

Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on June 10, 2020 at **10:00a.m.** via e-conference.

9th Meeting of the Year

CPA/09/20

Mr. A. L. Thompson (Chairman)
Mr. Robert Watler Jr. (Deputy Chairman) (absent)
Mr. Kris Bergstrom
Mr. Peterkin Berry (arrived at 11:50)
Mr. Edgar Ashton Bodden
Mr. Roland Bodden (absent)
Mr. Joseph Coe
Mr. Ray Hydes (Acting Chairman 2.1 and 2.2)
Mr. Trent McCoy
Mr. Jaron Leslie
Ms. Christina McTaggart-Pineda (left at 1:30)
Mr. Selvin Richardson (left at 3:00)
Mr. Fred Whittaker
Mr. Haroon Pandohie (Executive Secretary)
Mr. Ron Sanderson (Deputy Director of Planning (CP))

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

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APPLICANTS ATTENDING THE AUTHORITY'S MEETING VIA E-CONFERENCE

APPLICANT NAME	TIME	ITEM	PAGE
Cayman Water	2.1	10:30	5
Aldo Gianne	2.2	11:25	13
7 Mile Beach Resort	2.3	12:30	23
Jacques Scott (Sandbar)	2.4	1:00	29
Tony Lalor	2.6	2:00	38
Tanja Scott	2.7	1:45	43
Carmel Weaver	2.9	2:10	55

1.1 Confirmation of Minutes of CPA/08/20 held on May 27, 2020.

Moved: Selvin Richardson

Seconded: Trent McCoy

Confirmed

1.2 Declarations of Conflicts/Interests

ITEM	MEMBER
2.1	A.L. Thompson
2.2	A.L. Thompson, Selvin Richardson
2.4	Fred Whittaker
2.7	Ashton Bodden
2.11	Kris Bergstrom, Fred Whittaker
5.5	Fred Whittaker
5.6	Ray Hydes

2.0 APPLICATIONS
APPEARANCES (Items 2.1 to 2.9)

2.1 CAYMAN WATER COMPANY (APEC Consulting Engineers) Block 13B Parcel 230 (F20-0060) (P20-0097) (\$1.6M) (CS)

Application for a reverse osmosis plant, 800kw diesel generator, 5,000 gallon fuel tank, three 2-million gallon water storage tanks.

Appearance at 10:30

A.L. Thompson declared a conflict and left the e-conference. Ray Hydes sat as Acting Chairman.

FACTS

<i>Location</i>	West Bay Road, West Bay Beach South
<i>Zoning</i>	NC
<i>Notice requirements</i>	No Objectors
<i>Parcel size</i>	9.6AC
<i>Current use</i>	Vacant
<i>Proposed use</i>	Apartments
<i>Building size</i>	34,762 sq. ft.
<i>Building footprint</i>	34,762 sq. ft.
<i>Building coverage</i>	7%
<i>Parking proposed</i>	9
<i>Parking required</i>	6

BACKGROUND

April 29, 2020 (CPA/07/20; Item 2.1) The Authority resolved to adjourn the subject application to invite the applicant to appear before them to discuss concerns regarding the proposed location of the facility, the source of water, and the discharge of brine.

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

- 1) The Authority considers the proposed development to be a light industry per the definition of same in the Development and Planning Regulations (2020 Revision).

- 2) Section 3.06 of The Development Plan 1997 states that light industrial development is also permissible in the commercial zones at the discretion of the Authority. The subject site is zoned Neighbourhood Commercial and is in a prominent location between West Bay Road and the Esterley Tibbetts Highway while being surrounded by a variety of commercial, institutional and entertainment related uses. In exercising the discretion afforded to the Authority, it is the Authority's view that the proposed water production facility represents a visual intrusion into the area due to the height and industrial appearance of the facility and this will negatively affect the ability of the surrounding land owners to enjoy the amenity of their lands and the area.
- 3) Regulation 12(4) of the Development and Planning Regulations (2020 Revision) states that light industrial development may be permitted by the Authority in other areas provided it is not offensive and does not adversely affect the area. As outlined in item 2) above, the Authority has determined that the proposed development will adversely affect the area.

AGENCY COMMENTS

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

Department of Environment

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

- *The application site is primarily man-modified with a strip of tidally flooded mangroves along the eastern boundary as shown in figure 1*

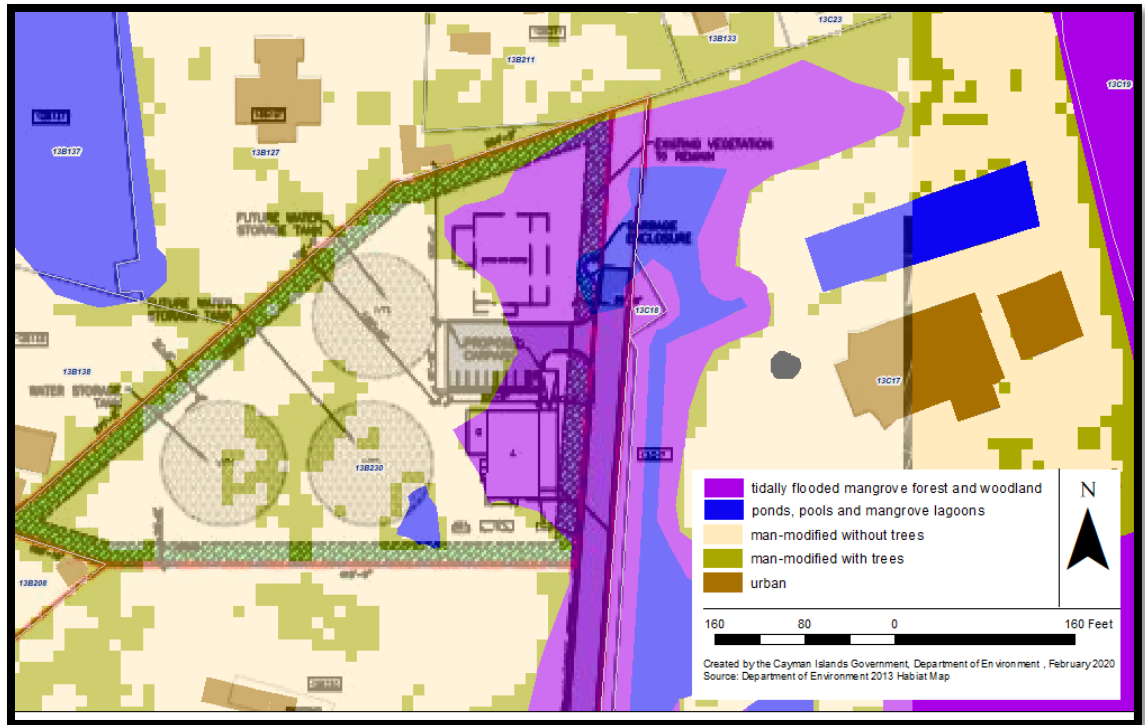


Figure 1: Site Plan extract overlaid onto DOE's 2013 Habitat Map

- The National Energy Policy (2017) makes provisions for renewable energy associated with water and wastewater sectors. Section 3.3.13 'Water and Wastewater Sector Strategy' of the Strategies and Strategic Aims to support Goal 3 encourages investments in renewable energy generation where feasible as an alternative or complementary to the public electricity supply system or on site diesel generation (sub-section c). Therefore, it is the Department's view that the proposed water production plant should incorporate renewable energy generation into the project proposal and not just a generator, especially given the emission reductions targets for the country set out in the National Energy Policy to reduce carbon emissions per capita to 4.8tCO₂e by 2030 from the 2014 emissions per capita of 12.3tCO₂e.*
- The applicant does not provide any information about source of water and where the discharge will be. It is assumed that this will be addressed through the groundwater abstraction and disposal licenses granted by the Water Authority. The Department will provide additional feedback on this aspect to the Water Authority when they consult the NCC on the abstraction and disposal permit applications.*

National Roads Authority

As per your memo dated February 20th, 2020 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

The traffic demand to be generated by the above proposed development of 36,047 sq. ft. has been assessed in accordance with ITE Code 170 – Utility. The anticipated traffic to be added onto West Bay Road is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak In</i>	<i>AM Peak Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak In</i>	<i>PM Peak Out</i>
36	29	N/A	N/A	27	12	15

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

Access and Traffic Management Issues

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

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

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

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

Stormwater Management Issues

Based on the information provided by the applicant’s agent and the recommended drainage plan for the subject parcel, the National Roads Authority is **satisfied** with the provisions being made by the developer with regard to the SWM requirements, which includes,

1. Seventeen (17) 8” vertical wells in 3ft by 3ft catchbasins for both roof and parking lot runoff.
2. Gentle hump at entry/exit; dimensions of the ‘hump’ to meet NRA spec need to be a width of 6 feet and a height of 2-4 inches.

The applicant is reminded that each well shall be constructed to a minimum depth of one hundred (100) feet with a minimum diameter of eight (8) inches with the parking lot wells having 3’ by 3’ catch basins with filters. The applicant is reminded that the maintenance of the deep wells, catch basin and drainage channels must be conducted on a regular basis and should be included in the strata/management of the site.

*If, in the event that the proposed stormwater management measures are not successful, it is the **applicant's responsibility** to mitigate issues that arise.*

Chief Environmental Health Officer

The location of the enclosure does not meet the requirements of DEH. a) The applicant must submit revisions indicating how the truck will access the enclosure and manoeuvre without reversing onto the road.

Fire Department

No comments received to date.

Petroleum Inspectorate

After reviewing the above captioned proposed generator base fuel (diesel) storage tank in accordance with NFPA 30 Flammable and Combustible Liquids Code, NFPA 37 Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, and the Dangerous Substances Law and Regulations, OfReg Fuels Department have no objections to the proposed planning application.

Water Authority

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

Wastewater Treatment:

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

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

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

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

http://www.waterauthority.ky/upimages/pagebox/Guidelines-Sewer_1425464500_1426308023.pdf

- The developer shall submit plans for the infrastructure to the Authority for approval.*
- The Authority shall make the final connection to the WBBSS, the cost of which shall be borne by the developer.*

Groundwater abstraction for the RO plant and disposal of brine from the RO plant
Section 22 of the Water Authority Law (2018 Revision) requires a licence to abstract groundwater used as feedwater of the Reverse Osmosis plant and section 34 of the Water Authority Law (2018 Revision) requires a discharge permit for the disposal of brine from the Reverse Osmosis plant. Applications for a groundwater abstraction licence, and a discharge permit can be found via the following links to the Water Authority's web site:

http://www.waterauthority.ky/upimages/forms/FILLABLEGroundwaterAbstractionApplication_1441300705.pdf

http://www.waterauthority.ky/upimages/forms/FILLABLEDischargePermitApplication_1441300594.pdf

In order to protect groundwater resources and the environment, the Water Authority may determine specific conditions for the groundwater abstraction licence and discharge permit, such as maximum abstraction rate, well design and prohibiting the disposal of contaminants.

Generator and Fuel Storage Tank(s) Installation:

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

Water Supply:

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

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

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission for a reverse osmosis plant, 800kw diesel generator, 5,000 gallon fuel tank, three 2-million gallon water storage tanks.

Zoning

The property is zoned Neighbourhood Commercial.

Specific Issue

1) Suitability

The applicant is proposing a reverse osmosis plant to response to recent increases in potable water demand. The plant consists of three 39' high water tanks and plant building. The proposal's footprint is located in the northern half of the site.

Neighborhood Commercial zones are zones in which the primary use is a less intense form of development of that permission in a General Commercial zone and which cater principally for the needs of persons resident in, or in the vicinity of the zone (Regulation 13(1)(b)).

As the plant is an industrial use, Regulation 12(4) does offer that light industrial development may be permitted outside Industrial zones if it is not offensive and does not adversely affect the area.

There is a hospice facility and commercial development west of the site, vacant land and the National Gallery to the east, residential development to the north, and vacant land and single-family homes to the south.

Newspaper advertisements and notifications were conducted with no objections being received.

The Authority is asked to determine whether the plant facility is appropriate in this location given the zoning and surrounding uses.

SUPPLEMENTARY ANALYSIS

No changes have been made to the application.

At 10:30am, Denis Murphy from Apec Engineers and Karlene Singh, Ramjeet Jerrybandan, Ignatio del Campo, Taylor Vogt and Manuel Thomaz, all from Cayman Water, joined the Zoom e-conference. Summary notes are provided as follows.

- Mr. Murphy explained the proposal. He noted that the tanks are of a similar size to what is at the Governor's Harbour site.
- The Authority noted there are concerns with the suitability of the area for the facility given what is in the area. It was noted that the facility needs to blend with the area. It was also noted that there is a concern with the discharge of brine into the groundwater.
- Mr. Murphy explained that the site is zoned Neighbourhood Commercial and that given the location of Cayman Water's customer base, there is no land zoned

Industrial. He noted that the two existing facilities are in similar locations as it is the nature of the area they are servicing. He explained that regarding water extraction and disposal, they must get licenses from OfReg and the Water Authority and the applications are vigorously inspected.

- The Authority asked if there could be landscaping to hide the tanks and Mr. Murphy replied there is, but it will take some time to grow. He also noted that as shown on the site plan they have left a natural buffer the width of the setbacks. The Authority voiced a concern that the natural buffer isn't enough, there needs to be height.
- The Authority asked if they could provide details of the water extraction and disposal.
- Mr. Jerrybandan provided several comments:
 - All wells have to meet WAC's strict criteria
 - They have tested ground water at the site
 - They abstract water at one depth and then the brine is injected in a different well at a much greater depth. Abstract wells can be 100' to 200' and injection wells can be 250' to 500'.
 - All of the work is done in accordance with the requirements of the WAC
- In response to a questions from the Authority, Mr. Murphy noted that the facility would connect to the supply line at the corner of West Bay Road and the road leading to the Jasmine hospice.
- The Authority noted that noise and odours can be a concern at these facilities due to the impact on surrounding properties.
- Mr. Murphy explained that with newer facilities concerns due to noise and odours are substantially lessened. He noted that the building is reinforced concrete which will mitigate noise.
- Ms. Singh explained they have tested noise levels at existing plants and there are no issues with the neighbours regarding noise and odours.
- Mr. Jerrybandan noted the building is solid concrete and all equipment will be inside. They do test the existing sites and the sound outside the buildings is less than 70 decibels. He also noted that they have very robust equipment for extraction that includes scrubbers to minimize odours.
- Mr. Murphy explained that the personnel areas and electrical room are air conditioned and the other areas are ventilated with louvers.

2. 2 ALDO GIANNE (Elegant Design Cayman Ltd.) Block 14C Parcel 307 (F15-0190) (P20-0051) (\$3.2M) (JP)

Application for mixed use commercial and residential development with gas station.

Appearance at 11:25

A.L. Thompson and Selvin Richardson declared conflicts and left the e-conference. Ray Hydes sat as Acting Chairman.

FACTS

<i>Location</i>	George Town
<i>Zoning</i>	General Commercial
<i>Notice requirements</i>	No Objectors
<i>Parcel size proposed</i>	0.94AC/40,946.4 sq. ft.
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Informal parking
<i>Proposed use</i>	Commercial and residential
<i>Site coverage allowed</i>	90%
<i>Site coverage proposed</i>	94%
<i>Parking required</i>	34
<i>Parking proposed</i>	33

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

- 1) In coming to its decision, the Authority relied on the revised site plan submitted by the applicant on June 4, 2020.
- 2) The Authority has determined that given the number of proposed building, structures and uses, the site does not function adequately in terms of vehicular movements throughout the site. The two drive-thrus do not accommodate proper vehicular stacking which will interfere with traffic moving through the site. The design of the drive aisles through the site lead to congestion and traffic conflicts. The Authority is not convinced that there are adequate turning radii through the site to accommodate efficient traffic flow.
- 3) The Authority is concerned that the interaction of the proposed site access points with the exiting road network will lead to traffic conflicts.
- 4) There is no clear pedestrian access to the site.
- 5) The revised site plan must be circulated for agency comments.

AGENCY COMMENTS

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

Petroleum Inspectorate

23.02.2020

“The Office is generally satisfied with the revised site plan dated 19 February 2020 except for the observations outlined below:

1) . The separation distance from dispenser bollard (or end of pump islands) to nearest object, when Pump Islands is perpendicular to the Object. i.e. Curb or Similar require a minimum of 25 feet to 35 feet.

2) The vehicle entrance off Esther Tibbett’s Hwy is still a concern for the department. The intuitive traffic flow in and around the forecourt cannot be achieved particularly because this entrance is not practical and functionable based on the gas station layout. This entrance should be relocated based on other available options (See NRA), but ideally should only be restricted to an Exit/Egress from the gas station.

3) All Technical drawings/requirements which be required at BCU stage must be submitted in full and comply with NPFA 30 Flammable and Combustible Liquids Code and NFPA 30A Code for Motor Fuel Dispensing Facilities and Repair Garages. As follows:

a. Provision for surface run-off on Forecourt be controlled (via Oil-Water Separator) before discharging

b. Design consideration to accommodate future vapor recovery (Stage 1) systems to reduce the impact of GHG and vapor affecting neighbors

c. Tank vents and Air/Water Dispenser should be identified on site plan.

d. All fuelling equipment to be reviewed and approved by Chief Fuels Inspector (CFI). Full fit out installation required including double wall tanks and fuel lines, leak prevention (and inventory) monitoring

e. Tank Fill area to be contained (gentle berm in the area where trucks will park to deliver fuel); Remote fill will also be required.

4) While CFI is not opposed to Price Signs being placed on Canopy Fascia, it is strongly recommended that ‘Monument’ type or Pole signs be used (we wish to maintain this standard across the Islands).

5) Provision for dispensing of LPG, CNG, LNG (and Hydrogen) is not allowed at this facility, and is subject to detailed review if such consideration is required in future.

6) Monitoring Wells in the area of the tank farm is required and is usually set out in WAC list of requirement for petroleum related facilities.

29.01.2020

For the proposed gas station, kindly provide the Office with a detail site plan with the following items (see attached guidelines for more information):

- 1. Underground storage tank capacity size;*
- 2. Separation distances between UST;*
- 3. Separation distances between islands and dispenser;*
- 4. Vent Pipeline location;*
- 5. Oil water Separator*
- 6. Forecourt drainages*
- 7. Price Signage location (Stand alone or attached to canopy) (See Regulation 62 and 63).*
- 8. Emergency shutoff buttons locations*
- 9. Water Monitoring wells locations”*

National Roads Authority

04.03.2020

*“The planned mixed-used development for the subject parcel was presented to the NRA Board of Directors at their meeting held on November 6th 2019. The NRA Board **does not** endorse the request for an entry/exit onto the Esterley Tibbetts Highway (ETH) from the subject site. Under the Roads Law (2005 Revision) access to Primary Arterial Roads such as the ETH is permitted only at access points approved by the Roads Authority.*

*The applicant has also placed the deceleration lane within the road reserve. The proposed deceleration lane and entry/exit adversely impacts the NRA’s proposed plans for the widening of the ETH at this location specifically in regards to the proposed bike lane and bus layby. **Please have the applicant remove both the proposed access point and deceleration lane from the site plan.***

The proposed additional entry/exit off of Paddington Lane and the revised placement of the sidewalk within the property boundary is satisfactory to the NRA. It is noted that the site seems very congested.

03.03.2020

General Issues

*The planned mixed-used development for the subject parcel recently prepared by Elegant Design was presented to the NRA Board of Directors at their meeting held on November 6th 2019. The NRA Board **does not** endorse the request for an ingress/egress onto the Esterley Tibbetts Highway (ETH) from the subject site. **Please remove.***

The applicant has also placed both the proposed sidewalk and deceleration lane within the road reserve as can be seen on the demarcated site plan.

*The proposed deceleration lane and entry/exit adversely impacts the NRA’s proposed plans for the widening of the ETH at this location specifically in regards to the proposed bike lanes and bus layby. **Please remove.***

*A six (6) foot sidewalk shall be constructed on Paddington Lane, Godfrey Nixon Way and Esterley Tibbetts Highway, within the property boundary, to NRA standards. **Please have the applicant revise the site plan and place the sidewalk within the property boundaries.***

Water Authority

Wastewater Treatment and Disposal

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

- *The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer’s guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. **The proposed system shall have a treatment capacity of at least 7,720 US gallons per day (gpd), based on the following calculations.***

BUILDINGS	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Apartments	5 x 2-Bed Apartment units	2-Bed (225)	1,425	1,425
	1 x 3-Bed Apartment units	3-Bed (300)		
Retail	Retail unit (1,082sqft)	0.15/sqft	162	162
Restaurant 1	Restaurant with Drive Thru (1,519sqft)	1.8/sqft	2,734	2,734
Restaurant 2	Restaurant with Drive Thru (1,888sqft)	1.8/sqft	3,398	3,398
			TOTAL	7,720

- ***Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.***
- ***To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4’5” 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.

Require Grease Interceptor

*A **grease interceptor with a minimum capacity of 6,000 US gallons is required** to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the ATU.*

Oil / Water separator

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

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

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

Water Resource Protection

*The site operator and staff shall, at all times, **employ Best Management Practices (BMPs) to prevent contamination of water resources by accidental spills of hazardous materials stored / used at the facility. BMPs shall include the following:***

- Vehicle service and other industrial workshops where fuels, greases, oils or solvents are stored and/or handled shall have all floor drains plumbed to an oil/water separator. The outlet of the separator shall be plumbed to a disposal well. Oil/water separators must meet Water Authority standards, per attached guidelines.*
- Conduct maintenance and repairs on a non-porous surface (concrete, not asphalt or soil). Protect the concrete work area with a sturdy rain canopy that extends two feet*

- beyond the concrete work area. Berm the concrete work area to contain any spills. Use drip pans and oil change catch basins to minimize spills.
- Use dry methods (absorbent material such as sand, cat litter, or rags) to clean up any drips or spills that do occur. Collect soiled absorbent materials for delivery to the George Town Landfill for proper disposal. Call 949-8793 before delivering the wastes.
 - Minimize inventory of fluids and chemicals: stock only what is needed in the near term. Store fluids and chemicals in their original containers; transfer fluids using funnels or drum pumps to minimize spills. Use less toxic or nontoxic solvents for parts cleaning; e.g., terpenes and citric acid or microbial or water-based cleaners.
 - Collect and store liquid wastes to be recycled in an area protected from the rain. Store wastes in labelled drums with bung closures. Store waste drums within a secondary containment structure designed to contain 110% of the storage capacity. Store lead-acid batteries upright in a single layer, within an acid-resistant secondary containment bin. Limit the amount of wastes stored by regularly delivering them to the George Town Landfill recycling drop-off. Call 949-8793 before delivering the wastes.

Generator and Fuel Storage Tank(s) Installation:

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

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 will 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."*

Fire Department

05.03.2020

“From review of Revisions shown, 1) taper side walk for emergency access (as long as it remains clear) 2) Rear entrance. I have no objections.

25.02.2020

Fire access does not meet 20ft requirement. 15ft vertical clearance required.

29.01.2020

Fire vehicle access and turning radius is not sufficient, Fire well and hydrant required.”

Department of Environmental Health

“DEH has no objections to the propose. This developments requires (1) 8 cubic yard container with daily servicing.”

Department of the Environment

“Under delegated authority from the national conservation council (section 3 (13) of the national conservation law, 2013), the department of environment offers the following comments for your consideration.

The application site is man-modified and of low ecological value. It is recommended that native vegetation is incorporated into the landscaping scheme where possible as it is best suited for the habitat conditions of the site, requiring less maintenance and making it a cost-effective and sustainable choice for landscaping.”

PLANNING DEPARTMENT ANALYSIS

General

The proposed development is located in the George Town occupying a corner lot with Esterley Tibbetts Highway forming the eastern boundary and Godfrey Nixon Way running along the south. Paddington Lane provides direct access to the site from the west. To the north an existing storage building occupies the adjoining lot.

The application seeks planning permission for a mixed commercial-residential development incorporating a petrol station. The ground floor units consist of two restaurants with a drive-thru associated with each premise and a gas station/retail area to service three fuel pumps. The upper floor comprises 6 x 2 bedroom apartments.

Zoning

The land is zoned General Commercial.

Specific Issues

1) Zoning

The application site is located within a General Commercial zone. Regulation 13(1)(a)(iii) and (vii) permits restaurants and petrol stations, respectively, in General Commercial zones.

Regulation 13(8) enables residential development within a General Commercial zone providing such development is not on the ground floor and does not occupy more than 70% of the gross floor area of the building.

The application seeks planning permission for a petrol station, two restaurants and upper floor residential accommodation occupying approximately 50% of the gross floor area.

The Authority should recognize the principle of development is acceptable in the proposed location and zone.

2) Swept path analysis

The Planning Department, Petroleum Inspectorate and National Roads Authority have raised concerns regarding the flow of traffic in and around the site having regard to the inclusion of an exit and entrance off Esterley Tibbetts Highway, the amount of development proposed, the proposed direction of travel within the site and identified pinch points. On that basis, the agent/applicant has been invited to submit a swept path analysis of vehicles entering and manoeuvring within the site.

A swept path analysis was eventually submitted; however, it retains the exit/entrance from Esterley Tibbetts, therefore, the starting point for assessment is fundamentally flawed. The following anomalies of the swept path analysis have been highlighted to the agent:

- Does not track any vehicles making a hard left turn off ETH to go parallel along ETH within the site;
- A couple of scenarios show moving vehicles would clip stationary vehicles at the pumps;
- Inadequate scenarios to demonstrate all movement within the site (e.g. no scenarios detail movement to/from central pumps);
- In the absence of detailing any site specific traffic handling features (dead end/stop signs) it seems to presume some very unnatural manoeuvres within the site.

Particular points of concern for members to consider:

- Proposed entrance off Esterley Tibbetts into the site to join a traffic flow south immediately adjacent to the eastern boundary. This would require vehicles to make a 180 degree turn within the site;
- Width of lane to support triple vehicle parallel alignment south of pump 1;
- Convergence of vehicles north east of the retail shop.

3) Drive thru facilities

Proposed length of drive thru 1 is inadequate to accommodate stacking vehicles without interfering with the free flow of traffic from the north and/or preventing unhindered passage along the sidewalk. Members are invited to consider the implications of such.

Likewise, drive thru lane 2 is isolated from vehicle lanes around the site, however, members may consider there is a possibility of vehicle stacking along the one way drive from the north.

4) Parking

The proposed scheme incorrectly rounds down to establish parking requirement of the scheme. As 0.305 of a parking space cannot be constructed calculations should round up. Consequently the overall parking demand anticipated from the proposed scheme is 34 spaces.

The accessible parking spaces are inadequate in width and therefore have been counted as a standard parking space. Members are invited to consider whether the lack of accessible parking provision is suitable for such a site.

Parking space 20 is substandard in length and consequently has been discounted from the parking provision. The annotated measurement is misleading in placement. In reality the space is only 18' 11" in length which is inadequate for a parallel space.

Therefore, the resultant proposed parking provision is 33 spaces. Members are encouraged to consider whether substandard provision is acceptable having regard to the visible location, high traffic passing and proposed uses.

5) Width of walkway

Proposed commercial unit 2 benefits from a separate pedestrian entrance on the southern elevation providing direct access from nearby parking spaces. The footpath around the building is 3' wide, but along the western elevation round to the southern elevation reduces to 2' 5" at the entrance. Members are invited to consider whether this is adequate to support pedestrian use.

6) Site coverage 94% v 90%

Regulation 8 restricts site coverage of the building and parking area to 90% of the lot. A support statement explaining and justifying the development does not accompany the planning application. Therefore, members are invited to assess whether such a variance from the Regulations is warranted.

At 11:25am, Aldo Gianne, J. Samuel Jackson and Pedro Theye joined the Zoom e-conference. Summary notes are provided as follows:

- The Authority noted that a revised site plan has been submitted which seems to address a few points raised by the Department.

- Mr. Theye explained the revisions to the site plan and explained the proposal. He noted that they didn't think sidewalks were necessary and the revised entry/exit is similar to what was done for the development on the sea across from Hurley's. He explained that he has not sent the revised plan to the NRA, but the Planner sent it to them.
- Mr. Jackson commented that the new entry/exit scheme is like what is at Indigo Bay and Mr. Theye concurred.
- The Authority noted that the fuel pump canopies for most gas stations have a very proprietary look and asked if these canopies could be made to look more like the buildings. Mr. Theye replied that they could look like extensions of the buildings by using the same elements.
- The Authority asked if they would like to address any remaining issues.
- Mr. Jackson noted that his response to NRA's comments is in his memo (see Appendix A) . He explained that asking for sidewalks is just a land grab by the NRA and it impacts the functionality of the site, by removing them the functionality of the site is improved and there will be more landscaping so the site coverage comes down to 84%.
- The Authority raised a concern that the revised entry location onto the ETH is not in a good location and should be moved further north.
- Mr. Jackson replied that if they have to use only Paddington Lane then the vehicles have to come off the roundabout, onto Godfrey Nixon and then turn right across two lanes of traffic which are often backed up. They would prefer that vehicles coming through the roundabout to the north will stay in the left lane and use the deceleration lane into the property.
- The Authority noted a concern regarding the lack of a sidewalk on Godfrey Nixon. Mr. Jackson noted that he doesn't believe people will walk across Godfrey Nixon to get to a sidewalk by Paddington Lane. Also, he noted that he wouldn't advise his client to build a sidewalk to be used by the public on private land as there is a liability issue. The Authority explained that a foot path should be provided for persons to walk on as the proposal includes two restaurants and people in the area will walk to them instead of drive. Mr. Theye indicated that perhaps a pedestrian path could be put in at the southwest corner of the site which could connect to Building 2.
- The Authority noted that perhaps the garbage skip could be relocated to the north by the vent pipe. It was also noted that the drive thru for the northerly restaurant only provides stacking for two vehicles and that could be a problem for blocking traffic through the site. Mr. Theye advised that they could delete the parallel parking space which should give room to drive around the vehicles in the drive thru.

- The Authority noted a concern that drivers coming around the roundabout going north have to cross three lane of traffic to get to the deceleration lane. It was also noted that further input is needed from the NRA as they have only seen the original site plan.
- Mr. Jackson explained that if the site plan is approved with access from and onto the ETH, if they can't work that out with the NRA they will have to come back to the CPA. He noted that they feel they have a functional site.

2.3 7 MILE BEACH RESORT (DDL Studio Ltd.) Block 13B Parcel 102 (FA89-0271) (P19-1322) (CS)

Application for an after-the-fact modification to the site and floor plans of an approved resort renovation.

Appearance at 12:30

FACTS

<i>Location</i>	West Bay Road, West Bay Beach South
<i>Zoning</i>	Hotel Tourism
<i>Notice requirements</i>	No Objectors
<i>Parcel size</i>	3.2 AC
<i>Current use</i>	Resort
<i>Parking required</i>	26
<i>Parking provided</i>	38

BACKGROUND

May 24, 2016- An application to relocate an equipment/pump room and add a fire pump room was administratively approved.

March 4, 2020 (CPA/05/20; Item 2.11) The Authority resolved to adjourn the subject application to invite the applicant to appear before them to discuss concerns regarding the proximity of the building to the road and with the width of the sidewalk.

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

- 1) The applicant did not clearly explain the differences between the as-built structure and the approved plans so it was not clear to the Authority what was being considered. The Authority has noted concerns with the sidewalk width and its elevation above the adjacent road level in terms of pedestrian safety. The Applicant is directed to liaise with the architect for the project and bring forward to the Authority a detailed outline of the

changes between the as-built structure and the approved plans and a proposal to address the Authority's concerns regarding the sidewalk.

AGENCY COMMENTS

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

National Roads Authority

"As per your memo dated December 12th 2019 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

The impact of the proposed modification onto Piper Way is considered to be minimal.

Access and Traffic Management Issues

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

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

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

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

Stormwater Management Issues

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.*
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.*

- *Construct a gentle 'hump' at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Piper Way. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*
- *Curbing is required for the parking areas to control stormwater runoff.*
- *Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

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

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

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

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

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

Water Authority

"Please be advised that the water authority's requirements for this development are as follows:

Wastewater Treatment:

The development shall be connected to the west bay beach sewerage system (WBBSS).

- *The developer shall notify the water authority's engineering services at 949-2837 ext. 3000 as soon as possible to ensure that:*
- *The site-specific connection requirements are relayed to the developer,*
- *any existing sewerage appurtenances on the property can be clearly marked to prevent damage (for which the developer would be held responsible), and*
- *The authority can make arrangements necessary for connection such as ordering materials, scheduling, pipe installation, etc. The Authority will not be responsible*

- for delays due to insufficient notice from the developer.*
- *The developer shall be responsible for providing the site-specific sewerage infrastructure required for connection to the WBBSS. The site's wastewater infrastructure shall be designed and installed to the authority's specifications. copies of the authority's specifications are available at the water authority's office on red gate road, or the web:
[Http://www.waterauthority.ky/upimages/pagebox/guidelines-sewer_1425464500_1426308023.pdf](http://www.waterauthority.ky/upimages/pagebox/guidelines-sewer_1425464500_1426308023.pdf)*
 - *The developer shall submit plans for the infrastructure to the authority for approval.*
 - *The authority shall make the final connection to the WBBSS, the cost of which shall be borne by the developer.*
 - *A grease interceptor with a minimum capacity of 1,393 us gallons is required to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the WBBSS.*

Elevator installation:

hydraulic elevators are required to have an approved pump with oil-sensing shut off installed in the sump pit. specifications shall be sent to the water authority at development.control@waterauthority.ky for review and approval.

Generator and fuel storage tank(s) installation:

In the event underground fuel storage tanks (usts) are used the authority requires the developer to install monitoring wells for the usts. the exact number and location(s) of the monitoring wells will be determined by the authority upon receipt of a detailed site plan showing location of the ust(s), associated piping, and dispensers. the monitoring wells shall comply with the standard detail of the water authority. all wells shall be accessible for inspection by the authority. in the event above ground fuel storage tanks (asts) are used, monitoring wells will not be required.

Lint interceptor required at commercial, institutional, coin-op laundries.

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

Water Supply:

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

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

Fire Department

"Approved."

Department of Environmental Health

"DEH has no objections to the proposed".

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting After-The-Fact planning permission for an After-The-Fact modification to the site and floor plan of an approved resort renovation that includes the following:

- Removal of a conference room.
- Adding two (2) guest suites
- Removal of two (2) street side parking spaces.
- 3'6" versus 6' sidewalk.

Zoning

The property is zoned Hotel Tourism

Specific Issues

1) Sidewalk width & design.

After a majority of the After-The-Fact works to the lobby building were constructed, the applicant chose to install a sidewalk. The sidewalk is 3'6" versus the 6' standard. Furthermore, the side walk is elevated to improve accessible access to the lobby entrance and thereby has a railing.

When evaluating an appropriate sidewalk width, a 3' width is determined as an appropriate minimum width for a single pedestrian. For two-way pedestrian traffic, therefore the 6' minimum has been determined.

For a person in a wheelchair, this minimum recommended width is 3'6". Although the sidewalk can accommodate single-way wheelchair, opposing traffic will have to wait or step into the roadway. There is also a question as to whether the required handrail further reduces the appropriate width for single-lane use.

2) Piper Way encroachment

The site is subject to a 20' vehicular easement to provide access to parcels 143, 193 & 194. Prior to the sidewalk being installed, the paved width was 20'7". With the sidewalk, it has been reduced to 17'6". If the CPA were to require a 6' sidewalk, in accordance to NRA standards, the travel lane will be reduced to 15'.

NRA, Fire Department and DEH have not specifically stated any issues regarding the width. It should be noted, this portion of Piper Way is designed for 1-way traffic only.

SUPPLEMENTARY ANALYSIS

No changes have been made to the application.

At 12:30pm, Darrel Player joined the Zoom e-conference on behalf of the applicant. Summary notes are provided as follows:

- Mr. Player advised that he is the Manager and represents the Strata.
- The Authority noted that the building has not be constructed in accordance with the approved plans, it is quite different.
- Mr. Player noted that construction started with a different Manager.
- The Authority noted that the sidewalk is 3', but should be 6' and it has been elevated.
- Mr. Player explained that he thought there was a sidewalk in that location before, but he isn't sure why it was elevated. He explained further that he thought any changes to the plans had been address through DDL and the former Manager.
- The Authority explained that it is unclear how to fix this problem. It seems he needs to get together with his team and figure out a way forward.
- Mr. Player asked what is the biggest issue and the CPA advised it is the width and height of the sidewalk.

2.4 JACQUES SCOTT LITTLE LIQUOR STORE (Frederick + McRae Ltd.) Block OPY Parcel 18 (F97-0374) (P20-0072) (CS)

Application for an after-the-fact LPG tank and bar fit-out.

Appearance at 1:00

Fred Whittaker declared a conflict and left the e-conference.

FACTS

<i>Location</i>	North Church Street, Georg Town
<i>Zoning</i>	General Commercial
<i>Notice requirements</i>	No objectors
<i>Parcel size</i>	0.08AC/3,484 sq. ft.
<i>Current use</i>	Bar
<i>Parking required</i>	4-11
<i>Parking provided</i>	0

BACKGROUND

August 5, 2015 (CPA/16/15; Item 2.6) - The Authority granted planning permission for roofed overhangs subject to conditions.

(CPA/16/16; Item 2.7) The Authority granted planning permission for a change-of-use of a retail space to restaurant/retail and a roofed patio.

March 4, 2020 (CPA/05/20; Item 5.2) - The Authority determined that a current High Water Mark survey would not be required for an after-the-fact LPG tank.

April 3, 2020 (CPA/06/20; Item 2.8) The Authority resolved to adjourn the subject application to invite the applicant to appear before them to discuss concerns with the lack of parking and the works that were done without planning permission.

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

- 1) Within 60 days of the date of this decision, the applicant shall provide a copy of a contract demonstrating that 6 off-site parking spaces are available for use by the applicant.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans

Reasons for the decision:

- 1) Pursuant to Regulation 8(8)(b) of the Development and Planning Regulations (2020 Revision), the Authority deems the minimum side setback for the lpg tank to be as shown on the submitted plans and finds the setback not to be materially detrimental to

persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare and is consistent with the provisions of Section 2.6 of The Development Plan 1997.

- 2) The Authority determined that at least 6 off-site parking spaces need to be provided.

AGENCY COMMENTS

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

Department of Environment

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

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

Petroleum Inspectorate

“The OfReg Fuels has reviewed the above captioned plans for proposed underground LPG location in accordance with NFPA 58 and the Dangerous Substances Law and Regulations.

The proposal location is in code compliance. All technical plans are required to be submitted at BCU stage. A Operating Permit will be required from the Utility Regulation and Competition Office (“OfReg”).”

Water Authority

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

Wastewater Treatment & Disposal

- *If the developer proposes to utilize the existing septic tank & existing grease trap and/or disposal well, the systems shall be inspected and serviced per the septic tank inspection form that can be downloaded from the water authority’s website via the following link:
http://www.waterauthority.ky/upimages/pagebox/fillableseptictankinspectionreportform_rev2013_1441302814.pdf*
- *The completed inspection form shall be returned to the water for review and determination as to whether the existing system meets water authority design specifications. any deficiencies noted will require repair or replacement prior to final approval for occupancy.*

Water Supply

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

- The developer shall contact water authority's engineering services department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the public water supply.*
- The developer shall submit plans for the water supply infrastructure for the development to the water authority for review and approval.*
- The developer shall install the water supply infrastructure within the site, under the water authority's supervision, and in strict compliance with the approved plans and water authority guidelines for constructing potable water mains. the guidelines and standard detail drawings for meter installations are available via the following link to the water authority's web page: <http://www.waterauthority.ky/water-infrastructure> .*

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

APPLICANT'S LETTER

"Please see below as our response to your initial Planning Review of this application.

AFTER THE FACT FEES – LPG

We will inform our client regarding the After the Fact Fees that are required.

VARIANCE – Pertaining to Set Back

With reference to your initial review on the above project, we would like to request a variance relating to the side set back to the boundary line. We note that the LPG tank was previously installed and, in all efforts to maintain a minimum distance of 10ft min to any potential equipment motors, or equipment etc. for safety reasons, and the proximity to existing structure, it dictated the only space available was near to and adjacent the boundary line as currently installed.

We note that the proposed buried LPG Tank is a 120-gals tank and has been reviewed by the OFREG as being acceptable and approved as noted in the OPS on Feb 13th, 2020. We note that the placement of the tank (buried below grade) will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public's welfare as Sect. 8 (13) (iii).

Additionally, as under Section 8. (13) (ii) the size of the site and previously approved buildings necessitates the use of LP gas for energy efficiency and lower environmental impact vs a greater consumption when using electricity. We believe this to be a more environmentally friendly solution.

HWM SURVEY

We request that the standard requirement of an HWM Survey for this application be waived, and a variance granted. We note that the location of the LPG tank is placed to the land side of structures previously given approval by the authority. Existing structure

already exists between the location of the tank and the line of the HWM, which suggest that the previous application supported a reduce setback. We note the tank is situated approximately 36 feet inside an existing Sea Wall. Additionally, the previously approved food preparation area and a lounge / bar area are all located approximately 10.5 feet from the sea wall, less than the typical 50 feet set back as a requirement under the Planning Regulation. On this basis we note that the requirement relating to an HWM Survey would not provide any useful information regarding this application. The typical required setback is not achievable and there are other precedents of structure having been granted approval with reduced setbacks on this site, adjoining and nearby site less than 500 feet away.

AFTER THE FACT FEES – MODIFICATION

We request that you reconsider applying planning fees relating to internal changes. We note on previous applications, the Planning Department has exercised the policy of not having to make a Planning change/ modification application, provided the USE of the Property or Space remained as previously approved. We note that while internal changes have occurred the USE remains as was approved. We note that we concur with the Departments policy that should the USE of a space or property remain as initially approved, internal changes relates to Building Safety and Construction only, and these changes are captured under the Building Control permitting process as relating to, Building, Mech, Electrical and Fire etc. changes and Modifications or Permitting fees are paid for in this element of the application. Accordingly, we request that this element of the additional fees be abolished.

We look forward to you reviewing our comments and request that once the additional payment has been made for the LPG tank application, that a planning approval for the LPG tank installation be granted.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission for an After-The-Fact modification to the floor plan and LPG tank

Zoning

The property is zoned General Commercial.

Specific Issues

1) Side setback

Side setbacks in a commercial zone are to be 6'. The After-the-Fact LPG tank is located wholly within the setback.

The applicant defends the placement in their letter, included in this report.

2) Parking

The Authority was advised that this site required 5 to 11 parking spaces when the subject building was proposed to be changed from a solely retail space to a restaurant use. At this time, only one (1) parking space was provided on-site. Despite no additional parking being proposed, the Authority approved the application.

The current application does not propose an increase in floor area, however the applicant has installed (without planning permission or permits) a service kitchen and outdoor bar.

No parking is shown on the site.

The Authority is requested to determine if the applicant should secure off-site parking.

SUPPLEMENTARY ANALYSIS

No changes have been made to the application.

At 1:00p, Seth Homer, Sean Reid and Waide DaCosta joined the Zoom e-conference. Summary notes are provided as follows:

- The Authority explained that there have been various approvals and then it was noticed that the patio area had turned into a bar. It is also noted that there is zero parking for the site.
- Mr. DaCosta asked Mr. Homer to provide the background. Mr. Homer noted that the owner, Sean Reid is in the Zoom waiting room and should be let in. He explained that when the matter came to his office he understood that everything existed and therefore parking was not an issue. He noted that they had an existing patio and that was useable space and now that it is a bar he's not sure why parking is needed.
- Mr. DaCosta referred to the Background section in the Agenda report and noted that when the change of use from retail to restaurant with a roof patio was approved, no parking was required. The works that occurred were necessary to upgrade the facility.
- Mr. Homer explained that in the day the customer base is cruise shippers and it is open in the evening for locals. He noted that given the layout of the bar and the need for coolers and other equipment the occupancy load is actually lower than it would be as a patio.
- The Authority asked if perhaps they could get a few off-site parking spaces, even if they were for staff.
- Mr. Reid advised that he could speak to some of the land owners in the area to see if he can get some spaces.

2. 5 CORY STRANDER (GMJ Home Plans Ltd.) Block 49C Parcel 46 (FA80-0145) (P19-0415) (P19-0889) (CS)

Application for after-the-fact balcony, attached gazebos, and front façade renovations.

The applicant did not attend the meeting at the scheduled time.

FACTS

<i>Location</i>	North Side Road, North Side
<i>Zoning</i>	LDR
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.24 AC/10,454 sq. ft.
<i>Proposed use</i>	Unknown
<i>Building footprint</i>	3,634 sq. ft.
<i>Building area</i>	7213 sq. ft.
<i>Site coverage</i>	35%

BACKGROUND

July 11, 2018- Modification to the roof and exterior façade were administratively approved.

May 2019- CPA determined that a high water mark survey would not be required for an application for gazebos.

February 5, 2020 (CPA/03/20; Item 2.8) The Authority resolved to adjourn the subject application to invite the applicant to appear before them to discuss details of the application.

Decision: It was resolved to adjourn the application and re-invite the applicant to attend a meeting of the Authority in order to fully explain the proposal. Should the applicant not attend the scheduled meeting, the Authority will proceed to consider the application in the applicant’s absence and render a final decision.

AGENCY COMMENTS

Comments from the Department of Tourism, Department of Environmental Health, Department of Environment, National Roads Authority, and water Authority are noted below.

Department of Tourism

“Additional information is required for this project. questions below:

- 1. is this project intended to be a tourism accommodation?*
- 2. number of bedrooms required*
- 3. overall property details required*

this information should be submitted to jprawlik@caymanislands.ky for final decision from the department of tourism.”

Department of Environmental Health

“DEH has no objections to the proposed in principle.”

Department of Environment

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

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

National Roads Authority

“As per your email dated December 13th, 2019 the NRA has reviewed the above-mentioned planning proposal.

The NRA has no objections or concerns with this application.

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

Water Authority

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

Wastewater Treatment and Disposal

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

- The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per***

manufacturer’s guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. **The proposed system shall have a treatment capacity of at least 4,056 US gallons per day (gpd), based on the following calculations.**

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Hotel Rooms	11 Rooms	100gpd/Room	1,100	1,100
Restaurant & Bar	2,956 sqft	1gpd/sqft	2,956	2,956
TOTAL				4,056

- **Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.**
- **To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4’7” above MSL or 5’10” if installed less than 100ft from the sea. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.**

Existing septic tank shall be decommissioned

The Existing septic tank shall be decommissioned as per the Water Authority’s Best management: practices:

http://www.waterauthority.ky/upimages/download/BMPs_abandoned_WW_systems1_1423220782.pdf

Grease Interceptor Required

A grease interceptor with a minimum capacity of 2,956 US gallons is required to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g., pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. Where 2 tanks are used to achieve the required capacity, they shall be installed in series with the larger tank first. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the ATU.

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 will 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.

APPLICANT’S LETTER

“We write on behalf of the applicant, Cory Strander, with regards to the following;

- *A side setback variance - to allow the ATF Gazebos to remain as built with setback less than the required 15ft from the property line.*
- *A site coverage Variance - We request permission for the subject matter per the drawings provided and humbly the following reasons:*

Per section 8(12)(d) of the Planning Regulations, the adjacent property owners have been notified;

Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare; The side setback for the gazebos falls in line with the setback of the sidewalls the existing structure. The gazebos have been built over an existing approved concrete deck.

The application complies with all other relevant planning requirements.”

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission for an After-The-Fact wrap-around balcony, two attached gazebos, and After-The-Fact front façade renovations.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Land Use

The existing building appears to have been approved as apartments in 1980 and then changed to a hotel in 1995. For several years the building has been vacant. The applicant has started exterior renovations, without planning permission, which these applications aim to rectify.

The applicant has provided floor plans for informational purposes only (not to be considered by CPA). The floor plans show 11 bedrooms on the second floor and an open space on the ground level. There are no kitchen or laundry facilities provided.

Upon conducting a site visit, the building's interior has been gutted.

Based on the information provided, it is not clear what the intended use is for the property. The Department made attempts to seek clarification from the applicant, however the applicant never responded.

2) Parking

There is no parking provided on site. Regardless of what the building will be classified, parking will be required. Again the Department reached out to the applicant for an explanation with no response provided.

3) Side Setback

The existing building has an 11'2" and 8'10" side setback. With the after-the-fact renovations, the setbacks have been reduced to 10' and 4'10".

4) Site Coverage

Before the after-the-fact improvements were made, the site coverage was 30%. With the added balconies (which have columns on the ground) and gazebos, the site coverage has increased to 35%, which exceed the maximum permitted (30%).

SUPPLEMENTARY ANALYSIS #1

There have been no changes to the plans as the application was previously adjourned in order to invite the applicant to appear before the Authority.

SUPPLEMENTARY ANALYSIS #2

There have been no changes to the plans as the application.

2. 6 TONY LALOR (Bank Construction Ltd.) Block 25B Parcel 256 (FA91-0205) (P19-0891) (\$87,500) (CS)

Application for after-the-fact addition to create a fourth apartment.

Appearance at 2:00

FACTS

<i>Location</i>	Mangrove Avenue, Prospect
<i>Zoning</i>	LDR
<i>Parcel size</i>	10,001 sq. ft.
<i>Current use</i>	Three (3) Apartments
<i>Proposed use</i>	Apartments

<i>Proposed floor area</i>	+547 sq. ft.
<i>Building footprint</i>	+547 sq. ft.
<i>Site coverage</i>	27%

BACKGROUND

August 7, 1991 (CPA/18/91; Item 3.9) The Authority granted planning permission for three apartments.

October 17, 2007 (CPA/30/07; Item 2.6) The Authority resolved to modify planning permission to modify building elevations and parking area.

October 8, 2008 (CPA/33/08; Item 2.12) The Authority granted planning permission for a shed.

March 4, 2009 (CPA/07/09; Item 2.20) The Authority resolved to grant planning permission for a shed subject to the following condition:

- 1) The applicant shall obtain a letter from the adjacent land owner consenting to the deficient side setback. The Certificate of Occupancy for the apartment building shall not be granted until this written consent is received.

March 4, 2020 (CPA/05/20; Item 2.10) The Authority resolved to adjourn the subject application to invite the applicant to appear before them to discuss concerns regarding the lot size, setbacks and parking layout.

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

1. The application does not comply with the minimum lot size requirement and the rear and side setback requirements per Regulations 9(8)(f),(i) and (j) of the Development and Planning Regulations (2018 Revision) and the Authority is of the opinion that pursuant to Regulation 8(13)(b), the applicant failed to demonstrate that there is sufficient reason and exceptional circumstance to warrant allowing the lesser lot size and lesser setbacks.
2. Parking stalls 3 and 6 do not properly function as there is inadequate space to reverse out of the spaces.
3. The after-the-fact unit shall be removed no later than 60 days from the date of this decision.

AGENCY COMMENTS

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

National Roads Authority

“As per your memo dated September 27th, 2019 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 after the fact addition.

Department of Environmental Health

“1. DEH has no objections to the proposed. This development requires a minimum of four (4) 33 gallon garbage bins.

a. The site plan must be revised to indicate the additional garbage bin and submitted to DEH.”

Water Authority

“Please be advised that the water authority’s requirements for this development are as follows:

Wastewater treatment & disposal

- The developer shall provide a septic tank with a capacity of at least (1,500) us gallons for the existing and proposed addition. the septic tank shall be constructed in strict accordance with the authority’s standards. each compartment shall have a manhole to allow for inspection and service. manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the authority’s standards. licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the authority prior to pricing or constructing an effluent disposal well.*
- To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’8” 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.*

Existing septic tank

If the developer proposes to utilize the existing septic tank and/or disposal well, the system shall be inspected and serviced per the septic tank inspection form that can be

*downloaded from the water authority's website via the following link:
<https://bit.ly/2ro8mbb>*

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

Water supply

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

- the developer shall contact water authority's engineering services department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the public water supply.*
- the developer shall submit plans for the water supply infrastructure for the development to the water authority for review and approval.*
- the developer shall install the water supply infrastructure within the site, under the water authority's supervision, and in strict compliance with the approved plans and water authority guidelines for constructing potable water mains. the guidelines and standard detail drawings for meter installations are available via the following link to the water authority's web page:
<http://www.waterauthority.ky/water-infrastructure> .*

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

Department of Environment

"Under delegated authority from the National Conservation Council (section 3 (13) of the national conservation law, 2013), the department of environment confirms that we have no comments."

APPLICANT'S LETTER

"I write on behalf of Tony Lalor who recently applied to the Department of Planning for approval of an already existing structure. The application requires a request for a few variances due to lot size, side and back setback encroachment and density. Regulation 8(13)(b) of the Development and Planning Regulations (2018 Revision) states " (b) there is sufficient reason to grant a variance and an exceptional circumstance exists, which may include the fact that –

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

- (ii) *unusual terrain characteristics limit the site's development potential; or (iii) the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare; or Development and Planning Regulations (2018 Revision)*

To date the other approved structures have not been detrimental to the neighborhood or to public welfare. As such, the structure in question was constructed in order to provide additional income to assist Mr. Lalor with providing for his family and mortgage, as the adjacent lot was vacant no complaints or concerns were expected from the property owner.

It is further noted, that the adjoining property owners have been notified of the application.”

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission for an After-The-Fact addition to create a fourth apartment.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot Size

The minimum lot size required for apartments within the LDR zone is 25,000 s.f, however this site is 10,001 s.f. which is also deficient for a duplex.

2) Side and Rear Setbacks

The addition encroaches both the north side setback and rear setback, measuring 3’7” from the side and 10’ from the rear.

3) Parking

The applicant has added additional parking to accommodate the third unit, however there is inadequate reversing space for stalls 3 & 6.

SUPPLEMENTARY ANALYSIS

No changes have been made to the application.

At 2:00pm, Mr. Lalor and Lenworth Green joined the Zoom e-conference. Summary notes are provided as follows:

- The Authority noted this is an after-the-fact addition and there are issues with the lot size and setbacks.
- Mr. Green explained that it is after-the-fact so how do they go about addressing those issues.
- The Authority explained the work was done without planning permission and they are asking for variances.
- The Authority asked how far along was the construction and Mr. Green replied it is completed. The Authority asked if there had been any inspections and Mr. Green replied no, there weren't any.
- The Authority asked what is the construction material and Mr. Lalor replied that there is a concrete slab with wood framing.

2.7 TANJA SCOTT (Pro Repairs and Development) Block 28C Parcel 548 (F19-0657) (P19-1219) (\$550,000) (MW)

Application for four (4) apartments.

Appearance at 1:45

Ashton Bodden declared a conflict and left the e-conference.

FACTS

<i>Location</i>	Roses Estate Dr., Bodden Town
<i>Zoning</i>	LDR
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size Proposed</i>	0.3788 AC/16,500.528 sq. ft.
<i>Parcel Size Required</i>	25,000 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	4 Unit Apartment Complex
<i>Building Size</i>	4,845 sq. ft.
<i>Building Coverage</i>	29.4%
<i>Apartments Proposed</i>	4
<i>Apartments Allowed</i>	5
<i>Bedrooms Proposed</i>	9 (10?)
<i>Bedrooms Allowed</i>	9
<i>Proposed Parking</i>	8 spaces
<i>Required Parking</i>	6 spaces

BACKGROUND

March 4, 2020 (CPA/05/20; item 2.15) – application was adjourned to invite in regarding various issues

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

Conditions (1-7) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall submit revised plans showing:
 - a) The floor plan of Unit 3 the same as that of Unit 4 (i.e. only one bedroom)
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the **aerobic** wastewater treatment system (including the disposal system).
- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 6) Construction drawings for the proposed **aerobic** wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 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.

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

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

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

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**.

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

Reasons for the decision:

- 1) Per Regulation 9(8) of the Development and Planning Regulations (2018 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
 - There are no physical constraints on the site that would prevent the development of apartments.
 - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
 - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the lot size and lot width, which are addressed below, the application complies with the Development and Planning Regulations (2018 Revision).
- 3) The proposed application does not comply with the minimum required lot size and lot width per Regulations 9(8)(f) and (g) of the Development and Planning Regulations (2018 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b)

there is sufficient reason and exceptional circumstance to allow the lesser lot size and lot width as follows:

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

AGENCY COMMENTS

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

National Roads Authority

“As per your memo dated November 26th, 2019 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

The traffic demand to be generated by a residential development of a four (4) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Roses Estate Drive is as follows:

Expected Daily Trip	AM Peak Hour Total Traffic	AM Peak 16% In	AM Peak 84% Out	PM Peak Hour Total Traffic	PM Peak 67% In	PM Peak 33% Out
27	2	0	2	3	2	1

Based on these estimates, the impact of the proposed development onto Roses Estate 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-four (24) ft.

A six (6) foot sidewalk shall be constructed on Roses Estate 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 use of alternative construction techniques. However, it is critical that the development be designed so that post-development stormwater runoff **is no worse than** pre-development runoff. To that effect, the following requirements should be observed:*

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

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

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

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

Water Authority

PLEASE BE ADVISED THAT THE WATER AUTHORITY'S REQUIREMENTS FOR THIS DEVELOPMENT ARE AS FOLLOWS:

WASTEWATER TREATMENT & DISPOSAL

- *THE DEVELOPER SHALL PROVIDE A SEPTIC TANK WITH A CAPACITY OF AT LEAST (2,000) US GALLONS FOR THE PROPOSED. THE SEPTIC TANK SHALL BE CONSTRUCTED IN STRICT ACCORDANCE WITH THE AUTHORITY'S STANDARDS. EACH COMPARTMENT SHALL HAVE A MANHOLE TO ALLOW FOR INSPECTION AND SERVICE. MANHOLES SHALL EXTEND TO OR ABOVE GRADE AND BE FITTED WITH COVERS THAT PROVIDE A WATER-TIGHT SEAL AND THAT CAN BE OPENED AND CLOSED BY ONE PERSON WITH STANDARD TOOLS. WHERE SEPTIC TANKS ARE LOCATED IN TRAFFIC AREAS, SPECIFICATIONS FOR A TRAFFIC-RATED TANK AND COVERS ARE REQUIRED.*
- *TREATED EFFLUENT FROM THE SEPTIC TANK SHALL DISCHARGE TO AN EFFLUENT DISPOSAL WELL CONSTRUCTED BY A LICENCED DRILLER IN STRICT ACCORDANCE WITH THE AUTHORITY'S STANDARDS. LICENCED DRILLERS ARE REQUIRED TO OBTAIN THE SITE-SPECIFIC MINIMUM BOREHOLE AND GROUTED CASING DEPTHS FROM THE AUTHORITY PRIOR TO PRICING OR CONSTRUCTING AN EFFLUENT DISPOSAL WELL.*
- *TO ACHIEVE GRAVITY FLOW, TREATED EFFLUENT FROM THE SEPTIC TANK SHALL ENTER THE DISPOSAL WELL AT A MINIMUM INVERT LEVEL OF 4'11" ABOVE MSL. THE MINIMUM INVERT LEVEL IS THAT REQUIRED TO MAINTAIN AN AIR GAP BETWEEN THE INVERT LEVEL AND THE WATER LEVEL IN THE WELL, WHICH FLUCTUATES WITH TIDES AND PERCHING OF NON-SALINE EFFLUENT OVER SALINE GROUNDWATER.*

WATER SUPPLY

THE PROPOSED DEVELOPMENT SITE IS LOCATED WITHIN THE WATER AUTHORITY'S PIPED WATER SUPPLY AREA.

- *THE DEVELOPER SHALL CONTACT WATER AUTHORITY'S ENGINEERING SERVICES DEPARTMENT AT 949-2837, WITHOUT DELAY, TO BE ADVISED OF THE SITE-SPECIFIC REQUIREMENTS FOR CONNECTION TO THE PUBLIC WATER SUPPLY.*
- *THE DEVELOPER SHALL SUBMIT PLANS FOR THE WATER SUPPLY INFRASTRUCTURE FOR THE DEVELOPMENT TO THE WATER AUTHORITY FOR REVIEW AND APPROVAL.*
- *THE DEVELOPER SHALL INSTALL THE WATER SUPPLY INFRASTRUCTURE WITHIN THE SITE, UNDER THE WATER AUTHORITY'S SUPERVISION, AND IN STRICT COMPLIANCE WITH THE APPROVED PLANS AND WATER AUTHORITY GUIDELINES FOR CONSTRUCTING POTABLE WATER MAINS. THE GUIDELINES AND STANDARD DETAIL DRAWINGS FOR METER INSTALLATIONS ARE AVAILABLE VIA THE FOLLOWING LINK TO THE WATER AUTHORITY'S WEB PAGE: [HTTP://WWW.WATERAUTHORITY.KY/WATER-INFRASTRUCTURE](http://www.waterauthority.ky/water-infrastructure) .*

THE AUTHORITY SHALL NOT BE HELD RESPONSIBLE FOR DELAYS AND/OR ADDITIONAL COSTS INCURRED BY THE DEVELOPER DUE TO THE DEVELOPER'S FAILURE TO PROVIDE SUFFICIENT NOTICE TO THE AUTHORITY.

Department of Environmental Health

1. *The Department has no objections to the proposed.*
2. *This development will require (4) 33 gallon garbage bins within a 5ft W x 5 ft L x 2.50 ft H enclosure.*

Fire Department

Fire Approval 8 Jan. 2020

APPLICANT LETTER

We are applying for lot size & lot width variances to construct Savanna Gem Apartments on Block 28C Parcel 548 which have a square footage of 16,500.528 and width of 91.29 feet.

Based on the requirements to construct apartments we need additional 8,499.472 sq. ft. for lot size and 8.71 feet Lot width to meet regulation. The design is compliant with all other requirements.

The applicants are two young Caymanian hoping to construct apartments to help with their family finances for the future. However, they were not aware of the requirements when purchasing the land.

Our checks of Apartments in the area with similar issues, indicate that these apartments would not change the aesthetic of the area.

With respect Section 8(13) of The Development and Planning Regulations (2018 Revision).

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

We trust that the Department will grant the requested variances for this development.”

PLANNING DEPARTMENT ANALYSIS

General

The application is for a four (4) unit apartment complex to be located on Roses Estate Dr., Bodden Town.

Zoning

The property is zoned Low Density Residential.

Specific Issue

a) Suitability

Regulation 9(8) states that apartments may be permitted in suitable locations.

The surrounding area consists mainly of residential homes and vacant parcels with a few apartments within the nearby vicinity (28C 108 and 531).

b) Lot Size

Regulation 9(8)(f) of the Development & Planning Regulations (2018) states the minimum lot size for Apartments is 25,000 sq. ft. The proposed parcel would only be 16,500.528 sq. ft. (0.3788 Ac.) a difference of 8,499.472 sq. ft.

c) Lot Width

Regulation 9(8)(g) of the Development & Planning Regulations (2018) states the minimum lot width for apartments is 100'. The proposed parcel is currently only 91.29' a difference of 8.71'.

d) Bedrooms

Units 1 and 2 are designed with three bedrooms. Unit 3 is the same design as Units 1 and 2 with the exception that bedroom 2 is labelled as a dining room – the closet has been removed and there is a half wall opening into the kitchen. If this dining room is considered a bedroom then the applications would exceed the allowable number of bedrooms by one.

SUPPLEMENTARY ANALYSIS

No changes have been made to the plans.

At 1:45pm, Tanja and Dwight Scott and Owen Powis joined the Zoom e-conference. Summary notes are provided as follows:

- The Authority asked if there were other apartments in the area and Mr. Powis replied there were on 28C 531. The Authority noted that parcel is in a different subdivision. Mr Powis noted that there is a 3-plex on 28C 108.
- The Authority noted that notices were sent out and there were no objections and they are seeking a lot size variance.
- The Authority asked if the dining room will become a bedroom and Mr. Powis advised that he has revised the plan such that Unit 3 is the same as Unit 4 with only one bedroom, but he had trouble uploading it to OPS.

2. 8 RUMPOINT COTTAGE (Encompass Cayman) Block 40A Parcel 45 (F19-0702) (P19-1360) (\$480,000) (JP)

Application for a house and pool with associated deck.

The applicant did not attend the meeting at the scheduled time.

FACTS

<i>Location</i>	Rum Point Drive, North Side
<i>Zoning</i>	LDR
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.26 AC/11,326 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Residential

BACKGROUND

March 4, 2020 (CPA/05/20; item 2.16) – application was adjourned to invite in regarding the HWM setback

Decision: It was resolved to adjourn the application and re-invite the applicant to attend a meeting with the Authority to discuss concerns regarding the proposed high water mark setback.

AGENCY COMMENTS

Comments from the Department of Environment are noted below.

Department of Environment

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

The application site consists of coastal shrubland primary habitat, and is adjacent to a Marine Protected Area (No Dive Zone). The Department notes that from the plans submitted, it depicts the coastline as ironshore. This is inaccurate and it should be considered as a beach coastline. From the 2018 aerial imagery, the coastline can be mistaken for ironshore, however, what is shown is accumulated seagrass (see Figures 2 and 3), which is a common occurrence on beaches along Northside/Rum Point coastline.



Figure 1: LIS 2018 aerial imagery showing application site



Figure 2: Photo showing application site coastline (Source DOE, 6 Jan 2020)



Figure 3 showing beach immediately in front of the application site (Source DOE, 6 Jan 2020)

Given that this is a beach location and not ironshore, the minimum coastal setback for the property would be 75ft as per the Development and Planning Regulations (2018 Rev). It is imperative that minimum coastal setbacks are met for all structures including pool and pool decks, particularly given climate change predictions for the region and the increasing prevalence of coastal erosion associated with inappropriately sited development, either on the active beach or too close to the Mean High Water Mark.

In conclusion, the applicant should be encouraged to submit a revised plan where the development meets the minimum required coastal setbacks and to take into consideration the climate change impacts and incorporate climate change resilient features such as raised/wash through foundations for the deck and house. However, if the CPA is minded to grant planning permission for this application, we recommend the inclusion of the below conditions in any grant of planning approval:

- *Any sand that is to be excavated during construction should be retained on-site and beach quality sand should be placed along the active beach profile. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it should be the subject of a separate consultation with the National Conservation Council.*

- *All construction materials shall be stockpiled away from the sea to prevent run-off and debris from entering the marine environment.”*

APPLICANT’S LETTER

“We have been engaged by the property owner to develop a residential waterfront House at the address stated above.

The proposed House has been virtually positioned on the site plan to maximize considerations such as local climate, view, terrain, vegetation, street access and noise.

The Cayman Islands Development and Planning regulations states that the following setback provisions apply to waterfront property – “in areas where the shoreline is beach (except hotel and tourist related zones), all structures and buildings, including ancillary buildings, walls and structures, shall be setback a minimum of seventy five feet from the high water mark.”

We also understand that The Planning Authority may grant permission for setbacks to be located at a lesser distance than that prescribed. Against this background we are requesting a variance on the rear setback from 75 ft. to 41ft.

The site plan shows this 41 ft. distance as the rear setback from the pool deck stairs to water mark. This layout will allow the lot to be properly developed into a single family home.

If granted the variance will not change the character of the zoning district as the setback will be in line with the other houses and it will not adversely affect the health, safety or welfare of the neighboring adjacent developments. 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. Moreover, our client also owns the adjacent lots.

We thank you in advance for your consideration with this appeal for a setback variance.”

PLANNING DEPARTMENT ANALYSIS

General

The application site is located within the Rum Point area of North Side. The Caribbean Sea forms the northern boundary with Rum Point Drive providing access to from the south. Vacant neighbouring land is sited to the west and a vacant lot, owned by the applicant, forms the eastern boundary.

The application seeks planning permission for a house with pool and deck.

Zoning

The property is zoned Low Density Residential.

Specific Issues

a) High water mark setback 40’ 7” v 75’

Regulation 8(10)(b) establishes a minimum setback on a beach shoreline in residential areas of 75 feet from the High Water Mark.

Regulation 8(11) enables the Authority to grant a lesser setback in certain situations. In this instance of relevance would be the existence of a protective reef adjacent to the proposed development site. For the avoidance of doubt, no protective reef exists adjacent to the application site.

Firstly, members are invited to note the applicant owns the adjoining lot to the east. This provides the opportunity to design a property which spans across two lots to prevent encroaching into the high water mark setback, thereby ensuring both life and property are protected from storm surges.

Secondly, it is recognised the 75’ setback results in a narrow area of development. However, the design submitted utilises potential developable area for the provision of a parking area and siting of a septic tank. Members may consider the existing application site could be better executed in general conformity with the Regulations whereby parking and septic tank is sited in front of the house, thereby, providing site area to redesign a linear house whereby enabling enclosed accommodation to be sited adjacent outside of the 75’.

Members are invited to consider the agents letter seeking to justify the development.

SUPPLEMENTARY COMMENTS

No changes have been made to the plans.

2.9 CARMEL WEAVER (Johnson Design & Architecture) Block 13B Parcel 39 (FA83-0154) (P19-1420) (\$90,000) (EJ)

Application for a house.

Appearance at 2:10

FACTS

<i>Location</i>	Park Lane
<i>Zoning</i>	LDR
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size Proposed</i>	0.30 AC/13,068 sq. ft.
<i>Current Use</i>	House and Pool

<i>Proposed Use</i>	Additional House
<i>Parking required</i>	2
<i>Parking Proposed</i>	2
<i>Site Coverage Allowed</i>	30%
<i>Site Coverage Proposed</i>	25.99%

BACKGROUND

March 4, 2020 (CPA/05/20; item 2.17) - application adjourned to invite in

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

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

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

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

Reasons for the decision:

- 1) With the exception of the lot size and front setback, which are addressed below, the application complies with the Development and Planning Regulations (2018 Revision).
- 2) The proposed application does not comply with the minimum required lot size and front setback per Regulations 9(8)(d) and (i) of the Development and Planning Regulations (2018 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size and setback as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
 - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

APPLICANT LETTER

Kindly accept this letter requesting a setback and lot size variance for a proposed guest house on Park Lane, located in a Low Density Residential zone.

FRONT SETBACK VARIANCE

After the neighboring parcel (now 13B 215) was granted planning permission to build apartments, Park Lane was terminated and there is no longer a functioning road in front of this proposed structure. It is 10' away from this property boundary and I ask that planning consider this front setback more like a side setback because there's no longer a road used on this property boundary. I have enclosed a picture here showing the how Park Lane no longer has thru traffic.

SIDE SETBACK VARIANCE

The proposed building is setback 10'-9" from the side property boundary. Given the small footprint of it, please consider this variance where the required setback is 15' for a 2 story building.

LOT SIZE VARIANCE

For 2 houses, the lot is required to be 20,000sf. The size of the lot is 11,690sf or 0.27 acres. Given the very small footprint of the building (444sf) when compared to a typical house, I ask that you consider this variance.

Please note the following sections of the Development and Planning Law with this application:

- This application is not 'materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare' as stated in section 8(13)(b)(iii), and*
- As per Section 8(13)(d), notification letters have been sent out to adjoining property owners regarding this setback variance and no objections have been made to date.*

PLANNING DEPARTMENT ANALYSIS

General

The applicant is seeking a lot size variance, a front and left-side setback variance for the proposed one (1) bedroom, 2-storey detached house located at Park Lane in George Town.

Zoning

The land is zoned Low Density Residential.

Specific Issues

a) Lot size variance

The applicant is seeking a lot size variance for the proposed two-storey detached house. Regulation 9)(8)(d) requires a minimum lot size of 10,000 square feet for each house; therefore, the parcel will be undersized by 6,932 square feet, giving that the existing parcel is only 13,068 square feet and already has a house.

b) Front and side setback variance

Per Regulation 9)(8)(i) and (j); the required front setback is 20' the required side setback is 15'. The applicant is seeking two setback variances proposed at 10' respectively from the front and left side boundary.

c) Proposed parking layout

Although the site is at the end of Park Lane, the applicant proposes to have two parking spaces directly off Park Lane. The Authority has traditionally discouraged reversing onto roads, but has shown some discretion when minor roads are involved. The Authority should determine if the proposed site design will result in any traffic safety problems.

SUPPLEMENTARY ANALYSIS

No changes have been made to the plans.

At 2:10pm, Rob Johnson joined the Zoom e-conference on behalf of the applicant. Summary notes are provided as follows:

- The Authority summarized the application and indicated that the site is on a dead end so the parking should be okay. The Authority asked if the adjacent land owners were notified.
- Mr. Johnson replied they were and no objections were received.
- The Authority asked if they could connect the two houses into one duplex then they could meet the setback and lot size requirements.
- Mr. Johnson replied that his client would prefer the separate in-law suite.
- The Authority asked if it is two storeys so a 15' side setback is required and Mr. Johnson noted that is correct.

2.0 APPLICATIONS
REGULAR AGENDA (Items 2.10 to 2.12)

2. 10 CHURCH OF GOD PROPHECY (Doak Architecture) Block 44B Parcel 400 & Block 43A Parcel 75 (F13-0008) (P19-1212) (\$10M) (CS)

Application for a church with an auditorium and classrooms.

FACTS

<i>Location</i>	Anton Bodden Drive, Bodden Town
<i>Zoning</i>	MDR
<i>Notice requirements</i>	Objections
<i>Parcel size</i>	2.5AC/109,860 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed use</i>	Church
<i>Building size</i>	31,558 sq. ft.
<i>Building footprint</i>	21,927 sq. ft.
<i>Site coverage</i>	20%
<i>Parking provided</i>	159

BACKGROUND

April 3, 2013 (CPA/07/13; Item 2.12) The Authority granted planning permission for a church with auditorium hall and classroom block.

March 29, 2017 (CPA/07/17; Item 2.17) The Authority granted planning permission for a church addition.

January 8, 2020 (CPA/01/20; Item 2.11) The Authority resolved to adjourn the subject application for the following reason:

- 1) The applicant is required to submit a revised site plan showing a minimum of 210 parking spaces.

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

Conditions (1-7) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide a copy of the submission made to the Registrar of Lands to combine Block 44B Parcel 400 with Block 43A Parcel 75.

- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the **aerobic** wastewater treatment system (including the disposal system).
- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 6) Construction drawings for the proposed **aerobic** wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 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.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) 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 (10) shall be complied with before a final Certificate of Occupancy can be issued.

- 10) Block 44B Parcel 400 and Block 43A Parcel 75 shall be combined and registered with a new parcel number.

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.

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**.

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

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 (2018 Revision).

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment and Disposal

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

- ***The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer's guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 3,304 US gallons per day (gpd), based on the following calculations (see table in Attachments).***
- ***Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority's standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.***
- ***To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4'6" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.***

Elevator Installation

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

Generator and Fuel Storage Tank(s) Installation:

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

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 will 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

"Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment confirms that we have no objections at this time as the site is man-modified and of limited ecological value.

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

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission for a church, auditorium and classrooms.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Suitability

Regulation 14(2) of the Development and Planning Regulations (2018 Revision) states that religious institutions are permissible in any zone where they meet the needs of the community. In this instance, the Authority must determine whether the proposed church meets the needs of the community thereby complying with the aforementioned regulation.

2) Parking

This application has been submitted due to the Planning permission granted in 2013 having expired. The current application has been submitted to allow the church to move forward with Permit review and is very similar to what the Authority previously considered.

The Authority deemed 159 spaces appropriate for 29,379 sq. ft. per CPA/07/17; Item 2.17. The applicant has slightly increased the floor area by 1,179 sq. ft.

SUPPLEMENTARY ANALYSIS

The applicant has revised the site plan to provide 226 parking spaces.

2. 11 LEGOLAND REAL ESTATE (Arco Ltd.) Block 4D Parcel 133 & 134 (F20-0049) (P20-0080) (\$20M) (JP)

Application for 192 one bedroom apartments arranged over 24 two storey buildings, laundry building, pool and lpg tanks.

Kris Bergstrom and Fred Whittaker declared conflicts and left the e-conference.

FACTS

<i>Location</i>	Batabano Road, West Bay
<i>Zoning</i>	NC/MDR
<i>Notice requirements</i>	No Objectors
<i>Parcel size proposed</i>	18AC/348,480 sq. ft.
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed use</i>	Residential
<i>Building size</i>	109,610 sq. ft.
<i>Building site coverage</i>	16.43%

<i>Allowable units</i>	see below
<i>Proposed units</i>	see below
<i>Allowable bedrooms</i>	see below
<i>Proposed bedrooms</i>	see below
<i>Required parking</i>	288
<i>Proposed parking</i>	290

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

Conditions (1-7) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide a copy of the submission made to the Registrar of Lands to expunge the existing pedestrian easements that travel along the north portions of both subject parcels.
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the **aerobic** wastewater treatment system (including the disposal system).
- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 6) Construction drawings for the proposed **aerobic** wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 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 construction drawings for the proposed swimming pool shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) 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 (11) shall be complied with before a final Certificate of Occupancy can be issued.

- 11) The pedestrians easements noted above in condition 1) shall be expunged.

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.

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**.

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

Reasons for the decision:

- 1) Per Regulation 9(7) of the Development and Planning Regulations (2020 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
 - There are no physical constraints on the site that would prevent the development of apartments.
 - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.

- There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the apartment and bedroom density in the Medium Density Residential zone and the residential development on the ground floor in the Neighbourhood Commercial zone, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
 - 3) The proposed application does not comply with the maximum allowable apartment and bedroom density in the Medium Density Residential zone per Regulation 9(7)(c) of the Development and Planning Regulations (2020 Revision) and the proposed application includes residential development on the ground floor in the Neighbourhood Commercial zone which is contrary to Regulation 13(9) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the additional density and the residential development on the ground floor as follows:
 - a) The site is not particularly suited for commercial development;
 - b) The characteristics of the proposed development are consistent with the character of the surrounding area; and
 - c) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.
 - 4) The Authority takes the view that the overall apartment and bedroom density in the Neighbourhood Commercial zone is acceptable and in keeping with the area.
 - 5) Conditions of approval will be imposed requiring the expunging of the existing pedestrian easements running along the northern portions of both subject parcels.

AGENCY COMMENTS

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

Water Authority

Wastewater Treatment and Disposal

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

- *The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer’s guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 28,800 US gallons per day (gpd), based on the following calculations.*

Building	Units/bldg	GPD/unit	GPD/bldg	GPD
<i>Buildings 1-24</i>	8	150	1200	1200
Total				28,880 GPD

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

Water Supply

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

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

National Roads Authority

Road Capacity Issues

“The traffic demand to be generated by a residential development of a one-hundred and ninety-two (192) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Batabano Rd is as follows:

<i>Expected daily trip</i>	<i>AM peak hour total traffic</i>	<i>AM peak 16% in</i>	<i>AM peak 84% out</i>	<i>PM peak hour total traffic</i>	<i>PM peak 67% in</i>	<i>PM peak 33% out</i>
1273	98	16	82	119	80	39

Based on these estimates, the impact of the proposed development onto the surrounding road network during peak hours is considered to be moderate.

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. The applicant has provided the required thirty-six (36)ft. entrance width with one (1) entry with a tapered entry and two (2) exiting lanes.

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

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

Stormwater Management Issues

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

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

basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.

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

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

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

Department of Environmental Health

- *The property requires (4) 8yd³ containers with servicing a minimum of twice per week.*
- *Specifications for the swimming pool must be provided to the department prior to construction of the pool.*

Department of Environment (NCC)

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

The Department notes that the applicant has removed the proposed lake from the scheme. The Department has no major environmental concerns at this time as the site is man-modified and of low ecological value. If there is any native vegetation on site, we recommend that it is retained and incorporated into the landscaping scheme and any proposed planting utilizes native species. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a cost-effective and sustainable choice for landscaping."

APPLICANT LETTERS

Letter #1

"Legoland Real Estate Limited is proposing to develop a 8.00 acre plot with 192 apartments of one bedroom units. A concern was expressed regarding the fact that the sole type of apartment could be seen as a project that does not integrate a mix variety of apartment types. It is important to mention that when looking for the ideal mix of apartments we search to fulfil the needs of the community and specially offer the the type of units that might be missing from the array of available options. It is evident from the

research we have done that the shortage of accommodation in single room apartments is high and the need to provide good quality economical solutions is of great benefit for the community. The mix of existing units on the region is lacking the inclusion of this type of apartments as a support to the normal functioning of the neighborhood. Local members of the close community as well as an important floating community of workers on temporary jobs that stay in Cayman for a few years and then leave the island require projects like this one. To offer solution to this demand will only translate in benefit to the area. Singles and couples will enjoy good quality accommodation at competitive rates. This will bring a positive element and produce a better quality of life for the sector that is in most need. Legoland Real Estate Limited does not develop its project for sale. It is our philosophy to keep ownership of our projects to rent them out to the community at competitive rates and at the same time overseeing the good quality maintenance of our buildings, gardens and parking areas. We are proud of our developments and of their good appearance over the years. We strive to have tenants that enjoy their life in a good place to live. We respectfully ask CPA to consider approval to our project as a need for the area and vicinity with total certainty that this project is a positive development to the immediate community. All recommendations and comments from the various Authorities have been taken into consideration in order to produce a project of the highest standards and local requirements.

VARIANCE REQUEST

The proposed density of the project meets the maximum permitted number of rooms per acre. In this case 120 units are proposed. Because we know the need 1-bedroom units the proposed number of apartment will surpass the permitted number of xxx But this increase in units does not impact in the practical sense of the number of persons living in it. The density in real terms remain the same. The proximity of the by-pass will avoid the traffic impact that the project could generate.”

Letter #2

“The application for LEGOLAND 4D 133 AND 134 for the purpose of Apartment units include two (2) Right of Ways as noted on the land registry as follows:

- 1. 20' vehicular ROW in favour of 4D-405 which we will respect and keep in its current state.*
- 2. Old pedestrian ROW noted over 4D-133 and 4D-134 which is non existent.*

Our intention is to request the deletion from the registry when we do the amalgamation of the 2 plots.”

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in the West Bay area of the directly north of Batabano Road, which serves the site. Vacant land bounds the site to the east with single houses/duplexes sited to the north and west.

The application seeks planning permission for 192 one bedroom units arranged across 24 two storey buildings with a laundry building and swimming pool as onsite facilities.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

The application seeks planning permission for apartments on a site which is split by two zones – neighbourhood commercial and medium density residential.

Members are invited to consider the principle and suitability of the development in light of the Regulations.

Principle

The majority of the site, 4.373 ac, forms the western part which includes the frontage and entrance to the parcel of land is zoned for Neighbourhood Commercial use.

The purpose of Neighbourhood Commercial caters ‘for the needs of persons resident in the zone’ example reducing the number of vehicle movements by providing commercial premises.

Regulation 13(9) does not permit residential development on the ground floor of proposed buildings.

Supporting information does not address conflict with Regulations.

Members are invited to consider whether the proposed full residential use of the site is acceptable in light of the Regulations.

Suitability

The rear part of the site, 3.50 ac, is zoned as Medium Density Residential.

Regulation 9(7) requires an assessment on the suitability of the location for, in this instance, apartments.

Members are invited to note apartments complexes are located 800 ft to the west. However, consideration should be given to the scale and character of the proposed development which consists solely of one bedroom apartment units. Members are

encouraged to consider if the proposed scheme reflects sound development and whether an inclusive community would be created.

2) Apartment density

Currently the site is split by two zones, neighbourhood commercial and medium density residential. The Regulations do not provide density provisions for the neighbourhood commercial zone. However, the rear part of the site (3.5ac) is zoned as Medium Density Residential which limits the number of units to 70. The application proposes 112 apartments in the area zoned as Medium Density Residential consequently a variance is required to accord strictly with the Regulations.

If members deem sole residential use of the neighbourhood commercial zone is acceptable then a further consideration could be argued that density requirements of the Medium Residential zone is applicable to the entire application site. The allowable number of units would be 160 for the 8 acre site. The application seeks planning permission for 192 units.

Members are invited to consider whether adequate justification has been provided to enable an intensified use of the site.

3) Bedroom density

Similar to the apartment assessment, set out above, neighbourhood commercial sites are not restricted to bedroom density calculations. Medium Residential areas, however, are required to comply with a prescribed bedroom density. The 3.5 ac Medium Residential zoned part of the application site results in a maximum bedroom density of 105 rooms. The application seeks planning permission for 112 bedrooms.

For completeness, if members consider medium residential density Regulations are applicable to the 8 ac application site a maximum of 240 bedrooms would be permissible. The application proposes 192 bedrooms across the entire site.

Members are invited to consider whether medium density requirements are permissible across the site in its entirety.

4) Existing easements

There is an existing vehicular easement along the eastern boundary of Parcel 133 in favour of Parcel 405. The applicant has indicated that this easement will remain. The Authority should consider if the easement is constructed for access, then that road will be quite close to the rear of proposed Buildings 6 and 9 and the sewage treatment plant.

There is also an existing pedestrian easement running across the north of both subject parcels and would be blocked by the proposed development. The applicant is proposing to expunge the easement when the two subject parcels are combined. The

Authority should be satisfied that the easements can in fact be expunged and the timing thereof.

2. 12 JUSTIN SCHMIDT (Doak Architecture) Block 12C Parcel 487 (F20-0096) (P20-0158) (\$1.2M) (EJ)

Application a house, pool, spa, cabana and 8' wall.

FACTS

<i>Location</i>	Clipper Bay off Canal Point Drive
<i>Zoning</i>	LDR
<i>Notice requirements</i>	No objections
<i>Parcel size</i>	0.3560AC/15,507 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed use</i>	residential
<i>Parking required</i>	1
<i>Parking proposed</i>	2

BACKGROUND

May 27, 2020 (CPA/08/20; item 2.14) – application adjourned to invite in re: concerns with side setbacks

Decision: It was resolved to adjourn the application as it became known after the Agenda was finalized that there is an objector to the application. Both the applicant and the objector will be invited to attend a meeting of the Authority at a later date.

AGENCY COMMENTS

Comments from the National Conservation Council are noted below.

National Conservation Council:

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

From the plans submitted it appears that parts of the development do not meet the minimum required setback of 20ft from the canal edge. We recommend that any stockpiled materials should be stored away from the canal edge in order to reduce the risk of surface water runoff washing material into the canal causing turbidity and reduced water quality.

The use of native plants is recommended for the landscaping scheme as it is a more sustainable option due to the vegetation generally being best suited to the climate conditions and is a cost-effective option.

In addition wherever possible sustainable design features should be included in new projects, especially renewable energy installations, given the target that 70% of energy generation be renewably sourced by the year 2037 (the Cayman Islands National Energy Policy 2017-2037)."

APPLICANT'S LETTER

"With reference to our client's application for planning permission for a one storey residence, and associated works, we request the Central Planning Authority's approval to vary the height of fences and walls on the side boundary areas and a setback variance for a part of the septic tank to be located within the roadside 20ft setback as shown in the attached plans and as described below.

VARIANCE REQUEST

The applicant seeks a variance for fences and walls on the side boundaries, noting as follows:

- *The applicant is the owner of the subject parcel 12C 487*
- *The residence respects and complies with all setbacks to the roadside, waterside, and all side boundaries of the property*
- *The footprint of the house and pool cabana are 23% of the property and well within the 30% maximum footprint*
- *Almost all homes built on Clipper Bay properties have side setbacks that are very constrained as a result of the narrowness of the lots*
- *The side boundary setback area is for most homes used as a place for condensers, equipment pads and thus become both unsightly and noisy from machinery equipment*
- *The applicant intends to build a single storey house that does not require side setback variances however the house is designed to utilize the side yards as gardens and courtyards. With the narrow setbacks and disproportionate height of other houses at Clipper Bay, privacy from oversight is quite challenging. To resolve this the applicant proposes to plant densely planted gardens and 8ft high slatted wood fences*
- *Arising from the constraints of the width and length of the developable areas of the site, the septic tank is located within the 20ft roadside setback.*

In accordance with the Development and Planning Regulations and Clause 8(11) we note as follows:

- (a) The elevation of the property*
- (b) The geology of the property*
- (c) The storm beach ridge*

- (d) *The existence of a protective reef adjacent to the proposed development*
- (e) *The location of adjacent development*
- (f) *Any other material consideration which the Authority considers will affect the proposal*

The above items (a)-(f) are not relevant to the subject application. Or

8(13)(b) there is sufficient reason to grant a variance and an exceptional circumstance exists, which may include the fact that-

- (i) *The characteristics of the proposed development are consistent with the character of the surrounding area – the proposed development is for a single family residence which is consistent in scale and massing with the traditional “Caymanstyle” character and the surrounding residential areas at Clipper Bay, Snug Harbour and Canal Point.
The proposed house is located to align with existing building frontages*
- (ii) *Unusual terrain characteristics limit the site’s development potential- the building’s setbacks are all consistent and respectful of the Planning Laws. The proposed configuration does not hinder access. The terrain of the property is not detrimental to the subject application.*
- (iii) *The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare – the proposed fence and wall height will not negatively impact persons residing or working in the vicinity and will therefore not be materially detrimental in any respect.*

Our client requests the Central Planning Authority’s approval for the building and associated works, and respectfully requests the CPA’s favourable review of the above noted wall/fence height variances and location of the septic tank.”

PLANNING DEPARTMENT ANALYSIS

General

The applicant is seeking a front, canal and side setbacks variance, for the proposed three (3) bedroom house, swimming pool, spa, cabana, eight (8-ft.) walls located in Clipper Bay.

Zoning

The land is zoned Low Density Residential.

Specific Issues

1) Front setback variance

While the proposed house meets the required front setback, the septic tank is proposed at 15.6-ft. vs 20-ft. therefore, the applicant is seeking a front setback variance per regulation 9(8)(i)

2) Canal setback variance

The proposed house is at 9.9-ft. vs 20-ft. from the canal; therefore, the applicant is also seeking a canal setback variance; furthermore, the swimming pool is proposed at 7.5-ft. vs 20-ft. per regulations 8(10)(ea).

3) Side setback variances and wall height

The proposed single storey house has an eight (8-ft.) high wall extending out from each side of the house and is at zero setbacks from the side boundaries. On the west side of the house the walls enclose a spa and elevated deck which about a 1' setback. On the east side, the walls enclose the a/c units and pool equipment and these have about a 1' setback. The applicant did notify the two adjoining properties, but the notices do not specify the setbacks of the spa, a/c units and pool equipment. The Authority should determine if the notification process was sufficient for these features.

SUPPLEMENTARY ANALYSIS

Subsequent to the May 27, 2020 meeting, the applicant submitted revised plans to address the side setback issue. On the left side, the bathtub is now inside the house and the building complies with the required 10' setback. On the right side, the a/c units and pool equipment have been shifted next to the house providing for a 6' side setback. On both sides, the privacy walls remain, but have been reduced in height to 4' instead of 8'. The Authority needs to determine if the revised proposal is now acceptable.

3.0 DEVELOPMENT PLAN MATTERS

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 COMMONWEALTH BUILDING GROUP Block 15C Parcel 307 (F07-0075) (P20-0329) (CS)

The Authority considered and application for a proposed 7' fence. The Authority took into consideration the uses in the area and determined that a privacy/security fence is a reasonable request, but it shouldn't be any higher than 6', as this is in keeping with the Authority's general position on the heights of residential fences.

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

- 1) The applicant shall submit revised plans showing the fencing with a maximum height of 6 feet.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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 (2020 Revision).

5.2 MEDIA ATTENDANCE AT CPA E-CONFERENCES (EJ)

The Authority was advised that two media houses had contacted the Department regarding the possibility of joining the CPA meetings being held via Zoom e-conferences. The Authority determined that this was impractical and further, that it is quite likely that the next meeting of the CPA will be held in person at the Government Administrative Building while observing the necessary social distancing protocols. At that time, the media would be welcome to attend the future meeting in the Administration Building.

5.3 BRIGHT ENERGY Block 4D Parcel 182 (HP)

The Authority was advised that the applicant is seeking a separate electrical connection for a building that has existed for many years, although it did not get planning permission. The Authority determined that planning permission is required for the existing building(s) if they wish to have a separate electrical connection.

5.4 RUBIS Block 6D Parcel 12 (HP)

It was determined that the replacement of the tan farm will not require a new HWM survey as the shoreline is ironshore.

5.5 DEVELOPMNT INQUIRY Block 7D Parcel 6 (HP)

Fred Whittaker declared a conflict and left the meeting room.

It was determined that the sand excavated from 7D 6 can be temporarily stored at 22D 141 Rem 12. The sand can be sieved at that location and returned to 7D 6 when construction is complete.

5.6 BAER DEVELOPMENT Block 22E Parcel 527 (HP)

Ray Hydes declared a conflict and left the meeting room.

It was determined that a temporary electrical panel could be approved to allow for the site to be staged for site sanitation and other Covid-19 related matters.

5.7 MARQUEE PLAZA GENERATOR Block 12E Parcel 106 (HP)

It was determined that an application for a generator would require the notification of 12D 97 and 13B 129 and further that approval authority for the application is delegated to the Director of Planning.

5.8 MANGROVE CONSERVATION PLAN (HP)

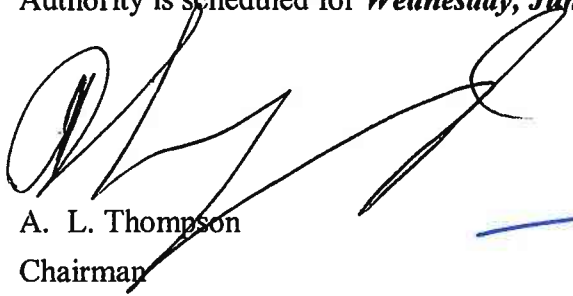
The Director advised the members that the Plan is now approved and provided a brief summary of the Plan and encourage members to read the Plan in detail.

5.9 PUBLIC STANDARDS IN LIFE (HP)

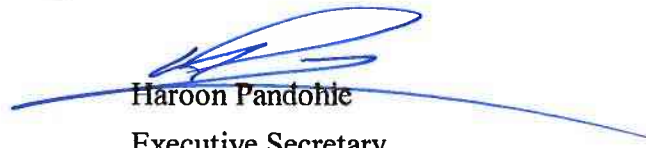
The members were reminded that the new forms must be completed by the end of July and they are much more detailed and involved than previously.

6.0 CPA MEMBERS INFORMATION/DISCUSSIONS

The meeting adjourned at 3:45pm. The next regular meeting of the Central Planning Authority is scheduled for *Wednesday, June 24, 2020 at 10:00 a.m.* via e-conference



A. L. Thompson
Chairman



Haroon Pandohie
Executive Secretary

c.c. All members of the Central Planning Authority

Appendix 'A'



Unit 1D, Landmark Square
64 Earth Close
PO Box 10638
Grand Cayman KY1-1006
Cayman Islands

Chairman of the Central Planning Authority
C/O: Executive Secretary
Government Administration Building
P.O. Box 113 Elgin Avenue
Grand Cayman, KY1-9000
Cayman Islands

29th May 2020

Dear Sir,

Re: Planning Application (F15-0190) P20-0051, Aldo Gianne, Block 14C, Parcel 307

We act on behalf of Mr. Aldo Gianne in respect of the captioned application for planning permission for a mixed use commercial and residential development and gas station, which is proposed on the captioned parcel.

History

This matter was originally scheduled for hearing by the CPA on the 18th March 2020 but was adjourned indefinitely due to the COVID-19 lockdown going into effect. However, the Agenda for that scheduled hearing of this application, which was published shortly before the adjourned hearing, as well as some subsequent correspondence between the Planning Department and our client's architect, has raised some substantive issues which need to be addressed from a legal perspective. Therefore, in response to these issues and comments, our client has instructed us to provide the following legal opinion on those matters, in order to assist the CPA with its consideration of this application. Such is the purpose of this letter, and in that regard, we would submit the following positions on behalf of our client:

NRA Issues - Entry/Exit from/to Esterly Tibbetts Highway ("ETH") and Sidewalks

The previous CPA Agenda included comments from the National Roads Authority ("NRA") regarding their position as to the proposed left off/ left on deceleration lane and entry point as

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is reflected in the proposed plans. There are three aspects of their commentary which we wish to address, to wit:

- (i) The purported refusal of the NRA Board of the Applicant's proposal for an entry/exit onto the ETH. On this point, it is our client's advised position that the NRA Board does not enjoy the right at law to arbitrarily refuse the proposed access point, and certainly the NRA cannot direct the CPA to have the proposed access removed from the plans for the proposed development, especially on such a specious basis. Whilst the position at law as regards the applicant's right to gain access the ETH is not one that is relevant to the planning application, suffice it to say that, separate and apart from this application, our client has instructed this firm to challenge the NRA on this matter, including, if necessary, by way of legal action in the Grand Court. It is our client's advised position that on the basis of precedent and the relevant administrative law principles, he will most likely be successful in that regard. In any event, this is not a matter which the CPA needs to concern itself with, since, as with any application involving an access to a proposed development by way of a private easement, the legal status of such access/easement is a matter which is outside the CPA's statutory remit and such issues are typically left by the CPA to be determined by way of another process in another forum. Consequently, as has been the consistent approach of the CPA since its inception, the CPA does not involve itself in proprietorship issues or disputes, since those matters fall outside of the CPA's remit and are matters which can only be legally determined in the Grand Court. Such things include the enforcement of restrictive covenants, disputes over the use of easements, etc. We would therefore submit that the appropriate way for the CPA to proceed would be to consider and grant approval subject to such appropriate conditions as the CPA sees fit to address any valid, material planning concerns. Obviously, if we are granted planning permission but are ultimately unable to obtain access to the ETH, then we would be forced at that time to apply for a modification of the then-existing planning approval and/or abandon the project. This position is no different that the approach invariably taken by the CPA with regard to the Building Permit/BCU process, which follows the planning approval process and can sometimes cause existing approved plans to have to be significantly modified in order to make the same Building Code compliant. As regards the NRA's comments about their "proposed plans" for widening the ETH and the creation of a bike lane or bus layby, our client is not aware of any such plans and, bearing in mind the process prescribed by the provisions of the Roads Law, if such plans are no more than something which is a concept or proposal that has not yet gained approval of Cabinet and published in the Gazette, it is our client's position that it would not be lawful and would also offend the established principles of *Wednesbury* reasonableness for the CPA to take into account any such purportedly "proposed plans" which have not followed the process prescribed by the Roads Law, when the CPA is making its decision on the current application. In any event, the Cabinet has wide sweeping powers of acquisition for the purposes of implementing any such

future plans that may actually come to fruition, and such processes would be dictated and determined by way of a different legal process, which is extraneous to the planning process. That being the case, it is submitted that the NRA cannot dictate to the CPA that it must have the applicant remove the entranceway from the plans, and the CPA should certainly not use any such purported “proposed plans” by the NRA as the basis to refuse or to even order a modification of the planning approval sought by way of this application.

- (ii) As regards the NRA’s comment about the location of the deceleration lane being within the road reserve, this has been addressed by way of the revised site plan which moves the deceleration lane entirely unto the Property, except, obviously, for the two access points to the ETH.

- (iii) The NRA has further recommended, or rather, *demand*ed, that “*a six (6) foot sidewalk shall be constructed on Paddington Lane, Godfrey Nixon Way and the Esterly Tibbetts Highway within the property boundary*”. Such a demand is unlawful and, if the same were to be adopted or followed by the CPA, this would lead the CPA into appealable error on at least two of the statutory grounds of appeal, in that, such a decision would be erroneous in law and would be unreasonable. We have noted in recent times in a number of applications where the NRA has persistently insisted on the CPA implementing through the planning approval process that any development which borders a public road must include the provision of public sidewalks within the boundaries of the development parcel, on privately owned land, and thereby effectively dedicate the same to the public’s use, without payment of any compensation to the landowner. However, as we have protested in other such matters, this approach is in fact unlawful, and clearly offends the spirit and intent of even the Roads Law itself as well as the very concept of proprietorship of land as enshrined in the Registered Land Law. This is so because, firstly, any such condition imposed on planning permission would be tantamount to the deprivation of valuable privately owned land and would, in the current application, significantly reduce the size of the development site itself, thereby causing a further net loss in terms of loss of developable area. It should be noted that “net loss” is the very principle upon which compensation is calculated for acquisitions of land under the Roads Law. It is further submitted that it is the duty of the NRA to secure, through the normal acquisition process provided in the Roads Law, any land which Cabinet determines is necessary for the provision of public pedestrian traffic, in the same manner and using the same process for acquisition of and compensation for any land needed for the provision of public vehicular and bicycle traffic. Simply put, the NRA has no authority to direct the CPA to effectively acquire valuable private land without compensation by imposing a condition on planning approval that a landowner must give up a part of his privately owned land, especially without any form of compensation, as this would be tantamount to theft of private

land by the government. Concomitantly, the CPA has no lawful authority to impose such a condition for the same reasons. It should also be noted that such a decision by the CPA would be in breach of Section 15 of the Bill of Rights, Freedoms and Responsibilities of the Cayman Islands Constitutional Order 2009 (“the BOR”), which could in and of itself give rise to a cause of action against either or both the NRA and the CPA under section 26 of the BOR, if our client’s rights under Section 15 of the BOR are breached.

It is therefore submitted that if the Cabinet decides at any point that a public sidewalk is needed along the periphery of a public road, then it must make the necessary declaration as to its intended acquisition and instruct the NRA in that regard in accordance with the provisions of the Roads Law, and only insofar as is permitted by Section 15 of the BOR.

That being the case, our client would urge CPA to not follow the recommendation/ demands of the NRA as regards the provisions of sidewalks on the development property, as that is a matter which the NRA should attend to itself, if it is so instructed by government, and in such instance the government would have to pay our client the necessary compensation for any net loss thereby occasioned, including the loss of development potential.

In any event, it is apparent that the NRA has no such instructions or plans for acquisition of land and construction of sidewalks, and, on that basis, their recommendation should simply be ignored.

In light of this position, and as a result of the NRA objections regarding the placement of the deceleration lane, the site plan has been revised so as to remove the perimeter sidewalks entirely, in order to make the site more functional.

Planning Department Analysis – “Specific Issues”

There are a number of matters that appear under the Planning Department’s Analysis in the Agenda of the adjourned hearing which we have been instructed to address, to wit:

(a) “Zoning”:

The Planning Department Analysis confirms that the proposed development is permissible on that basis that the same is compliant with the general Commercial zoning requirements. It is therefore submitted that given that is the case, there arises a presumption in favour of planning permission, subject to such lawful and reasonable conditions the CPA may deem material and necessary.

(b) “Suitability of Development”:

The Planning Department’s analysis seems to propose that there is some form of “suitability test” that applies to the subject development or is required by the subject parcel’s zoning provisions.

However, this is simply not the case, as the only time the CPA is required to determine “suitability” is in accordance with Regulation 9 (6), (7) or (8) in regards to the siting of apartment developments within one of the three residential zones. There simply is no such test applicable to the proposed development, as it is located in a General Commercial zone, and therefore the approach taken by the planner under this heading is flawed and will, if followed, only lead the CPA into appealable error.

The Planning Department’s analysis under this heading also suggests that there some form of a “needs test” and that, consequently, the CPA should consider whether the existence of another gas station some 900 feet away from the proposed gas station renders the proposed gas station “unnecessary”. However, this too is a flawed approach, which has perhaps been erroneously derived from the “needs test” that is enshrined in Regulation 13 (2) of the Development and Planning Regulations (2018 Revision), which applies strictly to the permitting of banks within the *Neighbourhood Commercial* zones. However, there is no such requirement for a petrol station in a General Commercial zone, and, in fact, this is one of the stated permitted types of development under Regulation 13 (1) (a) (vii). Whether or not this recommended approach is the result of the planner conflating the approach under regulation 13 (2) with the relevant approach for the subject application, this recommendation is simply wrong and would also result in the CPA being led into making an erroneous and unreasonable decision, if it were to follow the planner’s advice in that regard.

(c) “Swept path analysis”:

The recommendations made by the planner under this heading have been noted and there has been further correspondence between our client’s architect and the planner in that regard, and I am instructed that any and all valid issues have been addressed. It should also be noted that there are no statutorily prescribed standards as to swept path analysis and, in any event, based on our instructions, the site has been designed in accordance with the usual acceptable standards so as to ensure functionality of the development.

(d) “Drive thru facilities”:

It is hard to discern what the concern is with regards to the length of drive thru 1, which the planning opines *“is inadequate to accommodate stacking vehicles without interference with the free flow of traffic from the north and/or preventing unhindered passage along the sidewalks”*. We are not certain what standard or methodology the planner is using to determine the adequacy of the length of the driveway in question, and we are also not certain what is meant by *“preventing unhindered passage long the sidewalks”*. That being the case, it is submitted that the opinion of the planner, insofar as it may imply that the functionality of the drive thru is impaired, is baseless and without merit.

(e) "Parking":

The site plan has been revised to show 34 standard parking spaces, which meets the statutory requirements for parking.

(f) "Width of walkway":

The planner has raised a somewhat baseless concern regarding the narrowing of a short section of the walkway where it makes the bend around the corner of the building. However, this is simply a feature resulting from the corner of the walkway being rounded due to the necessary truncation for the drive thru, whereas the corner of the building is 90 degrees. It is submitted that this is not a valid concern and that the walkway is still sufficiently wide enough so as to be functional for any pedestrian traffic which may have to navigate around that part of the building. In any event, there is no statutory standard or prescribed width for such a feature and so this feature does not offend any planning regulation or requirement.

(g) "Site coverage 94% vs 90%":

We are instructed that this has also been addressed by the revised site plan and the same is now compliant with the required 90% site coverage requirement, thereby obviating the need for a variance in that regard.

We trust that the foregoing sets out clearly our client's advised position on the relevant matters and we would be obliged to clarify or expand upon the same at the hearing of the captioned application.

With Best Regards,

JacksonLaw