Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on **November 9, 2022 at 10:00am in Conference Room 1038, 1st Floor, Government Administration Building, and Elgin Avenue.**

27th Meeting of the Year **CPA/27/22**

Mr. Ian Pairaudeau (Chair)
Mr. Handel Whittaker (Deputy Chair)
Mr. Joshua Bernard
Mr. Gillard McLaughlin
Mr. Charles Russell Jr.
Mr. Windel Scott (apologies)
Mr. Peter Campbell
Mr. Kenneth Ebanks (apologies)
Ms. Danette McLaughlin
Ms. Shakina Bush (via Zoom)
Ms. Christine Maltman, MCIP, AICP
Ms. Celecia Bancroft
Mr. Ashton Bodden
Mr. Haroon Pandohie (Executive Secretary) (Apologies)
Mr. Ron Sanderson (Acting Executive Secretary)

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

List of Applications Presented at CPA/27/22

2.1 CARL & DORI KING (Caribbean Design Group) Block 32E Parcel 108 (P22-0247) ($84,360) (MW) 4

2.2 PATRICK ISLAND HOME ASSOC. (GMJ Home Plans) Block 24E Parcel 473 and Block 24C Parcel 10 Rem 2 (P20-0322 & P20-0323) ($45,000) (NP) 7

2.3 PAMELA MITCHELL (CS Designs) Block 69A Parcel 31 (P22-0672) ($120,000) (NP) 13

2.4 FORESHORE CORPORATE SERVICES Ltd (Eric Cronier) Block 22E Parcel 444 (P22-0688) ($5,000) (JP) 18

2.5 ROBERT SELKIRK WATLER JR. (Abernethy & Associates Ltd.) Block 58A Parcel 33 (P22-0797) ($3,814) (MW) 23

2.6 VERDA EBANKS (Baer Development) Block 20D Parcel 326 (P22-0458) ($8,000) (BS) 27

2.7 SPANISH BAY DUPLEXES (MGM Studios) Block 3D Parcel 184 (P22-0910) 29

2.8 LORI-ANN DAILY (Abernethy & Associates) Block 75A Parcel 223 (P21-1175) ($12,734) (NP) 31

2.9 LINDA DACOSTA (Proven Bank) Block OPY Parcel 174 (P22-0842) ($1,000) (NP) 36

2.10 TECHNOWALL SYSTEMS LTD (Kozaily) Block 43D Parcel 21 (P22-0104) ($2.0 million) (NP) 37

2.11 HERITAGE HOLDINGS LTD. (HH Ltd) Block 19E Parcel 40 (P22-0575) ($100,000) (NP) 45

2.12 CORNERSTONE PROPERTIES LTD (Abernethy & Associates Ltd) Block 14E Parcel 790 (P22-0788) ($4,000) (JP) 47

2.13 PARADISE PALMS (GMJ Home Plans Ltd) Block 25C Parcel 500, 501, 516 and 517 (P21-1004) ($30,000) (BS) 52

APPLICANTS ATTENDING THE AUTHORITY'S MEETING

Applicant Name	Time	Item	Page
Cari & Dori King	11:00	2.1	4
Patricks Island	11:30	2.2	5
Pamela Mitchell	1:30	2.3	9
Skate Park	2:00	2.4	13

1. 1 Confirmation of Minutes CPA/25/22 held on October 18th, 2022 and CPA/26/22 held on October 26th, 2022.

CPA/25/22

Moved: Gillard McLaughlin

Seconded: Handel Whittaker

Confirmed

CPA/26/22

Moved: Gillard McLaughlin

Seconded: Handel Whittaker

Confirmed

1. 2 Declarations of Conflicts/Interests

Item	Member
2.2	Christine Maltman, Ashton Bodden
2.12	Celecia Bancroft

2.0 APPLICATIONS APPEARANCES (Items 2.1 to Item 2.4)

2.1 CARL & DORI KING (Caribbean Design Group) Block 32E Parcel 108 (P22-0247) ($84,360) (MW)

Application for several after-the-fact items: covered patio, pool, shed, pergola, awning and restroom.

Appearance at 11:00

FACTS

Location	Pedro Villas Ln., Bodden Town
Zoning	**Low Density Residential**
Notification result	No objections
Parcel size proposed	0.2303 ac. (10,031.868 sq. ft.)
Parcel size required	10,000 sq. ft.
Current use	Existing Residence & ATF Structures
Proposed building size	2,545 sq. ft.
Total building site coverage	25.4%
Required parking	1
Proposed parking	2

BACKGROUND

June 30, 2021 – ATF House Additions (Bedroom, Carport, Illegal Fence) – CE21-0143

August 17, 2022 (CPA/20/22; item 2.8) – current application adjourned to invite in the applicant to discuss concerns regarding the setbacks

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

1) The applicant is required to apply for a Permit from the Director of Planning **within 6 months of the date of this decision.**

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

3) The applicant shall obtain a Final Certificate (of Fitness for Occupancy**) within 12 months of the date of this decision.**

Reasons for the decision:

1) With the exception of the front, rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2022 Revision).

2) The proposed application does not comply with the minimum required front, rear and side setbacks per Regulations 9(8)(i) and (j) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:

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

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

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

APPLICANT'S LETTER

We write on behalf of the applicant(s), ***Carl and Dori King*** *with regards to the following:*

A side/rear setback variance – to allow with a setback

Less than the required 10' and 20' setback from the property line for the following:

- ***After the fact pool and deck***
- ***After the fact utility shed***
- ***After the fact Rest Room***
- ***Pergola***

We request permission for the subject mater per the drawings provided and respectfully give the following reasons:

Per section 8(13)(d) f the Planning Regulations, the adjacent property owners have been notified:

Per section 8(13)(d)(iii) of the Planning Regulations, the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare:

The application complies with all other relevant Planning requirements.

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

PLANNING DEPARTMENT ANALYSIS

General

The application is for several after-the-fact items: covered patio, pool, shed, pergola, awning and restroom located on Pedro Villas Ln., Bodden Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) **Front Setback**

   Regulation 9(8)(i) states *"the minimum front setback is 20 feet"* The ATF pergola on site currently is 5'-3" from the fronting boundary a difference of 14'-9".

2) **Rear Setback**

   Regulation 9(8)(i) states *"the minimum rear setback is 20 feet."* Three of the ATF structures on site encroach the rear setback boundary, the ATF Shed shown at 5'-9", the ATF Pool shown at 9'-8" & the ATF Pool Deck shown at 6'-5". All shown are within the 20' required rear setback a difference of 14'-3" (ATF Shed), 10'-4" (ATF Pool) and 13'-7" (ATF Pool Deck).

3) **Side Setback**

   Regulation 9(8)(j) states *"the minimum side setback is 10' for a building of one storey"* Two of the ATF structures encroach the side setback boundary, the ATF Shed shown at 5'-0" & the ATF Pergola also at 5'-0", both structures have a difference of 5'-0".

SUPPLEMENTAL ANALYSIS

There have been no changes to the plans.

At 11:00am, Dori King appeared as the applicant and Rodney Parchment joined the meeting via speaker phone on WhatsApp as her agent. Summary notes are provided as follows:

- The Authority asked the applicant to explain the reasons why variances should be granted.
- Mr. Parchment explained that the work was done without permission and that his client wasn't aware that permission was needed as it was her husband that did the work. They are hoping the Authority will make an exception for the infractions.
- The Authority asked how long ago these features were built.
- Ms. King replied it was last year and that the problem was brought to her attention when she got the enforcement letter. She noted that it was her ex-

husband that did all the work and they are now divorced.

- The Authority noted that every structure is illegal and all of them are after-the-fact and queried whether the applicant had no knowledge that the work was illegal.
- Ms. King replied that is correct.
- The Authority asked if Mr. Parchment was her architect for the house and he replied he was not.

2.2 PATRICK ISLAND HOME ASSOC. (GMJ Home Plans) Block 24E Parcel 473 and Block 24C Parcel 10 Rem 2 (P20-0322 & P20-0323) ($45,000) (NP)

Application for three subdivision gates.

Christine Maltman and Ashton Bodden declared conflicts and left the meeting room.

Appearance at 11:30

FACTS

Location	Patrick's Island
Zoning	**LDR**
Notification result	CPA determined objectors had no legal standing
Height	7'-6"

BACKGROUND

August 31, 2022 – Consent Order signed by the applicants representative and the Attorney General's Chambers setting aside the March 9, 2022 CPA decision and remitting the matter back to the CPA for further consideration.

March 9, 2022 **(CPA/07/22; Item 2.3)** – It was resolved to refuse planning permission for the following reason:

1) The proposed gates on Block 24E Parcel 473 will prevent through traffic along Poindexter Rd except for those persons granted access by the Patrick Island Homeowners Association. The Authority notes that Poindexter Rd is a combination of several portions:

    - one is public
    - one is owned by Crown
    - one is owned by the Patrick Island Homeowners Association
    - one is owned by two other individuals

    The Authority is aware that Poindexter Rd has been used by persons living in the immediate area for decades and functions as an integral part of the road network in the area and the Authority is of the view that it is not reasonable to allow the gates which would impede access to those persons who have been using the road over that period of time.

April 13, 2021 **(CPA/08/21; Item 2.1)** - It was resolved to adjourn the application and

re-schedule it for consideration at a later date.

February 3, 2021 **(CPA/03/21; Item 5.11)** - It was resolved to adjourn the application and require the applicant to notify the adjacent land owners only, including specifically the owners of 24E 285 and 24E 428.

December 9, 2020 **(CPA/21/20; Item 2.5)** - It was resolved to adjourn the application at the applicant's request and to require the applicant to notify owners with a 500' radius of the subject parcels.

September 16, 2020 **(CPA/15/20; Item 2.17)** – CPA adjourned the application and invite the applicant to appear before the Authority to discuss details of the application.

March 22, 2006 **(CPA/09/06; Item 2.3)** - CPA resolved to refuse the application, for the following reasons:

1. The proposed gates will result in a gated community which will negatively affect the cultural, social and general welfare of the Island's people, which is contrary to section 1.2 of The Development Plan 1997. More specifically, the gated community will:
   a) Introduce elements of cultural and social isolation and segregation.
   b) Restrict and/or hamper the ability of the public to access the existing parcels of Land for Public Purposes located within the subdivision.
   c) Restrict and/or hamper the ability of emergency and service vehicles to access the subdivision.
   d) Restrict and/or hamper the ability to use the subdivision roads as an alternative access route to or from George Town in the event of an emergency event (e.g. traffic collisions, tropical storms).

2. Gated communities reduce the ability of the public to share roads which can result in the duplication of road networks and inefficient use of land which is contrary to section 3.14 of The Development Plan 1997.

3. The reduction of road sharing and interconnectivity is not a prudent transportation planning initiative as encouraged by section 1.3(f) of The Development Plan 1997.

4. The Authority was not convinced that the proposed gates would provide for the level of safety contended by the persons in appearance at the meeting. Further, any minimal safety benefit that might accrue from the proposed gates would not outweigh the negative social and cultural issues identified in item 1) above.

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

1) The proposed gates on Block 24E Parcel 473 will prevent through traffic along Poindexter Rd except for those persons granted access by the Patrick Island Homeowners Association. The Authority notes that Poindexter Rd is a combination of several portions:
   - one is public
   - one is owned by Crown
   - one is owned by the Patrick Island Homeowners Association
   - one is owned by two other individuals

The Authority is aware that Poindexter Rd has been used by persons living in the immediate area for decades and functions as an integral part of the road network in the area and the Authority is of the view that it is not reasonable to allow the gates which would impede access to those persons who have been using the road over that period of time.

AGENCY COMMENTS

Comments from the National Roads Authority and Chief Fire Officer are noted below.

National Roads Authority

As per your memo dated May 8th, 2020 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 electric gates, however, the applicant should keep in mind that by gating the community the NRA will no longer provide any maintenance service in terms of,

1. *Bush cutting*
2. *Pothole patching and/or*
3. *Basic road repair*

The NRA will also no longer be responsible for the eleven existing streetlights along Windswept Drive and Revere Road, which will be handed over to the Patrick's Island Home Owners Association to handle the monthly payment as well as basic maintenance with CUC.

In terms of the gate design, proposed Gate 3 – Amity Street, the gate should swing the other way into the private section of road and not onto public road.

Chief Fire Officer
Propose gate should have S.O.S . See attached for reference.

Technical Specifications Basic Concept
The Siren-Operated Sensor (SOS) is designed to respond swiftly to the "YELP" mode of all standard sirens. A reminder decal is provided to be placed on each entry gate. Responders already own their siren. This device represents Public Safety without spending Public Funds.
The SOS is the nation's most widely used Uniform Emergency Gate Access.

Installation and Testing
Since all gate operators use 9 to 30 Volts AC or DC for their electronic controls, this source can easily be used to power the mini requirements of the SOS. A demonstration "YELP audio
CD is provided, along with instructions, with each SOS sold.

Technical Specifications
The Frequency response of the Siren-Operated Sensor is from 900Hz to 6Khz. The SOS relies on a time-varying frequency input in this range. This, plus proprietary techniques, allows the microprocessor to respond to the siren's "YELP" with a dry relay

closure in 2.5 seconds.
•The SOS uses an unidirectional microphone. Alignment is not necessary.
•Range of the SOS is adjustable - 5 to 50 feet or more. A potentiometer located on the PC Board provides this adjustability. The SOS is not affected by ambient light.
•The PC board is mounted in a 3.5" x 4.7" x 2.4" weather-tight enclosure.
•The unit weight is approximately 8 oz.
•The power requirements are 9-30 Volts AC or DC with approximately .1 mA Draw.
•Programmable to be momentary relay activation , 15 minute hold, or Latch.

Warranty
The SOS has a five year warranty when installed according to the manufacturer's Specifications.

APPLICANT'S LETTER

See Appendix A

PLANNING DEPARTMENT ANALYSIS

General

The applications are for 3 metal gates.

The first metal gate is located on the north edge of Patrick's Island and is located on Block 24C Parcel 10 Rem 2. This gate is referred to as the North gate and there is an existing gate house located at this location.

The second metal gate is located on the south edge of Patrick's Island subdivision and is located on Block 24E Parcel 473. This gate is referred to as the South gate and there is an existing gate house located at this location.

The third metal gate is located on the west edge of Patrick's Island subdivision and is located on Block 24E Parcel 473. This gate us referred to as the West gate.

Each of the three gates will be a maximum of 7 feet in height.

Zoning

The properties are zoned Low Density Residential.

Specific Issues

1) **Previous decision**

   The Authority should take into consideration the previous decision of March 9, 2022 to refuse gates in this subdivision.

At 11:30am, Debbie McTaggart, Debra Gaffigan, Mike Kornegay, Jenny Frizzelle, Paul Tibbetts and Emily Tibbetts appeared for the Homeowners Association. J. Samuel Jackson and Selina Tibbetts (via Zoom) appeared as legal representation for the Homeowners Association. Summary notes are provided as follows:

- The Authority advised that this is not a new application, as it has been remitted to the Authority by the Planning Appeals Tribunal, therefore re-notification of adjacent land owners was not required and as previously

determined at CPA/07/22; item 2.3, there were no parties that had legal standing to object.

- The Authority noted that all of the written submissions have been reviewed by the members so there is no reason to read them all now.
- Mr. Jackson explained that they have a plan showing the location of the three gates and it shows that there are no public roads inside of the gates. He then proceeded to provided several comments:
  - The Department of Planning report states a portion of Poindexter is Crown owned and asked where it is located. The Authority advised it is 24E 328 Rem 5
  - The gates are not an infringement on the right to use a public road
  - This is like Websters Estates where gates got approved and those block access from a public road
  - There are two existing guard houses with signs that say private road and those have been there at least 20 years
  - There is no public road that is obstructed or blocked
  - They simply want to install gates for privacy for the subdivision as was always intended
  - There are other gates in the area
  - They are at a loss why this application has been so difficult
  - The Patrick Island Homeowners Association [*PIHA – added for brevity in the Minutes]* has diligently acquired roadways and they have a list of every parcel that has a right-of-way over the roads and there are no rights-of-ways obstructed by the gates
  - They are not creating a liability for PIHA
  - These are just gates to close access on private parcels owned by PIHA
  - PIHA has taken on the maintenance of the roads and they are entitled to erect gates to manage traffic over private land
  - Websters Estates is a recent example and in that case the private roads connected to public roads
  - It has always been known to the public that this would be a gated community
  - This is as simple as Websters Estates so there needs to be fairness, if approved there it needs to be approved here
- The Authority noted that in his letter he states there are four parcels that fall outside of the subdivision and asked if he could identify them. Mr. Jackson approached the projector screen and pointed to the four lots west of gate 3
- The Authority asked if those lots have right-of-way over the road and Ms. Frizzelle replied they do. She also noted that the Palms gets access from inside the gate.

- The Authority noted that only one of those four lots was inside the notice radius and Mr. Jackson advised that it was the Authority that set the radius. Ms. Frizzelle explained that PIHA wrote to the owners explaining about the gates. Mr. Jackson noted those owners aren't impacted in any way and if the gates do block legal access then those owners can sue in Court.
- The Authority asked if the gates included pedestrian gates as well and Ms. Frizzelle replied they do. Mr. Jackson concurred that pedestrian access is still available. The Authority asked if they would be locked at any time and Ms. Frizzelle replied that hasn't been fully determined, but generally they would remain open and the vehicle gates would be locked.
- Another member of PIHA noted that there hadn't been discussion about locking the pedestrian gates, only the vehicle gates so there would still be access for runners and walkers.
- Mr. Jackson explained that wear and tear has to be considered as this is a private road. He noted that there is liability as a private road if there are accidents then PIHA is responsible. He explained that this should be looked at as a private driveway, although a long one.
- The Authority noted that there are three other parcels between gates 2 and 3 and asked if those are also part of PIHA since they are not shown on the applicants map of parcels within the HOA, and Ms. Frizzelle confirmed that they are within the HOA.
- The Authority noted that in reading the letter PHIA sent to owners not in PIHA there is a question if access would be guaranteed over perpetuity, no matter who the subsequent titles of ownership passed to. Ms Frizzell commented that the letter was sent to start a dialogue and if it goes forward there will be a legal document concerning access. Mr. Jackson noted that there would be an easement as it goes with the land and those owners present and future, he clarified, would be entitled to an access clicker.
- The Authority noted that the gates are an obstruction even if someone has legal access through them and asked if they could be moved slightly. Ms. Frizzelle replied that they would then be saying defacto it is a public road, but it is PIHA that owns the road. Mr. Jackson noted that moving the position of the gates poses a problem because that would leave some owners outside of the gates and that is not fair to them. He noted that the gates represent no harm to a material planning interest.
- The Authority noted that anyone walking here could really only be local because there is nowhere to park so that access is gone for the general public. The Authority noted that after hurricane Ivan some roads were blocked by trees and the only way out from a large portion of the adjacent neighbourhood was through Poindexter.
- Ms. Frizzelle explained that in the case of an emergency the gates would be open. Another member of PIHA noted they can do a contingency plan.
- Mr. Jackson replied that under Law in the case of a national emergency Government can open up any road.

- The Authority noted the occurrence in South Sound where the electricity went out and the gates were locked. Mr. Jackson noted that is a public safety concern and conditions can be imposed accordingly.
- The Authority noted that the NRA has recommended that the gates on gate 3 should swing into the private road and not out into the public road and Ms. Frizzelle replied that has been corrected. Mr Jackson noted that the NRA also says they will no longer do bush cutting or road repair. Ms. Frizzelle noted that PIHA has been building up reserves for road repair and maintenance.
- The Authority asked if a car comes up to a gate, specifically looking at Gate 3 on Amity, is there a turn area such that the driver doesn't have to do a multi-point turn and Ms. Frizzelle replied there would have to be some turning.
- Ms. Frizzelle explained they will put up notices advising that the gates will be going in and the time frame.
- Another member of PIHA noted there is already a sign at the bottom of Poindexter that says there is not a through fare in order to keep people on the arterial roads.
- Ms. Frizzelle noted that this will require a change in people's habits.
- Mr. Jackson explained from a planning perspective there is no material basis for refusing permission. He noted that they have addressed the concern about blocking rights-of-way or public access. He advised he sees no basis in Law to refuse the application and precedent has been set at Websters Estates and other developments.

2.3 PAMELA MITCHELL (CS Designs) Block 69A Parcel 31 (P22-0672) ($120,000) (NP)

Application for an after-the-fact house and a proposed addition to the house.

Appearance at 1:30

FACTS

Location	Sunnyfield Road in Colliers
Zoning	**Agricultural/Residential**
Notification result	No Objectors
Parcel size proposed	6.5 acres
Parcel size required	10,000 sq. ft.
Current use	House

BACKGROUND

September 14, 2022 (CPA/22/22; Item 2.10) - The CPA resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the deficient side setback and the after-the-fact nature of the existing house.

Decision #1: It was resolved to grant planning permission for the after-the-fact house, subject to the following conditions:

1) The applicant is required to apply for a Permit from the Director of Planning **within 6 months of the date of this decision.**

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

3) The applicant shall obtain a Final Certificate (of Fitness for Occupancy**) within 12 months of the date of this decision.**

Reason for the decision:

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).

Decision #2: It was resolved to adjourn the application for the proposed house addition for following reason:

1) The applicant is required to submit revised plans showing the proposed addition no closer to the property boundary than the existing house

AGENCY COMMENTS

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 largely consists of a variety of primary habitats including: primary dry forest, primary dry shrubland and primary seasonally flooded mangrove habitats. However, the area of the parcel where the works are being proposed and have already taken place is man-modified. These primary habitats are of high ecological value and provide a biodiverse habitat for native wildlife including Grand Cayman Blue Iguanas (Cyclura lewisi).

Blue Iguanas

The subject parcel falls within the natural distribution range of the Blue Iguanas that have been released into the Salina Reserve and their presence has been confirmed near Sunnyfield Road. It is therefore highly likely that there are resident Blue Iguanas and Blue Iguana retreats located within the parcel. Blue Iguanas are listed as endangered on the IUCN Red List and they are a Schedule 1, Part 1 protected species under the National Conservation Act (2013) making them a species 'protected at all times'.

Blue Iguanas are endemic to Grand Cayman meaning they are unique to Cayman and found nowhere else on earth. They are an iconic Caymanian flagship species and their presence serves as a valuable tourism asset. Blue Iguanas typically live solitary, territorial lives. As they reproduce and seek to establish territory, the urbanisation of valuable primary habitat continues to be a concern for the future of our wild population that rely on this habitat to forage, shelter and nest.

Importance of Primary Habitat

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

The subject parcel and surrounding area currently serve as a wildlife corridor connecting two extremely important conservation areas: the ***Colliers Wilderness Reserve*** *and the* ***Salina Reserve*** *(Figure 1) which are protected by the National Trust for the Cayman Islands under the National Trust Act. Habitat loss and fragmentation are huge threats to our wildlife. Our native species have complex daily requirements that require them to travel safely from place to place, looking for nesting sites, food, water, a resting haven and shelter. With the increased urbanisation of the island, wildlife corridors are vital for the survival of our species. They bridge the gap between habitats which otherwise would be small and isolated and join them together. Linking core wildlife habitats helps to restore and preserve biodiversity, allowing movement between important habitats to maintain genetic diversity in wildlife populations. When populations become isolated, local extinctions can occur.*

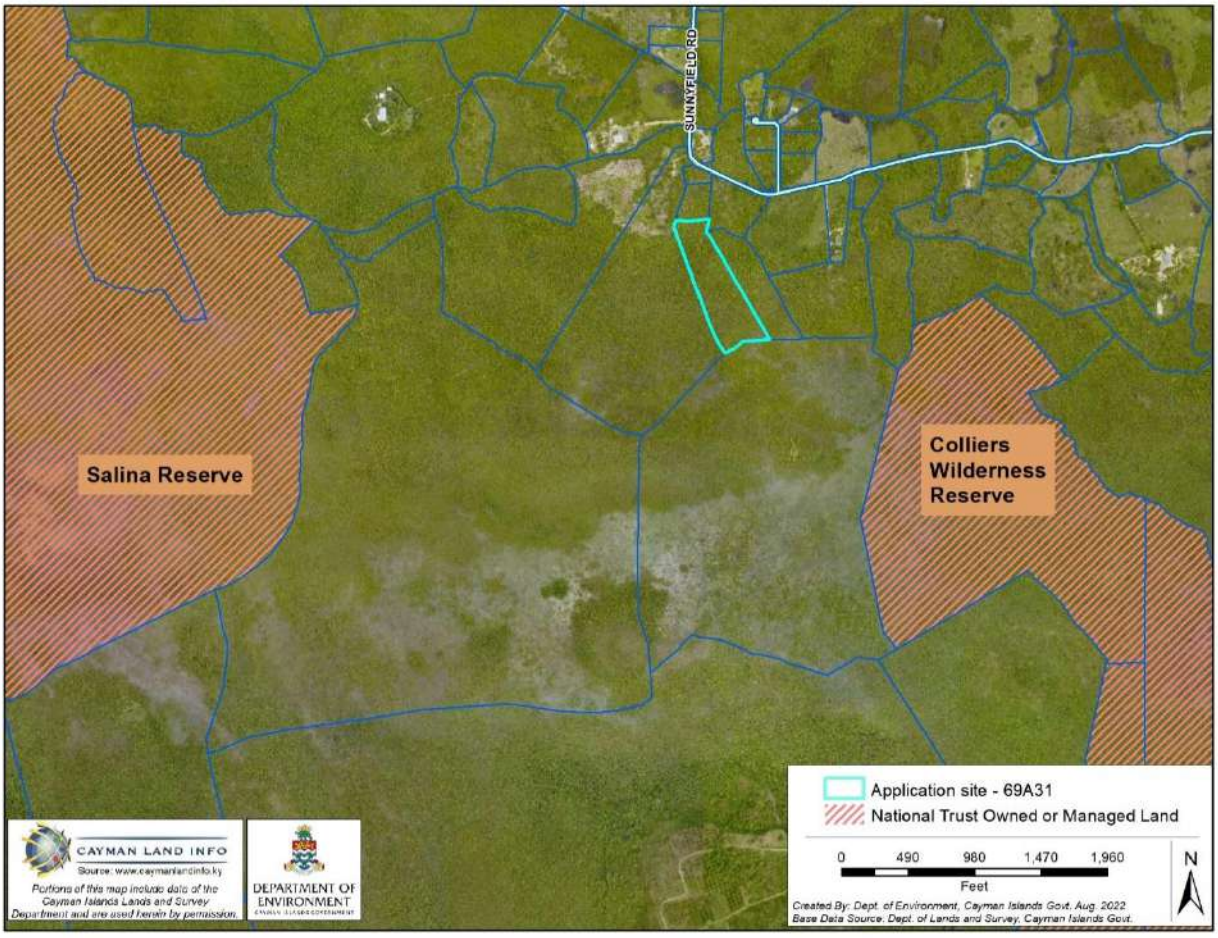

Figure 1: Aerial image showing the subject parcel in relation to the Salina Reserve and Colliers Wilderness Reserve. Base imagery source: Lands & Survey 2018 aerial imagery.

Primary habitat can be retained and utilised in a variety of ways on a parcel:

- *It can be retained along parcel boundaries and between buildings to serve as privacy buffers/screening.*
- *It can be incorporated into the landscaping schemes for low-maintenance low-cost landscaping.*
- *It can serve as an amenity, providing green space and shade for those who live nearby/on the property.*
- *It can assist with on-site stormwater management and drainage.*
- *It can remain as a habitat for endemic wildlife (helping contribute to the conservation of our local species).*
- *It can help cut back on carbon emissions by leaving the habitat to act as a carbon sink through avoiding its destruction and allowing natural processes to occur which assist with the removal of carbon dioxide in the atmosphere.*
- *When located in an area of wider primary habitat, wildlife corridors can be created connecting areas of a habitat that would have otherwise been isolated through development, allowing for the movement of animals and the continuation of viable populations.*

For these reasons, we would not support any further land-clearing on the parcel outside of the proposed scope of works which appears to be located within an already impacted area. Heavy machinery can crush or bury iguanas and their nests. It is therefore crucial that extreme care be taken during construction, particularly during the Blue Iguana nesting season (1 June – 30 September yearly).

Should the Central Planning Authority or Planning Department be minded to grant planning permission for the proposal, the DoE recommends the inclusion of the following conditions to minimise impacts to Blue Iguanas and this important primary habitat.

1. *A walkover survey shall be conducted by the DoE, prior to commencing works on-site, to ensure that no Blue Iguanas or nests are present. The Applicant can write to the DoE at emu.doe@gov.ky to initiate the survey. Written confirmation from the DoE shall be received prior to the issuance of a Building Permit.*
2. *All vegetation outside of the proposed development footprint shall be retained in its natural state and shall not be cleared.*
3. *Any further land clearing, excavation, filling or development of the site shall be the subject of a separate consultation with the Central Planning Authority and the National Conservation Council.*

In addition, the Applicant should be advised that throughout the duration of the site works and construction, appropriate care and attention must be paid to ensure that no iguanas are harmed in the process.

APPLICANT'S LETTER

On behalf of our client, Pamella Mitchell, we are requesting the following variance for the After-the-Fact Cottage with proposed addition to the ground floor level.

- The proposed addition is 8'-7 ½" from the side boundary (15 feet setback required).

The existing/ After-the-Fact Cottage was built about 11'-0" from the side boundary and with the addition of the kitchen, living dining at ground level, the corner new

stair enclosure that connects to the upper floor, will be about 8'-7 ½" from the boundary line.

As per Development and Planning Regulations 2021, Sections 8 (13)(B) (iii), we would like to note that the size and the quality of the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare.

We also note that the adjoining and affected property owners have been notified of the application via registered mail.

Given the above, we ask that you consider our request.

PLANNING DEPARTMENT ANALYSIS

General

The subject parcel is located on Sunnyfield Road in Colliers.

The property contains a house on stilts (second floor) without planning permission.

The applicant is seeking after the fact permission for the existing 560 square foot house (second floor) and is also seeking planning permission for a new 737 square foot ground floor addition.

Adjacent landowners were notified and no objections have been received to date.

Zoning

The property is zoned Agricultural/Residential.

Specific Issue

1) Side setback

Regulation 9(8)(j) requires a minimum side setback of 15 feet for a two storey structure.

The proposed corner of the ground floor addition is 8'7" from the west side boundary.

The Authority should consider whether a variance is warranted in this situation.

SUPPLEMENTARY ANALYSIS

There have been no changes to the plans.

At 1:30, Pamela Mitchell appeared as the applicant and Christina Sanchez appeared as her agent. Summary notes are provided as follows:

- The Authority asked for an explanation for the after-the-fact works and the need for a variance.
- Ms. Sanchez explained that the existing structure is not a house, it just as rooms with a bathroom.
- Ms. Mitchell explained that they have 6 acres and intended to build a house eventually. She noted the structure is for shelter in the day when they are farming, there is no plumbing or electrical.
- The Authority looked at photographs on file of the structure.
- Ms. Sanchez noted that the intent is to have a bedroom and kitchen while enclosing the ground floor area. She noted the setback is less than 10'.

- The Authority asked if they have 6 acres how is it they didn't comply with the setback. Ms. Mitchell explained it was a series of hiring bad architects and contractors. She noted that the architect took their money and left the Island and he did say the setback needed to be 15', but she's not sure what went wrong.
- Ms. Sanchez explained they asked the surveyor to do a survey and that is when they found out the discrepancy .
- The Authority asked if she intends to keep the external stairs and Ms. Mitchell replied she wasn't sure, but she could get rid of them. The Authority noted that if she fitouts the downstairs then the internal stairs should be enough and she doesn't mind removing the outside stairs and Ms. Mitchell replied that is correct.
- The Authority noted that she seems to want a liveable area while they finished it and Ms. Mitchell replied that is the idea.
- The Authority asked if she is getting inspections and Ms. Mitchell replied yes, her engineer did that. The Authority noted that the engineer didn't tell her she didn't have a permit to which Ms. Mitchell replied it didn't come up.
- Ms. Sanchez noted they can get an engineer to inspect and certify it and then she asked if they needed to talk about the setback and the Authority replied there was no point as it was already there.

2.4 FORESHORE CORPORATE SERVICES Ltd (Eric Cronier) Block 22E Parcel 444 (P22-0688) ($5,000) (JP)

Application for a two lot subdivision.

Appearance at 2:00

FACTS

Location	Access road off Edgewater Way, George Town
Zoning	**NC**
Notification result	No objectors
Parcel size proposed	2.601 ac. (113,299.56 sq. ft.)
Parcel size required	20,000 sq. ft.
Current use	Skate park and associated parking area

BACKGROUND

August 12, 2015 (**CPA/16/15; item 2.8**) – application for 12 light poles approved (P15-0532)

August 10, 2009 (**CPA/21/09; item 2.2**) – application for an outside bar with rooftop seating, separate viewing patio and a bus used for retail sales approved on 22E 335 (P09-0570)

September 3, 2003 (**CPA/23/03; item 3.16**) – application for a water and skate recreational park 22E 313 (P03-0724)

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

1) The applicant shall provide a copy of the submission made to the Lands and Survey Department granting an easement in favour of lot A over lot B for the purpose of utilizing the parking spaces on lot B and this must be submitted to the Authority prior to the final survey drawing being registered.

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

2) The size of lot B does not comply with the minimum required lot size per Regulation 8(9) 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 lot is used for parking and not for the development of a building; 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.

3) An easement over lot B will be required to ensure parking is available for lot A until it is redeveloped.

AGENCY COMMENTS

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

Water Authority

Water Supply:

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

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

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

Wastewater Treatment:

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

Department of Environment

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

APPLICANT'S LETTER

The skate park land and the adjacent lot are privately owned and are being sold separately from the parking area necessitating the subdivision of parcel 22E/444. Any future Planning application on that canal front property must meet the appropriate parking requirements at that time. We hope that helps clarify the situation.

PLANNING DEPARTMENT ANALYSIS

General

The application site is accessed by a private road (outlined in red) from Hurley's roundabout.

The application site comprises a skate park, defunct water park, parking area and Mike's bar as outlined in blue below.

The application seeks Planning Permission for a two-lot subdivision which would result in the parking area and Mike's bar being separated from the skate and water parks.

Zoning

The property is zoned Neighbourhood Commercial.

Specific Issues

1) Parking for the skate park

The Department of Planning raised a concern that the two-lot subdivision would result in existing parking capacity being disassociated from the skatepark. Consequently, skate park users would have no parking provision.

In response, the agent offered to incorporate an easement enabling use of lot B (the carpark) whilst lot A (skatepark) is operating.

The Department welcomes the suggestion and would support such an inclusion providing the easement is worded such that lot A has use of lot B in perpetuity or until adequate parking can be provided for any future development on lot B.

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

- Mr. Cronier provided several comments:
  - the smaller parcel will be retained for parking for the commercial centre
  - the larger parcel will be combined with parcel 459 and developed
  - the issue was in the press and it is sad that the park has to go
  - the company that runs it gets it for nothing, it is not a viable business
  - they will be given 30 days' notice per the lease and then it will close
  - the client wants to do a residential development
  - while the park is operational they can do an easement for parking
  - the new development will have its own parking
- The Authority asked how many parking spaces are on the small parcel and Mr. Cronier replied about 30 and that they will be retained for the commercial centre.
- The Authority asked if the parking would stay in the same ownership as the commercial and Mr. Cronier replied that can get complicated because it is a strata plan.
- Mr. Cronier noted that the development application should be submitted in the next few weeks.
- The Authority asked if parcel 459 is in the same ownership and Mr. Cronier replied it is a separate company but essentially it is the same ownership.
- Mr. Cronier explained that the new lot line between A and B may have to be shifted slightly so a couple of parking spaces may be lost, but when the development proposal is finalized the division line will be finalized.

- The Authority noted that the lot size should be 20,000 square feet so either the parcels have to be combined or a variance granted. Mr. Cronier advised that a variance would be better as it will be easier to deal with as a separate parcel for giving an easement for parking.

2.0 APPLICATIONS APPEARANCES (Items 2.5 to 2.13)

2.5 ROBERT SELKIRK WATLER JR. (Abernethy & Associates Ltd.) Block 58A Parcel 33 (P22-0797) ($3,814) (MW)

Application for a 19 lot subdivision (17 house lots, 1 road parcel and 1 LPP)

FACTS

Location	Arlington Dr., North Side
Zoning	**Agricultural/ Residential**
Notification result	No Objectors
Parcel size proposed	5.182 ac. (225,736 sq. ft.)
Parcel size required	10,000 sq. ft.
Current use	Vacant

BACKGROUND

N/A

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

1) The applicant is required to submit more detailed written reasons why the Authority apply the provisions of Regulation 21 of the Development and Planning Regulations (2022 Revision) to allow a density that could be allowed in the low density residential zone.
2) In regard to reason 1), the Department is directed to circulate the plan to the Department of Agriculture for review and comment specifically pertaining to the agricultural potential of the subject lands per the provisions of Regulation 21 of the Development and Planning Regulations (2022 Revision).

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment:

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

Water Supply:

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

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

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

Stormwater Management

This development is located over the ***North Side fresh water lens*** *or within the 500m buffer zone of the lens. In order to protect the fresh water lens, the Water Authority requests that stormwater drainage wells are drilled to a maximum depth of* ***80ft.*** *instead of the standard depth of 100ft as required by the NRA.*

Department of Environment

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

The application site consists partly of primary dry forest and shrubland in the northwestern area of the parcel with the remainder being previously man-modified. Primary habitat is mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. These habitats are often very old, existing long before humans and may consist of many endemic and ecologically important species. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human activities. The current proposed area of Land for Public Purposes for the subdivision covers an area of previously man-modified habitat, in order to allow the preservation of primary dry forest and shrubland, the DOE recommends that it be relocated to either lot 15 or 16, as shown in figure 1 below.

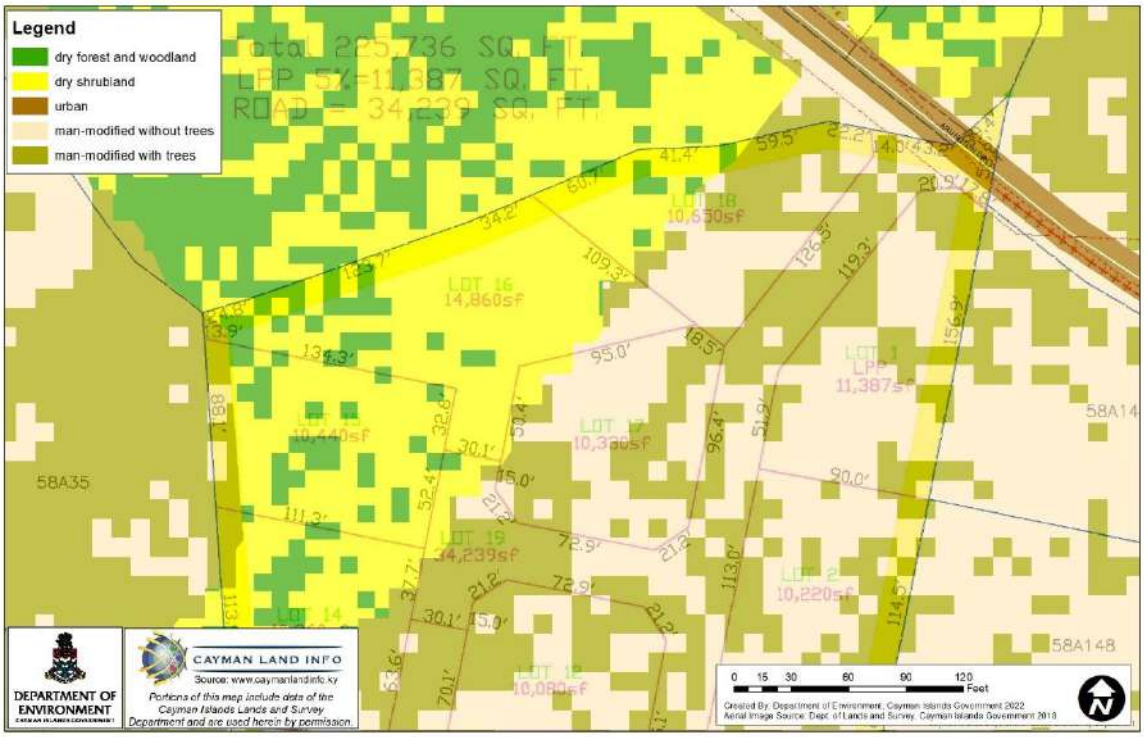

Figure 1: The proposed subdivision plan overlaid on habitat map showing the primary habitat dry forest and shrubland (shown in green and yellow) (Source: DOE 2022).

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

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

- *It can be retained along parcel boundaries and between buildings to serve as privacy buffers and screening.*
- *It can be incorporated into the landscaping schemes for low-maintenance low-cost landscaping. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation.*
- *It can serve as an amenity, providing green space and shade for those who live nearby or on the property.*
- *It can remain as a habitat for endemic wildlife such as anoles, birds and butterflies. This habitat helps to contribute to the conservation of our local species.*
- *It can help reduce carbon emissions by leaving the habitat to act as a carbon sink and allow natural processes to remove carbon dioxide from the atmosphere. Destroying native vegetation releases carbon stored in the plant material, soil and peat.*

- *When located in an area of wider primary habitat, wildlife corridors can be created connecting areas of a habitat that would have otherwise been isolated through development, allowing for the movement of animals and the continuation of viable populations.*

If the Central Planning Authority, Development Control Board or Planning Department is minded to grant planning permission for the proposed subdivision, the DoE recommends the inclusion of the following conditions in any planning permission to minimise impacts to this valuable habitat.

- *The allocated are of LPP should be relocated to either lot 15 or 16 as shown on proposed plans in order to preserve existing primary dry forest and shrubland; and*
- *There shall be no land clearing, excavation, filling or development of the resultant parcels without planning permission for such works being granted.*

Fire Department

The fire department has no comments at this time. However, The Fire Service adheres to the 2006 Fire Brigade Law , The 1997 Fire Code, the 1994 Standard Fire Prevention Code with the (1995 Fire Brigade Law revision) and all relevant NFPA Codes required. going forward, if any other future development occurs the said above reference will be applied.

APPLICANT'S LETTER

The above parcel is zoned Agricultural Residential. The parcel consists of mainly cliff rock and is not suitable for farming. We are therefore asking for the parcel to be developed as Low Density Residential under the Planning Regulation 21.

Please do not hesitate to contact me if you have any questions or require additional information.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a 17 lot subdivision, 1 LPP lot & 1 road parcel to be located on Arlington Dr., North Side.

Zoning

The property is zoned Agricultural Residential.

Specific Issues

1) Density

Regulation 21 states that in the A/R zone, two house per acre may be built. In this instance the subject property is 5.182 acres which would allow for 10 houses. The applicant is proposing 17 house lots.

Regulation 21 states further that if the Authority is satisfied that the land is not situated over a water lens and is not particularly suited to agriculture then it may permit development that complies with the LDR provisions. The proposed house

lots would all comply with the minimum lot size requirements I the LDR zone, but there are a few lots that don't comply with lot width, which is addressed below.

In this instance the site is situated over a water lens, but it is noted that the Water Authority has not commented on this issue. A review of the agricultural classes map associated with The Development Plan indicates that land has a high rating for agricultural purposes, but the 2018 aerials seems to show several wet areas. The applicant has submitted a letter requesting the Authority to allow the LDR provisions.

2) Lot Widths

Regulation 9(8)(g) states *"the minimum lot width for detached and semi-detached houses and duplexes is 80 feet."* The proposed width of Lots 13 & 16 (30.1'), Lot 10 (57.9'), Lot 8 (60') & Lot 9 (74.5'). These lot widths are a result of the shape of the lots being "flag" lots or at the end of hammerhead turnarounds.

3) LPP

Regulation 28 (1) states "*according to the size of a subdivision, the Authority may require the applicant to set aside land not exceeding 5% of the gross area of the land being developed, for public purposes, including active and passive recreation and public rights of way."* The applicant previously submitted a plan showing the proposed Lot 1 as the LPP lot which would by equate to 5%, however the applicant submitted a revised plan showing Lot 18 as LPP lot which has a total area of 10,650 sq. ft. or 4.7%.

It is noted that the DOE is recommending the LPP be relocated from lot 1 to either lots 15 or 16. It would appear that the revised location on lot 18 would achieve the same result sought by DOE.

2.6 VERDA EBANKS (Baer Development) Block 20D Parcel 326 (P22-0458) ($8,000) (BS)

Application for a 6' wall.

FACTS

Location	Palmdale Avenue in George Town
Zoning	**Medium Density Residential**
Current use	House & Detached Garage

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

1) The applicant is required to submit revised plans showing:
   a) the wall setback a minimum of 4' from the roadside property boundary;
   b) the gates setback a minimum of 12' from the roadside property boundary; and
   c) the gates swinging inward, away from the road.

AGENCY COMMENTS

Comments from the NRA are provided as follows:

National Roads Authority

As per your memo dated April 29th, 2022 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Please note NRA recommended minimum intersection sight distance requirements, which are as follows,

The minimum intersection sight distances as measured from a point 15 feet back along the centreline of the minor road and three and one-half feet (3 1/2') above the road surface shall be one hundred and fifty feet (150') and, two-hundred and thirty feet (230') for major road speed limits of 25 MPH and 30 MPH respectively, as measured along the near edge of the running carriageway. However, the NRA requests that the CPA require the applicant to set back the wall 3 feet to allow for a pedestrian footpath. And also the gates should swing inward towards the subject parcel, so as not to interfere with the road traffic.

PLANNING DEPARTMENT ANALYSIS

General

The subject parcel is located on Palmdale Avenue in George Town.

The property contains an existing house.

The applicant is seeking planning permission for a 6 foot high wall along the property boundaries.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Road setbacks

Regulation 8(18) states that walls along roads need to be setback a minimum of 4' from the roadside property boundary. The Regulations also states that gates need to be setback a minimum of 12' from the roadside boundary. In this instance the proposed wall is on the boundary and there are two proposed gates that are also on the roadside property boundary.

2) Proposed Fence Height

CPA Guidelines state that the maximum height of a fence shall be 4 feet. The applicant is applying for a 6 foot high wall. The Authority should determine if the wall height is acceptable in this instance.

2.7 SPANISH BAY DUPLEXES (MGM Studios) Block 3D Parcel 184 (P22-0910) ($60,000) (EJ)

Application for two (2) pools.

FACTS

Location	Lizette Lane and Conch Point Road, West Bay
Zoning	**LDR**
Notification result	No objectors
Parcel size proposed	1.293 ac. (56,323 sq. ft.)
Parcel size required	10,000 sq. ft.
Current use	Duplexes etc,

BACKGROUND

September 27, 2017 (**CPA/20/17; Item 2.15**) **-** The Authority granted planning permission for a 6' chain link fence.

August 18, 2018 (**P18-0627**) – The Department granted approved for duplexes and swimming pools.

June 18, 2021 (**P21-0604**) – The Department modified planning permission to revised floor layout at entrance area and convert den to bedroom.

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

In addition to Building Permit requirements, condition (1) listed below shall be met before a Building Permit can be issued.

1) 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.

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) 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.

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

5) The applicant shall obtain a Certificate of Completion **prior to the utilization of the pool**.

Reasons for the decision:

1) With the exception of the front setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2022 Revision).

2) The proposed application does not comply with the minimum required front setbacks per Regulation 9(8)(i) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:

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

APPLICANT'S LETTER

With respect to our September 12, 2022, submission for a Pool & Deck addition to each unit in Building 1 on 3D 162, 163. We hereby request a roadside setback variance to allow:

1. *2 plunge pools and deck extension to be 12'-6" from the road boundary.*
2. *Pool equipment to be 12'-6 ½" from roadside boundary.*

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.

Please also take into to consideration the following:

(iii) The unique circumstance surrounding the development. Building 1 is surrounded by roads on 3 sides presenting a challenge to meet all setbacks. However, the building meets all roadside setback requirements. All other setbacks have been adhered to.

PLANNING DEPARTMENT ANALYSIS

General

The proposed swimming pools are located off Lizette Lane and adjacent to Conch Point Road, West Bay.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Front setback

The two swimming pools are proposed at 12.6' from the front boundary along Conch Point Road per Regulation 9(8)(i) whereas the required setback is 20'. Therefore, the applicant is seeking a setback variance from the Authority.

2.8 LORI-ANN DAILY (Abernethy & Associates) Block 75A Parcel 223 (P21-1175) ($12,734) (NP)

Application for a 22 lot subdivision.

FACTS

Location	West of John McLean Drive, East End
Zoning	**LDR**
Notification Results	No objectors
Parcel size	6.74 acres
Parcel size required	10,000 sq. ft. for dwellings
	25,000 sq. ft. for apartments
Parcel width required	80 feet for dwellings
	100 feet for apartments
Proposed lot sizes	10,017 sq. ft. to 15, 195 sq. ft.
Current use	Vacant

BACKGROUND

CPA/16/19; Item 2.9 Approval granted for a five lot subdivision on the subject lands. (P19-0548).

CPA/26/21; Item 2.10 – The Authority resolved to adjourn the application in order

for the applicant to submit a revised plan depicting road connections to 71A 39 Rem 4 and 75A 225 at the northern end of the proposed subdivision and retaining the road connection to 75A 224 at the south end of the proposed subdivision.

CPA/20/22; **Item 2.13** – The Authority resolved to advise the applicant that road connections were still required but that easements were not necessary to be granted at this time.

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

1) Prior to the commencement of any site works such as filling, grading and road construction (with the exception of minor land clearing needed to establish site levels for the preparation of a stormwater management plan), the applicant shall submit:

    a) Specifications of any proposed underground utilities; including location, type of utilities, and trench dimensions.

    b) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and should include, but not be limited to, the location of all drainage facilities and general grading details of the parcels (roads included). In general, the entire site shall be graded in such a manner that stormwater runoff is no more than that which occurred during predevelopment conditions along private boundaries with any excess runoff directed to one central drainage facility or a series of facilities. ***The plan shall include proposed lot grading in order to facilitate the implementation of condition 2) b) below***. ***Additionally, if the plan includes drainage swales then cross-sections of the swales must be provided.***

2) Prior to the subdivision plan being finalized, the following conditions shall be satisfied:

    a) All underground utilities shall be inspected and approved by the relevant agencies prior to the utilities being buried.

    b) The property shall be filled in such a manner as to ensure that the subdivision road (s) and a reasonable building envelope for each lot, and the entirety of all lots designated as Land for Public Purposes, are filled to four (4) feet above mean sea level, with the remaining subdivision land being filled and/or graded to a level that will assist in the drainage of the subdivision per the stormwater management plan required in condition 1) b) above. After filling the site, the applicant shall submit a plan prepared by a registered land surveyor indicating spot heights at regular intervals, including the finished grade of constructed access road(s), if any.

    c) The approved stormwater management system shall be installed on site.

    d) The final subdivision plan shall indicate a vehicular easement over the subdivision access road in favour of each lot. The final plan must be

accompanied with the requisite grant of easement forms detailing the easements to be registered.

e) The access road (s) abutting the proposed lots shall have a minimum of a 30' wide demarcated road parcel and shall be constructed with asphalt and approved by the Central Planning Authority prior to the lots being registered. The applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications for subdivision roads. The NRA shall inspect and certify road base construction prior to road surfacing activities.

f) The applicant shall provide water infrastructure for the entire sub-division. The developer shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Authority's specifications, under the Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.

g) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.

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

Reason for the decision:

The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2021 Revision). In this regard, the Authority notes that the revisions to the plan resulted in lots 1-4 complying with the minimum lot width requirement.

AGENCY COMMENTS

Agency comments received to date are provided below.

Department of Environment

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

The application site consists of primary habitat - dry shrubland vegetation and sparsely vegetated rock, as shown in Figure 1.

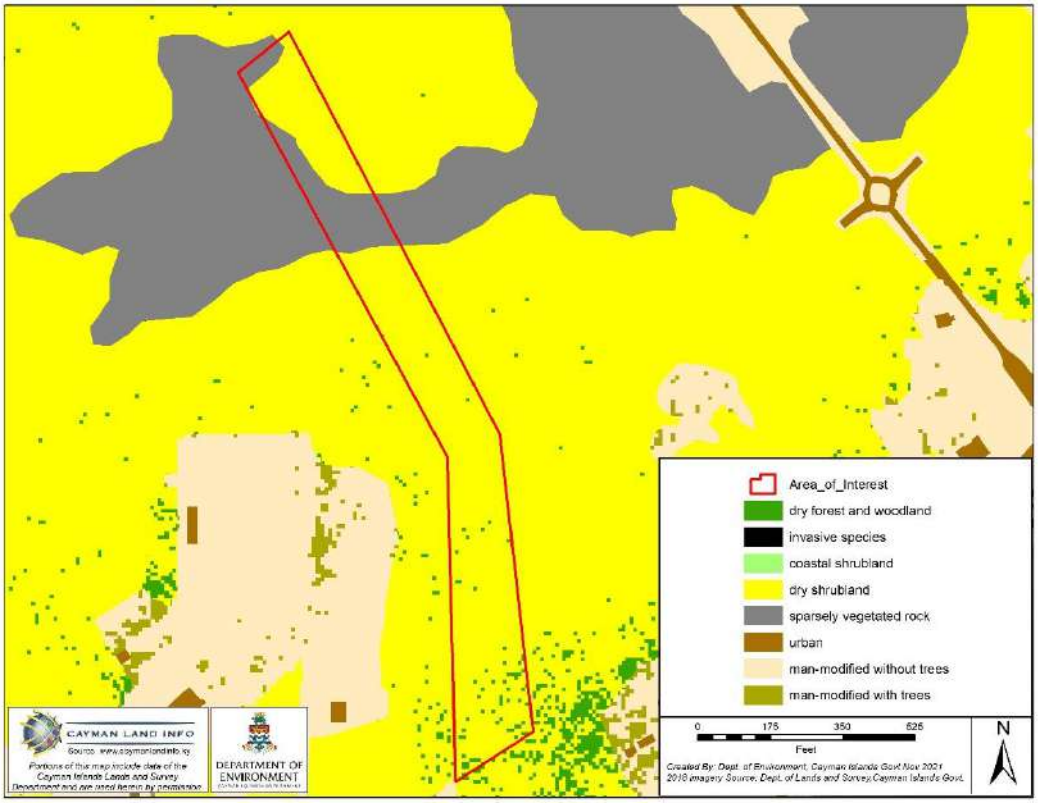

Figure 1: DOE's 2013 habitat map extract showing application site outlined in red.

We note that the application site was previously the subject of planning application (Planning Ref: P19-0458) for a smaller scale subdivision of 5 lots, which was granted planning permission on 31 July 2019. Whilst the application site has already been approved for a subdivision, the Department questions the need for another residential subdivision that results in the clearing of primary habitat. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human uses.

Primary habitat can be retained and utilized in a variety of ways on a property:

- *It can be retained along parcel boundaries and between buildings to serve as privacy buffers/screening.*
- *It can be incorporated into the landscaping schemes for low-maintenance low-cost landscaping,*
- *It can serve as an amenity, providing green space and shade for those who live nearby/on the property.*
- *It can assist with on-site stormwater management and drainage.*
- *It can remain as a habitat for endemic wildlife (helping contribute to the conservation of our local species).*
- *It can help cut back on carbon emissions by leaving the habitat to act as a carbon sink through avoiding its destruction and allowing natural processes to occur which assist with the removal of carbon dioxide in the atmosphere. and;*
- *When located in an area of wider primary habitat, wildlife corridors can be created connecting areas of a habitat that would have otherwise been isolated through development, allowing for the movement of animals and the continuation of viable populations.*

Therefore, the DOE urges the Planning Department and CPA to look into the need for the subdivision of land in the absence of an updated development plan for the islands

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

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

Water Authority Cayman

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

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

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

Wastewater Treatment:

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

APPLICANT'S LETTER

Enclosed please find the relevant documents relating to the above subdivision. We are asking for a variance on the lot width for lots 1, 2, 3, & 4 under the Planning Regulation 8(13) (b) (iii) to accommodate this.

Please do not hesitate to contact me if you have any questions or require additional information.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located in East End, east of John McLean Drive.

The property is currently vacant and the proposal is to create twenty new residential lots, one parcel (14,675 square feet) as Lands for Public Purposes, and one road parcel.

Proposed residential lot sizes range from 10,090 square feet to 12,810 square feet.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot Width

Proposed lots 1 to 4 have a depth of 79.4' and 74.2' respectively.

Regulation 9(8)(g) requires a minimum lot depth of 80 feet.

The applicant has submitted a variance letter and the Authority should consider if a variance is acceptable in this instance.

2) Road Connection to the East

The Department would recommend a future road link block to the east in the event that the abutting parcel is developed for residential uses.

SUPPLEMENTARY LETTER FROM THE APPLICANT

Further to your letter dated January 5, 2022, I note that I am not comfortable with providing any road connections to 71A 39 Rem 4 as this property can gain access elsewhere, and we have already accommodated 75A 224, albeit it is not necessary as they have advised us that they do not require access to their property from 75A 223, they can provide their own access via their adjoining estate properties.

When I purchased 75A 223 it was land locked and the property directly in front of us would not allow access through their property to ours, even though access could have been easily accommodated. When the Planning and Lands and Survey departments were approached in relation to the same, I was not provided with any assistance to gain access to my property. I had to negotiate a very expensive access to my property via two properties and now I am expected to just give access to everyone around me at my expense, I do not feel that is fair.

If in the future the property owners of 71A 39 Rem 4 wish to gain access through our property, then that will be negotiated between the parties. I feel that our plan is easily adjustable to accommodate the same.

I trust you understand from my point of view why I am somewhat resistant to providing such access.

SUPPLEMENTARY COMMENTS

The applicant has revised the application to provide road connections as requested by the Authority.

2.9 LINDA DACOSTA (Proven Bank) Block OPY Parcel 174 (P22-0842) ($1,000) (NP)

Application for a sign.

FACTS

Location	Dr. Roys Drive
Zoning	General Commercial
Current use	Sign
Sign Area	10.5 sq ft

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

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

Reason for the decision:

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 sign would be located on the front of the subject building and read "Proven Bank".

The size of the proposed signs is 10.5 square feet.

Zoning

The property is zoned General Commercial.

2.10 TECHNOWALL SYSTEMS LTD (Kozaily) Block 43D Parcel 21 (P22-0104) ($2.0 million) (NP)

Application for a storage building.

FACTS

Location	Lakeview Drive in Bodden Town
Zoning	**Low Density Residential**
Notification Results	No Objections
Parcel size	102,061 sq. ft.
Parcel size required	CPA Discretion
Current use	Vacant
Building Footprint	14,570.4 sq. ft.
Building Area	14,570.4 sq. ft.
Site Coverage	20.1 % (parking & buildings)

BACKGROUND

October 12, 2022 (CPA/24/22; Item 2.10) – The Authority resolved to adjourn the application for the following reason:

1) The applicant must provide a copy of the signed documentation submitted to the Lands and Survey Department to register a minimum 24' wide vehicular easement over Block 43D 20 in favour of the subject parcel.

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

Conditions (1-7) 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 a copy of the submission made to the Lands and Survey Department to secure a minimum 22' wide vehicular rights-of-way in favour of the subject development over 43D 164 (or as mutated by the subdivision approval granted at CPA/26/22; item 2.6) and 43A 346 leading to Lake Destiny Dr.
2) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
3) 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).
4) 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.
5) 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.**
6) 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 Policy Development, Policy Drafts.

7) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

In addition to Building Permit requirements, condition (8) listed below shall be met before a Building Permit can be issued.

8) The applicant shall submit the Stormwater Management plan required in condition 5) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.

9) 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.

10) 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

11) 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.

12) 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 (13) shall be complied with before a final Certificate of Occupancy can be issued.

13) The vehicular rights-of-way required in condition 1) above shall be registered.

14) 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**.

Reason for the decision:

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). More specifically, per Regulation 9(3) the Authority deems the site to be a suitable location of the proposed building and use as they are in keeping with the character of the area and further, no objections were received through the newspaper advertisement process. The Authority also determined that the applicant would not be required to construct a sidewalk along Lakeview Dr since the applicant is not using that road for access.

AGENCY COMMENTS

Comments received to date are noted below.

National Roads Authority

As per your memo dated February 12th, 2022 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

General Issues
Lakeview Drive is rather a series of right of ways that crosses multiple parcels, please see below. According to the Lands Information System, there is a twenty (20) ft. wide vehicular ROW in favour of Block 43D Parcel 25; there is an additional 14ft wide ROW along the eastern boundary of 43D20 in favour of 43D21 and 43D159.

Last year, the NRA has been asked by one of the landowners to kindly ***not*** *do any road repairs or upgrades and to leave the area. Therefore, the NRA would advise the CPA to not approve any commercial developments within this area.*

If the CPA approves this development, the NRA would recommend a minimum 24 foot width to the subject paecel.

Road Capacity Issues

The traffic demand to be generated by a commerical development of 14,570 SQ.FT has been assessed in accordance with ITE Code 110. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.97, 0.92 and 0.97 respectively. The anticipated traffic to be added onto Lakeview Drive is as follows:

Expected Daily Trip	AM Peak Hour Total Traffic	AM Peak 88% In	AM Peak 12% Out	PM Peak Hour Total Traffic	PM Peak 12% In	PM Peak 88% Out
103	14	12	2	14	2	12

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

Access and Traffic Management Issues

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

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

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

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

Stormwater Management Issues

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

- *The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.*
- *The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have the applicant provide this information prior to the issuance of a building permit.*
- *Construct a gentle 'hump' at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Lakeview Drive. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*
- *Curbing is required for the parking areas to control stormwater runoff.*
- *Roof water runoff should not drain freely over the parking area or onto the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk detail needs to be provided as per NRA specifications. See (https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf)*

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

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

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

Fire Department

The Fire Department has stamp approved the drawings.

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 **750 US gallons** for the proposed storage facility.*
- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*

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

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

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

Water Supply

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 Environment

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

The application site is man-modified but previously consisted of primary seasonally flood mangrove vegetation and was part of a wider mangrove wetland area. Therefore, it is recommended that a drainage plan be designed for the site to ensure that all site derived runoff (including sediment/oil/fuel laden first flush runoff) can be handled on site and does not impact the surrounding area. The plan could incorporate permeable paving materials for the parking area which would reduce the impacts of sheet flow of stormwater runoff along.

Department of Environmental Health

Solid Waste Facility: This development requires (1) 8 cubic yard container with twice per week servicing.

Specifications for Onsite Solid Waste Enclosures

Container size 8 yd3

Width 10 ft

Depth 10 ft

Height 5.5 ft

Slab Thickness 0.5 ft

Water (hose bib), drain,

Effluent Disposal well;

guard rails

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located in Bodden Town on Lakeview Drive.

The proposal is for a 14,570.4 square foot storage building and 16 parking spaces.

Adjacent landowners were notified by Registered Mail and two advertisements were placed in the newspaper. No objections have been received.

The applicant has confirmed in writing that the use of the proposed building will be for storage purposes only.

Zoning

The property is zoned Low Density Residential.

Specific CPA Issues

1) **NRA Comments**
   The NRA is recommending a minimum 24 foot wide right of way for Lakeview Drive.

   The subject property would meet this requirement but Lakeview Drive to the south of the property does not appear to meet the 24 foot wide recommendation.

2) **Lack of Sidewalk**
   The Department would note that there is no sidewalk shown along Lakeview Drive.

   The Authority should discuss whether a sidewalk is required in this instance.

SUPPLEMENTARY ANALYSIS

The applicant addressed the Authority on the 26 October 2022 and were apprised of the applicants revised proposal to access the property via Lake Destiny Drive.

The applicant has submitted a revised site plan which depicts an entrance from the northwest side of the property. Should approval be granted conditions of approval need to be included to ensure there are registered vehicular easements in favour of the subject site over 43D 164 (or approved subdivision lot as the case may be) and 43A 346 leading to Lake Destiny Drive, a newly gazetted public road.

2.11 HERITAGE HOLDINGS LTD. (HH Ltd) Block 19E Parcel 40 (P22-0575) ($100,000) (NP)

Application for land clearing.

FACTS

Location	Airport Connector Road in George Town
Zoning	**Heavy Industrial**
Notification Results	No Objections
Parcel size	5.7 acres
Current use	Vacant
Proposed use	Land Clearing

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.

Reason for the decision:

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 notes that the land clearing is directly related to the construction staging of the approved development on the same parcel of land.

AGENCY COMMENTS

Department of Environment

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

The application site consists of predominately mangrove forest, which is primary habitat. Primary habitat is mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. These habitats are often very old, existing long before humans and may consist of many endemic and ecologically important species. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human activities.

*Justification for the land clearing has not been included in the applicant's submissions, therefore, the DoE considers the proposal to be speculative clearing. The DoE does **not** support speculative clearing of parcels prior to planning permission for development being granted.*

It is noted that the description of works is entitled 'Phase 2' presumably in relation to the warehouses which were approved to the west of this area (P21-0446) which had a very dense site coverage. If the intended purpose of the land clearing is to store equipment or materials, we wish to note that we do not support the clearing of primary habitat for the storage of construction materials. A development should be designed in such a way that construction equipment and the storage of stockpiled materials can be accommodated on-site without off-site environmental losses.

We recommend that applications for land clearing are presented along with the development proposal so that appropriate mitigation measures can be recommended, as there may be varying recommendations depending on the form and nature of the development being proposed. Clearing the site prematurely removes the choice to retain native vegetation within the future development. Once planning permission for a 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. Premature clearing removes the value the habitat could provide in the time between the clearing and the actual development of the parcel.

Although it is encouraging to see an intention to retain some coastal mangroves, the buffer will be smaller following the clearing. The remaining buffer of approximately 200 ft will still allow the mangroves to provide some habitat and food for some species, as well as their nursery function along the coast. However removing mangroves prematurely removes much of the benefit to people and infrastructure, including the storm protection they provide to the warehouse development. For effective coastal protection, larger mangrove buffers are better. In addition, clearing the mangroves will result in the loss of carbon capture and fixing by the mangroves and the release of carbon dioxide into the atmosphere following removal of the peat.

As there has been no justification submitted for the land clearing, the DoE recommends that the application is refused or deferred until a proposal for the development or use of the land has been applied for and planning permission has been granted.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is north of North Sound Way adjacent to the proposed Airport Connector Road.

The application is to clear 0.92 acres of the subject parcel, which is a portion of land located east of the proposed Airport Connector Road. The notices sent out by the applicant state that the purpose of the land clearing is to assist with the construction staging of the warehouse development on the west side of the Airport Connector Road, which was approved in 2021.

Zoning

The property is zoned Heavy Industrial.

2.12 CORNERSTONE PROPERTIES LTD (Abernethy & Associates Ltd) Block 14E Parcel 790 (P22-0788) ($4,000) (JP)

Application for a two lot subdivision.

Celecia Bancroft declared a conflict and left the meeting room.

FACTS

Location	off Keturah St, George Town
Zoning	**HDR**
Notification result	No objectors
Current use	apartments
Proposed number of lots	2
Lot sizes	Lot 1: 2.91 ac
	Lot 2: 3.09 ac

BACKGROUND

November 8, 2006 (CPA/36/06; item 2.26) – approval granted for 54 apartments

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

1) Any proposed clearing or filling of lot 2 will require a separate application for planning permission which will be subject to external agency consultation.
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:

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 acknowledges the recommendations of the Department of Environment and would note:

a) Any application to clear the land falls within the remit of the Central Planning Authority, it is not for the DOE/NCC to require their written approval. Should such an application be submitted, the standard Section 7 consultation would occur with those agencies.

b) The second condition would require the Authority to force the applicant to allow DOE staff to be present during the preparation for survey work. It is suggested that this condition is not enforceable by the Authority. The DOE states clearly that in their discussions with the applicant they have indicated their support to allow DOE staff to accompany the surveyor and this matter should rightly remain a matter between the DOE and the applicant.

c) As the experts in land use planning, the Authority would strongly recommend to the Department of Environment to consult with the Authority, via the Department of Planning, pertaining to the wording of suggested conditions of approval to ensure such conditions are within the remit of the Authority and are, in fact, enforceable.

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment:

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

Wastewater Treatment for Existing Structure

The existing buildings on the parcel are currently served by ATUs. The Water Authority advises that all wastewater infrastructure, including septic tanks, deep wells, ATUs, etc. must be contained within the boundaries of the parcel on which the building stands.

Water Supply:

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

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

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

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 falls within the historical extent of the Ironwood Forest although it has become separated from the main forest due to development and habitat fragmentation. Dry forest is in severe decline in George Town and is of extremely high environmental, heritage and social value. The Ironwood Forest is a unique ancient-growth forest with a high diversity of rare and endemic plants including the critically endangered bromeliad known as Old George (Wittmackia caymanensis) and the Ghost Orchid (Dendrophylax fawcettii). These plant species are listed in Part 1 of Schedule 1 to the National Conservation Act (NCA), 2013, as being 'protected at all times'. These species are endemic to Grand Cayman meaning they are uniquely Caymanian and do not naturally occur anywhere else in the world. In addition, a fire in 2021 in the Ironwood Forest caused the loss of 26% of the global population in one event.

The DoE has surveyed the location of Old George (Figure 1) outside of the Ironwood Forest and there are specimens within the subject parcel, as shown in Figure 2. As they are protected

at all times, it is an offence under the NCA to 'take' this species. Under the NCA, 'take' has a wide definition which includes to collect, hunt, kill, destroy, damage, injure, disturb, harass, harm, wound, capture, molest or impede a live specimen in any way or to attempt to do so, and includes incidental taking. A person who commits an offence under the NCA is liable on conviction to a fine of five hundred thousand dollars or to imprisonment for a term of four years, or both.

On 17 August 2022, the DoE contacted the Applicant's agent to confirm what level of clearing would be undertaken as part of the registration of the subdivision. Greg Abernethy clarified that there would be cutting of the vegetation for the three new beacons required for the subdivision. He stated this would be done by hand and would only be wide enough for the crew and handheld equipment to walk through. As shown in Figure 2, the proposed boundary between the two resultant parcels is in the vicinity of three of the four specimens of Old George found on the entire subject parcel. Therefore, the DoE will need to accompany the crew in the boundary setting exercise in order to ensure these specimens are not impacted.

If the Central Planning Authority or Planning Department is minded to approve the proposed subdivision, we recommend the inclusion of the following conditions:

- *There shall be no clearing (including by hand clearing for the setting of the subdivision) without the written approval of the Department of Environment (DoE). The DoE shall be contacted prior to any clearing and be permitted access to accompany the surveyors during any clearing, including by hand.*

This condition will also benefit the Applicant by preventing the accidental committal of an offence under the NCA. The Applicant's agent has agreed to contact the DoE to allow us to attend the clearing and ensure that there is no take of a Part 1 Protected Species. Therefore, including a suitably worded condition secures this arrangement.

Figure 1. Wittmackia caymanensis, known as Old George, is a Part 1 Schedule 1 species. The majority of the global population lives in the Ironwood Forest.

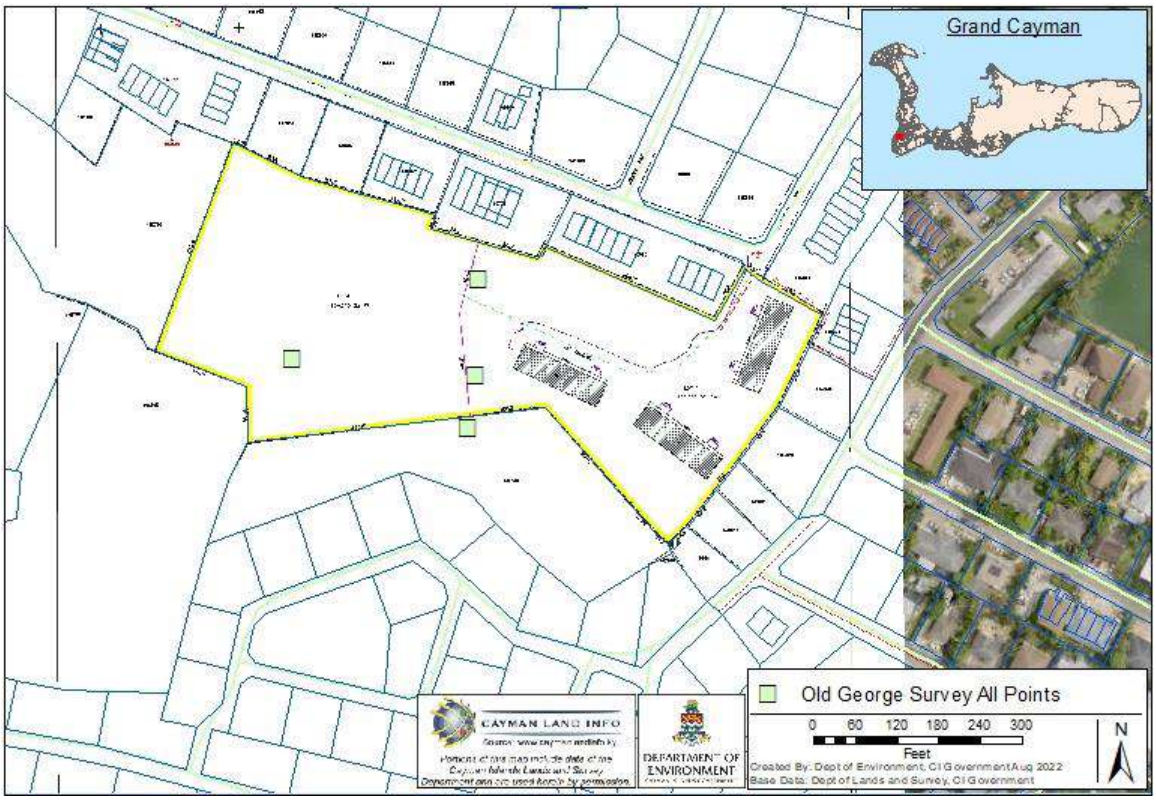

Figure 2. The proposed subdivision, with the Old George present along the proposed boundary.

PLANNING DEPARTMENT ANALYSIS

General

Application for a two subdivision located off Keturah St. George Town. Lot 2 will gain access via a proposed 30' vehicular easement over Lot 1.

Zoning

The property is zoned High Density Residential.

Specific Issues

1) DOE recommendations

As noted in the report above, the DOE makes two recommendations, albeit they are included in one bullet point.

The first condition is related to land clearing. Any application to clear the land falls within the remit of the Central Planning Authority, it is not for the DOE/NCC to require their written approval. Should such an application be submitted, the standard Section 7 consultation would occur with those agencies.

The second condition would require the Authority to force the applicant to allow DOE staff to be present during the preparation for survey work. It is suggested that this condition is not enforceable by the Authority. The DOE states clearly that in their discussions with the applicant they have indicated their support to allow DOE staff to accompany the surveyor and this matter should rightly remain a matter between the DOE and the applicant.

2.13 PARADISE PALMS (GMJ Home Plans Ltd) Block 25C Parcel 500, 501, 516 and 517 (P21-1004) ($30,000) (BS)

Application for two subdivision entry walls with two subdivision identifier signs.

FACTS

Location	Rex Crighton Dr at Norfolk Dr and Adventure St
Zoning	**LDR**
Notification result	No objectors
Current use	residential subdivision

BACKGROUND

Subdivision were approved in 2007 and 2009 (Frank Hall Homes)

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.

Reason for the decision:

The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2021 Revision).

AGENCY COMMENTS

Comments from the National Roads Authority are noted below.

National Roads Authority

As per your memo dated October 12th, 2021 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 wall, however, the NRA requests that the CPA require the applicant to set back the wall 5 feet to allow for space for the guard rail.

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

PLANNING DEPARTMENT ANALYSIS

General

Application for two subdivision entry walls with two subdivision identifier signs located at the intersections of Rex Crighton Dr and Norfolk Dr and Rex Crighton Dr and Adventure St, George Town.

The walls would be on each side of the subdivision entrances and are setback 4' from the roadside boundaries. The walls are about 20' in length and the heights are 4' and 5' 6". The signs on each wall state "South Paradise Palms" and area about 8 sq ft each.

Zoning

The property is zoned Low Density Residential.

3.0 DEVELOPMENT PLAN MATTERS

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 THE GROUP LTD. Block 20E Parcel 85 Rem 1 (P22-0187) (NP)

The Authority was advised that a condition of approval of CPA/18/22; item 2.13 is that the applicant must submit a copy of the submission made to the Lands and Survey Department to

obtain a minimum 30’ vehicular right-of-way over Block 20E Parcel 86. The applicant submitted a copy of a letter from the Ministry, PAHI regarding road access and the Authority reviewed the letter and determined that the contents of the letter satisfy condition 1).

5.2 RENEE EDWARDS Block 10E Parcel 64 H23 (P22-0899) (MW)

The Authority was advised that an application has been submitted for a 7 bedroom house, but the Department wanted the Authority to consider the plans and design in terms of separate living areas and the number of kitchens and determine how best to categorize the building. The Authority reviewed the plans and determined that they represent a 7 bedroom house with 3 kitchens and the Department can review the plans on that basis.

6.0 CPA MEMBERS INFORMATION/DISCUSSION

The meeting adjourned at 3:15pm. The next meeting of the Central Planning Authority is scheduled for ***Wednesday, November 23, 2022 at 10:00 a.m.*** in in Conference Room 1038, 1st floor, Government Administration Building.

Ian Pairaudeau
Chair

Ron Sanderson
Acting Executive Secretary

c.c. All members of the Central Planning Authority

Appendix A

JacksonLaw
ATTORNEYS-AT-LAW

The Chairman,
C/O the Executive Secretary
Central Planning Authority,
Government Administration Building,
Elgin Avenue, George Town
Cayman Islands

BY EMAIL

19 March 2021

Dear Mr. Thompson,

Re: The Patrick's Island Homeowners Association Application

We are instructed by and act and write on behalf of the Applicant, The Patrick's Island Homeowners Association (the "HOA"), in respect of the above-named matter.

Application is made by our client for three gates at the three entrance points into the Patrick's Island community as a means of vehicular traffic control and increased security for the properties within the community. The gates will be situated on three parcels wholly owned and insured by the HOA, namely Block 24C Parcel 10REM2, Block 24E Parcel 473 and Block 24E Parcel 326. The gates will be 5'6" rising to 7' with two 12' wide vehicle access gates and one 4' wide walk gate. It is intended that the 4' wide walk gate will remain accessible to the walking public for recreational use as the HOA recognize the social value therein. It should be noted that on Block and Parcel 23C10REM2 and Block and Parcel 24E473, our client is seeking to simply install gates on already approved and existing gates houses, which have been *in situ* since the mid 1990s.

2006 Application

As a matter of record, in 2006 an application in respect of gates for the Patrick's Island community was refused by the CPA. Since 2006, the HOA have acquired ownership of the roadways within the Patrick's Island subdivision from the original development company and have worked tirelessly to maintain the common property, including the roadways, and address various issues affecting the sub-division, in particular relating to the lack of gates.

The reasons for the 2006 refusal were:

1. Elements of cultural and social isolation;
2. Reduced ability of roadsharing;
3. Reduction of roadsharing incompatible with section 1.3(f) of the Development Plan 1997; and
4. Concerns the gates would not reduce crime.

We intend to address these reasons in respect of the current application as outlined herein.

1. Cultural and Social Isolation

It is submitted that this specious basis for refusal in 2006, being that the gates would create a sense of cultural or social isolation, is not and was never a valid material planning consideration and, in any event, could no longer be a valid concern, since today, some 14 years later, Grand Cayman has numerous gated communities and so it appears that society has become accustomed to the existence of the same as a social standard.

The CPA has recently approved a very similar application for the addition of gates at Webster's Estates in South Sound, where the issue of cultural and social isolation did not prove to be a barrier to the approval of the application. As regards the application for gates approved for Webster's Estates, the gates were 2' higher than the gates being applied for by the HOA and in that application the CPA determined that *"the permission would be granted as the application complies with the Development and Planning Regulations (2018 Revision).*

Other examples of approved gated communities in the immediate vicinity of Patrick's Island include Coconut Village, which is located off of Poindexter Road, mere meters away from Patrick's Island. Another example can be found at "The Lakes at Poindexter" which is also located on Poindexter Road. (Schedule 1)

Given the prevalence of gated subdivisions that now exists island-wide, and specifically directly within the immediate vicinity, the idea of the approval of this Application causing some newly undesirable sense of social isolation is not a relevant ground of refusal.

Furthermore, the intention of placing gates for the development has been obvious and clear to any reasonable person since the development of the subdivision given the existence of the gate/guardhouses and the existence of clearly visible signs denoting "Private Road" at each gatehouse entering into the Patrick's Island subdivision. It can therefore not be said to be a matter of "surprise" to the public that gates are placed at the guardhouses.

2. Reduced ability of roadsharing

Traffic through the Patrick's Island subdivision continues to be a concern for the residents. Block 24E Parcel 473 was from inception of the subdivision intended to be a private community road, not a public thoroughfare and it was only paved a number of years ago. Since the paving of that private roadway some drivers have used this private roadway in an attempt to bypass traffic on Shamrock Road and the East/West Arterial. However, this only increased traffic issues in the area and resulted in police presence and blockading of vehicles from this road in order to deter this behaviour which caused a nuisance to the wider Prospect area. The Deputy Commissioner of Police provided a written letter to the Department of Planning which states that the RCIPS foresee no issues with the flow of traffic based on the HOA's Application. (Schedule 2)

It is also understood that a significant factor in the CPA's refusal in 2006 was the lack of alternative routes for traffic from the Eastern districts if Shamrock Road was blocked. This situation has since been addressed with the construction of the East/West Arterial, so there would be no need to rely on the HOA's privately owned roadway as an alternate route in such an event.

Furthermore, the HOA has built a strong working relationship with the RCIPS through its Neighbourhood Watch Programme and if there was an urgent need for alternative traffic route due to matters affecting either of the other two established routes, the HOA would be more than willing and prepared to offer vehicular traffic access to the public on a temporary emergency basis.

3. Section 1.3(f), Development Plan 1997

Section 1.3(f) of the Development Plan 1997 provides that policies... are intended to achieve... *"to maintain and improve the internal and external communications systems of the Islands"*.

It is not clear how the Application would impact on communications systems and it is therefore submitted that this previous ground for refusal is irrelevant to the Application.

4. Concerns the gates would not reduce crime

Security continues to be a concern for the residents of Patrick's Island, especially after a horrific home evasion in 2017, drug arrests in 2018 off Reverie Road, and other drug related and petty crimes. Since 2017, the HOA was formally established and a Neighbourhood Watch Program was put into effect. However, such measures can only be used to *detect* suspicious or criminal behaviour, whereas the installation of gates would prevent access to unauthorized vehicles, thereby *preventing* the opportunity for would-be burglars and drug traders to gain access. The installation of gates would therefore be a major step towards a safer and more secure neighbourhood and would help to improve the quality of life of the residents of the area as it would significantly reduce the opportunity for crime within Patrick's Island. This is especially critical since Patrick's Island still has a large number of undeveloped canal lots, many of which are secluded and/or overgrown with bush, which could readily be used for drug drop-off/delivery points and other nefarious activities, especially during the night. We are instructed that there have been innumerable instances where residents have had to call the police to report suspicious activity and include a written report from Mr. Ramon Angara of the Security Centre, who provides nightly security services to a home situated in Patrick's Islands, which letter confirms that even along a quiet culdesac, there is nightly non-resident traffic, often of a concerning nature. (Schedule 3) There have also been a number of burglaries and attempted burglaries and even occasions when suspects have been recorded on security cameras trying to break in or actually breaking into cars on the driveways of residents' homes.

Easements

There are four parcels of land which fall outside of the Patrick's Island HOA subdivision which enjoy registered rights of way over some of the roadways owned by the HOA. It should be noted that only one of these parcels falls within the notification radius and that proprietor has not objected to the Application.

For the purposes of full disclosure, the HOA notified each of the relevant proprietors in writing of the Application and provided a written undertaking that the easements will be honoured and that the proprietors will be granted full access to the gates and will be held fully appraised of all matters pertaining to matters such as maintenance of the

gates or other special circumstances relating to the gates in common with all other owners of the Patrick's Island subdivision. (Schedule 4)

Two proprietors who are not members of Patrick's Island and, more importantly, fall outside of the legal notification radius in respect of this Application, have sent written objections in respect of the Application. Although it is our position that those objectors are not entitled to make objections, our client wishes to address the matters raised by the two "informal" objectors, namely the proprietors of Block 24E Parcel 325 ("Mr. and Mrs. Dunne") and the proprietors of Block 24E Parcel 326 ("Mr. and Mrs. Ruiz"). The objections put forward by the objectors are in respect of the effect of the gates on their registered vehicular rights of way.

The legal nature of a right of way is that it is a type of legal easement. The definition of "easement" is found at Section 2 of the Registered Land Act (2018 Revision), to wit:

> *"easement" means a right attached to a parcel of land which allows the proprietor of the parcel either to use the land of another in a particular manner or to restrict its use to a particular extent..."*

The easements in question permit a vehicular right of way, i.e. the passage and re-passage of vehicles from the benefactor parcel through the affected parcels belonging to the HOA.

It is therefore important to note that the gates will not form a legal impediment to the objectors' rights of way as they will be granted full access to the gates and are therefore able to practice their vehicular right of way over the relevant parcels. It is not, and has never been, the intention of the HOA not to honour the registered rights of way. Therefore, the gates will not constitute a legal breach of the objector's easements. It is further noted that enforcement of easements falls within the remit of the Grand Court, not the CPA but for the purposes of consideration of the easements in respect of this application it should be duly noted that the gates will not form a legal impediment of the easements.

It should also be noted that none of the other proprietors with easements have objected and furthermore, none of the proprietors within the notification radius have objected.

Consultations

It is further submitted that the HOA have consulted with the following bodies, none of whom have posed any concerns of objections in respect of the Application:

a. The National Roads Authority, who have no objections to the Application.

b. The Royal Cayman Islands Police Service – It should be noted that the RCIPS have indicated their support for the Application.

c. The Department of Environmental Health.

d. The Cayman Islands Fire Service.

e. The Palms at Patrick's Island who are supportive of the Application and have provided a letter in support (Schedule 5).

In summary, it is submitted that none of the previous bases for refusal in respect of the 2006 application are any longer of relevance and it is further submitted that no valid grounds for refusal of the Application have been raised. Any potential concerns in respect of precedent or cultural separation must have been considered in respect of the recent approval of Webster Estate's application for the installation of gates. As in the Webster's Estates application, our client's Application complies with the Development and Planning Regulations and it is therefore respectfully requested that, on the basis of consistency, the subject Application should be approved, subject to any reasonable conditions that the Authority may deem appropriate.

We therefore intend to rely on the foregoing and to expand upon the same as necessary at the hearing of the application.

Respectfully Submitted,

JacksonLaw

Schedule 1

Coconut Village

Coconut Village and Patrick's Island Gatehouse

The Lakes at Poindexter

Schedule 2

--
Sent from Outlook Email App for Android

-------- Forwarded Message -------- From: "Walton, Kurt" Kurt.Walton@rcips.ky To: Patricks Island Homeowners Association patricksislandhoa@gmail.com Cc: debbiemct@hotmail.com Date: Friday, 11 December 2020, 04:13PM -05:00 Subject: RE: [EXTERNAL] Re: Patrick's Island gate application

Good afternoon Ms. Frizzelle,

I am confirming that I sent an email this afternoon (11.Dec.20) at 4:08 pm to Director Haroon Pandohie and Dept. Director Ron Sanderson stating that we foresee no issues with the flow of traffic based on your proposal.

Regards,

Kurt G. Walton

Deputy Commissioner of Police

Tel: (345) 244 3001 (Ext)

P.O. Box 909

Grand Cayman KY1-1103

CAYMAN ISLANDS

RCIPS

Email: kurt.walton@rcips.ky

Web: www.rcips.ky

Stay connected, follow us on:

DISCLAIMER: The information in this e-mail is confidential and may be legally

Schedule 3

THE SECURITY CENTRE LIMITED

RE: Security Services at The Attorney General Residence

15th March 2021

Dear Mr. Thompson,

I write to share my experience as it relates to traffic of non-residents in the Windswept Drive area of Patricks' Island. I am a Security Officer employed by The Security Centre Limited. My duties include providing Executive Security Services at the residence of the Attorney General. This arrangement has been in place since September 2005 when there was an attempted/intended home invasion of the Attorney Generals' residence however, the perpetrators mistakenly entered the residence of the neighbour instead.

My shift is from 6pm - 6am Sunday to Friday. Another Officer works on Saturdays.
As part of my duties, I am required to observe any unusual traffic, vehicular and or human foot traffic along the Windswept Drive, which also intersects onto Reverie Road. I can confirm that during my tour of duties I have observed numerous vehicles traversing the Windswept and Reverie roads at all hours of the nights. These are invariably strange and sometimes suspicious vehicles.
I am familiar with the vehicles driven by the residents on Windswept Drive and Reverie Road and am therefore able to distinguish those vehicles.

Sometimes some of the registration plate numbers of some of the vehicles are not readable. I would always make a written note of the vehicles, and sometimes I would call to notify the RCIPS of my suspicions.
There is usually an average of three such suspicious or unusual vehicles per night which do often have very heavily tinted glass.

Please feel free to contact me or my Director of Security Services Maria McLean. mmclean@security.ky on 925-5295 should you require any further information.

Sincerely,

Ramon Angara
Security Officer

Confidential

Schedule 4

PATRICK'S ISLAND HOMEOWNERS ASSOCIATION
PO Box 2681
Grand Cayman, KY1-1111
Cayman Islands

Owner/Resident of Parcel 24E 324

October 28,2020

To whom it may concern,

The Patrick's Island Homeowners Association is writing to you as your property was granted a vehicular Right of Way over Poindexter Road between the Patrick's Island guard gate (Poindexter entrance) and the top of Amity Drive some time ago. In March 2020, the HOA filed an application to put security gates on the Poindexter guard house as well as at the junction of Amity Drive and Poindexter Road.

Given the Right of Way afforded to your property, we are writing to confirm the following:

1. The existing Right of Way to your property will be honored via gate access.
2. The access provided to the residents of your property will be consistent with that provided to residents within the Patrick's Island development (a vehicle windshield sticker, a remote push button, or other as ultimately determined).
3. The cost of this access, if any, will be borne by the Patrick's Island HOA.

Should you have any questions, please do not hesitate to get in touch with

Kind regards.

Jennifer Frizzelle

Jennifer Frizzelle Debbie McTaggart
(345) 516 4326
patricksislandhoa@gmail.com
On behalf of The Patrick's Island Homeowners Association

Received by _____(print name) on _____(date)

_____ Signed

(Note: HOA did not request "received by" verification as we spoke to the party in person)

PATRICK'S ISLAND HOMEOWNERS ASSOCIATION
PO Box 2681
Grand Cayman, KY1-1111
Cayman Islands

Owner/Resident of Parcel 24E 325

October 28,2020

To whom it may concern,

The Patrick's Island Homeowners Association is writing to you as your property was granted a vehicular Right of Way over Poindexter Road between the Patrick's Island guard gate (Poindexter entrance) and the top of Amity Drive some time ago. In March 2020, the HOA filed an application to put security gates on the Poindexter guard house as well as at the junction of Amity Drive and Poindexter Road.

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Should you have any questions, please do not hesitate to get in touch with

Kind regards.

Jennifer Frizzelle

Jennifer Frizzelle Debbie McTaggart
(345) 516 4326
patricksislandhoa@gmail.com
On behalf of The Patrick's Island Homeowners Association

Received by _____(print name) on _____(date)

_____ Signed

Alban & Cindy Ruiz
PO Box 1018
GC KY1 1503

PATRICK'S ISLAND HOMEOWNERS ASSOCIATION
PO Box 2681
Grand Cayman, KY1-1111
Cayman Islands

Owner/Resident of Parcel 24E 326

October 28,2020

To whom it may concern,

The Patrick's Island Homeowners Association is writing to you as your property was granted a vehicular Right of Way over Poindexter Road between the Patrick's Island guard gate (Poindexter entrance) and the top of Amity Drive some time ago. In March 2020, the HOA filed an application to put security gates on the Poindexter guard house as well as at the junction of Amity Drive and Poindexter Road.

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3. The cost of this access, if any, will be borne by the Patrick's Island HOA.

Should you have any questions, please do not hesitate to get in touch with

Kind regards.

Jennifer Frizzelle

Jennifer Frizzelle Debbie McTaggart
(345) 516 4326
patricksislandhoa@gmail.com
On behalf of The Patrick's Island Homeowners Association

Received by _____(print name) on _____(date)

_____ Signed

(see note on page 1)

afranciscollins@gmail comur

PATRICK'S ISLAND HOMEOWNERS ASSOCIATION
PO Box 2681
Grand Cayman, KY1-1111
Cayman Islands

Owner/Resident of Parcel 24E 327

October 28,2020

To whom it may concern,

The Patrick's Island Homeowners Association is writing to you as your property was granted a vehicular Right of Way over Poindexter Road between the Patrick's Island guard gate (Poindexter entrance) and the top of Amity Drive some time ago. In March 2020, the HOA filed an application to put security gates on the Poindexter guard house as well as at the junction of Amity Drive and Poindexter Road.

Given the Right of Way afforded to your property, we are writing to confirm the following:

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3. The cost of this access, if any, will be borne by the Patrick's Island HOA.

Should you have any questions, please do not hesitate to get in touch with

Kind regards.

Jennifer Frizzelle

Jennifer Frizzelle Debbie McTaggart
(345) 516 4326
patricksislandhoa@gmail.com
On behalf of The Patrick's Island Homeowners Association

Received by _____(print name) on _____(date)

_____ Signed

(see note on page 1)

Schedule 5

BCQS | PROPERTY MANAGEMENT

30 September 2020

Department of Planning
133 Elgin Ave
Government Administration Building
Georgetown
Grand Cayman

RE: Patrick's Island Homeowners Association Gate Application

We act as managing agent on behalf of The Proprietor's Strata Plan #296, The Palm's at Patrick's Island and write on their behalf.

The executive committee of Strata #296, The Palms at Patrick's Island, understand that a gate application has been made for the installation of gates for the Patrick's Island community, these plans have been shared with the strata corporation.

The committee understands that the entrance and exit of The Palms at Patrick's Island, on Poindexter Road, falls within the Patrick's Island community and as such the strata corporation will become part of the Patrick's Island community.

The committee understands and accepts the intention of the Patrick's Island Homeowners Association gate installation will include the strata corporation's entrance and exit and that all owners and residents of The Palm's at Patrick's Island will be granted full access regarding ingress and egress of the gates, and as such are supportive of the gate application plan under these parameters.

Regards,

Richelle Woodcock | Director

Whitehall House 2nd Floor, PO Box 871, Grand Cayman, KY1-1103
Direct +1 345 949 9300 | Mobile +1 345 525 6784 | rrw@bcqs.com

Appendix B

JacksonLaw
ATTORNEYS-AT-LAW

The Chairman
C/O the Executive Secretary
Central Planning Authority
Government Administration Building
Elgin Avenue, George Town
Cayman Islands

BY EMAIL

2 November 2022

Dear Sir,

Re: Written Submissions - Patrick's Island Homeowners Association Application for Three Gates (Application numbers P20-0322 and P20-0323)

We are instructed by and act and write on behalf of the Applicant, The Patrick's Island Homeowners Association (the "HOA"), in respect of the applications in caption for permission to install gates at three different locations on private land owned by the Applicant.

On 9 March 2022, our client appeared before the Authority in respect of its application for three gates at the entrance points into the Patrick's Island community.

The decision of the Authority and the Minutes of that meeting indicated that there were a number of substantial errors amounting to material mistakes of facts in the record of the application, and in the nature of the application being made. As a result of these errors and/or misunderstandings, the decision of the Authority was appealed, and pursuant to certain discussions between Counsel for the parties, the appeal was conceded and this application was, by way of a Consent Order, subsequently remitted back to the Authority for reconsideration.

We have appended hereto a copy of our previous submissions in respect of the 9 March 2022 hearing (Appendix 1), for the purposes of ensuring that the same forms part of the record. However, our client does not intend to repeat its previous submissions within this letter, or at the hearing, unless the Authority has any questions in regard to those previous submissions. Instead, the purpose of these submissions is to address the issues that were identified in the record of the previous CPA and our client's position pursuant to the minutes of the 9 March 2022 hearing and decision. Simply put, the focus of these submissions will be on what we understand from the CPA's own record are the only matters which were

in issue at the last application, based on the logical assumption that these are the only matters which the CPA have identified as issues in respect of the application.

Firstly, our client wishes to reiterate that the subject application is in respect of three gates located at the following parcels, all of which are owned by our client: one gate will be located at Block 24C Parcel10 REM2 and two gates will be located on Block 24E Parcel 473. The gates will be installed in the positions depicted by the Site Plan and drawings accompany the application.

The parcels identified above comprise part of the roadways of the Patrick's Island development community and are held by the HOA for the benefit of all of the persons residing within that community in accordance with the registered rights of way enjoyed by all of the relevant parcels within that community. The gates will be accessible to everyone owning land within the Patrick's Island scheme of development and persons who have a registered right of way over the relevant parcels, and, as such, will not constitute an obstruction to any of the rights of way enjoyed over the roadways of that scheme of development.

In order to assist the CPA with understanding ownership of the roadways and other parcels in relation to the locations of the proposed gates, our client's architect has prepared a map indicating the road parcels owned by our client, annexed hereto as Appendix 2.

As our client is the registered proprietor of the relevant road parcels, and given that our client is obliged by law and fully intends to permit access through the gates to any person who is entitled to pass through the same, it is our client's position that there is no legal impediment to approving the Application. It is further submitted that it would be unreasonable for the Authority to take the position that because the roadway is at some point connected to other roads which are public and/or roads owned by other parties, our client should be prevented from erecting gates on its own property. Indeed, virtually every private roadway or driveway ultimately connects at some point to a public road, otherwise it would serve no purpose. Therefore, the fact that the private roadways of Patrick's Island are connected at some point outside the proposed gates to a public road, and/or roads owned by other parties, clearly cannot be used as a basis to prevent the Applicant from erecting the proposed gates.

As adverted to in our original submissions, appended hereto, there is precedent established by the gates which have been granted permission by the Authority at both entrances to the Webster's Estates subdivision. As with this Application, the

roadways at Websters Estates are owned by its HOA, with those private roadways being connected directly to Walkers Road and South Church Street, which are both public roads. It is a matter of common knowledge that the private roads in Websters Estates were utilized for decades by the public to traverse between those two public roads. Despite this clearly being the case, the Authority approved that application on the basis that *"the permission would be granted as the application complies with the Development and Planning Regulations (2018 Revision).* We would therefore submit that on the basis of consistency and fairness, the Authority should take the same approach with the current Application, given that there is no basis, from a planning control perspective, to distinguish the gates at Webster's Estates from the ones proposed at Patrick's Island.

Therefore, regardless of whether a private road connects onto a public road, and/or roads owned by other parties, this does not constitute a valid impediment to the approval of gates on private lands, particularly where the application complies with the Development and Planning Regulations, as the subject Application does.

It is further submitted that it is not within the remit of the Authority to deem privately owned roadway parcels as "de-facto" public roadways, as that is prescribed by a defined legal process, which lies under the domain of another statutory body, the NRA. If the government had intended to acquire our client's roadway as a public thoroughfare, then there is a legal process available to the CIG in order to legally acquire our client's roadways, pursuant to the Roads Act (2005 Revision). However, no such declaration has been made, nor is any proposed and in fact, upon being consulted on this application, the NRA has confirmed in writing that the parcels which will be gated constitute private roadways. It would therefore be unlawful and unreasonable for the Authority to circumvent this legally prescribed process and determine for its own purposes that our client's road parcels are "public" so as to preserve those parcels for the public's use. If the Authority strays into such territory it would be acting *ultra-vires* of its statutory remit, unreasonably and would be taking into account an irrelevant consideration. In any event, the determination of whether a proposed development infringes on a perceived public (or private) right of way (which it is our client's position that is does not, in any event) is not a valid material planning consideration for the Authority. Indeed, the NRA has been consulted as part of the application process and has not expressed any concerns whatsoever in regard to the proposed gates.

Other examples of approved gated communities in the immediate vicinity of Patrick's Island include Coconut Village, which is located off of Poindexter Road, mere meters away from Patrick's Island. Another example can be found at "The Lakes at Poindexter" which is also located on Poindexter Road. Further examples of gated communities which have approved include South Reach, The Estates Grand Harbour, Spinnaker Road and the Channels.

It is submitted that the Authority is under a duty of consistency and continuity, in accordance with the express statutory requirement of section 5 of the Development and Planning Law (2002 Revision), in respect of its decision-making process. In light of the Authority having approved a multitude of gated communities, and especially in light of the Authority having previously approved the Webster's Estate gates, where circumstances were very similar to our client's application, there exists precedent which supports the general presumption in favour of our client's application being approved, as such approval will not cause harm to any material planning interest.

Furthermore, insofar as concerns the gates being installed at the Patrick's Drive and the southernmost Poindexter Drive locations, which are the main entry points into Patrick's Island, the intention of placing gates for the development has been obvious and clear to any reasonable person since the development of the subdivision given the existence of the gate/guardhouses and the existence of prominently displayed and clearly visible signs denoting "Private Road" at each of those two gatehouses entering into the Patrick's Island subdivision. It can therefore not be said to be a matter of surprise or concern to the public that gates are placed at the guardhouses, which were obviously designed for the installation of some form of gate or barricade.

If is therefore respectfully submitted that given that there is no material planning interest that would be harmed by the approval of the gates, there is no lawful or reasonable ground upon which the Authority can refuse the subject Application and the Authority is obliged to grant the permission sought.

On this basis, our client therefore respectfully submits that the subject Application should be approved, just as the all other similar applications for gates on private subdivision developments have been previously approved.

JacksonLaw
ATTORNEYS-AT-LAW

Respectfully Submitted,

JacksonLaw

Office: 345 943 5225 • Fax: 345 943 5227
PO Box 10638, KY1-1006, Unit 1D, Landmark Square, 64 Earth Close, Grand Cayman, Cayman Islands

JacksonLaw
ATTORNEYS-AT-LAW

Appendix 1

Office: 345 943 5225 • Fax: 345 943 5227
PO Box 10638, KY1-1006, Unit 1D, Landmark Square, 64 Earth Close, Grand Cayman, Cayman Islands

JacksonLaw
ATTORNEYS-AT-LAW

The Chairman
C/O the Executive Secretary
Central Planning Authority
Government Administration Building
Elgin Avenue, George Town
Cayman Islands

BY EMAIL

23 February 2022

Dear Sir,

Re: The Patrick's Island Homeowners Association – Application for Gates

We are instructed by and act and write on behalf of the Applicant, The Patrick's Island Homeowners Association (the "**HOA**"), in respect of the above-named matter.

Application is being made by our client for three gates at the three entrance points into the Patrick's Island community as a means of vehicular traffic control and increased security for the properties within the community. The gates will be situated on ~~three~~ parcels wholly owned and insured by the HOA, namely Block 24C Parcel 10REM2, Block 24E Parcel 473 ~~and Block 24E Parcel 326.~~ The gates will be 5'6" rising to 7' with two 12' wide automated vehicle access gates and one 4' wide walk gate. It is anticipated that the 4' wide walk gate will remain unlocked to permit accessibility to the walking public for recreational use, as the HOA recognizes the social value of allowing access to and interaction with pedestrians from outside the Patrick's Island community. It should be noted that on Block and Parcel 23C 10REM2 and Block and Parcel 24E 473, our client is seeking to simply install gates on already approved and existing gates houses, which have been *in situ* since the mid 1990s.

The subject application was adjourned some nine months ago for the Applicant to consider the implications of the decision of the Appeals Tribunal in the *Moritz Brueckner v CPA* (Hearing 4 September 2020) appeal.

We have carefully considered that decision and the relevant statutory provisions and case law and would submit that there is no such impediment to the Applicant progressing with this application, and further that, for the reasons outlined herein, there is no valid basis to refuse planning permission.

Preliminary Issue – Legal Standing of Objectors

Before proceeding to consider the subject application, and, in particular, the objections which have been filed, the CPA must, as with all planning applications, determine whether the parties objecting to the application have *locus standi,* otherwise, the CPA may take into account something it ought not to take into account, and that may result in the decision being successfully challenged on appeal. The legislative framework imposes restrictions on both the proximity of potential objections and the timeframe for making such objections. As a rule of law, if any objections are filed by persons outside the requisite notification radius or after the requisite timeframe has passed, the CPA cannot consider the same as valid objections, and any persons who file such objections do not, by operation of law, have *locus standi* (legal standing). In simple terms, any person who complains that planning permission will cause harm to their private interests must have legal standing in the planning application in order for the CPA to consider their objections. We would submit that although there were two objections lodged against the current application, there are no objectors in this matter who have *locus standi,* simply because the two objectors are outside the notification radius. In addition, another "objector" attended at the adjourned application of this matter of April 2021 and attempted to make oral submissions despite having been well outside the statutorily prescribed time frame for the filing of an objection and, in any event, the subject individual does not enjoy an easement over the subject parcels, which is the essence of his objection.

In the circumstances, the CPA is duty bound, as a matter of procedure, to first determine whether the objections are valid, on the basis outlined above, which should be easily ascertainable from the Planning Department's record, and, if not, then those objections should be rejected and the parties making those objections denied the right of audience in the hearing of the application by the CPA.

History - 2006 Application

As a matter of record, in 2006 an application in respect of gates for the Patrick's Island community was refused by the CPA, which decision was appealed and then subsequently abandoned by the appellants, which comprised a group of homeowners in the Patrick's Island community who were interested in promoting the Patrick's Island scheme of development, but who were at that time not formally organized. In 2019, the HOA was formally established by registration of a foundation company, limited by guarantee, and since then the HOA has acquired ownership of the roadways within the Patrick's Island subdivision from

the original development company, and continue to work diligently to enhance the Patrick's Island development in a manner consistent with the scheme of development, implemented by the relevant covenants, and to maintain the common property, including the roadways, and address various issues affecting the sub-division, in particular the relatively high incidence of trespass and home invasions which is connected to the uninhibited access of vehicular traffic due to the lack of gates, which gates were always a part of that scheme of development from its inception.

The reasons for the 2006 refusal were:

1. Elements of cultural and social isolation;
2. Reduced ability of roadsharing;
3. Reduction of roadsharing incompatible with section 1.3(f) of the Development Plan 1997; and
4. Concerns the gates would not reduce crime.

We intend to address these reasons in respect of the current application as outlined herein.

1. "Cultural and Social Isolation"

It is submitted that this specious basis for refusal in 2006, being that the gates would create a sense of cultural or social isolation, is not and was never a valid material planning consideration and, in any event, could no longer be a valid concern. Some 14 years later, Grand Cayman now has numerous gated communities, all of which have been approved by the CPA, and so it appears that this is no longer a relevant concern, and it seems that society has become accustomed to the existence of the same as a social standard, due to the increased need for enhancing home security, in particular at night. It is submitted that the fact that Patrick's Island is a canal development with direct access to the North Sound, with much land still being undeveloped, makes it attractive to a certain type of criminal activity and the fact that the homes in the development are generally large single family homes surrounded by large yards filled with lush landscaping makes them a high-risk target for burglary, particularly when a burglar can drive into the subdivision, park on an empty lot and then enter an adjacent property undetected, break into a home or car, and then immediately leave by his own car. This is not a speculative concern, as there have now been several documented incidents of that nature over the past 14 years since the original gates were turned down by the then CPA, at least some of which may have been averted if the gates were installed.

Indeed, the CPA has recently approved a very similar application for the addition of gates at Webster's Estates in South Sound, where the issue of cultural and social isolation did not prove to be a barrier to the approval of the application. As regards the application for gates approved for Webster's Estates, the gates were 2ft. higher than the gates being applied for by the HOA and in that application the CPA determined that *"the permission would be granted as the application complies with the Development and Planning Regulations (2018 Revision).*

Other examples of approved gated communities in the immediate vicinity of Patrick's Island include Coconut Village, which is located off of Poindexter Road, mere meters away from Patrick's Island. Another example can be found at "The Lakes at Poindexter" which is also located on Poindexter Road. Further examples of gated communities which have approved include South Reach, The Estates Grand Harbour, Spinaker Road and the Channels. (**Schedule 1**)

It is clear that gated communities are being regularly granted planning permission and the prevalence of gated subdivisions that now exists island-wide, and specifically directly within the immediate vicinity, the idea of the approval of this Application causing some newly undesirable sense of social isolation is no longer a relevant ground of refusal.

Furthermore, the intention of placing gates for the development has been obvious and clear to any reasonable person since the development of the subdivision given the existence of the gate/guardhouses and the existence of clearly visible signs denoting "Private Road" at each gatehouse entering into the Patrick's Island subdivision. (**Schedule 1**) It can therefore not be said to be a matter of surprise or concern to the public that gates are placed at the guardhouses, which were obviously designed for the installation of some form of gate or barricade.

2. "Reduced ability of roadsharing"

Traffic through the Patrick's Island subdivision continues to be a concern for the residents. Block 24E Parcel 473 was from inception of the subdivision intended to be a private community road, not a public thoroughfare and it was only paved a number of years ago. Since the paving of the road by the developer of the community for the owners therein, some drivers have used this private roadway in an attempt to bypass traffic on Shamrock Road and the East/West Arterial. However, this only increased traffic issues in the area and resulted in police presence and blockading of vehicles from this road in order to deter this behavior

which caused a nuisance to the wider Prospect area. The Deputy Commissioner of Police provided a written letter to the Department of Planning which states that the RCIPS foresee no issues with the flow of traffic based on the HOA's Application. (**Schedule 2**)

It is also understood that a significant factor in the CPA's refusal in 2006 was the lack of alternative routes for traffic from the Eastern districts if Shamrock Road was blocked. This situation has since been addressed with the construction of the East/West Arterial, so there would be no need to rely on the HOA's privately owned roadway as an alternate route in such an event.

In any event, the idea of "roadsharing" as a concept in the form proffered by the CPA in 2006 is in and of itself, at best, flawed, and now (due to the advent of the Cayman Islands Constitutional Order 2009) is no longer valid and would actually constitute a breach of our client's constitutional rights (vis-à-vis Section 15), now that the HOA has acquired registered ownership of the relevant road parcels. As the proprietor of that land, the HOA is entitled to the guaranteed protection from unlawful interference by government with its quite enjoyment of its property, which would be seriously impaired if the CPA were to refuse planning permission so as to continue to allow uninhibited traffic flow over its property, on the basis of this nebulous concept of "roadsharing".

In any event, constitutional implications aside, it is simply patently unfair and irrational for the CPA to implement or enforce such a concept of "roadsharing" over a private road, thereby allowing the public the benefit of uninhibited use of that road, with the consequent wear and tear on the same, whilst the maintenance, upkeep and liability for that road remains at the expense and responsibility of the private proprietor.

Furthermore, the HOA has built a strong working relationship with the RCIPS through its Neighbourhood Watch Programme and if there was an urgent need for alternative traffic route due to matters affecting either of the other two established routes, the HOA would be more than willing and prepared to offer vehicular traffic access to the public on a temporary emergency basis.

3. "Section 1.3(f), Development Plan 1997"

Section 1.3(f) of the Development Plan 1997 provides that policies… are intended to achieve… *"to maintain and improve the internal and external communications systems of the Islands"*.

It is not clear how the Application would impact on communications systems and it is therefore submitted that this previous ground for refusal is irrelevant to the Application.

4. "Concerns that the gates would not reduce crime"

Security continues to be a concern for the residents of Patrick's Island, especially after a horrific home evasion in 2017, drug arrests in 2018 off Reverie Road, and other drug related and petty crimes. Since 2017, the HOA was formally established and a Neighbourhood Watch Program was put into effect. However, such measures can only be used to *detect* suspicious or criminal behaviour, whereas the installation of gates would deny access to unauthorized vehicles, thereby *preventing* the opportunity for would-be burglars and drug movers to gain vehicular access to the subdivision. The installation of gates would therefore be a major step towards a safer and more secure neighbourhood and would help to improve the quality of life of the residents of the area as it would significantly reduce the opportunity for crime within Patrick's Island. This is especially critical since Patrick's Island and the surrounding area generally still has a large number of undeveloped canal lots, many of which are secluded which could readily be used for drug drop-off/delivery points and other nefarious activities, especially during the night. We are instructed that there have been innumerable instances where residents have had to call the police to report suspicious activity. There have also been a number of burglaries and attempted burglaries and even occasions when suspects have been recorded on security cameras trying to break in or actually breaking into cars on the driveways of residents' homes, where such individuals were able to easily get away as they had a vehicle parked nearby. We include a written report from Mr. Ramon Angara of the Security Centre, who provides nightly security services to a home situated in Patrick's Islands, which letter confirms that even along a quiet cul-de-sac, there is nightly non-resident traffic, often of a concerning nature. (**Schedule 3**)

Easements

Our client has undertaken a detailed review of all applicable easements and mutation reports at Lands and Survey in respect of the history, nature and location of the existing easements and has also gone beyond the requirements of notification required pursuant to the DPR and has notified each of the proprietors of dominant tenements of its intentions and this application.

Due to our client's detailed review of the easements our client is aware that there are four parcels of land which fall outside of the Patrick's Island subdivision which

enjoy registered rights of way over some of the roadways owned by the HOA. It should be noted that only one of these parcels falls within the notification radius and that proprietor has not objected to the Application.

For the purposes of full disclosure, the HOA notified each of the relevant proprietors in writing of the Application and provided a written undertaking that the easements will be honoured and that the proprietors will be granted full access to the gates and will be held fully appraised of all matters pertaining to things such as maintenance of the gates or other special circumstances relating to the gates in common with all other owners of the Patrick's Island subdivision. A copy of the notification which was sent out by the HOA can be seen at **Schedule 4**.

Two proprietors who are not members of Patrick's Island and, more importantly, fall outside of the legal notification radius in respect of this Application, have sent written objections in respect of the Application. Although it is our position that those objectors are not entitled to make objections, and that their objection letters should not have been admitted as part of the record, our client wishes to address the matters raised by those persons, namely the proprietors of Block 24E Parcel 325 ("Mr. and Mrs. Dunne") and the proprietors of Block 24E Parcel 326 ("Mr. and Mrs. Ruiz"). The objections put forward by the objectors are in respect of the effect of the gates on their registered vehicular rights of way.

The legal nature of a "right of way" is identical to an "easement" and the two terms can be used interchangeably. The definition of "easement" is found at Section 2 of the Registered Land Act (2018 Revision), to wit:

> *"easement" means a right attached to a parcel of land which allows the proprietor of the parcel either to use the land of another in a particular manner or to restrict its use to a particular extent…"*

The easements in question grant a vehicular right of way, i.e. the passage and re-passage of vehicles for the benefit of the benefactor parcels ("the dominant tenements") through the road parcels belonging to the HOA ("the servient tenements"). It is important to bear in mind that the beneficial ownership of the servient tenements is comprised primarily of owners of the dominant tenements, in that, the owners of the HOA are the proprietors within the Patrick's Islands subdivision.

It is therefore important to note that the gates will not form a legal impediment to any of the existing rights of way, as all dominant tenements will be granted full

access through the gates and are therefore able to exercise their vehicular right of way over the relevant parcels. It is not, and has never been, the intention of the HOA not to honour the registered rights of way. Therefore, the gates will not constitute a legal breach of the objector's easements.

It is further noted that, in any event, the enforcement of easements falls within the remit of the Grand Court, not the CPA, but for the purposes of consideration of the easements in respect of this application it should be duly noted that the gates will not form a legal impediment of the easements.

Consultations

It is further submitted that the HOA have consulted with the following public bodies, none of whom have proffered any concerns or objections in respect of the Application:

a. The National Roads Authority, who have no objections to the Application.

b. The Royal Cayman Islands Police Service – It should be noted that the RCIPS have indicated their support for the Application.

c. The Department of Environmental Health.

d. The Cayman Islands Fire Service.

e. The Palms at Patrick's Island who are supportive of the Application and have provided a letter in support (**Schedule 5**).

Moritz Brueckner v CPA

Traditionally, prior to the decisions of the CPA and PAT in the *Brueckner* matter (cited below), the CPA invariably treated easements and restrictive covenants as matters which were beyond the remit of the CPA. Consequently, where any such issue was raised in the form of an objection in a planning application, the CPA consistently held that such issues were matters which only affected the private rights between landowners, and, as such, the parties would have to resolve any dispute between themselves through civil litigation in the Grand Court, separate and apart from the planning application.

We would submit that the position at law has always been and remains that the enforcement of covenants and/or easements are not matters of planning control

over which the CPA has remit, *per se*, save and except that where anything done in furtherance or breach of any such rights would manifest itself in the form of development which would, in and of itself, constitute harm to a material planning interest. Such would be the case where a building would physically encroach on an existing road which was created for use of an easement, as that is clearly a physically immovable development which will be placed on an existing roadway, to the detriment of the persons who enjoy an easement over that roadway, and as such would obviously constitute a *de facto* obstruction of the easement, given the nature of the development. However, where the proposed development is a gate which can be opened and closed by all persons who enjoy the benefit of the easements over the roadway, it would be difficult to see how the CPA would have jurisdiction to determine, based on an objection by another person that such gate actually constitutes an obstruction of the easement, since the CPA would have to determine that it was, before it could then go on to determine whether such obstruction would cause harm to a recognized planning interest. This would be difficult for the CPA to do, when that objector will still enjoy the right to pass and repass through the gate. Obviously, if the objector does not actually enjoy a right of way, then it logically follows that he has no basis whatsoever to allege harm to his interest, since he actually does not enjoy any interest.

Simply put, it is not within the remit of the CPA to hear and determine any legal dispute as to whether a proposed development constitutes some form of interference with the rights of someone who enjoys an easement, nor is it the CPA's remit to regulate or enforce such private rights, save where the proposed development would obviously harm an objector's right to use the easement. We would submit that this is not the case here, especially in light of the fact that there are no valid objections or objectors before the CPA. It is therefore accepted that pursuant to established common law principles, the protection of the relevant planning interests of surrounding landowners is a material consideration, as the protection of the interests an individual occupier of land, is an important aspect of public interest as a whole, as was held in *Stringer v. Minister of Housing & Local Government (1970) 1 WLR 1281*, which principle has been followed from time to time by the CPA and the Appeals Tribunal.

However, it is submitted that such interest must be an identifiable, recognized *planning* interest, which would be **harmed** by the proposed development for the CPA to take the same into account to determine whether such harm warrants the refusal of planning permission.

Therefore, whilst the decision of the PAT in the *Brueckner* case held that the proposed development in that case would cause harm to the private interests of an adjacent landowner, we would submit that such decision can be distinguished from the current application, on the bases outlined herein. Simply put, there is no relevant planning interest which would be harmed by the installation of the proposed gates, as the majority of the persons whose rights would be affected by the gates are the property owners of the Patrick's Island subdivision, who are in fact represented by the Applicant, who is acting in favour of their interests. This is distinguished from the *Brueckner* case, where the objectors were not the owners of the land in question and the proposed development was for the benefit of the Applicant alone.

In summary, on 6 November 2019, the CPA made a decision in respect of an application made by Moritz Bruekner Block 28E Parcels 47, 82 and 83, Buena Vista Drive (CPA meeting 23/19). The subject decision of the CPA was that it was "not appropriate to approve a gate that will obstruct the existing 30' vehicular easement in favour of the owners of the Buena Vista subdivision. In the *Brueckner* application, the other owners of the Buena Vista subdivision objected to the application which involved placing a manual locked gate across an easement which provided beach access to the subdivision. It is important to note that this is very different than our client's application which application is for an automated gate and is being made by and on behalf of the majority of persons who enjoy the registered easement, the proprietors of Patrick's Island. That is to say that in the subject application it is the majority of the beneficiaries of the subject easements, through the Patrick's Island Homeowners Association who are the Applicants in the subject application.

The *Brueckner* decision was appealed by the applicant to the Planning Appeals Tribunal. With respect to the Chairman of the Planning Appeals Tribunal it is submitted that the decision of the Appeals Tribunal was made in error of law and itself conflates two distinct issues of law, the obstruction of an easement and the modification of an easement.

The PAT's most relevant determinations in the *Brueckner* Appeal were:

1. *Not every obstruction is an unlawful interference; but every gate is by its nature an obstruction and that the CPA was entitled to determine it would not approve an application that causes an obstruction of an existing easement.*

Our client submits that the determination of whether proposed development constitutes an obstruction of an easement is clearly a matter which is beyond

remit of the PAT and the CPA and is a matter which is reserved exclusively to the jurisdiction of the Grand Court. We would also submit that it is not within the remit of either the CPA or the PAT to find that "*a gate is by its nature an obstruction*" and, concomitantly, it was not open to the PAT to find that the CPA was entitled to determine that, based on such finding, it would not approve an application that causes such an obstruction. A gate is only an obstruction to those who are not able to pass through it, in much the same way as the front door to a house is not an obstruction to the owner who has a key to enter through it.

2. *That the CPA cannot approve development that would modify an easement without the Grand Court having approved a modification.*

It is submitted that this too is erroneous, as this would require the CPA to assess and decide whether, as a matter of law, the subject matter of an application constitutes a modification (as distinguished from an obstruction) of the easement (which is a question of law, not fact), even if it is merely to decide whether they can approve the application with or without an order of the Grand Court. It is therefore not appropriate for the CPA to undertake such an assessment, hence their previous position has always been to allow the parties to resolve private civil disputes before the Grand Court, separate and apart from the planning application, and not to stray into such matters in respect of their limited statutory authority particularly because planning approval has no legal effect on private third party property rights.

Furthermore, contrary to the PAT's decision in *Brueckner*, an interference, or obstruction, of an easement is not the same as a modification of an easement.

It is submitted that a modification of an easement is an adjustment to the boundaries or terms of an easement. The placement of a gate that is accessible to the dominant tenement, i.e. the beneficiary of the easement, does not constitute a modification of the subject easement, but rather an interference with the same and in order to be actionable at law, an interference must constitute a substantial interference.

This position is further strengthened by a review of the legislative framework within which the PAT suggested that the matter should be determined by the Grand Court prior to obtaining planning approval, namely s.96 of the Registered Land Act (Revised) (the "RLA") of the Cayman Islands. That section reads as:

> *"The Court shall have power, on the application of any person interested in land affected by an easement, restrictive agreement or profit by order wholly*

or partially to extinguish or modify any such easement, profit or restrictive agreement
(with or without payment by the applicant of compensation to any person suffering loss in consequence of the order), on being satisfied—
(a) that, by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the court deems material, the easement, profit or restrictive agreement ought to be held to be obsolete; or
(b) that the continued existence of the easement, profit or restrictive agreement impedes the reasonable user of the land for public or private purposes without securing practical benefits to other persons or, as the case may be, will unless modified so impede such user; or
(c) that the proposed discharge or modification will not injure the person entitled to the benefit of the easement, profit or restrictive agreement."

Section 96 of the RLA provides the only available statutory authority for the intervention of the Grand Court to modify easements. This provision was designed and is intended to be utilized by either the proprietor of a dominant or servient tenement where one party wishes to modify or extinguish an existing easement and where the relevant parties cannot agree on such proposed modification or extinguishment. Clearly, in such a case, the first issue to be determined is whether the proposed action amounts to a "modification". Typically, a proposed modification involves a reconfiguration, realignment or re-routing of an existing easement. What is not clear is whether, in the case of a proposed gate across the easement, where all owners of the properties enjoying the easement will have the ability to easily open the gate and pass and repass freely through the same, such would even constitute a modification (let alone an obstruction) of the easement. It is submitted that such a proposed gate does not constitute the obstruction of an easement, since it does not obstruct the right to use the easement and the only imposition on the use of the easement is that it takes a little more time to wait for a gate to open before the user can move through the easement. It is further submitted that such a restriction is insignificant and its effect on the use of the easement is *de minimis* and could not even be said to be a trifling nuisance, especially in light of the benefit derived from the same. It should be borne in mind that if our client were to apply to the Grand Court pursuant to section 96 of the RLA, it would be required to file and serve a writ of summons and litigate against its own members, that is to say, members of the Patrick's Island Homeowners Association, being the very persons who are beneficiaries of the easements and who, through the Homeowners Association, are the Applicants of this very Application. Given these circumstances, we would submit that it would be an academic exercise in nonsense, with consequent

wastage of court time and costs, for our client to adopt and follow the letter of the decision of the Planning Appeals Tribunal in *Brueckner* and make an application under Section 96 of the RLA prior to applying for planning permission, given such circumstances.

We would therefore submit that installation of the electronic gates at the entry parcels to Patrick's Island do not constitute an obstruction which requires a modification of the existing easements, but, if anything, are more in the nature of a minor interference, since all persons who own land enjoying those easements would have the indefeasible right of access through the gates. Again, it should be noted that the Applicant in this instance represents the vast majority of persons who own easements over the subject parcels and the Applicant is acting in their interests, NOT against them.

Apart from conflating modification of easements with interference of easements, the guiding principle, which the PAT in *Brueckner* failed to take into account, is whether the gates cause a **substantive interference.** The reason that the law only concerns itself with "substantial interferences" in respect of easements is that an easement does not confer an absolute right to exercise the easement in relation to every way or part of the servient tenement. There is not automatically a breach of an easement because there has been an interference with a part of the easement.

The following dicta of Mummery LJ in ***West v Sharp* (1999)** 19 PCR 327 at page 332 is a clear enunciation of that principle:

> *"Not every interference with an easement, such as a right of way, is actionable. There must be a substantial interference with the enjoyment of it. There is no actionable interference with a right of way if it can be substantially and practically exercised as conveniently after as before the occurance of the alleged obstruction. Thus, the grant of a right of way in law in respect of every part of a defined area does not involve the proposition that the grantee can in fact object to anything done on any part of the area which would obstruct passage over that part. He can only object to such activities, including obstruction, as substantially interfere with the exercise of the defined right as for the time being is reasonably required by him."*

In *Kingsgate Development Projects Limited v Jordon* [2017] para. 68, the High Court of Justice held that a gate is not necessarily an interference with a private right of way. To be actionable the interference must be substantial. At paragraph 79, Jefford J went on to state that even if the gates in question had been manual

he would still not have found them to cause a substantial interference, but since the gates in the subject matter were automatic, they were even more convenient and certainly did not constitute a substantial interference.

The question is, therefore, does the erection of the proposed gates constitute a substantial interference? We say the answer to that is no. By simple analogy, the proposed gates would present no more of an interference with the rights of proprietors of dominant tenements than the front doors of each of their own homes, since they would have free access through the same, in much the same manner.

***Brueckner* Distinguished from Current Application**

Furthermore, we wish to reiterate our position that, whether the PAT erred as a matter of law in respect of its decision in the *Brueckner* application or not, the subject Application can readily be distinguished from the circumstances in respect of which the decision in *Brueckner* was made, as the subject application is made on behalf of the majority of persons who benefit from the subject easements and the installation of gates in the subject application is therefore to their benefit, not their detriment, as was the case in the *Brueckner* application.

Furthermore, if there were any aggrieved parties who had private rights in respect of the easements, regardless of the CPA's decision in the subject Application, it would be open to any such persons to seek enforcement of their private rights before the Grand Court against our client regardless of the stage or status of this Application. In any event, it is not within the remit of the CPA to enforce such private rights or to determine whether an easement will be encroached upon and/or needs to be modified by the Grand Court. Indeed, that is the position that the CPA has traditionally taken in respect of private land rights such as easements and, perhaps more commonly, restrictive covenants. In fact, a restrictive covenant which is a legal right *in rem* that is virtually identical in nature to an easement and it is therefore submitted that the two private rights should be treated in the same way by the CPA.

It is therefore submitted that in the circumstances of the current Application it is inappropriate for the CPA to direct the Applicant that it must first litigate a perceived encroachment in respect of private rights in the Grand Court, apparently in order for the Grand Court to determine whether a Section 96 RLA modification is necessary or justified prior to the CPA considering the application, as to do so in this case would be tantamount to insisting that the HOA must take out litigation against its own members. Worst yet, it appears that a direct

consequence of such an application to the Grand Court would constitute an abdication of the CPA's function to the Grand Court, which in and of itself would be unlawful, as well as it would also create a glaring conflict for the Grand Court, which holds an appellate function in the planning process. It is therefore indeed unfortunate that the *Brueckner* decision was not appealed to the Grand Court, so that it would have had the opportunity to give guidance on the legal morass created by that decision.

Such a two-tiered process would be particularly unjustifiable in the current Application, bearing in mind that the purpose of such litigation would be for the Grand Court to determine something that no party with *locus standi* has complained about to the CPA considering this Application.

It is therefore submitted that, as with all planning applications, the CPA can and should focus on considering the relevant planning considerations and leave it to any third party who claims their property rights are adversely affected to seek the appropriate redress from the Grand Court, separate and apart from the planning process. In fact, this is the basis upon which the CPA proceeds in virtually every application for planning permission, otherwise, applications could only be made by the actual registered proprietor of the subject parcel(s) or with their written consent. The CPA has, since its inception, invariably proceeded with planning applications on the basis that the ownership of the proposed development site is immaterial, and whenever any issue has been raised in this regard, the CPA has invariably held that such was NOT an impediment to the applicant being granted planning permission. That being the case, it would be inconsistent with the established planning jurisprudence for the CPA to now take the position that where there is some speculative issue regarding easements, that the entire planning process must be stayed until someone successfully litigates that extraneous matter in the Grand Court. It is submitted that for this reason alone, the slavish application of the *Breuckner* to the current application would cause a grave injustice, as it would unnecessarily dictate that in order for the Applicant to proceed with its application, it must first sue its own members to gain a permission for the purported modification of an easement that it does not even need or want.

We would therefore submit that even if *Brueckner* was not bad law, which we contend it is, the facts of that case are not comparable to and can be distinguished from the current Application and, consequently, that decision does not constitute an impediment to the CPA progressing this Application.

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Furthermore, it is submitted that none of the previous bases for refusal in respect of the 2006 application are any longer of relevance and it is further submitted that no valid grounds for refusal of the Application have been raised. Furthermore, any potential concerns in respect of precedent or "cultural separation" must have been considered in respect of the recent approval of Webster's Estates application for the installation of gates. As in the Webster's Estates application, our client's Application complies with the Development and Planning Regulations and it is therefore respectfully requested that, on the basis of fairness and consistency, the subject application should be approved, subject to any reasonable conditions that the Authority may deem appropriate.

In light of the foregoing and in light of the fact that there is no valid complaint by anyone that the proposed gates will cause harm to a recognized planning interest, there is no valid reason why the CPA should not grant permission in the terms sought by the Applicant.

We therefore intend to rely on the foregoing and to expand upon the same as necessary at the hearing of the application.

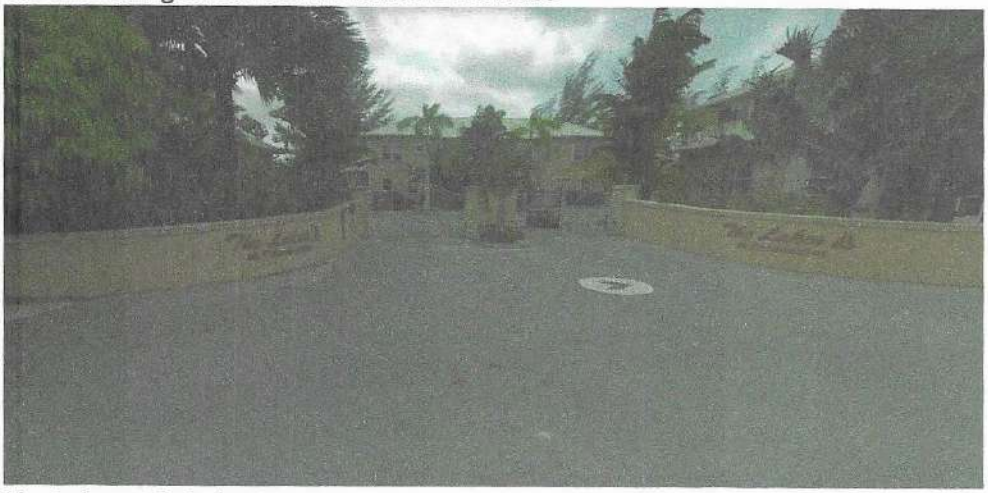
Respectfully Submitted,

Jackson Law
JacksonLaw

Schedule 1

Coconut Village

Coconut Village and Patrick's Island Gatehouse



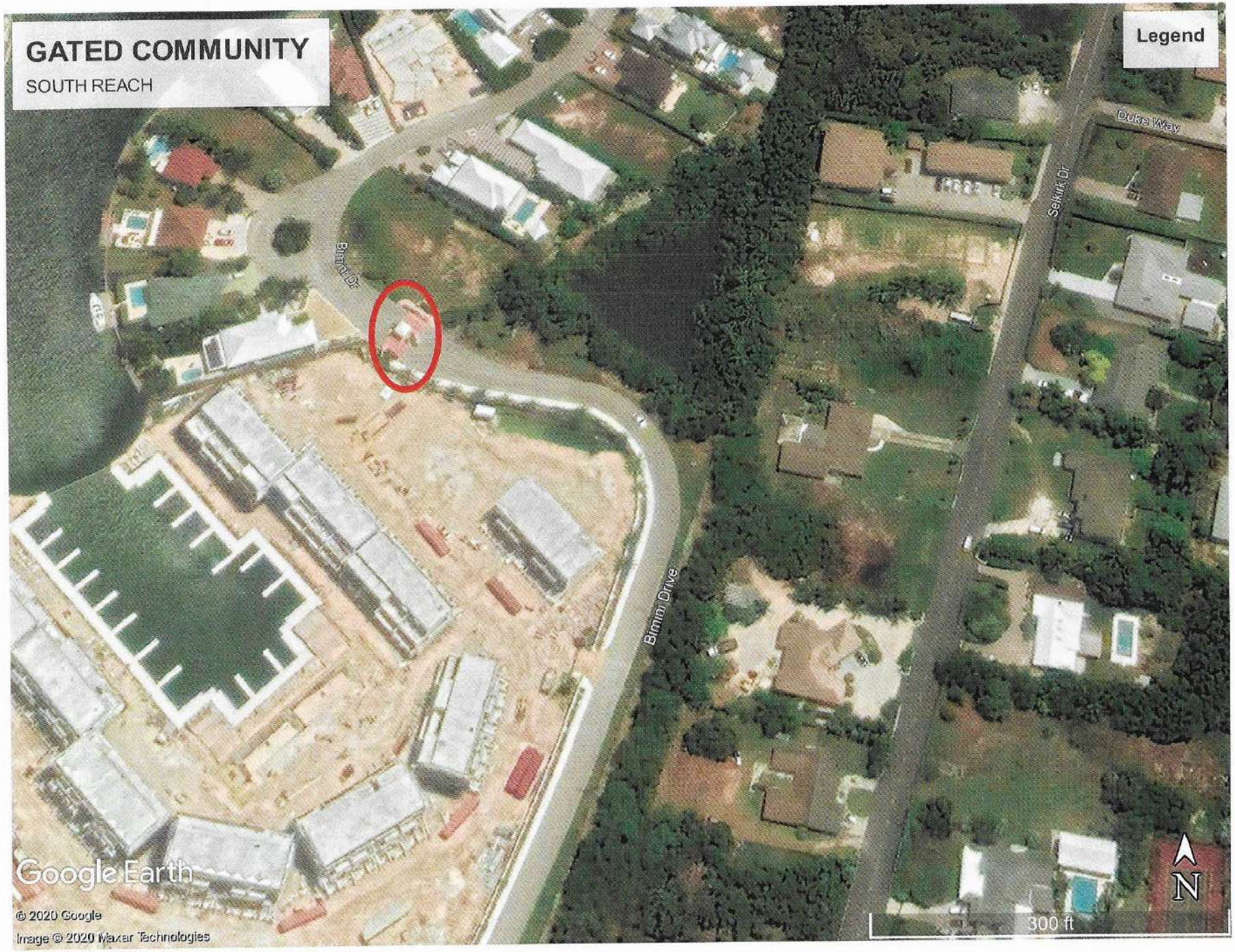
The Lakes at Poindexter

GATED COMMUNITY
THE CHANNELS
Legend
Island Dr
Passage Ln
Admirals Ave
Lakeside Dr
Google Earth
© 2020 Google
Image © 2020 Maxar Technologies
N
400 ft

GATED COMMUNITIES
off Spinaker Rd Red Bay
Legend
THE POINT
Spinnaker Rd
Google Earth
© 2020 Google
Image © 2020 Maxar Technologies
400 ft
N

GATED COMMUNITY
COCONUT VILLAGE
Legend
Google Earth
© 2020 Google
Image © 2020 Maxar Technologies
N
200 ft

GATED COMMUNITY
THE ESTATES GRAND HABOUR
Legend
Google Earth
© 2020 Google
Image © 2020 Maxar Technologies
300 ft
N


GATED COMMUNITY
SOUTH REACH
Legend
Duke Way
Selkirk Dr
Bimini Dr
Bimini Drive
Google Earth
© 2020 Google
Image © 2020 Maxar Technologies
N
300 ft

GATED COMMUNITY
THE LAKES AT POINDEXTER
Legend
Google Earth
Image © 2020 Maxar Technologies
© 2020 Google
300 ft
N

Patrick's
Island
PRIVATE ROAD

Schedule 2

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Sent from Outlook Email App for Android

-------- Forwarded Message -------- From: "Walton, Kurt" Kurt.Walton@rcips.ky To: Patricks Island Homeowners Association patricksislandhoa@gmail.com Cc: debbiemct@hotmail.com Date: Friday, 11 December 2020, 04:13PM -05:00 Subject: RE: [EXTERNAL] Re: Patrick's Island gate application

Good afternoon Ms. Frizzelle,

I am confirming that I sent an email this afternoon (11.Dec.20) at 4:08 pm to Director Haroon Pandohie and Dept. Director Ron Sanderson stating that we foresee no issues with the flow of traffic based on your proposal.

Regards,

Kurt G. Walton

Deputy Commissioner of Police

Tel: (345) 244 3001 (Ext)

P.O. Box 909

Grand Cayman KY1-1103

CAYMAN ISLANDS

RCIPS

Email: kurt.walton@rcips.ky

Web: www.rcips.ky

Stay connected, follow us on:

DISCLAIMER: The information in this e-mail is confidential and may be legally

Schedule 3

THE SECURITY CENTRE LIMITED

RE: Security Services at The Attorney General Residence

15th March 2021

Dear Mr. Thompson,

I write to share my experience as it relates to traffic of non-residents in the Windswept Drive area of Patricks' Island. I am a Security Officer employed by The Security Centre Limited. My duties include providing Executive Security Services at the residence of the Attorney General. This arrangement has been in place since September 2005 when there was an attempted/intended home invasion of the Attorney Generals' residence however, the perpetrators mistakenly entered the residence of the neighbour instead.

My shift is from 6pm - 6am Sunday to Friday. Another Officer works on Saturdays.
As part of my duties, I am required to observe any unusual traffic, vehicular and or human foot traffic along the Windswept Drive, which also intersects onto Reverie Road. I can confirm that during my tour of duties I have observed numerous vehicles traversing the Windswept and Reverie roads at all hours of the nights. These are invariably strange and sometimes suspicious vehicles.
I am familiar with the vehicles driven by the residents on Windswept Drive and Reverie Road and am therefore able to distinguish those vehicles.

Sometimes some of the registration plate numbers of some of the vehicles are not readable. I would always make a written note of the vehicles, and sometimes I would call to notify the RCIPS of my suspicions.
There is usually an average of three such suspicious or unusual vehicles per night which do often have very heavily tinted glass.

Please feel free to contact me or my Director of Security Services Maria McLean. mmclean@security.ky on 925-5295 should you require any further information.

Sincerely,

Ramon Angara
Security Officer

Confidential

Schedule 4

PATRICK'S ISLAND HOMEOWNERS ASSOCIATION
PO Box 2681
Grand Cayman, KY1-1111
Cayman Islands

Owner/Resident of Parcel 24E 324

October 28,2020

To whom it may concern,

The Patrick's Island Homeowners Association is writing to you as your property was granted a vehicular Right of Way over Poindexter Road between the Patrick's Island guard gate (Poindexter entrance) and the top of Amity Drive some time ago. In March 2020, the HOA filed an application to put security gates on the Poindexter guard house as well as at the junction of Amity Drive and Poindexter Road.

Given the Right of Way afforded to your property, we are writing to confirm the following:

1. The existing Right of Way to your property will be honored via gate access.
2. The access provided to the residents of your property will be consistent with that provided to residents within the Patrick's Island development (a vehicle windshield sticker, a remote push button, or other as ultimately determined).
3. The cost of this access, if any, will be borne by the Patrick's Island HOA.

Should you have any questions, please do not hesitate to get in touch with

Kind regards.

Jennifer Frizzelle

Jennifer Frizzelle Debbie McTaggart
(345) 516 4326
patricksislandhoa@gmail.com
On behalf of The Patrick's Island Homeowners Association

Received by _____(print name) on _____(date)

_____ Signed

(Note: HOA did not request "received by" verification as we spoke to the party in person)

Schedule 5

BCQS | PROPERTY MANAGEMENT

30 September 2020

Department of Planning
133 Elgin Ave
Government Administration Building
Georgetown
Grand Cayman

RE: Patrick's Island Homeowners Association Gate Application

We act as managing agent on behalf of The Proprietor's Strata Plan #296, The Palm's at Patrick's Island and write on their behalf.

The executive committee of Strata #296, The Palms at Patrick's Island, understand that a gate application has been made for the installation of gates for the Patrick's Island community, these plans have been shared with the strata corporation.

The committee understands that the entrance and exit of The Palms at Patrick's Island, on Poindexter Road, falls within the Patrick's Island community and as such the strata corporation will become part of the Patrick's Island community.

The committee understands and accepts the intention of the Patrick's Island Homeowners Association gate installation will include the strata corporation's entrance and exit and that all owners and residents of The Palm's at Patrick's Island will be granted full access regarding ingress and egress of the gates, and as such are supportive of the gate application plan under these parameters.

Regards,

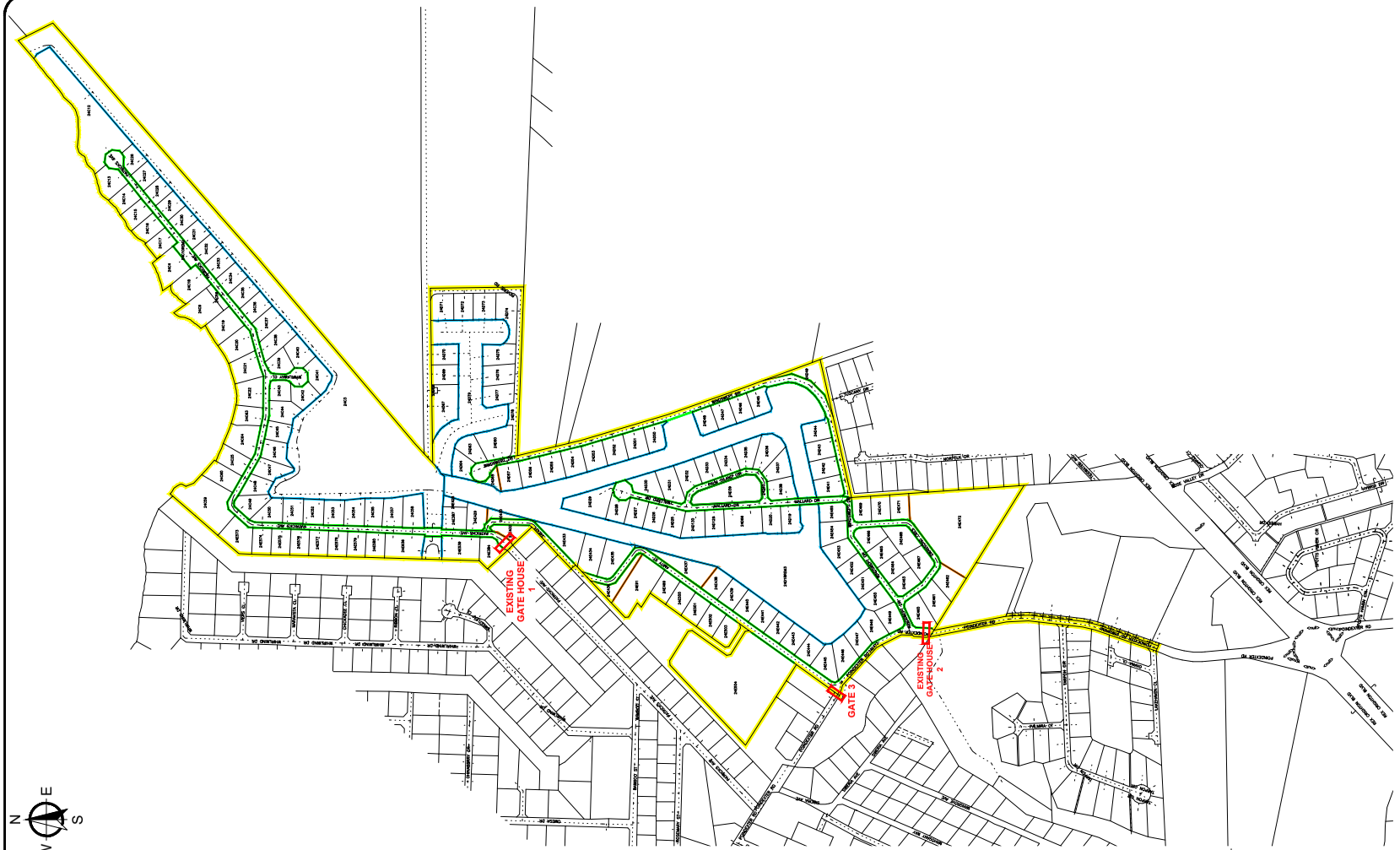
Richelle Woodcock | Director

Whitehall House 2nd Floor, PO Box 871, Grand Cayman, KY1-1103
Direct +1 345 949 9300 | Mobile +1 345 525 6784 | rw@bcqs.com

JacksonLaw
ATTORNEYS-AT-LAW

Appendix 2

Office: 345 943 5225 • Fax: 345 943 5227
PO Box 10638, KY1-1006, Unit 1D, Landmark Square, 64 Earth Close, Grand Cayman, Cayman Islands



LEGEND

- DENOTES GATE LOCATIONS
- ROAD OWNED BY THE H.O.A.
- PARCELS OWNED BY THE H.O.A.
- CANALS
- BOUNDARIES OF PATRICK'S ISLAND

1 A000 MASTER SITE PLAN
N.T.S.

GMJ HOMEPLANS LTD.

DATE: 28OCT2019

8 Capt. Osmond Pkr. Crewe Rd
P.O. Box 347 KY1-1501
Grand Cayman, CI
Ph: (345)947-7020 / 916-5054
Fx: (345)-947-7021
Email: gmj@candw.ky

NOTES:

PLANNING

THESE DRAWING IS THE PROPERTY OF GEORGE MANDERSON JR. ANY USE AND / OR REPRODUCTION OF THESE DRAWINGS WITHOUT PRIOR WRITTEN PERMISSION FROM GEORGE MANDERSON JR IS ILLEGAL. ARCHITECTURAL DRAWINGS ARE TO BE READ ALONG WITH STRUCTURAL, MECHANICAL, ELECTRICAL AND OTHER CONSULTANTS DRAWINGS AS MAY BE APPLICABLE. DIMS, LEVEL AND DATUMS GIVEN MUST BE VERIFIED BY THE CONTRACTOR BEFORE AND DURING CONSTRUCTION AND ANY DISCREPANCIES NOTED ARE TO BE REPORTED TO GEORGE MANDERSON JR. DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALED DIMENSIONS

NOTES:

PROPOSED
PATRICK'S ISLAND GATES

PROJECT:

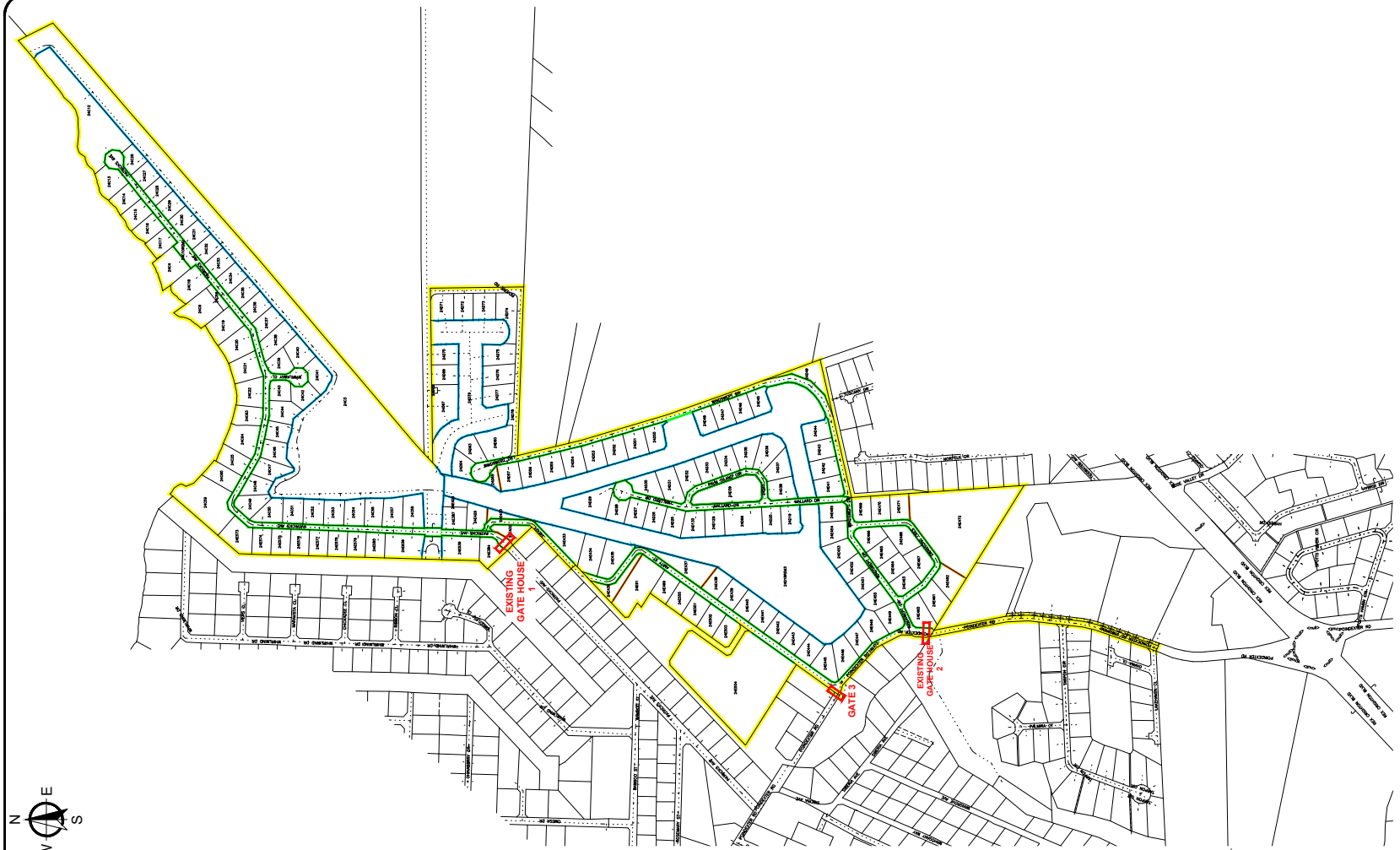
PROJECT No: 19-224

DRAWN BY: VJR
CHECKED BY: GMJR
SHEET #: A000

DESCRIPTION: MASTER SITE PLAN

Mon, 24 Oct 2022 - 1:32pm

Appendix C



LEGEND

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