the predicted Level of Service on the network for the without and with development scenarios during the 2035 medium-term assessment horizon for the evening peak period.

The results show that the increase in traffic flow, predominately due to background growth, will also cause a reduction in the LOS on many of the side road and access approaches to WBR during the evening peak. The results show that the increase in pedestrian flow across WBR will also cause some reduction in LOS during the evening peak period. The amalgamation of the existing Westin access roadways into a single exit roadway onto WBR will result in a reduced LOS for that approach. The elimination of the Westin South access is expected to result in an improvement on traffic flow on the Sunshine Suites approach due to reduction of conflicting traffic movements.
Figure 33 – Sidra Model – West Bay Road Network – 2035 Without Dev’ - AM Peak - Lane LOS
Figure 34 – Sidra Model – West Bay Road Network – 2035 With Dev’ - AM Peak - Lane LOS
Figure 35 – Sidra Model - West Bay Road Network – 2035 Without Dev’ - PM Peak - Lane LOS
Figure 36 – Sidra Model - West Bay Road Network – 2035 With Dev’ - PM Peak - Lane LOS
4.7 IMPACT ANALYSIS

The analysis sections above show that the existing road network, through the study area, will experience a degradation in future years with future predicted traffic growth due to population increase and growing car ownership, regardless of the construction of the Westin resort expansion.

The opening of the resort expansion with its trip generation and increased pedestrian traffic is expected to cause some additional reduction in the LOS on some areas of the road network – predominately on LTBA, on the WBR at the pedestrian crossing and on the exit from the Westin resort drop-off area. The impact is partly due to the traffic flows associated with the increased number of resort employees. The adjustment of employee shift times will reduce this impact throughout study area.

The impact of the resort expansion and the associated change in traffic patterns will result in a minor increase in traffic on the ETH. It has been shown that this increase is negligible and not likely to cause any perceivable reduction in the LOS on that roadway.

The development of NRA’s Complete Streets program is likely to divert WBR through traffic onto the ETH, though the quantum of this diversion and the timeline for realisation of this program is not known.

4.8 MITIGATION

Possible strategies to mitigate the impact of the Westin expansion on the surrounding road network include limiting the traffic movements associated with the resort that occur during peak hours. Based on information received from the resort management and shared above, it has been shown that resort guests and employees will typically arrive outside of the morning and evening peak hours.

Employee shift changes do currently partially coincide with the road network peak hours. As shown herein, it is proposed to adjust the employee shift times once the expansion becomes operational so that they no longer coincide with the peak periods. This will reduce the impact on WBR and LTBA where a significant proportion of the employee associated traffic movements are located. It can be deduced that the LOS on LTBA will improve back to levels associated with no resort expansion (the without scenario) as there would be very limited employee associated traffic remaining on the surrounding road network during peak periods.

Additionally, employees should be strongly encouraged to use the ETH to travel to and from the off-site parking lot, thereby reducing the impact on WBR. The resort proposes to implement measures to monitor and control this. The relocation of most resort parking to the off-site parking lot will result in less of an impact on WBR as would be the case if all parking for the expanded resort was provided on-site.

The relocation of the pedestrian crossing on WBR and the increase in pedestrian traffic flow resulting in a reduction in LOS on WBR could be mitigated by changing the pedestrian signal control from a button actuated system to a timed system. This would then require pedestrians wishing to cross to request the crossing signal and wait for the appropriate time before crossing. This would allow any queuing traffic on WBR to dissipate before the next pedestrian crossing signal is engaged. This system would likely require a small traffic controller to be constructed and new crossing signals installed. Preliminary analysis of this timed crossing
arrangement in Sidra Intersection shows that the traffic flow on WBR can be improved significantly, likely to LOS A even in the 2035 Medium-Term Assessment Horizon.

As is the case with the existing resort, service deliveries and waste removal are expected to occur outside of the peak hours of traffic flow on WBR. Vehicles accessing the service yards are not expected to have a measurable impact on the traffic flow on WBR. Traffic should be carefully managed whenever there is need to allow a service delivery truck to perform a reversing manoeuvre at the service yard.

Traffic management strategies should be introduced within the Westin resort drop-off area to limit vehicle blockages at busy times. This could be undertaken by the resort’s valet and concierge staff.
5.0 FINDINGS & CONCLUSIONS

The preceding sections provide information on the existing road network surrounding the proposed expansion of the Westin Grand Cayman Seven Mile Beach Resort and describe the current operation of the existing Resort and proposed operation of the expansion. A detailed assessment of the traffic and road related aspects of the proposed development is undertaken, including a discussion on the expected trip generation of the Resort itself. Finally, a capacity assessment is provided for the road network within the study area that could be impacted by the proposed development. Future traffic flows within the study area have been calculated for the Opening Year (2025), Near-Term Year (2030) and the Medium-Term Year (2035), for two cases – namely the ‘without development’ scenario and the ‘with development / expansion’ scenario.

The following points summarise the major assumptions underpinning this Traffic Impact Statement:

- The operations of the expanded resort (operating times, facilities offered, etc.) are expected to be similar to the existing Westin Resort operations with closely correlated traffic demands for the incremental Resort areas and staff numbers. The employee shift times will be adjusted by Resort management, thus significantly reducing the impact of the expanded Resort on the surrounding road network during peak traffic periods.

- Trip distribution to and from the expanded Resort will be affected due to the amalgamation of the existing three accesses and the introduction of an off-site parking lot.

The following points summarise the major findings and conclusions of this Traffic Statement:

- The intersections / accesses within the study area will in any case experience deterioration in service in the future due to projected background traffic growth in Grand Cayman generally.

- The traffic flows associated with guest arrivals / departures will occur outside the peak traffic periods of the surrounding road network thus not impacting the LOS.

- Assuming the Resort employees are required to access the parking lot via the ETH, the impact of the increased traffic flows within the study area as a result of employee parking will have no deterioration of the LOS, particularly along Lime Tree Bay Avenue.

- The increased pedestrian traffic flow across West Bay Road is likely to cause a reduction in the Level of Service for traffic flow on West Bay Road. As has been shown by preliminary analysis, this can be substantially mitigated by the introduction of a timed pedestrian crossing system.

The above mitigation measures (use of the ETH for employee traffic movements, the adjusted employee shift times, and the introduction of a timed pedestrian crossing system) will drastically reduce the impact of the expanded resort on the surrounding road network.
APPENDIX A

CPA approved Terms of Reference of the Traffic Impact Statement
15 February 2023

The Director of Planning, Planning Department
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT P22-0735:
Westin Grand Cayman Resort: New Hotel Annex, New Conference Facility (‘Ballroom’),
Change-of-Use (Banquet Kitchen, Meeting Rooms, Back-of-House) & 2 Pools

Traffic Impact Analysis: Submission of Terms of Reference for CPA Approval

We act for Applicant /Owner /lessee Invincible Investment Corporation as agent.

The Central Planning Authority (CPA), in response to our application for the above planning consent (adjourned for this purpose), required that Applicant produce and submit for their consideration a Traffic Impact Analysis (TIA) of the planning consent application scope, and where the Terms of Reference (ToRs) for such TIA as approved by the National Roads Authority (NRA) be submitted to CPA for their consideration and approval in due course.

The proposed ToRs for the TIA in draft form and dated February 2023 are appended hereto as Annexure A. Also appended as Annexure B is an email communication from NRA dated 14 February 2023 approving the proposed draft ToRs.

Yours sincerely
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1.0 INTRODUCTION

A major expansion is planned for the Westin Grand Cayman on West Bay Road. These terms of reference (ToR) scoping report present the proposed methodology that will be employed during the preparation of the Traffic Impact Statement (TIS). APEC Consulting Engineers Ltd (APEC) will be undertaking a traffic study, analysis of existing and future traffic and an assessment of the potential impacts of the expanded resort on the public road network.

1.1 PROPOSED SCOPE OF ASSESSMENT

The TIS will follow the National Roads Authority (NRA) requirements ‘Terms of Reference and Guidelines for Conduct of Traffic Impact Study in the Cayman Islands, March 2013’.

It shall assess the traffic impacts associated with the resort on the surrounding road network and assess all possible mitigation measures. This assessment will be presented through a TIS. The TIS will be organized in such a way as to set out the existing situation, present the proposed development and determine what impact, if any, the site-generated traffic will have on the surrounding road network.
2.0 PROPOSED METHODOLOGY

2.1 BACKGROUND AND EXISTING CONDITIONS
The TIS will provide background information on the proposed project including its location and proponent. The existing road network surrounding the proposed site will be described by way of site plan / map. This will include descriptions of traffic controls of nearby intersections. Details of existing pedestrian, cycle and public transport facilities will also be provided.

2.2 PROPOSED DEVELOPMENT
A summary will be provided of the site development, including the proposed increase in guest rooms, the new conference / ballroom facility and reconfiguration of the vehicle parking. A detailed description of any project construction phasing will be provided.

Other information included as part of this assessment will include:
- Information on likely hours of operation of the resort, number of employees, classification of vehicles on site and estimation of number of vehicles remaining on site and number of vehicles using surrounding road network
- Internal Layout (Traffic circulation, pedestrian routes, visibility and road width, speed control measures) and the proposed use of a shuttle service between the resort and the surface car park during peak periods
- On-site and remote parking (Provision, disabled percentage, layout & impact from valet and pedestrian crossings)
- Public Transport (provision, access from site)

2.3 STUDY AREA
The study area for the TIS will include the following neighbouring public roads:
- West Bay Road
- Esterly Tibbetts Highway
- Safehaven Drive
- Lime Tree Bay Avenue

The following intersections will be included in the network model:
- West Bay Road / Safehaven Drive
- North exit from Sunshine Suites onto Esterly Tibbetts Highway
- Lime Tree Bay Avenue / West Bay Road
- Westin Resort north service access with West Bay Road
- Westin Resort main entrance access with West Bay Road
- The Falls Centre north service lane (Sunshine Suites VROW) / West Bay Road
- The Falls Centre south service lane (Sunshine Suites access) / West Bay Road
- Westin Resort south service access with West Bay Road
2.3.1 TRAFFIC DATA
Data of the traffic flows on the existing road network within the study area will be gathered by way of a combination of automatic traffic counters\(^1\) (on West Bay Road) and manual turning movement counts (at the identified intersections) undertaken by APEC staff and / or associates. The proposed locations are included in Appendix A. Traffic data from automatic traffic counters will be collected for a period of at least 7 days. This traffic data will be analyzed to assess current traffic flow (annual average daily traffic and peak hourly flows), speed and classification through the study area.

We will request traffic count data from the 2016 / 2017 NRA island-wide traffic count project. Initial review of the traffic count shows that data should be available for West Bay Road and the Esterly Tibbetts Highway.

Data on the current operation of the existing Westin Resort will be reviewed, including data from the hotel operator on current car park usage, stayover statistics, staffing levels, etc.

A summary will be presented of any committed / proposed road developments in the study area that will be undertaken in the future. In addition, any proposed significant developments that may impact the traffic flows in the study area will be assessed.

2.4 TRAFFIC ANALYSIS
The traffic data from 2016 / 2017 (if available), the data from 2012 along with updated data gathered as part of this study will be analyzed in order to estimate the likely traffic flows associated with the Westin Expansion.

An assessment will be undertaken of the existing road capacity based on existing traffic volumes in accordance with Institution of Transportation Engineers (ITE) Manual MTTE2. This assessment will be presented in table format showing the existing capacities on the road network within the study area.

The TIS will undertake traffic analysis based on the following approach:
- Existing and projected traffic volumes (including turning movements),
- Description of existing road network within study area and any proposed road(s) / accesses
- Traffic controls (where applicable)
- Project trip generation
- Project generated trip distribution and assignment
- Level of service of the existing and of the future / horizon conditions, both with and without the project
- References to other traffic impact studies (as may be necessary)

2.4.1 TRIP GENERATION / ATTRACTION
An estimate will be made of the likely trips generated by the Westin Expansion. Peak times of operation will be identified during the day and during the week. The impact of the proposed remote surface car park will be incorporated.

\(^1\) PicoCount 2500 counter with pneumatic road tubes
2.4.2 **Assessment Year / Design Year Horizon**

The assessment / design year(s) will be selected in order to undertake the traffic impact analysis. We propose to assess the impacts at 5 and 10 years following opening of the facility. Future traffic flows will be calculated based on NRA forecasts for traffic growth. It is proposed that a 3% growth rate be used, however we will review this in line with expected growth rates for tourism in general for the Cayman Islands.

2.5 **Capacity Analysis**

Intersection capacity analysis will be undertaken based on traffic associated with the expansion. Impacts, if any, on the current levels of service will be calculated. The impact on transportation route(s) to and from the resort and its remote car park will be assessed. Roads (existing and any proposed modifications, including the proposed West Bay Road enhancements) that may be affected by the Westin related traffic will be highlighted. The scope of this assessment will include both the near-term (Year 5) and overall long-term (Year 10) in order to determine the resulting transportation impacts of the traffic operations on the surrounding road network, particularly during the morning and evening peak hour conditions.

2.6 **Mitigation**

Roadway improvements or traffic management strategies will be recommended, if required, to mitigate unsafe conditions or increased traffic congestion along transportation routes. Other strategies that may be required could include requiring truck (deliveries, etc) movements to be undertaken during off-peak periods.
RE: 23001 - Westin TIA: Draft Terms of Reference

Pandohie, Marion <Marion.Pandohie@nra.ky>
Tue 14 Feb 2023 5:40 PM

To: Denis P. Murphy <Denis@apec.com.ky>; Andrew Gibb <andrew.gibb@gibbarchitect.com>
Cc: Ronan O'Keeffe <Ronan@apec.com.ky>; Pearse Murphy <Pearse@apec.com.ky>; Thibeault, Denis <Denis.Thibeault@nra.ky>

Good Afternoon Denis,

I hope all is well.

I have taken a look at the ToR and it appears ok.

Thank you.

Cheers,

Mrs. Marion Pandohie, MCRP, MPA & AICP
Transportation Planner/Information Manager

370 North Sound Road (PWD Compound), P.O. Box 10426, Grand Cayman KY1-1004, Cayman Islands
Main Tel: 345-946-7780 | Direct Tel: 345-640-8408 | Cell: 345-525-0666 | Email: marion.pandohie@nra.ky

Does’ lives are too short. Their only fault, really

From: Denis P. Murphy [mailto:Denis@apec.com.ky]
Sent: Tuesday, February 14, 2023 9:53 AM
To: Pandohie, Marion <Marion.Pandohie@nra.ky>; Andrew Gibb <andrew.gibb@gibbarchitect.com>
Cc: Ronan O'Keeffe <Ronan@apec.com.ky>; Pearse Murphy <Pearse@apec.com.ky>; Thibeault, Denis <Denis.Thibeault@nra.ky>
Subject: [EXTERNAL] Re: 23001 - Westin TIA: Draft Terms of Reference

Good morning Marion

I am following up on the above. Do you have any comments on the ToR before it is submitted to Planning?

Regards
Appendix B

Automatic Traffic Count Data

The traffic count data is available to view at the following link:
https://apec.box.com/s/bizii9lou7s2m25m2bh3zituws0tg1
APPENDIX C

Manual Traffic Count Data
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<th>PICKUP</th>
<th>SUV</th>
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**Notes:**
- The table above represents the movement counts for different times of the day.
- The columns indicate the different types of vehicles counted: BICYCLE, MOTORCYCLE, CAR, PICKUP, SUV, BUSES (PUBLIC & PRIVATE), TRUCKS.
- The SUM column provides the total count for each time period.
### WESTIN Traffic Count

**Date:** Wednesday 19-Apr-23

#### Morning Peak

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**WESTIN North**

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**West Bay Road**
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### Entry Points
- WESTIN TIA TRAFFIC COUNT
- REGATTA EXIT
- WESTIN MAIN
- THE FALLS

### Exits
- WESTIN MAIN
- THE FALLS
- FALLS RT (Move 2)
- FALLS LT (Move 1)
- LEEWARD RT (Move 10)
- LEEWARD LT (Move 9)

### Vehicle Types
- CAR
- BICYCLE
- PICKUP
- SUV
- MOTORCYCLE
- TRUCKS
- BUSES
- TRUCK

### Movement Types
- MOVEMENT 1
- MOVEMENT 2
- MOVEMENT 3
- MOVEMENT 4
- MOVEMENT 5
- MOVEMENT 6
- MOVEMENT 7
- MOVEMENT 8
- MOVEMENT 9
- MOVEMENT 10
**DATE: WEDNESDAY 19-APR-23**

**SUNSHINE SOUTH**

**MORNING PEAK**

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**WESTIN SOUTH**

**EVENING PEAK**

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**WESTIN RT (Move 4)**

**SUMMARY**

- **TRUCKS: 17**
- **BUSES: 38**
- **PICKUP: 53**
- **CAR: 3**
- **SUV: 6**
- **BICYCLE: 19**
- **MOTORCYCLE: 20**
- **WESTIN RT (Move 7)**
- **WESTIN LT (Move 8)**
- **WESTIN RT (Move 9)**
- **WESTIN LT (Move 10)**
- **SUNSHINE RT (Move 4)**
- **SUNSHINE LT (Move 4)**
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**ESTERLY TIBBETTS HIGHWAY**

**SUNSHINE**

**EVENING PEAK**

**SUMMARY**

- **TOTAL:**
  - MOVEMENT 1: 10
  - MOVEMENT 2: 6
  - **TOTAL:** 16
APPENDIX D

Assessment Horizon Traffic Flow Data
Figure D. 1 - Intersection of West Bay Road & Lime Tree Bay Avenue 2025 - Without Development - Morning Peak

Figure D. 2 - Intersection of West Bay Road & Lime Tree Bay Avenue 2025 - Without Development - Evening Peak
Figure D. 3 - Westin North Access on West Bay Road
2025 - Without Development - Morning Peak

Figure D. 4 - Westin North Access on West Bay Road
2025 - Without Development - Evening Peak
Figure D. 5 - Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road - 2025 - Without Development - Morning Peak

Figure D. 6 - Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road - 2025 - Without Development - Evening Peak
Figure D. 7 - Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road - 2025 - Without Development - Morning Peak

Figure D. 8 - Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road - 2025 - Without Development - Evening Peak
Figure D. 9 - Intersection of West Bay Road & Safehaven Drive
2025 - Without Development - Morning Peak

Figure D. 10 - Intersection of West Bay Road & Safehaven Drive
2025 - Without Development - Evening Peak
Figure D. 11 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2025 - Without Development - Morning Peak

Figure D. 12 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2025 - Without Development - Evening Peak
Figure D. 13 - Intersection of West Bay Road & Lime Tree Bay Avenue
2025 - With Development - Morning Peak

Figure D. 14 - Intersection of West Bay Road & Lime Tree Bay Avenue
2025 - With Development - Evening Peak
Figure D. 15 - Regatta Office Park exit on West Bay Road
2025 - With Development - Morning Peak

Figure D. 16 - Regatta Office Park exit on West Bay Road
2025 - With Development - Evening Peak
Figure D. 17 - Westin Entrance & Exit / Cayman Falls North Access on West Bay Road
2025 - With Development - Morning Peak

Figure D. 18 - Westin Entrance & Exit / Cayman Falls North Access on West Bay Road
2025 - With Development - Evening Peak
Figure D. 19 - Cayman Falls South Access (Sunshine Suites) on West Bay Road 2025 - With Development - Morning Peak

Figure D. 20 - Cayman Falls South Access (Sunshine Suites) on West Bay Road 2025 - With Development - Evening Peak
Figure D. 21 - Intersection of West Bay Road & Safehaven Drive
2025 - With Development - Morning Peak

Figure D. 22 - Intersection of West Bay Road & Safehaven Drive
2025 - With Development - Evening Peak
Figure D. 23 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2025 - With Development - Morning Peak

Figure D. 24 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2025 - With Development - Evening Peak
Figure D. 25 - Intersection of West Bay Road & Lime Tree Bay Avenue
2030 - Without Development - Morning Peak

Figure D. 26 - Intersection of West Bay Road & Lime Tree Bay Avenue
2030 - Without Development - Evening Peak
Figure D. 29 - Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road - 2030 - Without Development - Morning Peak

Figure D. 30 - Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road - 2030 - Without Development - Evening Peak
Figure D. 31 - Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road - 2030 - Without Development - Morning Peak

Figure D. 32 - Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road - 2030 - Without Development - Evening Peak
Figure D. 33 - Intersection of West Bay Road & Safehaven Drive
2030 - Without Development - Morning Peak

Figure D. 34 - Intersection of West Bay Road & Safehaven Drive
2030 - Without Development - Evening Peak
Figure D. 35 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2030 - Without Development - Morning Peak

Figure D. 36 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2030 - Without Development - Evening Peak
Near-Term Assessment Horizon – 2030 - With Development

Figure D. 37 - Intersection of West Bay Road & Lime Tree Bay Avenue
2030 - With Development - Morning Peak

Figure D. 38 - Intersection of West Bay Road & Lime Tree Bay Avenue
2030 - With Development - Evening Peak
Figure D. 39 - Regatta Office Park exit on West Bay Road
2030 - With Development - Morning Peak

Figure D. 40 - Regatta Office Park exit on West Bay Road
2030 - With Development - Evening Peak
Figure D. 41 - Westin Entrance & Exit / Cayman Falls North Access on West Bay Road
2030 - With Development - Morning Peak

Figure D. 42 - Westin Entrance & Exit / Cayman Falls North Access on West Bay Road
2030 - With Development - Evening Peak
Figure D. 43 - Cayman Falls South Access (Sunshine Suites) on West Bay Road
2030 - With Development - Morning Peak

Figure D. 44 - Cayman Falls South Access (Sunshine Suites) on West Bay Road
2030 - With Development - Evening Peak
Figure D. 45 - Intersection of West Bay Road & Safehaven Drive  
2030 - With Development - Morning Peak

Figure D. 46 - Intersection of West Bay Road & Safehaven Drive  
2030 - With Development - Evening Peak
Figure D. 47 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2030 - With Development - Morning Peak

Figure D. 48 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2030 - With Development - Evening Peak
Figure D. 51 - Westin North Access on West Bay Road 2035 - Without Development - Morning Peak

Figure D. 52 - Westin North Access on West Bay Road 2035 - Without Development - Evening Peak
Figure D. 53 - Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road - 2035 - Without Development - Morning Peak

Figure D. 54 - Regatta Office Park exit / Westin Main Access / Cayman Falls North Access on West Bay Road - 2035 - Without Development - Evening Peak
Figure D. 55 - Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road - 2035 - Without Development - Morning Peak

Figure D. 56 - Westin South / Cayman Falls South Access (Sunshine Suites) on West Bay Road - 2035 - Without Development - Evening Peak
Figure D. 57 - Intersection of West Bay Road & Safehaven Drive
2035 - Without Development - Morning Peak

Figure D. 58 - Intersection of West Bay Road & Safehaven Drive
2035 - Without Development - Evening Peak
Figure D. 59 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2035 - Without Development - Morning Peak

Figure D. 60 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2035 - Without Development - Evening Peak
Figure D. 61 - Intersection of West Bay Road & Lime Tree Bay Avenue
2035 - With Development - Morning Peak

Figure D. 62 - Intersection of West Bay Road & Lime Tree Bay Avenue
2035 - With Development - Evening Peak
Figure D. 63 - Regatta Office Park exit on West Bay Road 2035 - With Development - Morning Peak

Figure D. 64 - Regatta Office Park exit on West Bay Road 2035 - With Development - Evening Peak
Figure D. 65 - Westin Entrance & Exit / Cayman Falls North Access on West Bay Road
2035 - With Development - Morning Peak

Figure D. 66 - Westin Entrance & Exit / Cayman Falls North Access on West Bay Road
2035 - With Development - Evening Peak
Figure D. 67 - Cayman Falls South Access (Sunshine Suites) on West Bay Road
2035 - With Development - Morning Peak

Figure D. 68 - Cayman Falls South Access (Sunshine Suites) on West Bay Road
2035 - With Development - Evening Peak
Figure D. 69 - Intersection of West Bay Road & Safehaven Drive
2035 - With Development - Morning Peak

Figure D. 70 - Intersection of West Bay Road & Safehaven Drive
2035 - With Development - Evening Peak
Figure D. 71 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2035 - With Development - Morning Peak

Figure D. 72 - Sunshine Suites Access / Egress on Esterley Tibbetts Highway
2035 - With Development - Evening Peak
Appendix M
13 June 2023

The Director of Planning, Planning Department
P O Box 113 Grand Cayman KY1-9000

Sir

BLOCK 11D45 WEST BAY BEACH NORTH GRAND CAYMAN
APPLICATION FOR PLANNING CONSENT P22-0735:

LETTERS OF OBJECTION
Ref RHJ/Meow/001/001 dated 21 August 2022
Ref RHJ/kh/Meow/001 dated 07 June 2023
Submission of Rebuttal Statement dated 13 June 2023

We act for Applicant /Owner /lessee Invincible Investment Corporation as agent.

We hereby submit for consideration by the Central Planning Authority in due course, our Statement of Rebuttal dated 13 June 2023 in this regard.

We also submit an amended version each of the architectural planset originally submitted in support of our application for planning consent and the draft Parking Management Strategy (both dated 05 May 2023)- these documents having been amended to indicate the northern PROW over parcels 11D96 and 11D97 as being of minimum 20' width as correctly pointed out by the objector in their letter dated 21 August 2022.

Yours sincerely

[Signature]

Ver.230515  Page 1
Appendix N
Date: 13 June 2023

To: Central Planning Authority ("CPA")

Re: Baker & Partners letters to Director, Department of Planning:

**Objections to Application for planning consent P22-0735**

Westin Resort: New Hotel Annex, Conference Centre & Associated Facilities on Parcel 11D45, West Bay Beach North, Grand Cayman

Applicant hereby rebuts the objections raised by Meow Ltd (‘Objector’), leaseholder of parcels 11D97 and 11D98 comprising The Falls commercial retail centre and residential apartments to planning consent application P22-0735 (‘the subject application’), in their letters from their counsel Baker & Partners to the Department of Planning dated 21 September 2022 (‘Letter 21/08/22’) and 07 June 2023 (‘Letter 07/06/2023’) respectively.

The Falls is a 2-storey strip mall located directly opposite The Westin Resort and which consists of ground floor shops and restaurants fronting onto West Bay Road including Captain Marvin’s Watersports, Legendz Bar, Eats Cafe diner and Yoshi Sushi restaurant, with several offices and business service outlets on the upper level.

**Letter 21/08/22 Objection 1: [Alleged] adverse impact upon the tenants of 96/1 and 97/1** (Letter 07/06/23 p.2 ‘Parking at the Falls’)

This first objection by the Objector asserts that Applicant falsely accuses The Falls tenants and customers of using the Westin parking spaces without substantiation. At the same time however, the Objector asserts similar claim against the Applicant without merit, offering anecdotal conjecture, false accusations, and contortion of an email from Applicant as evidence. Applicant finds the tactic offensive and without relevance.

Applicant further offers the following support that The Falls centre is clearly under-parked and which would violate planning regulation-stipulated parking requirements, causing The Falls tenants and customers to have to find parking elsewhere, including the Westin Resort parking lot.

**Under-provision of parking facilities at The Falls:**

Applicant estimates by observation The Falls parking derivation to be as follows:
- Gross area of general commercial and restaurant square footage at the Falls is estimated at 32,800 sq ft

- Based on Planning required parking ratio of 1 bay per 300 sq ft for general commercial use and 200 sq ft for restaurant use, the Falls estimated required parking is 123 bays for general commercial and restaurant usage

- The Falls currently only provides an estimated 84 parking bays, leaving a significant parking deficit of 39 bays or 46% shortfall to current planning requirements

This significant shortfall of parking provision has had a negative effect on the relationship between The Falls and the Westin Resort as there is a perception that The Falls is losing potential customer parking space to Westin Resort guests, patrons and staff. We contend that rather than The Falls’ parking being used by Westin staff or patrons, it is entirely likely that at The Falls’ busy restaurant and bar patronage time, quite the reverse situation arises- there is a parking availability shortfall at The Falls resulting in the Westin Resort parking provision being used by The Falls patrons.

Guests of the Westin Resort provide considerable patronage of The Falls’ retail businesses by guests resident at the Westin Resort, particularly the food and beverage outlets offering a different food and bar experience to that of the Resort. The benefits of this custom is appreciated by the food and beverage operators at The Falls. As a bonus, Westin Resort guests do not use The Falls’ parking facilities and so reduces pressure on the centre’s limited parking availability.

During recent interviews with the main restaurant tenant of three separate restaurants at The Falls, they expressed their appreciation and vital contribution of Resort patrons coming over to dine in their restaurants. They have also expressed an interest in the Applicant's proposed parking lot to provide much needed overflow parking conveniently located adjacent to their restaurants. Applicant has already commenced conversations with them regarding an agreement in this regard.

**Adequate provision of parking facilities at The Westin for guests and staff:**

In the draft Parking Management Strategy required under planning regulations, Applicant has provided a parking analysis demonstrating that the current parking facilities adequately provide the necessary parking demand as follows:

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Current on-site parking provision (bays)    198
less                                       
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Ver 230613
There is thus rarely a situation where the Westin Resort parking lot is ever full. If so, what would the motivation be for Resort patrons to need to park at the Falls? The situation Objector is asserting likely rarely if ever happens due to the adequacy of parking available at the Resort. If on casual observation there are noticeably more vehicles in the Resort parking area, the logical explanation must be that they are all ‘fly’ parking while either patronising The Falls, accessing the beach by either of the two shoreline access easements adjacent to the Westin Resort or are otherwise engaged in the vicinity for whatever reason. Irregular ‘fly’ parking is occurring at the Westin Resort (and possibly at the ‘The Falls’) due to a general under-provision of public parking facilities in this immediate precinct of Seven Mile Beach.

Proposed mitigation of alleged irregular use of The Falls parking facilities by Westin staff (and others):

Objector refers in Letter 07/06/23 to an email received from applicant /owner representative Joe Gould, and claims that the email appears to infer acceptance of the existence of these alleged parking issues. However, nowhere in the email correspondence does Mr. Gould acknowledge or imply acceptance thereof. Knowing that Objector had concerns about illegal parking, with or without merit, the purpose of this email correspondence was to assuage Objector’s concerns in a neighbourly manner by sharing details of applicant’s reasoned draft Parking Management Strategy in an effort to get support for the proposed development. This email is not, nor should it be viewed as, applicant’s acknowledgment of Objector’s allegations in this regard.

Nevertheless, applicant regards resolution of this matter and the establishment of a working relationship with The Falls ownership as a matter of high priority that would mitigate the mutually negative effects of this under-provision of parking spaces at The Falls. The need for this mutually beneficial relationship is recognised in the context of the draft Parking Management Strategy submitted in support of this application to the Central Planning Authority in terms of Regulation 8(1)(c). Mitigatory strategies in this regard include

- provision of dedicated Westin Resort employee parking in the proposed off-site parking area- parking restrictions will be enforced using appropriate technology preventing Resort employees from parking in The Falls retail parking spaces;
deployment of parking monitor personnel at The Falls during high demand periods to ensure parking enforcement at Westin Resort expense, including during periods of construction activity at the Resort;

provision of improvements to the ROW road way over The Falls property serving the proposed off-site parking area and provision of landscaping between the Falls and adjacent Regatta Office Park to enhance the general amenity of these areas to the mutual benefit of the Westin Resort and The Falls; and

provision of a dedicated shuttle connection from the proposed off-site parking area to the Westin Resort for use by staff, guests and patrons during peak demand periods to encourage legitimate parking lot usage vs the alternative of irregular ‘fly’ parking at The Falls.

Letter 21/08/22 Objection 2: [Alleged potential disturbance to residents on] Parcel 97/1

This objection arises over the alleged potential increase of traffic using the adjacent PROW and West Bay Road during Westin Resort-hosted functions that would disturb the peace and quiet of the tenants of residential apartment units, particularly at night during a large event at the Resort. Objector also alleges that as a consequence of such potential disturbance, tenants would terminate their leases and vacate their units causing financial loss to Objector.

This is patently false as this portion of Seven Mile Beach, like most of the West Bay Road precinct, is at the heart of Grand Cayman’s hospitality and tourism zone, and which zone is characterised by substantial hospitality-generated people interaction and related traffic along West Bay Road and its feeder routes. The owner of The Falls decided to build the development in this zone in order to rent commercial premises to retailers, restaurant operators and service providers aimed at the tourism and hospitality patron markets- and subsequently developed residential apartments for tenants who sought the immediacy and interaction with the Seven Mile Beach hospitality scene, not the peace and quiet of a suburban residential precinct.

Increased traffic levels that may be induced by the proposed expansion of the Westin Resort will not result in an associated degradation of tenants in The Falls. The expansion of the Westin Resort will in fact enhance the demand for restaurant, retail and multi-family tenancy in the vicinity, resulting in a significant increase in property value and retail sales generation, benefitting both the owner of The Falls and the economic base of the Cayman Islands.
Objections against developments within a Hotel /Tourism zone arising from the assumption that such development would cause degradation to Objector’s adjacent commercial investments and personal economic harm, are not valid, as such objections are based on protectionism and the exclusion of development opportunities that would otherwise benefit the economic base of the Cayman Islands. Furthermore, it is not within the CPA’s purview to assess the economic impact of developments and the CPA must be careful not to be engaged in that discussion. The precedents are very clear on this point.

**Letter 21/08/22 Objection 3: [Previous] Planning Department Analysis and Parking Regulations (Letter 07/06/23 p.2 ‘Off Site Parking Ratios’)**

This objection arises out of the previous application for planning consent made by applicant on or about 14 July 2020 and which was refused planning consent. The current application is based on an updated set of parking requirement derivations, and is made in conformance with revised Development & Planning Act Regulations and which make specific reference to higher levels of off-site parking permissible and the provision of a Parking Management Strategy as part of the compliance requirements provided for under the revised Regulations.

The Central Planning Authority is not bound to take into account previous planning applications made- or any other application made for similar recent or historical developments. For this reason, the Authority should determine the current application on its specific merits, and grant any variation requested of it if found to be reasonable in terms of s.8(13)(iii) of the Development & Planning Act Regulations (2022 Revision).

**Letter 21/08/22 Objection 3(b)**

Applicant concedes that the closing of portions of the Westin Resort parking area during the period of renovations and refurbishment operations over the period referred to in the objection (2017/2018) resulted in the unfortunate consequence of overloading other available parking in the local area without adequate provision of alternative parking facilities.

Applicant affirms that this will not occur should the Westin Resort expansion programme mobilise. The proposed off-site parking area will be completed and commissioned prior to the mobilisation of the Resort development itself, and all construction-related parking will be relegated to the new parking area.
Letter 21/08/22 Objection 4: [Public Vehicle] Right of Way Matters (Letter 07/06/23 p.3 ‘Off Site Parking Access’)

Letter 21/08/22 Objection 4(a):

Objector has correctly pointed out that the northern Public Vehicular Right of Way easement as granted by them to the lessee of parcel 11D37, is not 30'-0" wide but of ‘varying width’- from 20.1ft to 25.5 ft wide over its extent from West Bay Road to parcel 11D37 which it serves.

It is worth noting that the easement was in fact 30 ft wide as originally registered on or about 1982, but according to research of title undertaken as part of a due diligence exercise by applicant, the author notes that

... this is the easement which has been encroached upon by [Objector] Meow Ltd., though we should make clear that encroachment does not appear to be material and/or contentious. The easement comprises the northern access to the property from West Bay Road, and the encroachment on that easement is the result of an extension to the kitchen which serves the restaurants in the commercial element of the Meow Ltd. parcel. The extension to the building was added post-Hurricane Ivan. The easement was originally for a 30 foot easement (i.e. the width of the access road) when it was granted back in the 1980s, but as a result of the encroachment, the easement is in the process of being modified to reflect the true position, i.e. that this is now a 20 foot easement.

Applicant’s documentation in support of the application for grant of planning consent has been duly amended where reference is made to this easement.

Furthermore, the Pedestrian Walkway proposed under the subject application will negate this encroachment by restoring the vehicular roadway to 22'-0" wide as required under planning regulations.

Letter 21/08/22 objection 4(b)

Objector claims that applicant, as owner of parcel 11D45 on which the proposed development that is the subject of this planning application, does not have the right to use the PROWs that serve as access from West Bay Road to parcel 11D37 on which the remote parking facility intended to provide the required parking for the development, is proposed to be located.

This objection is groundless as applicant anticipates that the grant of planning consent would be subject to a formal commercial agreement and lease between the owner of
parcel 11D45 (site of the Resort) and the owner of parcel 11D37 (the site of the remote parking area) for the purpose of providing the requisite parking space for the use of and by guests, patrons and staff of the Westin Resort.

Objector also claims that any planning consent granted for a development or use on parcel 11D37 would of necessity rely on access to West Bay Road via one or both of the PROWs that serve as such access, would adversely impact the value of their properties by excessive use of the easements.

This objection as it relates to the type of development or land use that may or may not be granted planning consent on parcel 11D37 is baseless and without merit as the zoning of Hotel/Tourism permits development that can be significantly more intensive than the current proposed parking area. The owner of parcel 11D37 and their guests, patrons, agents and employees as well as their successors in title, are and would be legally entitled to traverse the registered easement over Objector’s parcels 11D96 and 11D97.

**Letter 07/06/23 p.4 ‘Off-Site Parking Access’**

Objector asserts that the subject application should not be considered further until a separate application is submitted for vehicular and pedestrian right of way over parcel 11D133 (the Regatta office complex). Objector has no ownership interest or any other rights in parcel 11D133, therefore their objections regarding it are completely without merit and totally misplaced. Furthermore, applicant does not see any rational reason why this would require a separate planning consent grant apart from Objector’s apparent desire to create further delays and impediments to the subject planning consent application.

The Pedestrian Promenade proposed over parcel 11D133 is clearly laid out in the planning consent application documents, and applicant has had numerous substantive discussions with the parcel’s owner who is supportive of the subject application and is willing to allow the construction of the Pedestrian Promenade over the parcel.

Applicant contends that Objector’s stance regarding the Pedestrian Promenade over parcel 11D133 is not a substantive or serious complaint, and is rather a merit-less attempt to distract the Central Planning Authority from considering fairly the thoughtfully constructed subject application.

**Letter 07/06/23 p.5 ‘Exceptional Circumstances’**

Applicant is of the firm belief that the provision of what is essentially a large public parking lot in immediate proximity to both The Falls and the Westin Resort, will be an
amenity of considerable convenience to patrons of both establishments, and that this amenity significantly benefits persons residing or working in the vicinity, at the adjacent properties, this part of the Seven Mile Beach community and the public welfare in general. In fact, we have affirmation from The Falls largest restaurant tenant that the additional parking would be greatly beneficial to their business.

In his application for planning consent, applicant requests Central Planning Authority to grant a variance as allowed under Regulation 8(13)(iii) for these reasons:

- the development proposal as comprised in this application for planning consent, 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 that

- several factors implicit in the developed environment of the West Bay Road corridor along Seven Mile Beach give rise to the need to 'shed' required parking provision from parcels west of West Bay Road (i.e. with Seven Mile Beach frontage) onto parcels east of West Bay Road that are less sensitive to loss of amenity so that parcels west of West Bay Road will enjoy significantly enhanced amenity due to such re-allocation of parking provision.

Applicant also believes that in responding to these various factors as drivers for improvement and in increasing significantly the percentage of off-site parking currently allowed under Regulations, the level of amenity for both guests and residents in this important hospitality and residential precinct of Seven Mile Beach be significantly enhanced.

Applicant has specific developmental responses in enhancing amenity in this precinct. These are to

1. allow more efficient use of the available land on those parcels in order to create better hospitality product with more amenable beach and landscape experiences for guests and residents;

2. reduce vehicular access to those resorts as far as possible by restricting the need for localised casual parking adjacent points of entry and arrival;

3. provide more remote parking facilities for the dedicated use of resort staff served by pedestrian route and shuttle service access to the resort to eliminate the predilection by staff for parking on road verges and sidewalks in the immediate precinct of the resort;
4. create a better pedestrian and non-vehicular experience along West Bay Road as a pleasant and safe alternative to beach walks etc that encourage guests and residents to explore local shopping and restaurant destinations located along these landscaped roadways; and to

5. divert as far as possible vehicles from needing to access resorts only from West Bay Road and providing parking opportunities accessible off Esterley Tibbetts Highway for guests and residents and with easy pedestrian access to the destination resort itself.
Appendix O
Date: 23 June 2023

To: Central Planning Authority ("CPA")

Re: Baker & Partners further letter to Director, Department of Planning dated 20 June 2023:

Rebuttal of Applicant’s rebuttal of objections to Application for planning consent P22-0735 Westin Resort: New Hotel Annex, Conference Centre & Associated Facilities on Parcel 11D45, West Bay Beach North, Grand Cayman

Applicant hereby rebuts the letter dated 20 June 2023 (‘Letter 20/06/23’) from Objector’s counsel Baker & Partners to the Department of Planning responding to and in rebuttal of Applicant’s Memorandum of Response dated 13 June 2023 (‘Memo 13/06/23’) to objections raised by Meow Ltd1 (‘Objector’) to planning consent application P22-0735 (‘the subject application’) in their letters from their counsel Baker & Partners to the Department of Planning dated 21 September 2022 (‘Letter 21/08/22’) and 07 June 2023 (‘Letter 07/06/2023’) respectively.

Irrelevant Application P20-0196: Last sentence p.1 of Letter 20/06/23 and following paras 1 and 2, p.2 Letter 20/06/23:

Objector refers to planning application P20-0196 which was refused planning consent by the Central Planning Authority (‘CPA’) at their Meeting CPA19/20 held on 11 November 2020. This application has no bearing on the current application P22-0735 now before CPA, and references to the deliberations and proceedings of that hearing have no relevance to this application and its merits.

The Falls Centre’s under-provided parking: Para 3 p.2 Letter 20/06/23:

Applicant concedes that accurate surveyed areas are not available to them for estimating the degree to which The Falls centre is under-provided with parking bays as determined by current Development & Planning Act Regulations as being sufficient for purpose, but stands by its assertion based on its informal observations in this regard, that The Falls is under-parked to the extent that patrons need to find parking elsewhere when faced with a full parking lot.

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1 leaseholder of parcels 11D97 and 11D98 comprising The Falls commercial retail centre and residential apartments
It is Applicant’s contention that the areas derived by Objector in order to rebut Applicant’s assertion in this regard, are in error as the tables given in the appendix to Letter 20/06/23 are derived by Objector most likely from the lease areas of The Falls and not the construction area on which the Department of Planning relies to derive parking provision requirements. The correct area calculation for this purpose would normally include all exterior covered porches, walkways and staircases and in this case would give the areas Applicant contends are closer to the actual construction area of the Centre and thus demonstrate the extent to which it is under-parked.

**The Falls Centre restaurant tenants needing more parking:** Last para p.2 et seq , p.3 Letter 20/06/23:

Applicant stands by its original statement, as Applicant has no knowledge of what conversations Objector allegedly has had in this regard or with whom.

It should be apparent to any reasonable individual that the provision of additional hotel rooms (and their guests) and a large parking lot in the immediate vicinity of these restaurants and retail facilities, would only serve to enhance those businesses by increasing patron traffic and improving accessibility to their patronage, not hinder it.

**Public right to use Public Vehicular and Pedestrian Rights of Way:** Para 4 et seq  p.3 Letter 20/06/23:

Applicant has difficulty in following the rationale of Objector’s argument that only the owners of parcel 11D37 can benefit from the easements in exclusion of other parcels. The owner of the Westin Resort is also the owner of parcel 11D37 and so may use the easement to access the West Bay Road ‘without let or hindrance’.

In addition, these rights of way have been used by the general public to access Sunshine Suites resort on parcel 11D37 from West Bay Road and vice versa for over two decades. The general public would now in any case have a prescriptive right of traverse over those easements.
Appendix P
Director of Planning,
PO Box 113, Grand Cayman,
KY1 9000.

Dear Madam/Sir

Re Invincible Investment Corporation, Application for Block 11D, Parcel 45

We act for Meow Limited, the lessee of West Bay Beach North, Block 11D Parcel 96/1 and 97/1.

Our client has received by an email dated 19th August 2022 the attached section 15(4) Development and Planning Act notices in connection with the application for a ‘New hotel annex and related facilities [and] new conference centre’ at Block 11D Parcel 45 submitted by Invincible Investment Corporation and which development concerns a proposal for further development at the Westin Hotel.

The section 15(4) Development and Planning Act notices indicate that they were served by registered mail on 28th July 2022, but no such notices have been received by our client. We are currently making enquiries of the Post Office to ascertain why. In the meantime, and having been served by e-mail on 19th August 2022 (as per section 40(1)(e) of the Development and Planning Act) we write to register our client’s objection to this application.

We understand that a date may have been allocated for this application to be heard and we will be grateful if you will confirm if this is the case and if it is, the allotted date. In the meantime, we will seek our client’s full instructions. The director of our client that can give us instructions is currently travelling but we will endeavour to provide you with precise grounds of our client’s objections as soon as we can and all things being equal, within the course of the next working week.

Yours faithfully

Baker and Partners

Our ref: RHJ/kh/Meow.001.001

26th August 2022
NOTICE OF APPLICATION FOR PLANNING PERMISSION

TO: NAME & ADDRESS
MEOW LIMITED
P O Box 1702
Grand Cayman
KY1-1109
-Owner of Block and Parcel
Lessees
11D96

You are hereby notified that an application for planning permission for the purpose of
New hotel annex and related facilities, new conference facility

on Block and Parcel(s) 11D45

has been submitted to the Central Planning Authority (CPA), Grand Cayman.

Site Plans and Elevations related to this application can be inspected the Department’s website at:
http://planning.ky/planning-notices or at the Department of Planning, located at the Government Administration Building, 133 Elgin Avenue, George Town, Grand Cayman.

If you wish to object to the application, you should do so in writing stating your precise grounds within 21 CALENDAR DAYS of the DATE OF POSTING. Your comments should be addressed to the Director of Planning, P.O. Box 113, Grand Cayman KY1-9000, Cayman Islands, or e-mail to planning.dept@gov.ky. Please include your return address (typically a PO Box number) and your BLOCK AND PARCEL.

NOTE TO SENDER: Notice must be sent not more than three days prior to the date upon which the application is accepted by the Department of Planning.

FROM: Invincible Investment Corporation
(Name of Applicant - Please Print)

P.O. Box & KY: P O Box 448 Grand Cayman KY1-111

I hereby certify that a copy of this notice was served by Registered Mail on all the above registered properties on
(Date) 28/07/2022

Name: 70338  Signed:  Date: 28/07/2022

Revision: 1 June 2021
NOTICE OF APPLICATION FOR PLANNING PERMISSION

TO: NAME & ADDRESS
MEOW LIMITED
P O Box 1702
Grand Cayman
KY1-1109

You are hereby notified that an application for planning permission for the purpose of
New hotel annex and related facilities, new conference facility

on Block and Parcel(s) 11D45
has been submitted to the Central Planning Authority (CPA), Grand Cayman.

Site Plans and Elevations related to this application can be inspected the Department’s website at: http://planning.ky/planning-notices or at the Department of Planning, located at the Government Administration Building, 133 Elgin Avenue, George Town, Grand Cayman.

If you wish to object to the application, you should do so in writing stating your precise grounds within 21 CALENDAR DAYS of the DATE OF POSTING. Your comments should be addressed to the Director of Planning, P.O. Box 113, Grand Cayman KY1-9000, Cayman Islands, or e-mail to planning.dept@gov.ky. Please include your return address (typically a PO Box number) and your BLOCK AND PARCEL.

NOTE TO SENDER: Notice must be sent not more than three days prior to the date upon which the application is accepted by the Department of Planning.

FROM: Invincible Investment Corporation
(Name of Applicant - Please Print)

P.O. Box & KY: P O Box 448 Grand Cayman KY1-111

I hereby certify that a copy of this notice was served by Registered Mail on all the above registered properties on
(Date) 28/07/2022

Name: 70338

Signed: Date: 28/07/2022
Appendix Q
Our ref: RHJ/Meow/001/001

21st September 2022

Director of Planning,

P.O. Box 113

Grand Cayman KY1-9000

Dear Sir,

Re: Application by Invincible Investment Group/Invincible Investment Corporation for planning permission in respect of, inter alia, a new Hotel Annex and associated facilities; WBBN11D 45 (The Westin)

We act on behalf of Meow Limited, the Lessee of West Bay Beach North 11D 96/1 and 97/1. Our client is also the Owner of 11D 37/1/1 but no notice of the application has been served on them in respect of that property.

This letter of objection is in respect of the notices served on our client by Invincible Investment Group/Invincible Investment Corporation seeking planning permission for, inter alia, a new hotel annex, associated facilities and conference facilities on Block 11D, Parcel 45 of the West Bay Beach North registration section of Grand Cayman (The Westin).

Our client objects to the grant of planning permission sought on the following grounds (kindly note that the comments below are without prejudice to our client’s position as to what right, if any, The Westin has to cross their properties to use the proposed remote parking (see ‘Rights of Way Matters’ on page 3).

1. Adverse impact upon the tenants of 96/1 and 97/1

Historically, and over a period of several years, the unauthorised use of the parking spaces provided on parcel 96/1 and 97/1 for the tenants and customers of the Falls shopping centre, and Residences apartments, by persons who are either not tenants, or employees or customers of tenants at our client’s development has been a continuous and unresolved problem.
Our instructions are that the majority of these persons have been connected or related to the Westin and include taxis staging while waiting for a call to make a pick-up at the hotel, persons engaged in construction work at the hotel, Westin employees and persons attending special events/meetings at the hotel.

For the period when there were travel restrictions due to COVID this was not a problem but now that restrictions have been lifted this has presented a number of problems again and by email dated August 28th 2022 to our client a representative of The Westin acknowledged that the current issues are likely to continue indefinitely.

This unauthorised use of our client’s property does have an adverse impact upon the ability of their tenants to carry on their business, as well as for customers of their tenants to be able to find parking in order to patronise businesses in the Falls. Tenants have complained about this in the past and we expect them to do so in the future. This raises the risk of tenantable units being vacated and becoming unattractive to prospective tenants and this ongoing problem has, we are instructed, become a nuisance of material proportions. We note that most of the businesses involved are Caymanian owned.

Attempts by our clients to limit and control their parking area for the use of their tenants, residents, guests and others has had very limited success. In a few instances, persons who have no business being parked at the Falls have complied and driven away but many have simply ignored requests to move, and some have been abusive when asked to move. We are advised that past discussions with Westin officials about this problem has largely met with failure, leaving the burden and cost of “policing” the property upon our client. Representatives of The Westin have offered to assist with the control of parking by using GPS devices for staff and policing parking at special events but our client does not believe that this will alleviate the problem to any noticeable degree.

The proposed significant expansion of the bedroom count at The Westin, as well as facilities which will allow for larger meetings and special events, will likely only serve to exacerbate the parking problems at the Falls. The reduction of on-site parking at the hotel to a mere 35 spaces will inevitably force guests, taxis, local persons attending conferences, or special events, to find parking elsewhere. The natural inclination of those persons will be to park as close to the hotel as possible, particularly in inclement weather.

The present application proposes parking on 11D 37, and the Westin’s patrons then walking to the hotel and back to that parking lot and this will not be nearly as attractive an option as simply using our client’s property for parking and then crossing the road.
It should be noted also that the remote parking site could theoretically generate several hundred individual traffic movements across our client’s property daily, depending upon the time of year and activities at the hotel. A large wedding, for example, would easily be capable of generating that level of traffic which, if it occurred, could lead to potential safety issues in the interaction between vehicular and pedestrian traffic on our client’s property.

2. **Parcel 97/1**

This parcel houses residential accommodation for tenants of apartments constructed for rent. The significant increase of traffic which the use of the right of way would create is likely to disturb the peace and quiet of the tenants and could lead to a loss of tenants who may then choose to vacate the units. In particular, a large event at the hotel at night could see dozens of vehicles using the right of way adjacent to the apartments to access the West Bay Road late at night, after the residential tenants have turned in for the evening.

3. **Planning Department Analysis and Parking Regulations**

We note that when a previous application was made by Invincible Investments/The Westin in similar terms, a number of non-compliance issues were identified by the Department of Planning in its own analysis of the application. In summary, the Department has raised the following:

a) The new proposed scale of The Westin project requires 454 spaces of which only 393 are to be provided (35 on site and 358 remotely on 11D 37/1/2);

b) Even if 26 spaces were to be treated as not available to the public in respect of the lobby bar, ground floor restaurant and new spa and salon there would still be a deficit. Of course, so treating those spaces as not available to the public would ignore the fact that persons resident on or visiting the island routinely patronise these facilities. In fact, the existing spa by way of example, offers gift certificates which are routinely used by residents and others particularly at Christmas time, but residents do use the spa year-round. It also bears mentioning that liquor licence premises, such as restaurants and the lobby bar, are open to public access to those premises during specified hours;

c) The regulations required 75% (but now require 50%) of the parking spaces (227) to be on site. That is clearly impossible given the plans submitted; and

d) We are instructed that during a sample period of 174 days in 2017/2018 our client recorded 300 cars related to The Westin hotel that parked on our client’s parking lots 1067 times. When and if demolition and construction commences on The Westin site it is
only reasonable to assume that employees who work for contractors and typically start work around 7a.m. will find our client’s early morning empty parking lot attractive for their use.

4. Right of Way Matters

a. The application depicts a 30-foot vehicular right of way across the Northern end of our client’s properties. The actual width of that right of way is a “varying” width.

b. The Westin has submitted the application on the basis that it is entitled to use the easement for its employees, guests and others to travel to and from a part of 11D 37. It should be noted that parcel 11D 45 has no easement rights over our client’s properties. The leaseholder of the remote parking site is not the leaseholder of 11D 45 and, even if it were, the proposed use of the right of way is not by the leaseholder of the remote lot parcel. The easement to that parcel is for the benefit of that parcel, not the benefit of a parcel that has no right to cross our client’s property. The proposed remote parking on that property is not related to that property at all save for the fact that the parcel is to be turned into a parking lot for the benefit of the Lessee of 11D 45.

For the reasons set out above, our client objects to the grant of planning permission for the proposed expanded development on 11D 45. In fact, if planning permission were to be granted on the basis of the remote parking, parcel 11D 37/1/2 would forever have to be used exclusively for parking for the development on 11D 45. It would follow from that, that 11D 37/1/2 could never be used for anything else for so long as the Westin development existed, resulting in the usage of the easement to 11D 37/1/2 being exercised permanently by a parcel that has no concurrent registration of the easement in its favour. Finally, our client would forever have to live with whatever adverse consequences may flow from that user and our client is concerned that ultimately the value of their properties could be adversely impacted by what they have reason to believe will become an excessive user of the easement, that was never contemplated by anyone when it was put in place.

Yours faithfully

[Baker and Partners]

Baker and Partners
Appendix R
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 262 OF 2022

BETWEEN

MEOW LIMITED

APPLICANT

AND:

THE CENTRAL PLANNING AUTHORITY

FIRST RESPONDENT

AND:  

THE DEPARTMENT OF PLANNING

SECOND RESPONDENT

CONSENT ORDER

UPON the Applicant being granted leave to apply for Judicial Review;

UPON the Notice of Originating Motion dated 13th January 2023 filed by the Applicant;

AND UPON the parties having agreed to the terms of this Order;

IT IS HEREBY ORDERED, BY CONSENT that:

1. The First Respondent and the Second Respondent agree to recognise the Applicant’s status as an objector in connection with the application for planning permission submitted by Invincible Investment Corporation (and which planning application is referred to by the Second Respondent as “Planning Application For A New Hotel Annex (213,884 Sq. Ft.) & New Conference Facility, Change of Use Banquet Kitchen, Meeting Rooms, Retail & 2 Swimming Pools on Block 11D, Parcel 45” (“the Planning Application”)).

2. The Applicant’s objections to the Planning Application be those set out in the letter from Baker and Partners (Cayman) Limited to the Second Respondent’s Director of Planning dated 21st September 2022.

This Consent Order is filed by Baker and Partners (Cayman) Limited whose address for service is Buckingham Square, 720 West Bay Road, Grand Cayman KY1-1107, Cayman Islands.
3. Whilst the Applicant was in attendance as an observer at the hearing of the Planning Application on 12th October 2022 by a Director, Malcolm Davies, and by its attorneys, Baker and Partners (Cayman) Limited, since it was not afforded the opportunity to make oral representations at that hearing in reply to the oral representations made by and on behalf of Invincible Investment Corporation (because at that time the First Respondent did not recognise and/or accept the Applicant's objector status), the Applicant be allowed to make written representations in reply to the oral representations of Invincible Investment Corporation.

4. Such written representations be submitted to the Second Respondent’s Director of Planning within 21 days of the filing of this Order and the First Respondent will not make a decision on the Planning Application until it has received and considered the Applicant’s written representations.

5. The recognition of the Applicant’s objector status to the Planning Application entitles it to notification of any decision made by the First Respondent in connection with the Planning Application, to notice of any further meetings the First Respondent convenes to consider further the Planning Application, to appear and make representations at any further hearing of the Planning Application and to appeal any such decision pursuant to section 48 of the Development and Planning Act (2021 Revision) in the event that it is aggrieved by any such decision.

6. The Applicant’s Application for Judicial Review in this matter be withdrawn with each of the parties to bear their own costs.

Dated this 25th day of May 2023

Filed this 25th day of May 2023

The Honourable Justice Marlene Carter

JUDGE OF THE GRAND COURT
AGREED AS TO FORM AND CONTENT

Baker and Partners (Cayman) Limited
Attorneys for the Applicant

Attorney General's Chambers
Attorneys for the Respondents
Appendix S
Dear Mr Pandohie

Re: Application by Invincible Investment Group/Invincible Investment Corporation for planning permission in respect of, inter alia, a new Hotel Annex and associated facilities at WBBN 11D 45 (The Westin)

On 12th October 2022 representatives of Invincible Investment Corporation ("the Applicant") addressed the Central Planning Authority ("the CPA") in connection with an application for planning permission at Block 11D Parcel 45 entitled "Hotel Annex & Related Facilities, New Conference Facility, Change of Use, (Banquet, Kitchen, Meeting Rooms, Retail) & 2 Swimming Pools" ("the Application").

Our client, Meow Limited, had objected to the Application under cover of two letters from Baker & Partners dated 26th August 2022 and 21st September 2022 respectively. However, at the hearing on 12th October 2022 the CPA did not recognise Meow Limited as an objector and the representatives of Meow Limited at the hearing were not given the opportunity to respond to the presentation made by the Applicant at that hearing.

By order of the Grand Court in Cause 262 of 2022 it has been ordered and directed that the CPA should recognise Meow Limited’s status as an objector to the Application and the CPA was ordered to provide to Meow Limited notice of any decision made by the CPA in connection with the Application and provide Meow Limited with notice of any further meetings the CPA convenes in connection with the Application. The order of the Grand Court also ordered that the CPA should allow Meow Limited to make written representations in reply to the representations made by the Applicant on 12th October 2023.

7th June 2023
Those written representations are as follows -

Parking at The Falls

During its presentation on 12th October 2022 the Applicant said that The Falls (our client’s property at Parcels 96/1 and 97/1) is “under parked” and The Westin parking spaces are being utilised by those using the facilities at The Falls, but this is not correct. If anything, the opposite is true and patrons of The Westin are using parking spaces of The Falls.

The Applicant’s representatives gave no support for the allegation of patrons of The Falls of using parking spaces at The Westin. On the other hand, Meow Limited is able to deal with the issue in some detail, and that detail is set out in its earlier objection letter dated 21st September 2022 (see paragraph ‘Adverse Impact on the Tenants of 96/1 and 97/1’).

Indeed, Mr Joe Gould of the Applicant appears to accept the existence of these issues in his e-mail to Mr Malcolm Davies of Meow Limited dated 23rd August 2022 (see e-mail attached as ‘Attachment A’).

Furthermore, since the Baker & Partners letter of 21st September 2022 was written the security firm employed by Meow Limited at The Falls has observed security guards from another firm, not contracted by Meow Limited, at The Falls, assisting patrons of The Westin who have parked at The Falls, cross the road to The Westin.

When asked by the CPA during the 12th October 2022 meeting whether the proposed offsite parking would be detrimental to any of the residents in the vicinity, including at The Falls, the Applicant’s Architect said no but it is clear that if patrons of The Westin cannot park at The Westin, they will naturally park at The Falls first, before travelling further to any off-site parking at Parcel 37.

Off Site Parking Ratios

At the hearing on 12th October 2022 the Applicant’s representatives provided information to the effect that the overall development under consideration requires 385 parking spaces. However, the Department of Planning calculates the required parking spaces to be 451 (similarly, when the Applicant made the same application at a hearing before the CPA on 11th November 2020 it
proposed 393 parking spaces, whereas the Department of Planning had calculated the required spaces to be 450).

The Applicant appears to persist with this inaccurate calculation of the parking spaces required but in any event, at the hearing on 12th October 2022 the CPA noted that the required offsite parking had increased (the Chairperson saying it had “got worse”) going from 80% to something in excess of 90%.

**Off Site Parking Access**

Access to the off-site parking that the Applicant proposes, which it says would be at Block 11D Parcel 37, would be through an existing driveway on land owned by Meow Limited and currently used by The Falls commercial centre and the apartments to the rear. At the hearing on 12th October 2022 the Applicant’s Architect referred to this access being a “30ft Right of Way”.

Firstly, the right of way in question has been granted by Meow Limited as the registered proprietor of Parcels 96/1 and 97/1, to the registered proprietor of Parcel 37/1. The right of way is an easement of necessity, since without it Parcel 37 would be land locked. There is no right of way in favour of Parcel 45. The easement to Parcel 37 is for that parcel only and not for the benefit of a parcel that has no right to cross our client’s property.

Secondly, in addition to the fact that Meow Limited has not granted the Applicant a right of way in favour of Parcel 45, over Parcels 96/1 and 97/1, the width of the right of way stated by the Applicant is incorrect. The easement that grants a ‘Vehicle Right of Way and Pedestrian Right of Way’ is referred to as one that is of “varying widths along the Northern Boundary” and the actual width of this right of way is 25 feet 5 inches at the widest point and only 20’ 1” at its narrowest (see the Survey Map at page 4 of 4 accompanying the attached ‘Grant of Easement’ document dated 8th June 2015 registered at the Lands and Survey Department and marked ‘Attachment B’).

When a previous identical application by the Applicant came before the CPA in 2020 the Planning Department had commented that there was reduced “ability for two-directional traffic and safe pedestrian passage” along this right of way and that “the applicant has not
provided any details as to how this access way will be improved if at all”. (see ‘page 44’ at ‘Attachment C’).

The Applicant has still failed to provide any such details.

During its presentation on 12th October 2022 all the Applicant provided were images of a “Pedestrian Promenade link from Main Parking Area” alongside the “Main Parking Area Vehicular Access” but this Pedestrian Promenade link would not be situated on the right of way it says it has over Parcels 96/1 and 97/1 but rather, it would be situated on Block 11D Parcel 133, which is the property otherwise known as Regatta Business Park.

In the visual presentation made on 12th October 2022 the Applicant says that “Dart, the owner of the Regatta Business Park has expressed their (sic) support for the expansion” but no evidence of this support was provided.

On 12th October 2022 the CPA asked the Applicant whether it had the necessary approval from Dart for the proposed walkway and the Applicant said it did. However, when asked if there was a lease in existence Mr Gould of the Applicant answered, “that hasn’t been worked out yet”.

The Department of Environment notes that “The Applicant has also included a concept for a proposed pedestrian pathway linking Block 11D Parcel 45 with Block 11D Parcel 37, however, this pedestrian path does not appear to form a part of this proposal and may come under a separate application.....”. Given the fact that the Applicant does not have a right of way over Parcels 96/1 and 97/1 and given the fact that the right of way over Parcels 96/1 and 97/1 that does exist is not 30’ and is as narrow as 20’, it is clearly not adequate for two directional vehicular traffic, much less safe pedestrian passage.

In the circumstances, the Application should not be considered further unless and until a separate application is submitted and approved for a vehicular and pedestrian right of way over Parcel 133.
Exceptional Circumstances

The Cayman Island’s Planning Regulations (2022 Revision) requires parking spaces to be provided on the parcel to which the application relates, except that in a Hotel/Tourism zone fifty percent of the parking spaces may be located not more than five hundred feet from the respective building, unless “exceptional circumstance exist” that gives the CPA sufficient reason to grant a variation.

When asked what exceptional circumstances exist in this case the Applicant’s representatives replied that –

- the increased offsite parking would not be detrimental to residents in the vicinity (a statement which Meow and its tenants strongly disagree with)
- the proposed parking arrangements would be an overall enhancement for the area (which is not accepted)
- the proposed Application would create jobs (the Department of Environment, in its analysis of the Application said that “there maybe minor beneficial effects to socioeconomics regarding increased room stock” but by the same measure allowing the offsite parking will have a significant negative impact on the local Caymanian owned businesses at The Falls).

The above reasons given by the Applicant clearly do not constitute exceptional circumstances.

When the Applicant was asked whether it had considered multi levels of basement parking, or considered levels of parking on the beach side of its property, the Applicant’s representatives answered that the cost of engineering a concrete bunker would be too high and if space at the hotel site was used for parking, then the project would not be financially viable.

The Applicant purchased the property in question some years ago with full knowledge of the planning laws in existence but is now saying that the work it proposes cannot viably be carried out without the CPA varying the statutory requirements of the Cayman Islands Government to a significant degree.

Indeed, it is misleading to categorise the Applicant’s request as a variation. The Applicant is not asking for a small variation beyond 50% but is essentially requesting that it not be required to provide on-site parking at all. What it is requesting is not so much a variation of the Regulations
but an abandonment of them, all so that it can increase its profit margin at the expense of locally owned businesses and the safety of pedestrians.

There are no exceptional reasons for allowing any such a "variation". The Cayman Islands’ Government has recently reviewed the question of offsite parking and amended its 2021 Regulations (that had required 75% onsite parking and 25% offsite parking) by its 2022 Regulations (allowing 50% on-site parking and 50% offsite parking). Clearly any proposal not substantially in accordance with these up to date requirements will require a change in the law and not a variation.

Yours faithfully
Baker and Partners

Robert Jones
Robert.jones@bakerandpartners.com
Malcolm,

As we have discussed, we have submitted our plans to be heard by the CPA on September 14. We believe our parking management solution offers an significant opportunity to re-organize traffic and parking issues for patrons of Seven Mile Beach and adjacent neighbors. We are asking for your support in making this plan possible. In addition, the owners of the Westin would like to provide the following considerations for your support:

- Provide dedicated resort employee parking in the new parking lot. Enforce employee parking restrictions using the latest GPS technology which will eliminate employees from parking in The Falls retail parking spaces, both short term & long term.

- Provide parking monitors to The Falls during high demand periods to ensure parking enforcement at our expense, including during construction

- Provide improvements to the road way and landscaping between the Falls and Regatta Office Park

- Provide a dedicated shuttle connection to the Resort for use by staff, guests, and residents, further organizing parking lot usage vs. alternative

- Provide a total of 345 parking bays in the new lot, allowing for overflow parking to be utilized by tenants of The Falls, particularly Eats Café, Legendz Bar, and Yoshi

- Provide a pre-organized parking plan based on time of arrival and departure to better accommodate evening gala events for local residents and patrons; without the new lot, we have no other options to accommodate

- Provide an effective, identifiable and well-lit pedestrian crossing point inviting more foot traffic from our hotel guest to visit your tenant’s restaurants and retail shops.
• Eliminate casual and haphazard parking along West Bay Road and adjacent properties such as the Falls

• Provide excess parking that could be utilized for other local events such as receptions at the adjacent Governor’s Residence, which otherwise could be tempted to park at the Falls

The Parking Management Strategy should be maintained as a dynamic and comprehensive structural and integrated operational parking management plan that deploys a significantly more efficient parking system at a higher capacity and level of convenience without loss of amenity for guests and residents alike.

Please confirm if you were able to download the plan from the CPA site. Otherwise, I can make arrangements to email it to you. Please feel free to call me to discuss any questions or concerns you may have.

Regards,

______________________________
Joe Gould
Managing Director

Fortress Investment Group, LLC
4550 Travis Street
Dallas, Texas 75205
Direct: (972) 532-4346
Cell: (469) 471-8522
jgould@fortress.com
CAYMAN ISLANDS

The Registered Land Law (2004 Revision)
The Registered Land Rules (2003 Revision)

THIRD SCHEDULE

GRANT OF EASEMENT

REGISTRATION SECTION   BLOCK   PARCEL
WEST BAY BEACH NORTH  11D   96/1 & 97/1

I/W/E Meow Limited

In consideration of a peppercorn

(the receipt whereof is hereby acknowledged) HEREBY GRANT

to Sunshine Suites Ltd.

of P.O. Box 1994, Grand Cayman, KY1 – 1104, CAYMAN ISLANDS

the proprietor of the interest comprised in Parcel No 37/1

the following easement:

A 30’ vehicular right of way along the Southern boundary and a vehicular right of way of varying widths along the Northern boundary as per the attached sketch.

Dated this day of June 2015

Signed by the Grantor
Malcolm S. Davies, Director
Kristie Oumings, Assistant Secretary

in the presence of:

SUNSHINE SUITES LTD

Signed by the Grantee
Gregory A. Davy

in the presence of:

Judith Patrice

*Delete if not applicable
CERTIFICATE OF IDENTIFICATION

Name Meow Limited

Per Malcolm S Davies, Director
Per Kristie Cumings, Assistant Secretary

I HEREBY CERTIFY that the above named persons appeared before me on the ......day of June 2015 and being identified by .......................................................... acknowledged the above signatures or marks to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.

[Signature]

DAVID E. RITCH
Justice of the Peace

CERTIFICATE OF IDENTIFICATION ID# DR170687
For: Sunshine Suites Ltd
Per: Gregory H. Wray – Director

I HEREBY CERTIFY that the above named ..................................................... appeared before me on the 19th day of June 2015 and
being identified by * Driver's License 6.802.544 (or being known to me) acknowledged the above signature or mark to be his / theirs and that he / they had freely and voluntarily executed this instrument and understood its contents.

[Signature]

CERTIFICATE OF IDENTIFICATION

Name .................................................................

I HEREBY CERTIFY that the above named ..................................................... appeared before me on the ....................... day of .............................................. 2015 and
being identified by ................................................................. (or being known to me) acknowledged the above signature or mark to be his / theirs and that he / they had freely and voluntarily executed this instrument and understood its contents.

[Signature]

CERTIFICATE OF IDENTIFICATION

Name .................................................................

I HEREBY CERTIFY that the above named .....................................................
August 12, 2015

Ms. Sophia Williams
Registrar of Lands
Land and Survey Department
Government Administration Building
P.O. Box 1089
Grand Cayman KY1-1102

Dear Ms. Williams:

Re: WBBN 11D 96/1 and 97/1

We are writing as Chargee over parcels WBBN 11D 96/1 and 97/1 owned by Meow Limited.

We hereby confirm our agreement as follows:

1. To vary the existing easements over WBBN 11D 96/1 and 11D 97/1 by the inclusion of a pedestrian right of way on both the Northern and Southern boundaries. This is in addition to the vehicular right of way which already exists.

2. To vary the width of the existing easement of the Northern boundary of WBBN 11D 96/1 and 97/1.

3. To grant Vehicular and Pedestrian Easement over WBBN 11D 96/1 and 97/1 to Sunshine Suites Ltd the proprietor of WBBN 11D 37/1 and A.I.E. Ltd the proprietor of WBBN 11D 37/1/2.

Yours truly,

Patrick Cover
Senior Corporate Manager

Lori Moncrieffe
Credit Manager
than 500' from the respective building. Based on the proposed expansion, up to 113 spaces may be located off-site, however that means 75% of the required spaces (341) should be on-site.

Proposed access to the off-site site is through an existing driveway that supports the Cayman Falls commercial centre and apartments. The photographs below show that parking for the apartments back directly onto the easement and there are repeated occurrences of customers and tenants parking in the easement, thus reducing the ability for two-directional traffic and safe pedestrian passage.

View from West Bay Road, looking east.

The applicant has not provided any details as to how this access way will be improved, if at all. The Authority is recommended to discuss whether the off-site scheme, lack of on-site parking, and shared access is functional for two hotels along a major and busy tourism corridor.

3) On-Site Laundry Facilities

The expansion includes an on-site laundry facility to support both the existing and proposed hotel. Per their letter, the recently approved off-site facility will be temporary and demolished once hotel construction is complete.
Appendix T
Director of Planning
Department of Planning
PO Box 113
Cayman Islands Government
Government Administration Building
133 Elgin Avenue
Grand Cayman
Cayman Islands KY1-9000
Attn: Haroon Pandohie

BY HAND

Our ref: RHJ/kh/Meow/001

20th June 2023

Dear Mr Pandohie

Re: Application by Invincible Investment Group/Invincible Investment Corporation for planning permission in respect of, inter alia, a new Hotel Annex and associated facilities at WBBN 11D 45 (The Westin)

I write to acknowledge receipt of the invitation to my client, Meow Limited, to address the Central Planning Authority on 21st June 2023 in connection with the above application.

I have already confirmed to your Mr Whittaker that my client and I will be in attendance.

I have now also received the agenda for the meeting, and I see that the Applicant for planning permission, Invincible Investments, has made a number of comments on the objections that my client has raised, objections that appear misleading and which need to be clarified/corrected.

The Applicant says (at page 59 of the Agenda) that -

"This first objection by the Objector asserts that Applicant falsely accuses The Falls tenants and customers of using the Westin parking spaces without substantiation. At the same time however, the Objector asserts similar claim against the Applicant without merit, offering anecdotal conjecture, false accusations, and contortion of an email from Applicant as evidence. Applicant finds the tactic offensive and without relevance."

In the agenda for the CPA's meeting on 19th February 2020 the Planning Department said
that "Through a series of site visits it is evident that there are ongoing parking challenges on this site, especially when the hotel hosts events in which the general public attend".

And the minutes for that meeting indicate that the Applicant's architect, Andrew Gibb, said "local catered events such as for Rotary and Humane Society and Sunday brunches do lead to people parking off site and that is why they want more off site parking, so they can have more such events".

The Applicant also says (also at page 59 of the Agenda) that -

"The Falls centre is clearly underparked and which would violate planning regulation-stipulated parking requirements, causing The Falls tenants and customers to have to find parking elsewhere, including the Westin Resort parking lot. Under-provision of parking facilities at The Falls: Applicant estimates by observation The Falls parking derivation to be as follows: • Gross area of general commercial and restaurant square footage at the Falls is estimated at 32,800 sq ft • Based on Planning required parking ratio of 1 bay per 300 sq ft for general commercial use and 200 sq ft for restaurant use, the Falls estimated required parking is 123 bays for general commercial and restaurant usage • The Falls currently only provides an estimated 84 parking bays, leaving a significant parking deficit of 39 bays or 46% shortfall to current planning requirements"

It is not helpful to the CPA for the Applicant to "estimate by observation". Accurate figures would be of more assistance and to that end please see attached page 7 from a valuation carried out by JEC Property Consultants Ltd dated March 2021, which calculates that the approximate area of the material units in the general commercial area is 28,360 Sq. Ft, which means there is no shortfall (requiring 82 parking spaces whereas The Falls provides 84.

The Applicant also says (again at page 59), that -

During recent interviews with the main restaurant tenant of three separate restaurants at The Falls, they expressed their appreciation and vital contribution of Resort patrons coming over to dine in their restaurants. They have also expressed an interest in the Applicant's proposed parking lot to provide much
needed overflow parking conveniently located adjacent to their restaurants. Applicant has already commenced conversations with them regarding an agreement in this regard.

My client is interested to know the identity of the individual or individuals spoken to that expressed such views, as the views of the main restaurant tenants are to the contrary and a representative of Eats restaurant will attend the CPA meeting to verify this.

A representative of Capt. Marvins (another tenant at The Falls) will also attend the CPA meeting.

Then Applicant says (at page 62), that

"Objector claims that applicant, as owner of parcel 11D45 on which the proposed development that is the subject of this planning application, does not have the right to use the PROWs that serve as access from West Bay Road to parcel 11D37 on which the remote parking facility intended to provide the required parking for the development, is proposed to be located.

This objection is groundless as applicant anticipates that the grant of planning consent would be subject to a formal commercial agreement and lease between the owner of parcel 11D45 (site of the Resort) and the owner of parcel 11D37 (the site of the remote parking area) for the purpose of providing the requisite parking space for the use of and by guests, patrons and staff of the Westin Resort."

Whatever the Applicant anticipates, the Applicant appears to miss the point that the Right of Way has been granted to Parcel 37 for the benefit of Parcel 37. The benefit of this Right of Way cannot be extended by Parcel 37 to Parcel 45. Doing so is not in the authority of Parcel 37. Only Parcels 96 and 97 are able to grant or extend a Right of Way over their own land.

I will be grateful if you would add these comments to the CPA's record of the forthcoming meeting.

Yours faithfully

Robert Jones
Accommodation and Condition

Approximate Area of Units:
(areas provided by owner)

<table>
<thead>
<tr>
<th>Unit #</th>
<th>Floor #</th>
<th>Sq. Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 1114A</td>
<td>Ground Floor</td>
<td>5,600 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>Upper Floor</td>
<td>10,500 sq. ft.</td>
</tr>
<tr>
<td>Unit 1114B</td>
<td>Ground Floor</td>
<td>6,200 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>Upper Floor</td>
<td>5,600 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>Studio</td>
<td>460 sq. ft.</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>28,360 Sq. Ft.</td>
</tr>
</tbody>
</table>

Approximate Area of Apartments:

|                        |               |          |
|---                     |               |          |
| Two bedroom apartments | 10,500 sq. ft.|          |
| (each unit 1,500 sf)   | 460 sq. ft.   |          |
| Total                  | 10,960 Sq. Ft.|          |
| Commercial units       | 17,400 sq. ft.|          |

Condition & Finish:

Retail Units - Ignoring the tenants fit-out the general condition of the units is very good. In addition to the structural repairs that we've noted separately, the external walls of both buildings have been redecorated approximately 3 years ago.

Units inspected include—we were unable to inspect a retail unit internally, but we have previously inspected Caribbean Insurance Practice and unit U12.

Apartments — The apartments are generally in a good condition having been well maintained.

Unit inspected include - #5
Appendix U
The Chairman,
Central Planning Authority,
Government Administration Building,
Elgin Avenue,
George Town,
Grand Cayman, Cayman Islands.

June 27, 2023

Dear Sir,

**RE: Application by Libanon Group for Planning Permission for Construction Materials Storage “Laydown” Yard – Block 10E, Parcels 56 and 66**

This firm is instructed by BlueCap Investments Ltd. who are working with the developer of the proposed development in caption.

This application is currently scheduled for hearing on 5th July 2023 and has been challenged by a number of objectors who are residents of the various condominium developments on land across the West Bay Road.

We have been instructed to address some of the issues which have been raised in the Agenda of the previous adjourned hearing.

1. **Procedural/Housekeeping Matters:**

   (i) **Scope of Application**

   Firstly, this application actually only involves Block 10E, **Parcels 56 and 66** (indicate position on map) and does NOT involve the existing London House condominium site, which is Parcel 49. We refer to an email from Eamon Wilson sent to the Planning Department on June 6th, 2023, a copy of which is attached for ease of reference.

   Unfortunately, both the original cover letter from our architects (Trio) and the Agenda are incorrect in that regard, in that, the Trio letter erroneously refers to Parcel 49 (the London House Condos site) as being part of the development site, and the Agenda only refers to Parcel 56, which is the southernmost of the two parcels which comprise the proposed development site.
Our instructions are that this is confirmed by the plans submitted as part of the application, that the application involves, and only involves Parcels 56 and 66.

It is submitted that for the sake of accuracy of the record, the Minutes of the CPA meeting should reflect that Parcels 56 and 66 comprise the development site, and that the application does not involve Parcel 49.

(ii) Planning Department Analysis:

Page 46 of the Agenda of the adjourned hearing contained, under the heading of “Specific Issues”, a very curious and somewhat perplexing reference to “Suitability”. It is noted that it seems to have become the recent practice to use the term “suitability” generically in a multitude of applications, as if it were a term of art that applies generally to all planning applications.

This, however, is not the case. In the context of a planning application, the term “suitability” has a very specific connotation and, concomitantly, a very specific application. It is a legally prescribed test that the CPA has to apply when determining pursuant to Regulation 9, whether a site in one of the Residential zones is “suitable” for apartment development.

It is therefore submitted that the “suitability test” has nothing to do with the Hotel/Tourism zone, and therefore such commentary offers absolutely no utility to the CPA in this application, as the subject parcels are both zoned Hotel/Tourism. It is further submitted that if indeed the CPA were to employ such an approach for this application, as is being recommended by the Planning Department, such approach would be erroneous in law.

The Department has otherwise referred to the correct provisions, that is to say, Regulation 10 (2), but all those provisions require is the need to conform to the usual setback requirements applicable to the H/T Zone, which we would be obliged to comply with, if we were actually constructing a building on the site, since, after all, the term “setback” legally defined, is the measurement of distance between a boundary (or the HWM in certain cases) and a BUILDING on the parcel. It should be noted that the application does not propose the construction of anything on the site, and, in any event, given that the application proposes to leave a buffer of vegetation around the entire perimeter of the site, anything that is going to be physically placed on the site such as containers, etc., would definitely be setback much further from the boundaries of the site than even any ten-storey building would be required to be setback on it, if that was what was being proposed.

2. Nature of Proposed Development:

There are two aspects to the proposed development:

(i) Clearing and filling of Land: Firstly, it should be noted that the application only
involves, in terms of physical development, the clearing of a large portion of the land and the filling and compaction of the same to create the laydown yard. It is intended that the site will remain in that filled state indefinitely until such time as the owners may determine how it will be developed in accordance with the Hotel/Tourism zoning, which would obviously necessitate a further, much more detailed, application.

(ii) The second aspect of the proposed development is the use of the land for the purpose of storage of construction materials on a temporary basis, thereby necessitating planning permission for such use. It is anticipated that such use will only be necessary for the Governor’s Village (GV) project, which is anticipated to be completed by the end of the first quarter of 2025. Therefore, the Applicant is only seeking permission to use the site for storage for the next two years and would therefore ask that such permission be granted for such a term, ending two years after the date of grant, which should provide ample time for the Applicant to use the site and remove any and all containers and building material from the site. Obviously, in the event of unforeseen circumstances which would require an extension of planning permission, the Applicant would be constrained to make a further application to extend the timeframe, if and when that were to ever become necessary.

3. Site Attributes:

It should be noted that the reasons for choosing this site include:

(a) It is the only large site that is readily and feasibly available for storage of the large quantity of building materials and containers of fixtures, fittings and appliances that will soon start arriving in Grand Cayman for the GV site, which have to be stored somewhere, as it is impossible to store them on the GV site. We would submit that the use of an off-site storage facility for large developments is nothing new, and wherever possible, this is beneficial from a functionality and human life and safety perspective, as it allows for a more open construction zone that permits the space on the construction site to be fully utilized by construction machinery, equipment and personnel, without being overcrowded and cluttered by container storage on the construction site itself.

(b) The site is under common ownership with some of the developers of the Governor’s Village site, which gives the developers of GV the ability to secure and control their very valuable property until such time as it needs to be used/installed at the GV site. This also permits the reduction of costs of construction of the GV project, by avoiding the significant costs of rental of a significant amount of storage space, which may not even be available.

---

Tele: 345 943 5225  
Cell: 345 916 2437  
E-mail: samuel.jackson@jacksonlaw.ky
(c) The site is located some 1 ¼ miles north of the GV site, with both sites being located off the western side of the ETH, with direct access to the ETH. This lends itself to easy access to and from both sites along the best developed and most functional traffic infrastructure on the island. The use of this site, as opposed to the use of an imaginary alternate site in the Industrial zone is that it will obviate the use of the already seriously challenged roadways in the industrial area of George Town, including the Butterfield roundabout, which we are reliably informed has the highest traffic of all roundabouts in Cayman. We would submit that this alone is a proper basis for the CPA to consider favourably the use of this site.

(d) A large portion has previously been cleared and has been used historically to store all of the sand and fill excavated from the Renaissance site while it was being developed and it is currently being used by the GV Development group in part to store peat and topsoil excavated from the GV site. Therefore, there is existing and long-established use of this site for a similar purpose as is proposed.

4. Impact of Proposed Development:

It is submitted that the proposed development will not cause harm or constitute a nuisance to any of the surrounding properties, for the following reasons:

(i) **Buffer:** As proposed by the Applicant, the entire site will be ringfenced with a buffer of vegetation around the entire perimeter. This will significantly mitigate any potential impact on any surrounding properties and, coupled with the use of the ETH access point, as outlined below, this will serve to insulate the site from all of the developments along the West Bay Road.

(ii) **Access:** We are instructed that the Applicant intends to primarily use the access point from the ETH, which is already built by the NRA (circa 2013) to NRA standards, which provides a much more functional access, especially for articulated vehicles, to the site than the old narrow “Mariculture”/Salt Creek access road off West Bay Road. I am instructed that in order to eliminate any potential of traffic impact to the objectors and other persons in the vicinity who use the West Bay Road, the developer would be happy to gate that access, although we would still by law be required to allow access over the easement to the owners and ICT licensees using the telecom tower site on the southeast corner of the development (Parcel 55). The use of the ETH access point exclusively would completely eliminate any traffic by trucks on the West Bay Road, thereby negating any valid complaint to “nuisance” caused by that traffic/access to the site.

(iii) **Infrastructural Impact:** We would submit that the infrastructural impact of the proposed development is *de minimis*, especially in light of the fact that the
proposed land use is for temporary storage of containers which after delivery to the site, the only traffic that will be generated will be from vehicles that visit the site from time to time to retrieve building materials as the same are needed at the GV site.

(iv) Other Impact, Amenity, etc.: It also needs to be borne in mind that in any event since the permission being sought is for temporary use and there are no physical structures being proposed, this will result in significant less infrastructural and other impacts to the surrounding area which will result from permanent development of the site in accordance with the H/T zoning, which will no doubt come at some point in time in the future. Simply put, what is being proposed on the site will have far less impact - in fact will have virtually no impact - especially compared to what is contemplated and permitted by the Hotel/Tourism zoning, which is the same zoning as all of the surrounding land including the sites of the condominium developments where the objectors reside.

5. Agency Comments:

Given that the NRA has no substantive commentary or objection to the proposed development, the only other relevant agency comments that need to be addressed are the DOE’s comments. Those comments are contained in the DOE Report, which is included in the CPA Agenda of the adjourned hearing. This Report was made pursuant to the usual Section 7 consultative process. The DOE report is very instructive, in that, there is no strenuous objection raised in the same to the proposed development and certainly no recommendation that the proposed development should be refused due to its contemplated environmental impact.

It is most important to note that there is no assertion by the DOE that the proposed development will have an adverse effect (as defined by the NCA) on the environment generally. Therefore, we would submit that once the CPA properly considers the implications of the proposed clearing and filling of the unfilled swampland parts of the site, as is being proposed, it – the CPA – can properly conclude, for the purposes of Section 41 (3) of the NCA, that there is actually no adverse effect on the environment generally which would warrant a referral to the NCC under section 41 (3) of the NCA. Moreover, given that there certainly is no assertion that the development will adversely impact either any Critical Habitat of a Protected Species, or a Protected Area, there is no need to refer the matter to the NCC under section 41 (4) of the NCA. Given recent events, we would urge the CPA to accept this proposition and to document this in their decision, in order to avoid being accused of failing to consider the aforementioned subsections of section 41.

In any event, despite the fact that some of the objectors have raised the issue of clearing of mangroves, as if the same, ipso facto, can and should be equated to adverse affect (which is
a legally defined term) on the environment, the NCC/DoE has certainly not proposed that to be the case. In the circumstances there being no clear intelligible rationale as to how clearing and filling of the site equates to environmental damage that warrants a refusal of planning permission, any such claims by the objectors are simply unmeritorious and baseless. In this regard, the CPA should take special note of the fact that the site has been, since circa December of 1997, slated for Hotel/Tourism development, by the Legislative Assembly (now Parliament) of the Cayman Islands. Therefore, it is clearly the case that it was the intention of Parliament, whose authority is supreme and exceeds the authority of all other entities and statutory authorities in this country, that this land would be at some point cleared and filled for Hotel/Tourism development, as it was then and still is now unsuitable for such development in its current "natural" state.

Although the DOE has not identified any actual adverse effect on the environment, it has nonetheless recommended that the development footprint be reduced and suggests that "using only the existing man-modified area would still provide for an area of 2 acres to work within". It is our client's position that it would be ideal if they had the necessary space on the site available for container storage, as that would have obviated the application for filling of the additional area of the site, as well as it would have avoided the significant cost of clearing and filling of the site. However, that area is already being used for storage/stockpiling of fill excavated from the GV site, and hence the need to expand the filled area to create the "laydown area" for container storage.

It would perhaps be instructive for us to provide a breakdown of the constituent parts of the site and the proposed development. Our instructions are that:

(i) The entirety of the development site (combined areas of Parcel 66 (6.38 acres) and Parcel 56 (1.36 acres) is 7.7 acres.

(ii) The footprint of the current existing "modified" area is approximately 3.5 acres.

(iii) The overall area of the current proposed 25' wide buffer would be 1.1 acres.

(iv) Based on those numbers, the additional area that is being proposed to be cleared and filled would only be roughly 3 acres.

It should be noted that these numbers were calculated based on the information available from the registers of the Parcels and using google earth and the diagram in the DOE Report to calculate the dimensions of the buffer and the already filled area of Parcel 66 respectively. Nonetheless, this should assist in determining an approximation of the area that will actually be cleared and filled and the overall area of the laydown yard compared to the total area comprising the two parcels. Again, it should be borne in mind that it serves the developer no purpose to clear and fill more of the land than is actually needed for the laydown yard, since the entirety of the site is zoned for Hotel/Tourism development in any
event, and so the future permanent development of the site would necessarily involve
filling the entirety of the site. Viewed properly in that context, the proposed development
cannot be reasonably said to cause harm to any material planning interest.

In the circumstances, it is submitted that the objections to the proposed development are
completely without merit and there is no proper basis for the CPA to refuse the planning
permission sought, regardless of any purported “precedent” which may seem to suggest
otherwise.

Respectfully submitted,

Jackson Law, on behalf of the Applicant
Dear Marco, Ron & Haroon,

I refer to the original cover letter from Trio Architects dated 16th September 2022, and the letter sent by BlueCap on behalf of the Applicant on 31st May 2023, which is recorded in the CPA Agenda.

It has just been brought to my attention that there are some typos in both letters, as well as an erroneous reference to Parcel 49, which is the parent parcel of the London House Strata Corporation on which London House Condos are built.

Firstly, it should be noted that Parcel 49 is not in any way connected to, nor will it play any part in the proposed laydown yard and will not function as any ancillary part of the same for any purpose. Therefore, the reference in the letters to “the use of London House site as a landing zone” might be misleading, as all such activities would be confined to the designated areas on Parcels 55 and 56, which are located across the road (West Bay Road) from the London House condominiums. This can easily be ascertained and confirmed by reference to the plans submitted for the proposed laydown yard.

We only used this term since “the London House site” is used by us within the development group to describe all three parcels, which have common proprietors. We apologize if this may have caused any confusion to either the Planning Department or the objectors.

Secondly, the letter erroneously references Block 10E as “Parcel 10E” and consequently refers to the relevant parcels as “Blocks” instead of Parcels. We would ask that this obvious mistake also be corrected for the record.

Yours sincerely,

Eamon

Mobile: +1-345-9264656
Email: eamon.wilson@bluecap.ky

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Good Afternoon Mr. Wilson,

Thank you for the attached letter, it has now been added to the agenda.
Appendix V
Peacock and another v Custins and another

COURT OF APPEAL, CIVIL DIVISION
SCHIEMANN, MANCHE LJ AND SMITH J
4 OCTOBER, 14 NOVEMBER 2000

Basement – Right of way – Extent – Claimants owning land with express right of way over defendants’ land – Claimants owning another parcel of land adjacent to dominant tenement – Whether right of way could be used for purpose of cultivating land adjacent to dominant tenement.

The claimants owned a 15-acre parcel of land (the red land) which enjoyed the benefit of a right of way over a roadway owned by the defendants. That right, which had been granted in the conveyance of the red land to the claimants, was expressed to be 'at all times and for all purposes in connection with the use and enjoyment of the property hereby conveyed'. The claimants also owned another 10-acre parcel of land (the blue land) adjacent to the red land. The two parcels of land were farmed as one unit by the claimants' tenant, and he used the right of way for the purpose of farming both parcels. In proceedings brought by the claimants, the defendants counterclaimed for a declaration that the claimants were not entitled to use the right of way for the purpose of gaining access to the blue land. At the hearing, the claimants' tenant gave uncontested evidence that he needed to use the way about half a dozen times a year, and that farming the blue and red land required one or two more visits than would have been necessary if he had merely been farming the red land. The judge held that if the right of way was exercised for the purpose of farming the red land but at the same time opportunity was taken to enter the blue land from the red land as part of that farming activity, such a use of the right of way would not bring about an exceptional user or be in excess of the grant, provided that there was no significant additional user of the right of way. Applying that test, he refused to grant the declaration sought by the defendants. On appeal, the defendants did not press their entitlement to a declaration in the terms previously sought. Instead, they sought a declaration that the claimants were not entitled to use the right of way for the purpose of accessing the blue land in order to cultivate it, contending that such user was outside the scope of the grant and therefore constituted a trespass. The claimants contended that there would be no trespass unless either the use of the servient tenement was for the primary purpose of accessing the blue land or the use of the servient tenement for euerual access to the blue land increased the practical burden on it.

Held – The right to use a right of way was determined by the terms of the grant, specifying the dominant tenement for the purposes of which the right had been created, and trespass was whatever was not permitted by the grant. It was not a right to use a way for the purposes of benefiting any property provided that the total user did not exceed some notional maximum user which the beneficiary might have been entitled to make for the purposes of the dominant tenement. If that were the test, the beneficiary might in some circumstances use the way entirely for purposes other than those of the dominant tenement. The right was to use the way for the purposes of the dominant tenement only. The grant, when made, had a notional value, which would be identified by reference to those purposes
and their likely impact. Use for other purposes would be likely to carry its own notional commercial value. Moreover, where the court was being asked to declare whether the right to use a way comprised a right to use it to facilitate the cultivation of land other than the dominant tenement, the court was not concerned with any comparison between the amount of use made or to be made of the servient tenement and the amount of use made or which might lawfully be made within the scope of the grant. Rather, it was concerned with declaring the scope of the grant, having regard to its purposes and the identity of the dominant tenement. Although the authorities indicated that the burden on the servient owner was not to be increased without his consent, burden in that context did not refer to the number of journeys or the weight of the vehicles. Any use of the way was, in contemplation of law, a burden, and it was necessary to ask whether the grantor agreed to the grantee making use of the way for that purpose. In the instant case, the claimants were claiming to use a way, granted for the limited purposes of the 13 acres of red land, for the extended or additional purpose of accessing and cultivating at the same time the further 10 acres of the blue land. That extended or additional use was of self-evident commercial value to the claimants, but any value attaching to it could not have been embraced in the notional value attached to the actual right of way for the benefit of the red land. Such use, which could not sensibly be described as ancillary to the cultivation of the red land, had clearly not been authorised by the grantor. Accordingly, the appeal would be allowed (see p. 835 f to p. 836 g, post).

*Harris v Flower* (1904) 74 LJ Ch 127 applied.

**Notes**

For limits on the use of the right of way by the dominant owner, see 14 Halsbury’s Laws (4th edn reissue) para 147.

**Cases referred to in judgment**

- *Avis v Harrison* (1990) 62 P & CR 10, HL.
- *Harris v Flower & Sons* (1904) 74 LJ Ch 127, CA.
- *Inversgic Investments Ltd v Hacker Ltd* [1995] 3 All ER 841, [1995] 1 WLR 713, PC.
- *Jabson v Record* [1996] 9 EG 148, CA.
- *Ladbroke Group plc v Bristol City Council* [1988] 1 BCLR 125, CA.
- *Miller v Tipling* (1918) 43 DLR 469, Ont SC.
- *Skull v Gilwinter* (1864) 16 CB (NS) 81, 143 BR 1055.
- *Williams v James* (1867) LR 2 CP 577.

**Cases cited or referred to in skeleton arguments**

- *Bacewell v Appleby* (1975) 1 All ER 993, [1975] Ch 408.
- *National Trust for Places of Historic Interest or Natural Beauty v White* [1987] 1 WLR 90.

**Appeal**

Frank Custins and Teresa Mary Custins, the defendants to proceedings brought by the claimants, David Valentine John Peacock and Annie Sarah Jane Peacock,
 appealed with permission of Mance LJ granted on 21 October 1999 from the
order of Judge Sheerin made at Cambridge County Court on 2 July 1999, giving
effect to his decision of 18 December 1998, dismissing the defendants' counterclaim for a declaration that the claimants were not entitled to use a right
of way over the defendants' land for the purpose of gaining access to a parcel of
land adjacent to the dominant tenement. The facts are set out in the judgment
of the court.

Timothy Morshad (instructed by Birketts, Ipswich) for the defendants.
Thomas Dumont (instructed by Taylor Vintners, Cambridge) for the claimants.

14 November 2000. The following judgment of the court was delivered.

SCHIEMANN LJ.

1. This is an appeal from the late Judge Sheerin which raises one point of
general significance in relation to the law of easements and a number of other
points which are specific to the facts of the present case. The point of general
significance is this: where the owner of a dominant tenement possesses a right of
way for all purposes over a servient tenement, may he make any and if so what
use of that right of way to access and cultivate (in conjunction with the dominant
tenement) other property of his which lies adjacent to the dominant tenement?
The defendants, by their counterclaim, contend that this involves a trespass, on
the basis that the purpose of accessing and cultivating the other property is
outside the scope of the right of way granted. The claimants contend that there
is no trespass in such a case unless either the use of the servient tenement is for
the primary purpose of accessing the adjacent land or the use of servient
tenement for eventual access to the adjacent land increases the practical burden
on the servient tenement.

2. For the purposes of the principal question the facts can be stated shortly.
The defendants own a house, No 33 The Row, and a strip of land to the east,
which we shall refer to as the yellow strip, which is the servient tenement. They
acquired title by deed on 25 January 1977. The property is described in the
conveyance parcels as:

"All that piece or parcel of freehold land having a frontage to The Row,
Sutton ... of 77 feet or thereabouts ... together with the dwelling house
erected thereon and known as 33 The Row Sutton aforesaid all which said
property is shown edged green and yellow on the plan annexed hereto ...
subject to a right of way at all times and for all purposes in favour of the
owner or occupier for the time being of the property adjoining the rear of
the property herein described all which said right of way is for the purpose
of identification only edged yellow on the said plan annexed hereto."

The plan annexed to that conveyance the judge referred to as plan 1 and again we
shall do the same. The dominant tenement, namely 'the property adjoining the
rear of the property' is in the ownership of the claimants and we shall refer to it
as the red land.

3. The claimants had acquired title to the red land and to the easement by a
conveyance dated 21 April 1976. The vendors conveyed:
All those pieces or parcels of land situate in The Row Sutton in the county of Cambridgeshire containing 14.915 acres (more or less) all which said pieces or parcels of land are for the purpose of identification only delineated and edged red on the plan annexed hereto ... TOGETHER WITH the benefit of the right of way at all times and for all purposes in connection with the use and enjoyment of the property hereby conveyed ... over the roadway coloured yellow on the said plan ..." 

The plan clearly identifies three rectangular plots adjacent to one another running north-south and having a total area of 14.915 acres. To the north of the most northern of these three plots is shown a rectangular strip coloured yellow running northwards until it meets The Row which runs east-west. To the west of the yellow strip is No 33 The Row. The plan attached to this conveyance dated 21 April 1976 was referred to throughout the trial as plan 2 and we shall do the same.

4. The claimants used to own a property, consisting of a house with land behind, known as No 39 The Row which lies further west than No 33. It consisted of a relatively small frontage to The Row and a long strip behind it which widened out. Once one moves away from The Row, where No 39 was separated from No 33 (by presumably Nos 35 and 37) one finds that the land behind the house standing on No 39 marches along the western edge of the red land. On plan 2 the whole of No 39 is shown edged blue. All of the land edged blue used to be accessed from The Row through No 39. In February 1997 the claimant sold part of No 39: the house and the four acres immediately behind it. He however failed to reserve any right of access by that route to the remainder of the land to which he retained title. We shall refer to the land over which he retained title as the blue land.

5. Thus it came about that the claimants owned the blue land and the red land. They are entitled to access the red land by means of the yellow strip. But are they ever entitled to use the yellow strip to gain access to the red land and thence to the blue land and, if so, in what circumstances? Those are the main points which fall for decision. In the action the defendants by counterclaim sought a declaration that the plaintiffs were not entitled to use the right of way over the yellow strip for the purpose of gaining access to the blue land. That declaration the judge refused to make and the defendants appeal that refusal. No other relief was sought by the counterclaim.

6. The judge found that the red land and the blue land were farmed as one unit. The red land was about 15 acres and the blue land ten acres more or less. The two fields were inter-connected. The land was let to tenant farmer Mr Veale. He used the access for the purpose of farming both the red and the blue land. He did not claim to use the yellow roadway for the purpose of accessing the red land and then, as an incidental activity, picnic or stroll on the blue land. The defendants, rightly, do not contend that incidental activity of this nature would involve any excess of grant. But Mr Veale was using the access for the joint purpose of cultivating both properties, the red and the blue. His evidence was unchallenged that he might have to make one or two more visits with his tractor to farm the blue and red land than he would to farm merely the red land. The defendant accepted that so far Mr Veale had only used the access way on a couple of occasions and would appear to have need to use it only about half a dozen times a year. The judge held that the actual use both at the present time and contemplated by Mr Veale was not excessive in quantitative terms. He stated
that he was satisfied that access over the yellow roadway was not likely to be greatly increased by making access to the blue land as well as the red land. He concluded his judgment as follows:

"I accept and respectfully adopt the proposition of Romer L.J in *Harris v Flower & Sons* (1904) 74 LJ Ch 127 at 132: "If a right of way be granted for the enjoyment of Close A, the grantee, because he owns or requires Close B, cannot use the way in substance for passing over the Close A to Close B." So in certain particular circumstances, which I am satisfied have not arisen here, the plaintiffs, or those authorised by them, would not be entitled to claim a right of way to the blue land over the yellow roadway. However, if the access over the right of way is exercised for the purpose of farming the red land and at the same time the opportunity is taken to enter the blue land from the red land as part of that farming activity and there is no significant additional user of the right of way, such a use of the right of way would not bring about exceptional user, nor would it be in excess of the grant. The plaintiff would be wise to ensure that the blue and the red land are cropped in an identical way each year. I decline to make the declaration sought."

7. The declaration sought by the defendants was a declaration that the claimants are not entitled to use the right of way over the yellow strip for the purpose of gaining access to the blue land.

8. The defendants, while not pressing their entitlement to a declaration in the absolute terms sought, submit that to use the yellow strip for the purpose of accessing the blue land in order to cultivate the blue land, as well as the permitted red land, is to trespass on the yellow land and that they are entitled to a declaration that the claimants are not entitled to use the yellow land for that purpose. They submit that the identity of the dominant tenement for the benefit of which the easement was granted appears clearly from the grant and that it is not permissible to use the servient land for the purpose of benefiting the blue land which was never land for the benefit of which the easement was granted. They submit that if indeed the use of the yellow strip for the purpose of gaining access to the blue land is not permitted by virtue of the easement then they would be entitled to damages not only on the basis of damage to the yellow land or to No 33 but also on a user basis. We recall that Nicholls L.J explained in *Stoke-on-Trent City Council v W & J Wass Ltd* [1988] 3 All ER 394, [1988] 1 WLR 1406, in a passage in effect approved by the Privy Council in *Invergatie Investments Ltd v Hackett Ltd* [1995] 3 All ER 641, [1995] 1 WLR 713, that—

"It is an established principle concerning the assessment of damages that a person who has wrongfully used another's property without causing the latter any pecuniary loss may still be liable to that other for more than nominal damages. In general, he is liable to pay, as damages, a reasonable sum for the wrongful use he has made of that other's property." (See [1988] 3 All ER 394 at 402, [1988] 1 WLR 1406 at 1416.)

9. The defendants submit that in those circumstances the making of a declaration is in principle desirable and was wrongly refused by the judge.

The law

10. The present state of the law appears from an examination of the following cases. *Harris v Flower & Sons* (1904) 74 LJ Ch 127 was a case where the defendant had been granted a right of way over the claimant's land. That grant was to enable
him to access what was referred to as the pink land. At the time of the grant of the right of way the defendant's predecessor in title was already the owner of property adjoining the pink land, which adjoining property was referred to as the white land. The white land consisted of a public house with its own access and some land to the rear of the public house. The land at the rear of the public house adjoined the rear portion of the pink land. Years after the grant a factory was erected partly on the white land and partly on the pink and the licensed premises were completely severed from the land at the rear. The question arose whether the right of way could be used in order to access that factory including that portion of it which stood on the white land. Swinfen Eady J held that the defendant was entitled so to use it since he was using the access way bona fide for the purpose of accessing the pink land none the less so because a portion of the building on the pink land extended to the white land. This decision was reversed by this court.

11. In his judgment Vaughan Williams LJ cited with approval two earlier cases: Skull v Glenister (1864) 16 CB (NS) 81, 143 ER 1055, which shows that 'a mere colourable use' of a way for the purpose of entering the dominant land (when the real purpose was some other) will fall outside the grant; and Williams v James (1867) LR 2 CP 577.

12. Williams v James concerned a right of way over the plaintiff's land for the benefit of 'Nine acre field' in its ordinary use as a field. Hay grown on both Nine acre field and the adjoining 'Parrott's land' had been mowed and stored on Nine acre field in the summer of 1866, and in September 1866 its whole bulk was sold to the defendant who carted it away over the plaintiff's land to the highway. The jury held that the original storage on Nine acre field had been done honestly and not in order to gain the advantage of the right of way. The stacking and subsequent dealing with the hay must have been regarded by the jury as being in the ordinary and reasonable use of Nine acre field (see all three judgments (1867) LR 2 CP 577 at 581, 582, 583). The test identified in all three judgments was whether Nine acre field was being used for purposes others than those included in its ordinary and reasonable use, although Bovill CJ added that 'if no additional burthen was cast upon the servient tenement the jury might well find that there had been only the ordinary and reasonable use of the right of way'. This test is also reflected in the following passages quoted by Vaughan Williams LJ to explain the decision:

'The circumstances under which the hay was stacked, and the purpose and object of the defendant in carrying it away, are questions for the jury. As I read the finding of the jury, the stacking and the subsequent dealing with the hay were in the honest and reasonable use of Nine acre field.' (See Harris' case (1904) 74 LJ Ch 127 at 130.)

13. In view of the jury's findings the plaintiff's claim therefore failed.

14. Having cited those cases, Vaughan Williams LJ continued (at 132):

'I cannot help thinking that there not only may be, but there must be, many things to be done in respect of the buildings on the white land which cannot be said to be mere adjuncts to the honest user of the right of way for the purposes of the pink land. To begin with, the first thing he was doing before the completion of the building was to use the right of way for the purpose of carrying materials onto the white land so as to erect that part of the building, and I cannot doubt that as time goes on he will probably use this right of way for the purpose of doing repairs on the white land; and under these
circumstances it seems to me that, notwithstanding the fact that the buildings on the white and on the pink lands are intended to be used jointly for one purpose, yet that consideration does not exclude the inference that the user of the way is for the purpose of giving access to land to which the right of way is not appurtenant. The reason of it is that a right of way of this sort restricts the owner of the dominant tenement to the legitimate user of his right; and the Court will not allow that which is in its nature a burden on the owner of the servient tenement to be increased without his consent and beyond the terms of the grant .... The burden imposed on the servient tenement must not be increased by allowing the owner of the dominant tenement to make a use of the way in excess of the grant. There can be no doubt in the present case that, if this building is used as factory, a heavy and frequent traffic will arise which has not arisen before. This particular burden could not have arisen without the user of the white land as well as of the pink. It is not a mere case of user of the pink land, with some usual offices on the white land connected with the buildings on the pink land. The whole object of this scheme is to include the profitably user of the white land as well as of the pink, and I think the access is to be used for the very purpose of enabling the white land to be used profitably as well as the pink, and I think we ought under these circumstances to restrain this user.'

15. Romer LJ said (at 132–133):

'I think that it is impossible to say that this large building is to be regarded as if wholly erected on the land coloured pink, nor can it be said that every user of the way for the purposes of the land coloured white is one for the proper enjoyment of the land coloured pink. I will take one instance. The defendant has used, and claims a right to use, this right of way for the purpose of carrying building materials for the part of his buildings on the land coloured white. That, to my mind, is a user of the right of way for passage over the land coloured pink for the enjoyment of this land coloured white. It is impossible to say that by reason of one building being on both lands the defendant has made the right of way which was granted for the enjoyment of the one a right of way for the enjoyment of both, and that is what the defendant is really doing. That would substantially enlarge the grant of the right of way. The servient tenement is not obliged to submit to the carrying of building materials for the purpose I have indicated; and other incidences might easily be given which would result in using the right of way for purposes of the land coloured white, and not for the true and proper enjoyment of the land to which the way was appurtenant.'

16. Cozens-Hardy LJ stated (at 133):

'It is a right of way for all purposes—that is, for all purposes with reference to the dominant tenement. The question is whether the defendant has not attempted, and is not attempting, to enlarge the area of the dominant tenement. The land coloured white is entirely landlocked by the acts of the defendant. The only access is by the passage over the land coloured pink, and it is, in my judgment, impossible to use the right of way so as to enlarge the dominant tenement in that manner.'

17. In Johnson v Record [1998] 9 EG 148 a right of way was granted for all purposes connected with the use and enjoyment of the dominant tenement as agricultural
land. The dominant tenement was used for the purpose of storing timber felled on neighbouring land and the question was whether the right of way could be used for the purpose of removing that timber. Harris' case was followed and the question was answered in the negative. Morritt IJ (at 149) saying:

‘If the storage was a separate operation it was not an agricultural use of [the dominant tenement]. If it was not an operation separate from the felling of the timber, then the use of the right of way for the removal of the timber felled at [the neighbouring tenement] was in substance for the accommodation of [the neighbouring tenement]. Either way, the use of the right of way was not authorised by the terms of the grant.’

18. Sir Brian Neil and Simon Brown IJ agreed. The court may have taken a more limited view of use ‘as agricultural land’ than that adopted by the jury in Williams v James, but that is neither here nor there.

19. Alvis v Harrison (1990) 62 P & CR 10 is a Scottish case but it is common ground that in this respect the law of Scotland is the same as that of England. The facts were unusual. The dominant tenement lay on either side of the servient tenement which was a driveway running north-south leading to the A73 highway. On the west of the driveway, on part of the dominant tenement, stood a house. The owner of the house wished to construct a new drive to run eastwards from the driveway and thence to join the highway further east than the place where the servient tenement joined it. The owner of the servient tenement sought to stop him from doing so. It was held that he could not. Lord Jauncey of Tulketh (at 15–16) delivering the only substantive speech said:

‘Before turning to the facts of this case it may be convenient to state certain general principles applicable to servitude rights of access and their use … Where a right of access is granted in general terms the owner of the dominant tenement is entitled to exercise that right not only for the purpose of the use to which the tenement is then being put but also for any other lawful purpose to which it may be put thereafter … The right must be exercised civiliter, that is to say, reasonably and in a manner least burdensome to the servient tenement … For the better enjoyment of his right the dominant owner may improve the ground over which the right extends provided that he does not substantially alter the nature of the road nor otherwise prejudice the servient tenement … A servitude right of access entitles to the benefit of the dominant tenement and no other. Thus is not communicated for the benefit of other tenements contiguous thereto … What they may not do, however, is to use the way, or permit its use by others, to obtain access to subjects other than the dominant tenement, whether or not they happen to be heritable proprietors of those other subjects. They may not, in short, increase the scope of the right of access, and in particular they may not use the way for the purpose of securing access for persons or goods to subjects contiguous to the dominant tenement by using the dominant tenement merely as a bridge between the end of the lane and the non dominant subjects…’

20. Later in his judgment after dealing with facts Lord Jauncey (at 16–17) said:

‘… it is quite wrong to treat the A73 as though it were another tenement contiguous to the woodlands. The underlying reason for restricting the benefit of a servitude right of access to the dominant tenement alone is that
to use it for the benefit of a second or third tenement is likely to generate more traffic and so increase the burden. In this case, the appellant already has a right of access to the A73 over the driveway. The new road merely provides a substitute means of access without altering the volume of traffic.'

21. We were also referred to *Miller v Tipling* (1918) 43 DLR 469 where Mulock CJ Ex said (at 475):

"The law is well-established that a right of way appurtenant to a particular close must not be used colourably for the real purpose of reaching a different adjoining close. This does not mean that where the way has been used in accordance with the terms of the grant for the benefit of the land to which it is appurtenant, the party having thus used it must retrace his steps. Having lawfully reached the dominant tenement, he may proceed therefrom to adjoining premises to which the way is not appurtenant; but, if his object is merely to pass over the dominant tenement in order to reach other premises that would be an unlawful user of the way ..."

22. The law is clear at the extremes. To use the track for the sole purpose of accessing the blue land is outside the scope of the grant. However, in some circumstances a person who uses the way to access the dominant land but then goes off the dominant land, for instance to picnic on the neighbouring land, is not going outside the scope of the grant. The crucial question in the present case is whether those circumstances include a case where one of the essential purposes of the use of the way is to cultivate land other than the dominant land for whose benefit the grant was made.

### The present case

23. Mr Dumont for the claimants submits that the question to be asked is whether the use of the yellow strip for the purpose of accessing both the red and the blue land involves a trespass on the yellow strip. He submits that it does not because it does not impose a significantly heavier practical burden on the owner of the servient tenement (the defendants) than they had willingly assumed. On one view, when the judge in the present case referred to the burden of use being 'not, or not significantly, increased', he was purporting to conclude that any additional use resulting from the accessing and cultivation of the blue land with the red land was minimal. If that were the test, we would have to disagree with the judge's conclusion. Mr Veale's evidence that his likely use was about six times a year, and that this would involve one or two more visits than if he was farming the red land alone, would seem to us to disclose more than a minimal increase.

24. The right to use a right of way is determined by the terms of the grant, specifying the dominant tenement for the purposes of which the right is created. Trespass is whatever is not permitted by the grant. The right is not to use the way for the purposes of benefiting any property provided that the total user does not exceed some notional maximum user which the beneficiary might have been entitled to make for the purposes of the dominant tenement. If that were the test, the beneficiary might in some circumstances use the way entirely for purposes other than those of the dominant tenement. The right is to use the way for the purposes of the dominant tenement only. The grant, when made, had a notional value which would be identified by reference to those purposes and their likely impact. Use for other purposes would be likely to carry its own notional commercial value. The claimants are claiming to use a way granted for the
limited purposes of the 15 acres of red land for the extended or additional purpose of accessing and cultivating at the same time the further ten acres of the blue land. That extended or additional use is of self-evident commercial value to the claimants, but any value attaching to it cannot have been embraced in the notional value attached to the actual right of way for the benefit of the red land.

25. Considering the position as a matter of principle, we would consider that the defendants are entitled to the declaration that they seek. In our judgment the authorities to which we have referred, and in particular Harris' case, also confirm that, where a court is being asked to declare whether the right to use a way comprises a right to use it to facilitate the cultivation of land other than the dominant tenement, the court is not concerned with any comparison between the amount of use made or to be made of the servient tenement and the amount of use made or that might lawfully be made within the scope of the grant. It is concerned with declaring the scope of the grant, having regard to its purposes and the identity of the dominant tenement. The authorities indicate that the burden on the owner of the servient tenement is not to be increased without his consent. But burden in this context does not refer to the number of journeys or the weight of the vehicles. Any use of the way is, in contemplation of law, a burden and one must ask whether the grantor agreed to the grantee making use of the way for that purpose. Although in Harris' case Vaughan-Williams LJ mentioned the 'heavy and frequent traffic' arising from the factory which 'could not have arisen without the use of the white land as well as of the pink', the view we take of the reasoning in all three judgments in that case, as appears by the passages set out above, is that all three judges were addressing not the question of additional user, but the different question: whether the white land was being used for purposes which were not merely adjuncts to the honest use of the pink land (the dominant tenement); or, rephrasing the same question, whether the way was being used for the purposes of the white land as well as the dominant tenement.

26. Where there is a use in excess of that granted questions can arise as to whether an injunction should be granted or damages should be awarded. But such questions are not before us because neither relief was sought by the defendants. They wished to know what the legal position was.

27. It is in our judgment clear that the grantor did not authorise the use of the way for the purpose of cultivating the blue land. This can not sensibly be described as ancillary to the cultivation of the red land. We therefore allow the appeal and declare that the claimants are not entitled to use the yellow strip for the purpose of obtaining access to the blue land in order to cultivate it.

The size and location of the right of way

28. We turn to the issue as relating to the size and location of the right of way. In his first judgment dated 18 December 1998, the judge concluded that the width of the right of way at its two extremities was 21 foot, and that in between it was limited by the physical existence of permanent obstruction and had a maximum width of 21 foot. In his second judgment dated 2 July 1999, he held that it would not reflect the intention of his first judgment to include a kink in the western side of this right of way, since the suggested kink reflected no more than the presence in 1976–1977 of outbuildings, which had since been removed; they were not part of the original house at No 33 and 'plainly were not permanent'.

29. The defendants submit that the judge erred, first of all, in treating the whole area coloured yellow as intended (subject to permanent obstructions) to be comprised in the right of way. In their submission the judgment should have
33. In these circumstances, the position seems to us clear. The background does not support any limitation of the right of way to any particular route between its two extremities or to any gate or part of its two extremities. The right of way extends to the full width of the yellow land shown on plans 1 and 2, subject only (on the judge's judgment) to permanent obstructions. But the claimants could not object to the presence of such restrictions as were imposed by the gates and fences, unless and until these substantially interfered with such use of the right of way as was reasonable from time to time (see Keefe's case [1964] 2 All ER 517 at 521, [1965] 1 QB 334 at 347).

34. We turn to the question of the kink, shown on the large-scale and detailed plan 1, but not on the small-scale and imprecise plan 2. Plan 1 specifies this kink as starting 35 ft 2 in south of the road and running south at a slight easterly angle for 20 ft 10 in, before the western edge of the yellow coloured land resumes a southerly direction for its remaining 100 feet. The judge, in his original judgment, said that the right of way was precisely ascertainable from the location of the flank wall of No 33, the auctioneer's statement, plans 1 and 2 and the auction particulars. We have already indicated our view that the auctioneer's statement was not admissible. But plan 1, which shows no kink, is. Of plan 1, the judge said: "The only deficiency in the plan is that the obtuse angle kink on the south western limit of width is not identified, nor are measurements given at that point."

35. In his second judgment, however, he declared that the right of way was 21 foot wide at its ends and along its width, save where there were permanent obstructions and dismissed the outbuildings as impermanent. As to this, it does not follow from their subsequent demolition that the outbuildings would have been regarded as impermanent at the time, or that their owners would have been prepared to have them demolished or to forego their reconstruction. The kink appeared, because of them, in the very document which the judge accepted as 'meticulous and precise in its detail' and as 'leav[ing] no doubt in the mind of anyone'. Further, this is a document which is admissible, as we consider in common with the judge, on the issue whether the right of way was intended to extend to the whole of the yellow coloured area, or to be limited to some route or gates on that area. The judge's second judgment appears to us to ignore the clear effect of the very document which he elsewhere, rightly, found so helpful. We can see no basis for treating the right of way as having a 21-foot width along its whole length, regardless of the kink. Plan 1 shows that it was understood to have 21-foot width at each end, and to have kink in the middle, which must clearly reduce its width in the middle. To what width it there reduces must depend on a precise calculation based on an original and not a photocopy of plan 1.

36. The judge referred to permanent obstructions, and the plan annexed to his final order, which Mr Dumont defends, shows a telegraph pole on the east edge of the yellow area, near the road. It is 18 ft 6 in from the east flank wall of the defendants' house at No 33. We reject Mr Morshed's submission that this means that the judge has ordered a right of way impinging by 2 ft 6 in on to the house at No 33. On the judge's judgment, the pole represents a permanent obstruction, and a necessary limitation on the right of way. Mr Dumont did not contend that the judge was wrong to qualify his judgment by reference to permanent obstructions to be found on or in the ground at the time of the sale in 1976–1977.

37. On the ground, the boundaries clearly intended to mark the yellow area appear to have been swivelled slightly on a central fulcrum, going eastwards at the south. The swivelling is reflected on the plan attached to the judge's order.
The effect is that some 2 ft 9 in of the existing gate at the south-west end of the yellow area is shown as falling outside the yellow area and so outside any right of way. That is consistent neither with common sense nor with either party's case. In that respect also it seems to us that the plan attached to the order requires revision.

38. For these reasons, on the second issue, we vary the judge's order to require the kink to be shown and also to reverse the swivelling of the yellow area. A revised plan will thus require to be drawn up and attached to the order of this court. A declaration along the lines of the first declaration made by the judge will be appropriate in relation to that revised plan. The second declaration made by the judge will require amendment in view of the kink. Paragraph 3 of the order under appeal still appears appropriate. Instead of para 4 of the order under appeal we shall declare that the claimants are not entitled to use the yellow strip for the purpose of obtaining access to the blue land in order to cultivate it.

*Appeal allowed.*

Kate O’Hanlon  Barrister.
13

Easements

The first part of this book had been concerned largely with ownership rights. The previous chapter on mortgages dealt with an important third party right, although the origins of this right lay also in ownership of the property and it is still the case that a mortgagee is regarded as the purchaser of a legal estate in land. In the course of the consideration of the law relating to land ownership, the enforceability of third party rights has been considered. The remainder of the book is concerned with the substance of those rights. This chapter is concerned with the form of third party right categorized as an easement. The remaining chapters will deal with freehold covenants and licences.\(^1\)

THE NATURE OF AN EASEMENT

The essential nature of an easement is that it is a right over another person's land. These rights are so important it has recently been said that, "Without easements it may be very difficult if not impossible to enjoy the benefits of land ownership;" an observation attested to by the fact that at least 65 per cent of registered frehold titles are subject to at least one easement.\(^2\) Classic examples of easements are rights of way and rights of light, but there are numerous others, including the right to use a washing line on a neighbour's land,\(^3\) the right to use a neighbour's lavatory,\(^4\) and the right to park a car on another person's land.\(^5\) This, of course, is not an exhaustive list. These are simply examples of rights which have been afforded the status of easements. What is necessary is to identify the characteristics common to all easements.

The most authoritative exposition of the nature of easements was given by the Court of Appeal in *Re Ellenborough Park*,\(^6\) where, for the first time, the right of householders to walk freely in a nearby park was recognized as satisfying the requirements to qualify as an easement.

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1. For reasons of space, neither rentcharges nor profits à prendre, which today are of relatively little importance, will be considered in any detail.
2. Wall v. Collins [2001] 1 All E.R. 122 at 128 per Hooper J.L.
Dominant and servient tenement

For a right to exist as an easement, that right must affect two plots of land, or tenements. It is an essential element of an easement that it is annexed to, and that no person can possess an easement otherwise than in respect of land and in amplification of his enjoyment of some estate or interest in a piece of land. If the easement in question is a right of way, then the person claiming the right over another plot of land does so in his capacity as the owner of a tenement. The land which enjoys the benefit of the right is termed the dominant tenement and the land over which the right is exercised is the servient tenement. If a person claiming to have a right to cross another person's land does not own land himself, then the right may be either a licence or even a public right of way, but it cannot be an easement. The easement must exist for the benefit of land or, putting the same point another way, an easement cannot exist in gross.

The rule that an easement cannot exist in gross has been subject to criticism. It has been argued that, in a modern society, it should be possible to possess an easement without there having to be a dominant tenement. On the other hand, a complementary requirement for an interest to be recognized as an easement is that, not only must there be a dominant tenement, but the right in question must also accommodate that tenement. To abandon the need for a dominant tenement may lead to a number of new rights being found to burden land, and this is not something the law has been keen to encourage. The Law Commission, having explored the pros and cons of this issue, provisionally concluded that there should be no change in the existing law, and this conclusion, which was supported after consultation, seems sensible.

Once an easement has been created, it will run automatically with the dominant land and can be enjoyed by any occupier of that land. If there was no need for there to be a dominant tenement, the passing of the benefit of easements may present problems.

The right must accommodate the dominant tenement

An easement exists to benefit land. As such it is necessary, but not sufficient, that the person claiming the right in question must own land; it is also a requirement that the right claimed actually benefits his land or, again, putting the same point in a different way, the right must accommodate the dominant tenement. The right must benefit the owner of the land in that capacity and not simply confer a personal benefit on him incidental to his ownership of the land. The fact that the easement benefits one plot of land does not mean that the owner of that land can use the easement for the benefit of other plots of land which he owns but which do not have the benefit of that easement. In general, with regard to this matter, two issues arise. These are the mutual proximity of the two plots and the nature of the advantage claimed.

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8 Alfred E. Beckett v. Lyons [1967] Ch. 449 at 485 per Winn L.J., and includes an incorporeal interest such as a fishing right. Hanbury v. Jenkins [1901] 2 Ch. 401 at 422-3 per Buckley L.J.


Appendix W
Fortress Investment Group
LLC4550 Travis St,
Dallas, TX 75205,
USA

4th July 2023

Re: Invincible Investments (Westin) Planning Application 11D45

Dear Mr Gould,

Further to our recent discussions regarding access across the southwest section of parcel 11D113 (Regatta office complex) leading from the West Bay Road to 11D37 we wish to confirm that we have, in principle, agreed to high-level commercial terms for long-term access per your application.

We would also like to confirm that no other use of 11D113 has been agreed between the parties.

Yours Sincerely,

Robert Weekley
Senior Vice President Development Planning
Appendix X
Fortress Investment Group
LLC4550 Travis St,
Dallas, TX 75205,
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4th July 2023

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Yours Sincerely,

Robert Weekley
Senior Vice President Development Planning
BEFORE THE CENTRAL PLANNING AUTHORITY

IN THE MATTER OF

An application for a temporary laydown yard for storage material.
Block 10E Parcel 56 ((P22-0841) by Libanon Corporation ("The Applicant")

FOR HEARING: 5 July 2023

________________________

SPEAKING NOTE

On behalf of The Proprietors of Strata Plan No. 142
"The Commonwealth"

________________________

1. This speaking note is in addition to (and where necessary expand upon) the matters raised in the letters of objection

The comments of the Department of Environment ("DOE")

2. The DOE has described the clearing and filling of the area for temporary use will cause the irreversible loss of the mangroves and the ecosystem. Clearing the site for temporary storage of construction materials is not considered to be a wise use of our mangroves and other wetlands.

3. The mangroves (black, red and white) are designated as endangered, near threatened and vulnerable respectively. Red are designated as "near threatened" precisely because of the sort of clearing being proposed. Protected species within the meaning of the National Conservation Act (NCA) (see Schedule 1 Part 2 as red with section 15

4. The definition of "adverse effects" at section 2 of the NCA includes:
(a) alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife;

(b) development that may increase the potential for damage to the area from floods, hurricanes or storms;

These are engaged here.

5. In terms of the definition of "environment generally" for the purposes of section 41 (1) of the NCA. The guidance notes to government entities provides:

In order to comply with the Law, all government agencies shall consult with the Council if they are taking any action, granting any permission, taking any decision or engaging in any undertaking which matches any of the "trigger" conditions

a) Location trigger: Activities occurring with 500 feet landward of the high water mark
b) Activity trigger: subdivision, clearing filling or excavation on land of one acre or more

The relevant considerations for the Council here are location of the action (wetlands) and impacts (irreversibility of the action)

6. It follows that the application does adversely effect the environment adversely, and section 41 (1) and (3) are engaged:

41. (1) Subject to subsections (2), (3) and (4), every entity shall comply with the provisions of this Law and shall ensure that its decisions, actions and undertakings are consistent with and do not jeopardise the protection and conservation of a protected area or any protected species or its critical habitat as established pursuant to this Law.

(2) For the purposes of subsection (1) the Council shall formulate and issue guidance notes to entities on their duties under this Law, and any action taken in
full accordance with such guidance shall be deemed to be in compliance with this Law.

(3) Every entity shall, in accordance with any guidance notes issued by the Council, consult with the Council and take into account any views of the Council before taking any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect on the environment generally or on any natural resource.

7. Because the application will plainly have an adverse effect on "the environment generally" there is a mandatory duty to consult.

8. the CPA need to take into account the views of the council. The DOE are the CPA's experts- there will need to be clear and cogent reasons for departing from their advice and opinion. Their opposition on environmental grounds could not be clearer.

No “need” for a laydown area in the hotel / tourism zone.

9. In respect of the Hotel / Tourism zone, section 3.04 of the Development Plan provides that development in this zone must be carefully regulated to ensure that the needs of the tourist industry are met.

10. The test is therefore “need”. However it is clear that the proposal is adverse to the needs of the tourism industry. It will create:

   i) Noise and nuisance
   ii) Be an eyesore
   iii) Increase heavy traffic in a low-density area which is renowned for its tranquility
   iv) Permanently destroy protected species which would protect the area from flooding and is in keeping with the unique character of the area
v) Set a precedent for further development regardless of the environmental impact.

11. There are no benefits for the hotel tourism zone in this application.

12. This application is about the “needs” of the developer- which is to to save money:

See Paragraph 3(b) of the submissions of the Applicant’s attorney:

"This permits the reduction of costs of construction" ...

This is also clear from the face of the application, where there is reference to global economic and inflationary pressures.

13. The applicant is asking permission to destroy irreplaceable protected species at the expense of the residents and users of the hotel tourism zone, so it can save money.

14. The Applicant’s attorneys cannot deal with the authorities relied upon by the objectors.

15. See the decision in K&B Ltd – Block 23C Parcel 233 (P21-0348 12 July 2021 almost exactly two years ago, where the applicant sought after the fact permission after clearing to create a laydown area in the Neighbourhood Commercial zone

The Authority if of the view that the proposed industrial construction compound is not a less form of development than would be found in the GC zone as there will be heavy equipment and trucks coming and going to the site with construction activity on site in relation to the stockpiling of fill material as well as other construction material and equipment.

The applicant did not demonstrate to the Authority that the proposed use would cater principally for the needs of the persons resident in, or in the vicinity of, the zone. To the contrary, the Authority is of the view that the proposed use would only cater to the needs of the Applicant.
16. This decision is directly on point with the current application. The need for consistency in decision making is important for public confidence in planning decisions - see *R (on the application of Davison v Elmbridge Borough Council)*

**Other considerations**

17. This is an example of "salami slicing". The Applicant did not state it required a laydown area when making its applications for the Shores development or the Grove Village. Had it done so, it would have invited even more vigorous opposition than it received. The laydown area is obviously not essential to these developments - the construction of the Grove is already well under way. This is about saving money.

18. Getting permission to fill the area now is an example of "mission creep" - it makes it easier to get permission for more substantive development later on.

19. There is an admission that it is uncertain what the "temporary" period would be. Certainly the destruction of protected species would be permanent.

20. The fact that the area has been previously used for storage is irrelevant, except to show that the developer took no steps to rewild the area. If it was used to help with the construction of Renaissance, at least there is some argument there that it was being used to support the needs of the residents and those in the vicinity of the hotel and tourism zone. Here there is no such argument - it is purely about saving the money of the developer at the expense of the protected species.

21. Parliament has identified an appropriate zone for construction laydown areas if required - the industrial zone. Again, this is clear from *E&B Ltd - Block 23C Parcel 233 (P21-0348 12 July 2021* Plainly it was not intended to be in the hotel and tourism zone. The laydown zone will inevitably increase traffic as instead of goods being transported directly to the construction area from the port via the instrurial zone, it will need first to be taken to the hotel / tourism zone.

*Nelsons*
National Conservation Council
Guidance Notes to Government Entities

Complying with Section 41 of the National Conservation Law, 2013

The purpose of the National Conservation Law is to promote and secure biological diversity and the sustainable use of natural resources, to protect and conserve endangered threatened and endemic wildlife and their habitats; to provide for protected terrestrial, wetland and marine areas and to give effect to international agreements and conventions to which the Cayman Islands are a party.

The National Conservation Council is specifically charged with promoting the biological diversity and conservation and sustainable use of natural resources. Under the law “sustainable use” means using the components of biological diversity and natural resources in a way that does not lead to long term decline, thereby maintaining their potential to meet the needs and aspirations of present and future generations. One of the ways that the law enables the Council to fulfill its mandate is by facilitating the integration of environmental considerations into national decision-making processes through a consultation process with the Council which is set down in sections 41 through 43 of the law.

Section 41 of the National Conservation Law, 2014, requires all government entities shall comply with the provisions of the Law and section 41 (3) states that “every entity shall, in accordance with any guidance notes issued by the Council, consult with the Council and take into account any views of the Council before taking any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect on the environment generally or on any natural resource.”

Under the Law, “‘entity’ means any body of the government and includes the Cabinet, any ministry, portfolio, statutory authority, government company or any other body which exercises a public function”. It also includes all government departments, agencies, units, administrations, etc., as arms of their relevant Ministry. “Adverse effect” is given broad meaning under the law and is defined as: “an effect that may result in the physical destruction or detrimental alteration of a protected area, a conservation area, an area of critical habitat or the environment generally and includes-

(a) alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife;
(b) development that may increase the potential for damage to the area from floods, hurricanes or storms;
(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;
(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;
(e) alterations that may interfere with the public use and enjoyment of the area;
(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;
(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;
(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;
(i) emissions of air pollutants at levels that may impair the air quality of the area;
(j) alterations that may hinder or impede the movement or 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; and
(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

The Law and these guidelines apply equally to all entities on all three Cayman Islands and to any actions, permissions, decisions, undertakings or similar that have effect anywhere in the territory of the Cayman Islands.


In order to comply with the Law all government entities shall consult with the Council if they are taking any action, granting any permission, taking any decision or giving or engaging in any undertaking which matches any of the following 'trigger' conditions.

A) Location Triggers are (as shown on the Screening Map):
   i) Activities occurring on the coast, i.e., within 500 feet landward of the high water mark and activities occurring on land parcels with canal frontage.
   ii) Activities occurring seaward of the high water mark
   iii) Activities in areas of primary habitat or critical habitat (as defined in a Conservation Plan)
   iv) Activities in or adjacent to a protected area

B) Activity Triggers include
   i) Subdivision, clearing, filling, or excavation on land of one acre or more
   ii) Land reclamation projects
   iii) Large scale residential developments and special purpose developments, including projects of national importance, mixed use and Planned Area Developments
   iv) Agriculture on land area greater than one acre, and installation of aquaculture and the reclamation of land from the sea for such purpose of any scale.
   v) Telecommunication, broadcast or radar installations
   vi) Transportation infrastructure, including planning or construction of new roads, including construction of road extensions
vii) Industrial Processing, Manufacturing, Rendering, Production, Treatment, Storage, or Similar Facilities
viii) Storm water drainage and management schemes
ix) Petroleum fossil fuel, biofuel and other fuel or chemical production, processing, holding, transfer or transport facilities
x) Waste Management Activities, Solid & Liquid, including new facilities, expansion, enhancement or change of system at existing facilities
xi) Excavation and extractive operations, including - marine dredging; quarries; extraction of minerals; deep drillings (including geothermal drilling); extraction of petroleum, natural gas or ores; an installation for the disposal of controlled waste(s) from mines and quarries.
xii) Energy Generating, Transfer or Transmission Facilities
xiii) Ground water or sea water abstraction
xiv) Airports and Airstrips
xv) Ports, harbours, yacht marina and inland waterways which permit the passage of vessels
xvi) Water Generating Facilities, including Desalinization Plants
xvii) Discharge, Emission or Disposal of Effluents or other materials
xviii) Decommissioning or Decontamination of industrial installations
xix) Physical, Chemical or Biological Pest Control Activities, including application of pesticides, including larvacades and adulticides, herbicides, insecticides, rodenticides, etc.
xx) Setting fires for the clearance of land
xxi) Burial at Sea or other than in a designated cemetery
xxii) Marine Moorings, etc.
xxiii) Anchorage Areas
xxiv) Control of Nuisance Animals or Plants
xxv) Licensing of Trade Or Business Activities Which Utilize Local Natural Resources For Their Core Activity
xxvi) Discharge or Modification of Permissions and Conditions Attached to Permissions

C) Strategic Triggers include the creation of
i) National or Sectoral Policies or Projects including, but not limited to
   a) Tourism Plans
   b) Economic Plans
   c) Energy Policies, including Power Needs/Purchase Planning
   d) Development Plans
   e) Transport Plans
   f) Infrastructure Planning
   g) Socio-Economic Planning
   h) Port Plans, Air or Sea
   i) Emergency Response Planning, Including State of Emergency Derogations
   j) Industrial Activity Plans
   k) Emergency or Disaster Response Management Plans
   l) Acquisition/Sale/Disposal/Lease/Loan of Crown Land

Assessment of Consultations by the Council
In assessing a request for consultation as a result of triggering activities, locations or strategic policies or projects (A – C above) the Council will take in to account the characteristics of the proposed action, its location and the potential for adverse impact on the environment, particularly the cumulative effect of the characteristics. Examples of relevant characteristics are: -

**Characteristics of Action**

1. The characteristics of an action must be considered having regard, in particular, to –
   
   a. Size of the action;
   
   b. The cumulation with other actions;
   
   c. The use of natural resources;
   
   d. The production of waste;
   
   e. Pollution and nuisances;
   
   f. The risk of accidents, having regard in particular to substances or technologies used.

**Location of Action**

2. The environmental sensitivity of geographical areas likely to be affected by an action must be considered, having regard in particular, to –

   a. The existing land use;
   
   b. The relative abundance, quality and regenerative capacity of natural resources in the area;
   
   c. The absorption capacity of the natural environment, paying particular attention to the following areas-
      
      i. Wetlands;
      
      ii. Dry forest;
      
      iii. Xerophytic shrubland
      
      iv. Protected areas;
      
      v. Coastal zones;
      
      vi. Marine Parks or Reserves;
      
      vii. Densely populated areas;
      
      viii. Landscapes of historical, cultural or archaeological significance.

**Characteristics of the potential impact**

3. The potential significant effects of actions must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to–

   a. The extent of the impact (geographical area and size of the affected population);
   
   b. The magnitude and complexity of the impact;
   
   c. The probability of the impact;
d. The duration, frequency and reversibility of the impact.

A request for consultation shall be accompanied by:

1) A plan sufficient to identify the location of activity;
2) A detailed description of the nature and purpose of the activity, including any plans in the case of developments or similar, and the activity’s possible effects on the environment; and
3) Any other information that the entity making the request may wish to provide.

The DoE, on behalf of the Council, if they consider that they have not been provided with enough information to provide an informed consultation response, shall notify in writing the entity making the request of the points on which they require additional information.

Council consultation may be begun by emailing ConservationCouncil@gov.ky, or by memo or mail care of the Department of Environment. Questions regarding the Law in general or consulting with the Council in particular may be likewise directed. These Guidance Notes will be reviewed periodically by the Council as appropriate.

The Council welcomes pre-project/application consultation with individuals as well as entities considering any of the above.
CPA turns down application to clear mangrove area

By Norma Connolly - July 14, 2021

The drone photography shows the illegal clearing of the site in January 2020. - Photo: Department of Environment

The Central Planning Authority has rejected an application by K&B Ltd. to clear mangroves in Prospect near an area where illegal clearing had earlier been carried out.

The developer had applied to clear the 2.6-acre site on Hurley Merren Boulevard, zoned as neighbourhood commercial, to use initially as a construction compound with two containers – one to be used as an office – and restrooms, and a place to store building materials.

In March last year, the CPA granted planning permission for after-the-fact land clearing at the northern part of the site.

In its submission on the application, the Department of Environment pointed out that the site consists of a mixture of primary seasonally flooded mangroves and man-modified areas, which the DoE discovered was subject to illegal clearing in January last year.

The DoE noted, "In January 2020, the applicant sought planning permission to clear the northern portion of the land. It was at this time the DoE discovered the unauthorised clearing of mangroves."

The DoE recommended that the CPA refuse that after-the-fact clearing application, but the planning board approved it.

At its 12 July meeting, the newly appointed CPA board considered the application to carry out further land clearing on the southern part of the site, which was not part of the previous land-clearing application, as well as placement of fill and storage of materials and ancillary structures.

K&B planned to use the site to temporarily store material and equipment, and to use as a dump area of the dug-out soil from the different ongoing construction developments by the applicant. A letter from the applicant stated that a mixed-use development would eventually be built on the lot.

In its response, the DoE said it did not support either "speculative clearing" or the use of areas of primary habitat as storage sites.

"The trend of assumptive applications for land clearing for 'future' development without the approval of the 'future' development is unsustainable and a concerning precedent," the DoE said. "This approach is extremely destructive for the natural environment as areas of primary habitat are dwindling and under increasing pressure."

"We recommend that applications for land clearing are presented along with the development that is being proposed so that appropriate mitigation measures can be recommended. We also recommend that land is not cleared until development has been approved and is imminent to allow sites to continue to provide habitat and ecosystem services."
Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on July 12, 2021 at 1:00pm, in Conference Room 1038, 1st Floor, Government Administration Building, Elgin Avenue.

14th Meeting of the Year

Mr. Ian Paireudeau (Chair)
Mr. Handel Whittaker (Deputy Chair) (Acting Chair for item 2.7)
Mr. Joshua Bernard
Mr. Gillard McLaughlin
Mr. Charles Russell Jr.
Mr. Windel Scott
Mr. Peter Campbell
Mr. Kenneth Ebanks
Ms. Dunette McLaughlin (apologies)
Ms. Shakina Bush
Ms. Christine Maltman, MCIP, AICP
Ms. Celecia Bancroft
Mr. Ashton Bodden (left 3:15)
Mr. Haroon Pandohie (Executive Secretary)
Mr. Ron Sanderson (Deputy Director of Planning – Current Planning)

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
The applicant is now applying for further land clearing on the southern extent of the site (which was not part of the previous land clearing application), placement of fill and storage of materials and ancillary structures. We note the applicant's cover letter dated 21 May 2021 which states that the usage of the parcel was intended for a temporary material and equipment storage and dump area of the dug-out soil from the different ongoing construction developments by the applicant. The letter also states that the current proposal is also being done for the preparation of the future mixed-use development to be built on the lot.

The DoE does not support speculative clearing nor does it support the use of areas of primary habitat as storage sites. The trend of assumptive applications for land clearing for "future" development without the approval of the "future" development is unsustainable and a concerning precedent. This approach is extremely destructive for the natural environment as areas of primary habitat are dwindling and under increasing pressure. We recommend that applications for land clearing are presented along with the development that is being proposed so that appropriate mitigation measures can be recommended. We also recommend that land is not cleared until development has been approved and is imminent to allow sites to continue to provide habitat and ecosystem services.

The Department strongly recommends that man-modified areas are used for storage and staging. Should the Central Planning Authority be minded to grant Planning Permission
for the proposal, the DoE recommends the retention of the mangrove vegetation outside of the footprint of the proposed containers.

DEH
This site will require (2) 33 gallon bins and an enclosure built to the department’s requirements.

a) The enclosure should be located as close 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.

NRA
No comments submitted from the agency.

APPLICANT’S LETTER
Through this letter, we would like to justify the proposed application on Block 23C Parcel 233.

The usage of the parcel was intended for a temporary material and equipment storage and dump area of the dug-out soil from the different ongoing construction development by our client (listed below)

It will also be done in purpose for the preparation of the future mixed-use development to be built on the lot.

On-going projects
1. B20-0356 – Residential Development
2. B20-0499 – Residential development
3. B18-0628 – Townhouse Development
4. B18-0629 – Townhouse Development
5. B18-0630 – Townhouse Development
6. B18-0631 – Townhouse Development
7. B18-0632 – Townhouse Development
8. B18-0633 – Townhouse Development

List of Material and Equipment to be stored:
1. Forklift
2. Concrete mixer
3. Scaffolding
4. Backhoe
5. Jacks
6. Construction material including fill and topsoil.
7. Company vehicles such as truck and van

We hope that the CPA board would find this application to be acceptable.
PLANNING DEPARTMENT ANALYSIS

General
The application is for 2-containers and storage of building material at the above-captioned property. The site is located on Hurley Merren BLVD., George Town.

Zoning
The property is zoned Neighbourhood Commercial.

Specific Issue
1) Suitability

The applicant is seeking permission for a construction compound that would be associated with several other off-site construction projects. The Authority needs to determine if the site is a suitable location for the proposed activity.

At 3:20pm, Bevan Antonysraj, Darrel Ebanks and Waide DaCosta appeared on behalf of the applicant. Summary notes are provided as follows:

- Mr. Ebanks advised that the construction compound is related to a project being developed behind Grand Harbour, Grand Palmers. He noted that his client needed space and couldn’t find it elsewhere. He also noted that he is working on plans to develop this site and uploaded a plan to OPS.

- Mr. DaCosta noted that this is no different from other similar compounds and they want to keep it in proximity to the other development site. He noted that the site is zoned Neighbourhood Commercial and there is a plan to develop it.

- Mr. Ebanks explained that the application for this site would be submitted in 2 or 3 months and asked if they could look at the plan he submitted. The Authority advised that they could not look at the plan as it would place the members in a prejudicial position at a later date when that possible application was considered. Mr. DaCosta agreed and noted that they know this will be a construction site at some point.

- There was discussion regarding a buffer from the road and Mr. DaCosta noted there is one there now and Mr. Antonysraj noted that he will provide whatever is asked he just wants to use his land.

- In response to a question Mr. Antonysraj noted that access will be form the old Red Bay road.

- In response to a question, Mr. Antonysraj replied that less than one acre has already been cleared and they are proposing about another acre.

- The Authority asked if they would be willing to move the chain link fence behind the vegetative buffer and Mr. Antonysraj replied he could do that.

- The Authority asked if he had other properties in the area and Mr. Antonysraj replied he did not.
R (on the application of Davison) v Elmbridge Borough Council

Document Information
Published date: 26/06/2019
Jurisdiction: England & Wales
Citation: [2019] All ER (D) 134 (Jun)
[2019] EWHC 1409 (Admin)
Decision date: 6 June 2019
Court: Queen's Bench Division, Administrative Court (London)
Representation: Andrew Parkinson (instructed by Richard Buxton Solicitors) for the claimant.
Zack Simons (instructed by Head of Legal Services Elmbridge Borough Council) for EBC.

Catchwords:
Town and country planning - Development consent - Impact on Green Belt

Town and country planning - Development consent. In an application by the claimant adjacent land owner against planning permission granted by the council to itself over green belt land, the Queen's Bench Division, Administrative Court, held that the local planning authority of the council acted unlawfully in failing to take into account its previous decision. It was incumbent on the council to address the change in position that the development could have an adverse impact on green belt openness.

Summary

The judgment is available at: [2019] EWHC 1409 (Admin)

Background

In 2016, the defendant council (EBC) granted planning permission through its planning committee, to itself, for development on green belt land of a new football and athletic stadium and associated development. In deciding to grant the permission, the planning committee of EBC decided that the proposed development would have a (limited) adverse impact on the openness of the green belt. The high court quashed the grant of permission on a judicial review application on the grounds that EBC had erred in its interpretation of para 89 of the National Planning Policy Framework (NPPF) in finding that the sports facility was approved development despite it causing harm to the openness and purpose of the green belt. EBC made a fresh determination on a new planning application and came to a different decision, namely that there would be no adverse impact on the openness of the green belt. Accordingly, new planning permission was granted by EBC over the same land. The claimant, an adjacent land owner, applied to quash the decision on the basis that EBC had contravened the principle of 'consistency in decision-making'. EBC had departed without reasons from its previous decision that the proposed development would have an impact on the openness of the green belt to deciding that it would not have an adverse effect. EBC
R (on the application of Davison) v Elmbridge Borough Council

contended that it was not required to consider the previous planning judgment as the decision in question had been quashed by the court.

Appeal allowed.

**Issues and decisions**

Whether, applying the principle of 'consistency in decision making', EBC acted lawfully in failing to take into account its previous decisions.

The local planning authority acted unlawfully in failing to take into account its' previous decision that the development could have an adverse impact on green belt openness, when determining the second planning application (see [72] of the judgment).

Given the well established principle that planning judgments were for the planning authority not the courts, EBC’s planning judgment on openness was unaffected by the court's decision to quash the permission (see [63] of the judgment).

The principle of consistency was not limited to the formal decision, but extended to the reasoning underlying the decision. Of itself, a decision quashed by the courts was incapable of having any legal effect on the rights and duties of the parties. In the planning context, the subsequent decision maker was not bound by the quashed decision and started afresh taking into account the development plan and other material considerations. The previously quashed decision was capable of being a material consideration. Whether, and to what extent, the decision maker was required to take the previously quashed decision into account was a matter for the judgment of the decision maker reviewable on public law grounds. A failure to take into account a previously quashed decision would be unlawful if no reasonable authority could have failed to take it into account (see [56] of the judgment).

EBC was entitled to come to a different view in its second round of decision making and that weight was a matter for the planning authority and not for the present court. Nonetheless, it was incumbent on EBC to address the change in position on openness between the two reports. The applications were identical in all material respects and related to the same site. Public confidence in local authority decision making was important given the earlier judicial criticism and given that the EBC was awarding permission to itself (see [66] [67] of the judgment).

The decision would be quashed (see [69] to [72] of the judgment).

*Augustine Housing Trust v Grays Magistrates Court [2012] EWCA Civ 119 applied; Vallis v Secretary of State for Communities and Local Government [2012] All ER (D) 36 (Jun) applied; DLA Delivery Ltd v Baroness Cumberlege of Newick and another [2018] All ER (D) 01 (Jul) applied; Dunster Properties Ltd v First Secretary of State [2007] All ER (D) 366 (Feb) considered; Stringer v Minister of Housing and Local Government [1971] 1 All ER 65 considered; Tesco Stores Ltd v Secretary of State for the Environment [1995] 2 All ER 636 considered; R (on the application of Thompson) v Oxford City Council [2014] All ER (D) 110 (Feb) considered.*

Tara Psaila Barrister.

*End of Document*
BEFORE THE CENTRAL PLANNING AUTHORITY

IN THE MATTER OF

An application for a 10-Storey hotel with generator and two (2) pools
THE SHORTS Block 106 Parcel 65 ((P18-11/1) by Libanon Corporation ("The Applicant")

FOR HEARING: 20 March 2019

SUBMISSIONS

On behalf of The Proprietors of Strata Plan No. 142
"The Commonwealth"

1. These submissions are in addition to (and where necessary expand upon) the matters raised in the letters of objection filed by The Commonwealth’s attorneys dated 21 December 2018 and 28 February 2019 ("the Objection Letters"), and the further letters from Nelson & Co to the Planning Department dated 25 January 2019 and 1 February 2019 respectively.


2. Upon review of the revised plans submitted by the Applicant, and the Applicant’s various responses in rebuttal to objections, it can be seen that essentially the Applicant’s rebuttals rely upon on the following submissions:

i) The proposal is that the hotel be developed in the hotel / tourism zone;

ii) The proposal follows the regulations and restrictions of the Law and Regulations for that zone; and
iii) The proposal corresponds with the intent of the Law, which was drafted in co-ordination with the DOT’s policies of activating the Seven Mile Beach corridor into a vibrant tourist destination.

3. The Applicant appears to be inviting the CPA to engage in a tick-box exercise and rubber stamp the proposal, on the basis that the project is a hotel in the correct zone, and is just within or at the very minimum regulatory requirements in respect of density, setbacks, building height and parking spaces. That is all that is required (the Applicant invites the CPA to conclude) for the proposal to comply with the intent of the Law and to be approved.

4. However, the Applicant appears to misunderstand that satisfaction of the zoning and regulatory requirements is only the first stage. Upon satisfaction of that criteria, the application must then be considered with reference to the Development Plan.

5. A quick and easy example of this disconnect is the issue of setbacks, where the Applicant has complied with the absolute minimum requirements, but it can be seen that greater setbacks than the minimum in the context of this application must be required given the limitations and dimensions of the parcel and the height of the hotel, in order to comply with the requirements set out at section 2.6 of the Development Plan (adequate light and privacy to neighbouring buildings etc).

6. However, what is conspicuous by its absence in the Applicant’s rebuttals to objections is any reference to the Development Plan, which requires the CPA not merely to box tick, but go on to scrutinize whether the proposal is consistent with the Plan, applying a critical eye.

7. It is clear from section 48 (1) of the Law that an application must not be approved if it is at variance with the Development Plan. It follows that to grant the application merely on the basis that the proposal is in the correct zone and meets minimum standards, as the Applicant invites the CPA to do, would be an abrogation of the duties of the CPA and
would be wrong in law. The CPA is obliged to consider the application, and the objections to it, alongside the relevant provisions of the Development Plan.

8. The proprietors of the Commonwealth support the objectives of the Development Plan, and would welcome the development of hotel accommodation in the area which is in keeping with the principles espoused therein. Such a development given the character of the area would have to be low rise and low density with high end amenities and proper safe beach access for guests. It would have to be pleasing aesthetically and enhance the area.

Project not related to the needs of the tourism industry

9. The Development Plan provides that the CPA need to consider whether the proposed development will enhance the quality of life in the Cayman Islands, and safeguard the economic, cultural, social and general welfare of the people.

10. In respect of the Hotel / Tourism zone, section 3.04 of the Development Plan provides that development in this zone must be carefully regulated to ensure that the needs of the tourist industry are met and that in general that new buildings will be related to the needs of the industry. It is submitted that the Applicant has simply failed to demonstrate a need for a 10 storey high density hotel in the locale, and on the east side of West Bay Road, or its viability. The area simply does not have the restaurant and entertainment amenities for the numbers of guests contemplated as are available in the southern part of Seven Mile Beach.

11. The need for a high density accommodation in the quieter area of Seven Mile Beach, with inadequate beach access, where there is an absence of amenities, suggests that the hotel may not be commercially viable. The room plans do not suggest self-catering facilities, and there are no amenities within reasonable walking distance.

12. If the hotel were to fail, the structure would be an even worse eyesore than that already contemplated and would only serve to tarnish the locale and do grave damage to the
tourism industry. Sadly, there are precedents for large hotels off the beach that have failed and have fallen into abandonment and disrepair - such as the Alexander Hotel in Cayman Brac. It is of considerable concern that there is no information available as to the entity behind the developer so that it can be assessed as to whether the entity is permitted or able to complete the project. Only proper disclosure can reveal potential conflicts of interest between those behind the project, and individuals within any of the agencies that might be opining or advising upon the proposal.

13. It is submitted that the project will adversely affect the value of surrounding properties. This will not only impact upon owners, but stamp-duty revenues from sales, in turn affecting the interests and welfare of all of the Islands’ residents. The adverse consequences for property values and sales will only be exacerbated should the project fail or be abandoned while in a state of construction.

**Orderly Development to Maintain a Successful Tourism Industry**

14. The Development Plan requires that the application be conducive to the *orderly* development of the tourism industry (3.04(a)). For all the reasons set out above, the approval of an out of place high density 10-storey hotel on a narrow plot on the wrong side of the road in an area hitherto containing low-rise, low density accommodation, where viability is uncertain, cannot sensibly be described as orderly development.

**The Quality and Character of the Hotel**

15. The Development Plan permits projects calculated to enhance the quality and character of the Cayman Islands’ hotels (3.04 (b)). Given that the proposed hotel is at, or just within, the minimum requirements for height, density and setbacks, this combination, together with the limitations presented by the dimensions of the parcel, has resulted in a design which compares very poorly with other hotels on Seven Mile Beach.
Sensitivity to the physical characteristics of the site

16. Contrary to the Development Plan, the scale and density of the development is wholly insensitive to the physical characteristics of the site and would set a precedent that may lead to over-development (3.04 (c)). The high-rise, high density proposal on a narrow parcel is completely at odds with the character of the area, which is of high quality, low-rise, low-density accommodation. However, there are many parcels with similar dimensions on the east side of West Bay Road in the area, and the precedent this project may set could result in an alarming urbanisation of the area.

Ensure Minimal traffic impacts on surrounding properties and existing roads

17. Section 3.04 (d) of the Development Plan requires that the proposal ensures minimal traffic impact. Whilst the Application is compliant with the minimum parking requirements, the high density of the proposed hotel and the limited size of the parcel is a grave concern. The right of way required for the revised entry on the north side is only for access and egress, but the precedents of road parking by the Ritz and other busy hotels suggest that the access road and areas alongside the property on the West Bay Road will be transformed into a car park. This is to say nothing of the dangers additional traffic will present to guests and their children trying to cross the road and walk to the beach access 500 feet further to the north.

Beach Access

18. The Development Plan requires the CPA to ensure there is adequate allowance for public access to the sea (3.04 (f)). The reasons for this are obvious- to ensure the safety of pedestrians using the roads and protect the interests of residents and tourists who would wish to easily enjoy the beach.

19. Objectors have quite properly raised the issue of beach access. It is clear that a hotel on the east side of West Bay Road would require access to the beach immediately opposite
to comply with the Development Plan, together with a safe means of crossing the road for
guests and their children. In the absence of that, it is perhaps not a question of "if", but
rather "when" we would be learning of a tragedy on the road. Other hotels on the east
side of West Bay Road, such as the Sunshine Suites, Ritz or Hyatt, have the benefit of beach
access directly opposite, and crossings or walkways.

20. The Applicant’s oft repeated rebuttal in response to legitimate concerns as to inadequate
beach access and the inherent safety risk occasioned to guests and their children and
inevitable nuisance occasioned to objectors is:

All ocean front property must provide a 6’ wide beach access accessible to the
public. Developer is committed to have the Hotel Operator clearly and constantly
instruct guests not to cross any private property, and to follow the designated paths
to access the beach, which should be located both at The Mandalay property and
at parcel 10E-62.

By this rebuttal, the Applicant, one assumes, fully accepts that there are manifest and
insurmountable safety concerns with a high number of guests of the proposed hotels
seeking to cross the road and walk a considerable distance along the unpaved roadside,
with young children in tow and beach-going paraphernalia, to the nearest existing public
beach access as marked on the registry map some 500 feet to the north. The Applicant
must also accept the necessity of a beach access directly opposite the proposed site as
critical to both the viability of the project and compliance with section 3.04 (f) of the
Development Plan.

21. However, the Applicant’s legal understanding as to beach access is utterly misconceived.
The manner in which this cavalier rebuttal is repeatedly made must shake the confidence
of the CPA that the Applicant has not made other fatal errors.
22. The problem for the Applicant is there simply is no public right of way over the Mandalay property or parcel 10E-62, as is clear from the registry map. Presumably the Applicant’s misunderstanding is based upon a misreading of Regulation 32 which provides:

In Hotel/Tourism zones, the Authority, when granting planning permission in relation to land which has a shoreline of two hundred feet or more in a development other than private single dwelling units, shall require the owner to set aside and dedicate to the public a right of way of not less than six feet in width per every two hundred feet, from the public road to the sea, on the subject property; and such right of way may be within the area set aside for setbacks under these Regulations.

It is our understanding that the shoreline of the Mandalay is less than 200 feet and that accordingly there was no right of way requirement when planning was granted for that property. Any hotel guest who were to come on to the Mandalay or neighbouring condominiums without permission would be trespassing. As to parcel 10E-62, we are not aware that planning permission has as yet been granted for development of that parcel, and even if it were, no right of way would crystallize until it was developed. It follows that as a matter of law there is no public right of way or beach access attached to either the Mandalay or parcel 10E-62 in favour of the proposed hotel.

23. While circumstances could change in the future in respect to parcel 10E-62, as it stands there is no right of way, and there may never be a right of way. The application is consequently fatally flawed and must be dismissed.

Further observations

24. The CPA is required to take into account characteristics of the form of tourist accommodation proposed and be satisfied that the layout, scale and massing of development are compatible with the ecological, aesthetics and other physical characteristics of the site; and that a high quality of design and landscaping are used.
25. This proposal is for the first 10 storey hotel on the east side of West Bay Road, and it is suggested that it should be built in an area where the surrounding development is low rise and low-density. It would create a precedent for other similar developments on like-sized parcels which would allow for further over-development which would utterly destroy the character and ambiance of the locale forever.

26. For all the reasons advanced above, and those as set out in the Objection Letters and other correspondence, a fair assessment of this project must result in the conclusion that the application does not meet the high standards required, and the application should be dismissed.

Nicholas Dixey
Nelson & Co
Cranford Hall Parking Ltd v Secretary of State for the Environment and another

Queen's Bench Division

December 11 1987

(Before His Honour Judge MARDER QC, sitting as a judge of the High Court)

Town and Country Planning Act 1971, sections 36 and 245 – Motion to quash inspector's decision on an appeal under section 36 against refusal of planning permission – Inspector misdirected himself – Wrong approach – Matter seen by inspector in terms of onus of proof as if he were considering perhaps a piece of civil litigation or possibly even a criminal prosecution – The fact that the proposed development is in green belt land does not in itself constitute a sound reason for refusing planning permission – Correct approach set out in Department of the Environment Circular 14/85 – Inspector's decision quashed.

The land in question in this case consisted of about two acres off the Bath Road, near Heathrow Airport, long used for off-airport parking – There had been a series of temporary planning permissions for that use but there had then been a refusal, which gave rise to the present appeal – The land was within the metropolitan green belt – In rejecting the appeal against the planning refusal, the inspector, in paras 6 and 7 of his decision letter, gave himself directions as to the methods of approach which were criticised by the appellants as erroneous – He stated that there was a general presumption against development in green belts.

The judge agreed with the criticisms which had been made of the inspector's approach as expressed in his decision letter – In the judge's view, the true issues which the inspector was called upon to decide could be expressed in two propositions:

First of all, was the use which was proposed for car parking an appropriate and acceptable use of land in this part of the green belt; or was that use such in this particular case as to cause demonstrable harm to the green belt's function and purpose?

Second, if the use that was proposed was inappropriate and damaging to the green belt, were there exceptional reasons, such as an overriding need for the facility, for permitting it in the face of the presumption against such inappropriate development within a green belt area?

The Inspector appeared in his letter to see the matter in terms of onus on proof as if he were considering perhaps a piece of civil litigation or possibly even a criminal prosecution – In J A Pye (Oxford) Estates Ltd v West Oxfordshire District Council the judge had said that the term "burden of proof", as it is used in civil litigation between parties, is not appropriate in the context of planning appeals – In the present case the inspector had appeared to cast the whole burden on the appellants and had in effect refused planning permission because the appellants had failed to discharge the onus on them.

The correct approach was set out in the Department of the Environment Circular 14/85 – This was, of course, ministerial policy guidance, but in this respect it correctly reflected the statutory position – It pointed out that the planning system fails in its function wherever it prevents, inhibits or delays development which could reasonably have been permitted.

The principles on which the court is prepared to intervene were set out in the well-known decision of Forbes J in Seddon Properties Ltd v Secretary of State for the Environment – Notwithstanding the inspector's error of approach in the present case, Judge Marder would not necessarily have interfered with the decision if the letter had demonstrated clear reasoning and sound grounds for dismissing the appeal – Unfortunately, he found the issues discussed in a confusing manner and the reasoning obscure – It was difficult to tell from the letter why the
inspector decided as he did – There was no alternative but to quash the decision.

The following cases are referred to in this judgment.


This was a motion by Cranford Hall Parking Ltd under section 245 of the Town and Country Planning Act 1971 (now section 288 of the Town and Country Planning Act 1990) to quash the decision of an inspector appointed by the Secretary of State for the Environment to determine an appeal by the applicants under section 36 (now section 78 of the 1990 Act) of the Town and Country Planning Act 1971. The appeal related to an area of about two acres of land near Heathrow Airport, which had been used under temporary planning permissions for car parking until the refusal of permission which gave rise to the present litigation.

Anthony Dinkin (instructed by Reginald Johnson & Co) appeared on behalf of the applicants, Cranford Hall Parking Ltd; Guy Sankey (instructed by the Treasury Solicitor) represented the respondent Secretary of State; the second respondents, Hounslow London Borough Council, were not represented and took no part in the proceedings.

Giving judgment, JUDGE MARDER QC said: This is a motion brought under the provisions of section 245 of the Town and Country Planning Act 1971 to quash the decision of an Inspector, appointed by the Secretary of State for the Environment, to determine an appeal under section 36 of the Act against the refusal of planning permission. The land in question is about two acres just off the Bath Road, close by Heathrow Airport, and an area of land long used for off-airport parking. There had been a series of temporary planning permissions for that use, but the renewal of permission had been refused, and hence the appeal to the Secretary of State from that refusal. JUDGE MARDER QC

The site, which is shown on a plan that was before me, is part of a narrow corridor of open land, which has the status of approved "metropolitan green belt", the corridor providing separation between Cranford to the east and the huge bulk of developed land comprising Heathrow Airport to the west.

As it seems to me, the true issues which the inspector was called upon to decide in the circumstances of this case could be expressed in two propositions: first of all, was the use which was proposed for car parking an appropriate and acceptable use of land in this part of the green belt; or was that use such in this particular case as to cause demonstrable harm to the green belt's function and purpose? Second, if the use that was proposed was inappropriate and damaging to the green belt, were there exceptional reasons, such as

\[1991\] 1 EGLR 283 at 284

overriding need for the facility, for permitting it in the face of the presumption against such inappropriate development within a green belt area?

The inspector gave his decision on the appeal by letter dated November 18 1986, and it is apparent to me beyond doubt that the appellants' complaints about that letter are well founded. Paras 6 and 7 of the letter constitute, in effect, directions which the inspector gave himself as to the method of approach to the issues in this appeal and to determining the appeal.

In para 6 he said:

"It is a general principle of planning that there is a presumption in favour of development unless there are sound and clear cut reasons to the contrary. The onus of proof rests with the council. This argument was promoted in support of"

-- the appellants' --
scheme.

However, the approach is different within Green Belts. Here the principle which has been laid down in successive circulars since the 1960s, and recently reaffirmed in Circular 14/84 [Green Belts], is that there is a general presumption against development in Green Belts. Development is only allowed in exceptional circumstances. The onus of proof is thus with the prospective developer.

In para 7, he went on:

Accordingly, from my inspection of the site and surroundings, the on-airport parking provision and other off-airport carparks, together with the consideration of all the evidence and representations, I deem that the main issue in this appeal is whether or not the need for airport parking facilities is sufficient to justify an exception to the strong presumption against development in the Green Belt.

It will be noticed from that formulation in para 7 that he does not appear to consider it to be an issue for him to determine, or at any rate, not a main issue, whether this development would bring about demonstrable harm to the green belt, and para 6, which I have just read, is clearly a misdirection, first because the inspector appears to see the matter in terms of onus of proof as if he were considering perhaps a piece of civil litigation or possibly even a criminal prosecution.

Mr David Widdicombe QC, sitting as a deputy judge of the High Court, in the case of Pye, which is reported at (1982) 47 P&CR 125, the full name being J A Pye (Oxford) Estates Ltd v West Oxfordshire District Council, had this to say on this very question of onus of proof, at p 130:

I agree with Mr Laws

—who was counsel for the Secretary of State in that case—

that the term "burden of proof" as it is used in civil litigation between parties is not appropriate in the context of planning appeals.

On p 131, he went on to say:

In my judgment, the task of the inspector on an appeal is to consider the facts and contentions put before him by the parties at the inquiry (including any third parties) and in the light of what he ascertains at the inquiry and his view of the site to advise the Secretary of State as to whether there are any sound and clear-cut reasons for refusal of planning permission. In doing this, there is nothing objectionable in the Inspector saying in his report “I do not accept the contention” of one party or another, or “I am not satisfied that such and such a point has been made out”, provided that it is clear that it is in the overall context referred to above. It would often, certainly, be helpful if inspectors made a clear finding as to whether there is or is not a sound and clear-cut objection to the grant of permission, thus showing that they have followed the Secretary of State’s policy, but a decision is not invalidated because it does not use that precise language.

That is the end of the quotation from Mr Widdicombe’s judgment.

I am happy to adopt every word he said on that matter and apply it to the circumstances of this case, and it follows that the inspector placing the onus of proof on the prospective developer in this instance was clearly in error.

If that were a mere matter of words, then the court would not interfere, but it is clear from the conclusions
expressed by the inspector and, in para 13 in particular, by the use of words like "the need for parking should be
definite and overwhelming" and the phrase "I am not convinced that such an argument has been presented in this
case", by those expressions and by para 13 in general, that this incorrect approach has coloured the inspector's
assessment of the evidence. In essence, he has cast the whole of the burden on the appellants and he has, in
effect, refused planning permission because the appellants have failed to discharge the onus on them or, at any
rate, that is what it seems to me that the inspector has done. Second, and it may be perhaps that this is merely
another way of saying the same thing, the approach of the inspector in para 6, the passage I have read, indicates
also that the inspector has either failed to have regard to current ministerial guidance in Circular 14/85 or has
misunderstood or misinterpreted that guidance.

The Circular 14/85 is headed Development and employment and was issued in July 1985 to demonstrate the
Government's policy of seeking to promote enterprise and job creation. Para 3 appears to me to be quite specific.
It says:

Development proposals are not always acceptable. There are other important objectives to which the Government is firmly
committed: the need to preserve our heritage, to improve the quality of the environment, to protect the Green Belts and
conserv[e] good agricultural land.

It goes on:

There is therefore always a presumption in favour of allowing applications for development, having regard to all material
considerations, unless that development would cause demonstrable harm to interests of acknowledged importance.

In parenthesis, I can add that "interests of acknowledged importance" clearly refers back to such policies to which
the Government is committed as the protection of the green belts.

The matter was expressed, both in the appellants' motion and, indeed, by Mr Widdicombe in the decision in the
case of Pye to which I have just referred, as one of failure to construe properly ministerial policy guidance, but I
remind myself that in this instance, at any rate, that ministerial policy guidance is no more than a reflection of the
statutory position or the legal position, for at the very heart of the control of development in the 1971 Act, and of
course in its predecessors, there is the discretionary power to refuse permission for development of an owner's
land and that power is exercisable, as a matter of law, only on good, sufficient and lawful reasons being shown for the
refusal.

As I have said, the passage in the Circular 14/85, to which I have just referred, sets out a correct approach as a
reflection of that statutory position and it is precisely because the correct approach is currently set out there in the
Circular that I ventured to formulate the real issues before this inspector in the way I did at the beginning of this
judgment.

Of course there is a presumption, derived from earlier circulars that are still current, that inappropriate
development will not be permitted within the green belt and there must, no doubt, frequently be cases where the
fact that the proposals are inappropriate and damaging to the interests of green belt policy will be self-evident, but
the circular points out, and I think correctly points out, quite clearly that the fact that it is green belt land does not
in itself constitute a clear-cut and sound reason for refusing permission. The right approach, as I said earlier, is a
presumption that planning permission will always be allowed, which will be overridden where it is shown that the
development would cause demonstrable harm to the green belt policy. It is clear that the inspector, in the
passages in paras 6 and 7 of his decision letter, has adopted a quite different and incorrect approach.

I am conscious of the restricted jurisdiction that the court exercises in matters of this kind. The principles on which
the court is prepared to intervene are clearly set out in the oft-cited decision of the late Forbes J in the case of
Seddon Properties Ltd v Secretary of State for the Environment and, notwithstanding the inspector's error of
approach in paras 6 and 7 of his letter, I would still not necessarily have interfered with his decision if the
remainder of the decision letter had indicated clear reasoning and sound reasons for dismissing the appeal, or if
the decision of the appeal must inevitably be the same if a correct approach had been adopted, but I regret that I
cannot say that in this case.

Looking in particular at the passages in paras 11 to 13 of the letter, I find the issues discussed confusing and the reasoning obscure. The appellants justly complain that they cannot tell from that letter why the planning permission has been refused. Mr. Guy Sankey, on behalf of the Secretary of State, has endeavoured with considerable skill and, if I may say so, with considerable patience, to assist me on this matter, but I am bound to say without a great deal of success. I still am unable to extract precisely why the inspector decided as he did.

I do not think that detailed analysis by me of the passage in question at this stage will be of assistance since, in my judgment, the

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whole matter requires to be looked at again.

I see no alternative but to quash the decision. The motion, therefore, succeeds and an order will be made accordingly.

_The inspector's decision was quashed with costs against the Secretary of State._