

## **Central Planning Authority**

**Agenda** for a meeting of the Central Planning Authority to be held on **October 13, 2021 at 10:00am, in Conference Room 1038, 1<sup>st</sup> Floor, Government Administration Building, Elgin Avenue.**

**21<sup>st</sup> Meeting of the Year**

**CPA/21/21**

**Mr. Ian Pairaudeau (Chair)**

**Mr. Handel Whittaker (Deputy Chair)**

**Mr. Joshua Bernard**

**Mr. Gillard McLaughlin**

**Mr. Charles Russell Jr.**

**Mr. Windel Scott**

**Mr. Peter Campbell**

**Mr. Kenneth Ebanks**

**Ms. Danette McLaughlin**

**Ms. Shakina Bush**

**Ms. Christine Maltman, MCIP, AICP**

**Ms. Celecia Bancroft**

**Mr. Ashton Bodden**

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

**Mr. Ron Sanderson (Deputy Director of Planning – Current Planning)**

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

**List of Applications Presented at CPA/21/21**

1. 1	Confirmation of Minutes of CPA/20/21 held on September 29, 2021. ....	4
1. 2	Declarations of Conflicts/Interests .....	4
2.1	WATERFRONT CENTRE LTD. (Century 21) Block OPY Parcel 193 (P19-0989) (P19-1189) (P20-0004) (P20-0108) (RS) .....	5
2.2	SEAWATCH CONDOS (Architectural Designs) Block 64A Parcel 41 & 176 (P21-0171) (\$9,000,000) (MW).....	14
2.3	ALVIN POWELL (Abernethy & Associates Ltd.) Block 59A Parcel 2 (P21-0521) (\$4,291) (BES).....	28
2.4	FOSTERS (Frederick & McRae) Block 5C Parcels 163, 164 & 407 (P21-0801) (\$2.2 million) (NP).....	31
2.5	ANTHONY POWELL (Whittaker and Watler) Block 52C Parcel 89 (P21-0457) (JP) 51	
2.6	ANTHONY POWELL (Whittaker and Watler) Block 68A Parcel 28 (P21-0439) (JP) 53	
2.7	DWIGHT ALLEN Block 49A Parcel 53 (P20-0285) (\$3,500) (AS) .....	55
2.8	ALDO GIANNE (Elegant Design) Block 19E Parcel 190 (P21-0571) (\$2.48 million) (NP) .....	56
2.9	TREASURE ISLAND JERK CHICKEN (Shoreline Construction) Block 14C Parcel 374 (P21-0478) (\$50,000) (NP) .....	61
2.10	LORI MONCRIEFFE (DDL Studio Ltd) Block 57A Parcel 125 (P21-0695) (\$258,750) (NP) .....	63
2.11	KHOURI (Abernethy & Associates) Block 75A Parcel 335 (P21-0863) (\$9,902) (NP) 70	
2.12	KHOURI (Abernethy & Associates) Block 75A Parcel 336 (P21-0864) (\$3,960) (NP) 73	
2.13	OSMOND ANDERSON (GMJ Homeplans Ltd.) Block 24E Parcel 260 (P21-0133) (\$579,000) (BES) .....	75
2.14	PURITAN CLEANERS LTD. (EKT Architecture) Block 13EH Parcel 197 (P21-0620) (\$600,000) (NP) .....	81
2.15	RENIERE JOSE POWELL (Eric Cronier Ltd) Block 32E Parcel 100 (P21-0820) (\$5,900) (NP).....	86
2.16	JEFF WATLER (GMJ Home Plans Ltd.) Block 14CF Parcel 85 (P21-0263) (\$325,000) (BES).....	88
2.17	LEON WATSON (Craftman’s Touch) Block 27C Parcel 549 (P20-0747) (\$10,000) (JP) 94	
2.18	SHERENE MARGON (Craftman's Touch) Block 37E Parcel 219 (P21-0651) (\$75,000) (BES) .....	95
2.19	CUC (Kariba Architecture) Block 5C Parcel 70 (P21-0738) (\$10 million) (NP) 97	
2.20	RITZ CARLTON HOTEL (Decco Ltd) Block 12C Parcel 393 (P21-0783) (\$400,000)	

(NP) .....	98
3.0 <u>DEVELOPMENT PLAN MATTERS</u> .....	98
4.0 <u>PLANNING APPEAL MATTERS</u> .....	98
5.0 <u>MATTERS FROM THE DIRECTOR OF PLANNING</u> .....	98
6.0 <u>CPA MEMBERS INFORMATION/DISCUSSIONS</u> .....	98



**2.0 APPLICATIONS**  
**APPEARANCES (Items 2.1 to 2.2)**

**2.1 WATERFRONT CENTRE LTD. (Century 21) Block OPY Parcel 193 (P19-0989) (P19-1189) (P20-0004) (P20-0108) (RS)**

Application for after-the-fact placement of rocks along an existing dock within the seabed; fill land to a pre-existing level; expand an existing dock, and after-the-fact concrete slab on ironshore.

**Appearance at 10:30**

**FACTS**

<i>Location</i>	North Church Street, George Town
<i>Zoning</i>	<b>General Commercial</b>
<i>Notice requirements</i>	Objectors
<i>Parcel size</i>	0.08AC/3,485 sq. ft.
<i>Current use</i>	Parking and Commercial

**BACKGROUND**

November 10, 2010 (**CPA/26/10; Item 2.6**) - The Authority granted planning permission for an after-the-fact take-out restaurant.

May 14, 2014 (**CPA/12/14; Item 2.7**) - The Authority granted planning permission for a seawall, commercial deck and seating.

January 21, 2015 (**CPA/02/15; Item 2.4**) - The Authority resolved to refuse an application for a ticket office with trellis, restroom facility, storage building, tour operator sales area, and mobile food truck staging area.

April 15, 2015 (**CPA/08/15; Item 2.4**) - The Authority granted planning permission for a 240 sq. ft. office and restroom building, cabana, and seven (7) signs.

June 22, 2016 (**CPA/14/16; Item 2.1**) The Authority resolved to modify the site plan for an approved office/restroom and commercial cabana.

August 30, 2017 (CE17-0087) An enforcement notice was issued for the illegal placement of two kiosks.

January 18, 2018 (CE18-0014) An enforcement notice was issued for modifying the shoreline without planning permission.

January 29, 2018 (CE-018-0024) An enforcement notice was issued for erecting a fence within a seaside setback.

April 10, 2018 (CE18-0053) An enforcement notice was issued for dumping foreign sand onto the ironshore.

December 12, 2019 (CE19-0287) An enforcement notice was issued for the illegal placement of a concrete slab on the shoreline.

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

- 1) Whether the proposal is subject to a Coastal Works License (DOE).
- 2) DOE's comments regarding the High Water Mark survey.
- 3) Lands & Survey's interpretation of accepting the High Water Mark survey.
- 4) High Water Mark setback variance (8' vs. 75')
- 5) Objector's concerns
- 6) Additional After-The-Fact works occurring.

### **AGENCY COMMENTS**

#### **Department of Environment**

Department of Environment comments are located in Appendix 'A'

### **APPLICANT'S LETTER**

*Thank you for your enquiry. The following sets out the method by which we will undertake to re-fill our property to its former level. We have given much thought to the method by which this could be accomplished and have settled on a manner which we believe will result in minimum impact on the environment while serving the purpose of land reclamation.*

*All of the proposed work will be carried out within the confines of our boundaries. The steps of the plan call for:*

- (1) the creation of retaining walls on the two exposed sides of the area to be filled,*
- (2) using Cayman rock, filling of the cavity between the retaining walls and existing slab to a level that is 6 inches below the existing slab and*
- (3) sealing the top of the filled area with reinforced concrete.*

*We have devised a method that will ensure minimal effect on the environment. The retaining wall will first be cast in place. To do this, wooden forms that we will fabricate specifically for this project will be placed at the outside of the wall. These will be held in place at the bottom with steel bolts anchored in the ironshore and braced at the top to the existing concrete slabs. Once this has been completed, bags filled with a mixture of cement will be placed at the bottom of the forms in any voids between the forms and the uneven ironshore. Once these harden, together with the forms, they will provide a well-sealed boundary between the area to be filled and the exterior. Then, reinforcing bars per our drawings will be installed and the retaining wall cast in place. At the time when the casting is planned, we will deploy silt screens. Due to the method by which the retaining wall will be constructed, this will be almost un-necessary as the forms will serve to perform the same function as a silt screen in addition to retaining the concrete. Once the retaining walls have hardened, the forms will be removed. We will then proceed to fill the area between the retaining walls and the existing land. At that point, the use of silt screens would be superfluous as the fill will be placed inside a cavity that will be bounded by land on two sides and a retaining wall on the other two sides.*

## Lands & Survey #1

*Good afternoon Wendy;*

*There are two types of coastline boundary lines. One is where nature slowly affects the definition through accretion or erosion. The second is one that was changed by direct and sudden action by man or nature.*

*I will not attempt to re-invent the wheel, but will attach a document that I have circulated to the land surveyors that they can use when determining what is the actual position of a seaside boundary. It is quite long but is written in everyday language. The paper is from Australia but is based on English common law which also directs our decisions in Cayman.*

*I can give you a brief summary.*

- 1. If there is natural change - i.e. erosion or accretion - that is slow and imperceptible and it is not affected by a man-made action, the recorded result will be accepted.*
- 2. If there is sudden change - i.e. a hurricane, man's intervention through dumping of sand or by excavating or otherwise changing the seaside boundary – the coastal boundary will be frozen at the last surveyed definition. This definition is most readily visible where canals are created. The seaside boundary stays where the land previously was and does not change to include any part of the canal.*

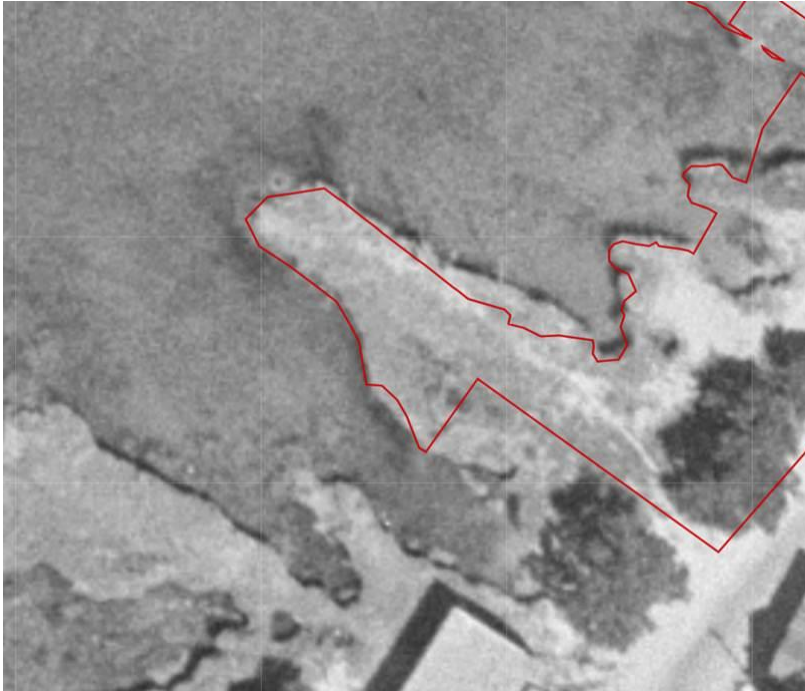
*In the survey of OPY193, there is a combination of items 1 and 2. The parts that were adopted from previous plans were created by Item 2 (the light coastal boundary lines).*

*The heavy lines are where natural change is taking place and fall under Item 1.*

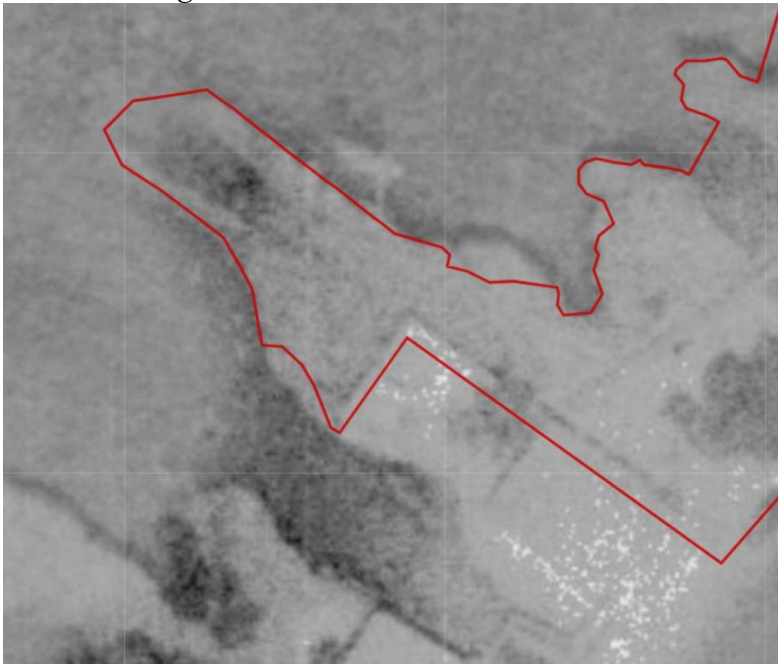
*I trust that I have answered your question but should you wish to discuss it further, I would be willing to meet with the Board at your convenience to go over any questions in detail.*

## Lands & Survey #2

*The 1958 imagery shows the ironshore existing as part of the boundary in the image below.*



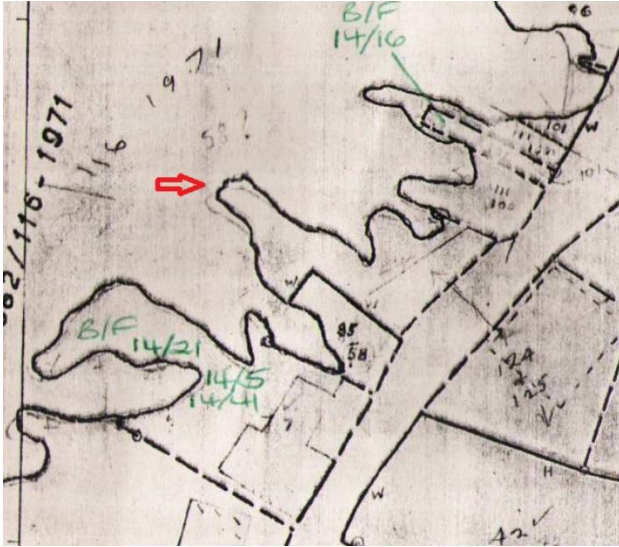
*The 1971 image shows what looks like an excavation into the ironshore peninsula.*



*The Cadastral Survey records from 1972 state that the MHWL was taken from the 1971 aerial imagery. Their plans show that little peninsula as existing.*

*I have identified the area in question with a red arrow. This formed the basis of the Registry map which shows the extent of ownership of each parcel.*





*We do have some images from 1977, and they show that the southerly arm of the peninsula has essentially disappeared.  
The actual destruction of the south arm would have taken place between 1971 and 1977.*

*In the survey initial survey lodged with L&S on OPY193 in 2015, questions was raised by the Chief Surveyor on the validity of the claim of the “underwater” lands.  
Written testimonies were received from 4 persons stating that a slip was excavated in the late 50s or early 60s to create a ramp for launching and pulling boats. There is evidence underwater of such a ramp.  
Based on that evidence, the claim was approved and the survey was registered supporting the current boundary definition.*

*Please feel free to let me know if you have any other questions.*

## **OBJECTIONS**

### **Letter #1**

*Objection to Waterfront Centre Ltd (OPY 193) Planning Application for Extension of Existing Dock*

*Will you kindly accept this letter as a formal objection to the plans put forward by the Waterfront Centre on block and parcel OPY 193 on behalf of my client Shireoak Limited, a company owned by Christopher D. Johnson.*

*Specifically the objections are:*

- 1. The project (Balboa Beach) is currently being heard by the Appeals Tribunal and no other planning applications should be considered on this block and parcel until a decision has been made.*

2. *A current H W Mark survey is required before the project can be heard by the planning board.*
3. *The proposed structure is entirely on Queens Bottom (beyond the HW Mark). This application should be a Coastal Works Application, not a planning one. I have attached a photo for reference.*



Letter #2

*See Appendix 'B'*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for an After-The-Fact shoreline modification to remediate a shoreline, expand an existing dock and an After-The-Fact concrete slab on ironshore.

### **Zoning**

The property is zoned General Commercial.

### **Specific Issues**

#### **1. Coastal Works**

The applicant has provided a high water mark survey that includes MHWL measurements from August 2019 as well as historical measurements from 2004. The areas identified as 04/074 are submerged.

As the After-The-Fact works have occurred along the sea side of a shoreline, DOE contends this application would be subject to a Coastal Works application.

However Lands & Survey offers that shorelines which were affected by natural events, such as hurricanes, the coastal boundary will be frozen at the last surveyed definition.

Through review of aerial photos, in 1999 it appears the area in question was in a natural state and above sea level. In 2008, a portion of the shoreline shows to have been lost.

The Authority is asked to consider whether the current HWM survey is acceptable and this application may be considered by the Department.

## **2. High Water Mark Setback**

The concrete slab was constructed 8' from the shoreline. The applicant is contending that this does not encroach the 75' HWM setback:

*“The entire site is within 75' of the high water mark. this slab is necessary to provide a safe footing for guests/clients using the property as the underlying irregular ironshore was found to be at the very least uncomfortable and at worst, possibly unsafe for guests and clients”*

From the parking area, there is steps and a concrete path that leads to the dock. Next to the dock is a large concrete slab, therefore guests have a level area to congregate.

The Authority is asked to consider whether the applicant has justified why the slab is necessary considering DOE's concerns and that there is another hardspace provided onsite for guests.

## **3. Additional After-The-Fact works**

Per a site visit on August 1, 2020 it was found that a wooden walkway was constructed on the ironshore without planning permission and outside the remit of the applications being considered. The Department's Compliance team has been advised to initiate enforcement proceedings.



Photo: August 1, 2020

### **SUPPLEMENTARY ANALYSIS**

On September 2, 2020, the Authority considered the applications noted above and rendered two decisions as follows:

***Decision #1:*** *It was resolved to grant planning permission for the after-the-fact concrete slab (P20-0004), subject to the following condition:*

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

*Reasons for the decision:*

- 1) The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(a) of the Development and Planning*

*Regulations (2020 Revision). Pursuant to Regulation 8(11), the Authority may allow a lesser setback having regard to:*

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

*In this instance, the Authority is of the view that there are existing developments on adjacent properties with similar setbacks from the high water mark. Therefore, the setback of the proposed development is consistent with the established development character of the area and it will not detract from the ability of adjacent land owners from enjoying the amenity of their lands.*

- 2) While discouraged with the after-the-fact nature of the slab, the Authority concurs with the National Conservation Council (via comments from the Department of Environment) that the removal of the concrete slab will likely cause more environmental harm than leaving it in place.*

**Decision #2:** *In regard to the applications for the proposed deck extension (P19-0989), the after-the-fact rock filling (P19-1189) and the proposed filling of the submerged portion of the site (P20-0108) in accordance with the directive issued by the National Conservation Council planning permission is hereby refused pursuant to Section 41(5)(b) of the National Conservation Law.*

*Reason for the decision:*

*The Authority was directed by the National Conservation Council to refuse planning permission.*

Both of the Authority's decisions were appealed to the Planning Appeals Tribunal (PAT). Regarding Decision #1, the PAT upheld the appeal and remitted the application back to the Authority for rehearing (see Appendix D for the full decision). The PAT recently released its written decision for Decision #2 and the appeal was upheld and the PAT remitted the application back to the Authority for rehearing (see Appendix E for the full decision). The rehearing for the application subject to Decision #2 will be scheduled for another date.

**For clarity, the Authority is only being asked at this time to rehear the application for the after-the-fact concrete slab which was the subject of Decision #1.**

As three applications were considered when the slab was considered, the entirety of the Minutes from the previous meeting for those three applications has been provided above to ensure the Authority currently has the full record.

**2.2 SEAWATCH CONDOS (Architectural Designs) Block 64A Parcel 41 & 176 (P21-0171) (\$9,000,000) (MW)**

Application for 80 apartments, office, gym, pool, manager’s quarters & 2 gazebos.

**Appearance at 11:30**

**FACTS**

<i>Location</i>	Off Sea View Rd., East End
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	4.59 ac. (199,940.4 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	76,316 sq. ft.
<i>Total building site coverage</i>	20.81%
<i>Allowable units</i>	68 units
<i>Proposed units</i>	81 units
<i>Allowable bedrooms</i>	110 bedrooms
<i>Proposed bedrooms</i>	128 bedrooms
<i>Required parking</i>	122 spaces
<i>Proposed parking</i>	128 spaces

**BACKGROUND**

March 5, 2019 – Six (6) Lot Subdivision & One (1) Road Parcel – the application was considered and it was resolved to grant planning permission (CPA/05/19; Item 2.12)

July 21, 2021 (CPA/15/21; item 2.7) – the current application was adjourned to invite in the applicant to discuss concerns regarding the proposed density

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

- 1) Suitability
- 2) Apartment Density (81 units vs. 68 units)
- 3) Bedroom Density (128 bedrooms vs. 110 bedrooms)

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health and Department of Environment (NCC) 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 15,875 US gallons per day (gpd), based on the following calculations.***

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Building 1 (Type A)	2 x 1-Bed Units 6 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,650gpd	1,650gpd
Building 2 (Type B)	4 x 1-Bed Units 4 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,500gpd	1,500gpd
Building 3 (Type B)	4 x 1-Bed Units 4 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,500gpd	1,500gpd
Building 4 (Type B)	4 x 1-Bed Units 4 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,500gpd	1,500gpd
Building 5 (Type A)	2 x 1-Bed Units 6 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,650gpd	1,650gpd
Building 6	8 x 1-Bed Units	150gpd/1-Bed Unit	1,200gpd	1,200gpd
Building 7	1 x 2-Bed Unit Office & Gym	225gpd/2-Bed Unit 200gpd	425gpd	425gpd
Building 8 (Type A)	2 x 1-Bed Units 6 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,650gpd	1,650gpd
Building 9 (Type A)	2 x 1-Bed Units 6 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,650gpd	1,650gpd
Building 10 (Type B)	4 x 1-Bed Units 4 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,500gpd	1,500gpd
Building 11 (Type A)	2 x 1-Bed Units 6 x 2-Bed Units	150gpd/1-Bed Unit 225gpd/2-Bed Unit	1,650gpd	1,650gpd

<b>TOTAL</b>	<b>15,875gpd</b>
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- *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. 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> .*

*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.*

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

**National Roads Authority**

*As per your memo dated March 16<sup>th</sup>, 2021 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 eighty (80) 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 Seaview Road 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
532	41	8	33	50	33	17

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

**Access and Traffic Management Issues**

Seaview Road is classified as a Secondary Arterial Road with a posted speed limit of 50 MPH. There is more than satisfactory sightline at the proposed driveway with one (1) lane in each direction and about eight feet shoulder within a 40ft ROW. The NRA is of the view that the applicant should provide a deceleration lane into their development, constructed of HMA. The deceleration lane should consist of 50ft storage and about 100 ft. taper.

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 Seaview Road, within the property boundary, to NRA standards.

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

**Stormwater Management Issues**

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

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

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

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

### **Department of Environmental Health**

*The application is not recommended for the approval for the following reasons:*

*The garbage enclosures for this development do not meet the requirements of DEH.*

### **Location of enclosure**

*The location of all mechanically serviced containers shall be approved by the Department of Environmental Health. The applicant shall submit plans showing the proposed location of the enclosure. The enclosure shall be placed such that access to the enclosure can be kept clear at all times. The enclosure shall be centrally located, and so placed, as to allow*

*easy access for servicing by the Department's vehicles. The enclosure shall be located so that the vehicle can access the container directly and have adequate room to lift it into the discharge position. The enclosure shall be located such that the vehicle will not impede normal vehicular flow or create potentially dangerous traffic situations while the container is being serviced.*

#### **Minimum vertical clearance**

*A minimum vertical clearance of 32 feet above the enclosure itself or where the bin will be serviced is required.*

#### **Access to enclosure**

*The service vehicles shall be able to enter and exit the site without having to reverse onto the highway. The enclosure shall be located away from overhead power lines and other protrusions that can cause electrical shock, injury, or other difficulties during servicing. A vertical clearance of at least 15 feet is required over the entire approach to and from the enclosure. A minimum straight approach of 50 feet should be provided directly in front of the facility to allow the vehicle sufficient area to back out of the facility. A turn around or separate exit that allows the truck to move forward rather than backwards is required. A minimum backup distance of 50 feet is required for any manoeuvre and must be in a straight line. The driveway shall be constructed to withstand trucks weighing up to 62,000 lbs.*

#### **Angle of approach**

*Generally the service shall be able to approach the container directly. Where an enclosure is located at the side of any access way the angle of approach made with the access way shall not exceed 22.5 degrees.*

#### **Turning radius**

*The turning radius required for access to the enclosure must be adequate a 3-axle truck. The overall length of the truck is 36 feet and the overall width is 8 feet. A minimum outside turning radius of 46 feet is required. The minimum inside radius shall be 33 feet.*

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

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

#### **Environmental Overview**

*The application site consists primarily of dry shrubland and forest with some limited areas that have been man-modified (See Figure 1), but has regrown with valuable secondary growth as shown in Figure 2. There are two locations on the parcel where food for the Blue Iguana Recovery Programme is collected by Blue Iguana Conservation staff (formerly Blue Iguana Recovery Programme). In addition, the site is located to the north-west an area designated as critical habitat for nesting sea turtles as defined in the Interim Directive*

for Green turtles, (*Chelonia mydas*), Loggerhead turtles (*Caretta caretta*), Hawksbill turtles (*Eretmochelys imbricata*) and all other species that may occur in Cayman Waters.

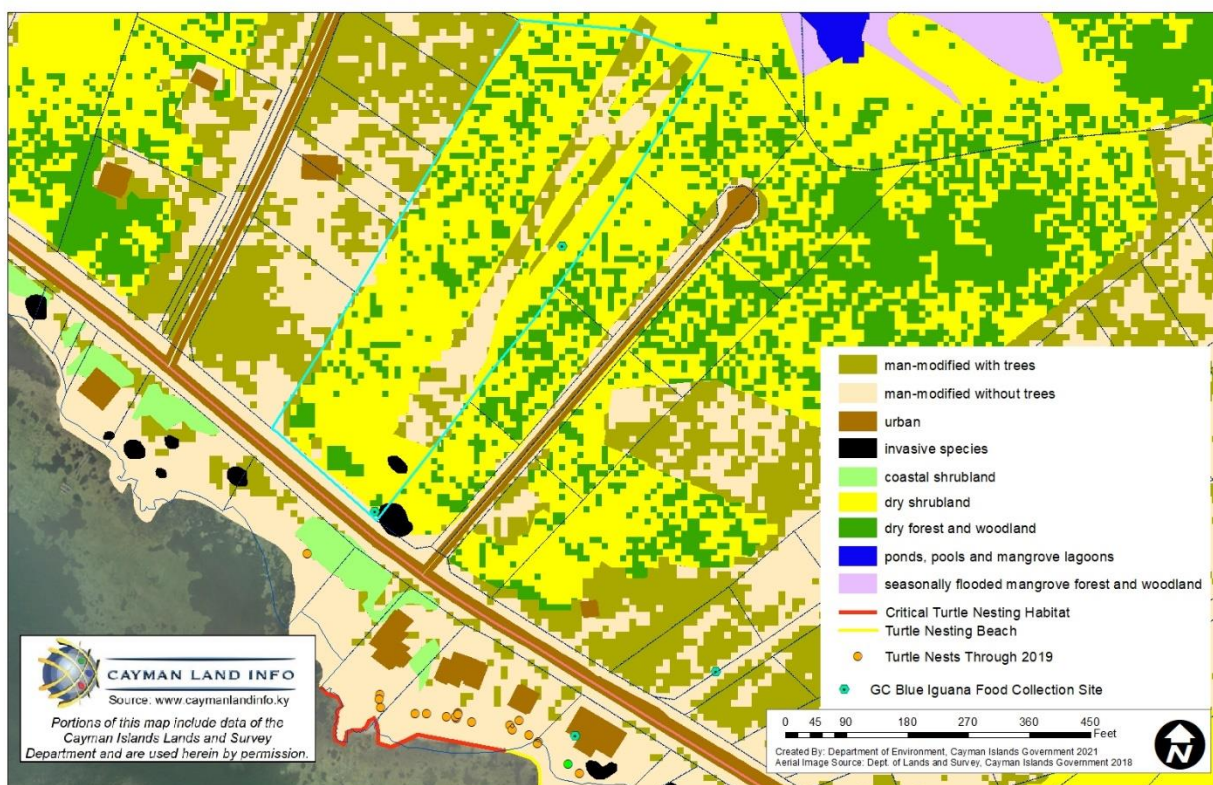


Figure 1: DOE's 2013 Habitat Map Extract showing application site (outlined in blue)

### Primary and Secondary Habitat Vegetation

*The primary dry shrubland and forest is becoming increasingly rarer and more fragmented as development in these habitat areas increases. These habitats are of high ecological value, providing a biodiverse habitat for native wildlife. Secondary growth of native vegetation also provides these ecological benefits as well. Therefore it is strongly recommended that any native vegetation is retained within the landscaping of the site where possible.*



*Figure 2: LIS 2018 Aerial Imagery showing application site (outlined in blue) (Source: Lands and Survey Department)*

### ***Blue Iguana Recovery Food Collection Sites***

*The application site has two locations where Blue Iguana food is collected. These collections spots are on the eastern boundary and east of the proposed development access road as shown in Figure 3. The DoE recommends that the vegetation along the road is retained to allow for the food collection sites to remain. This strip could also act a vegetated buffer between the development and the adjacent parcels.*

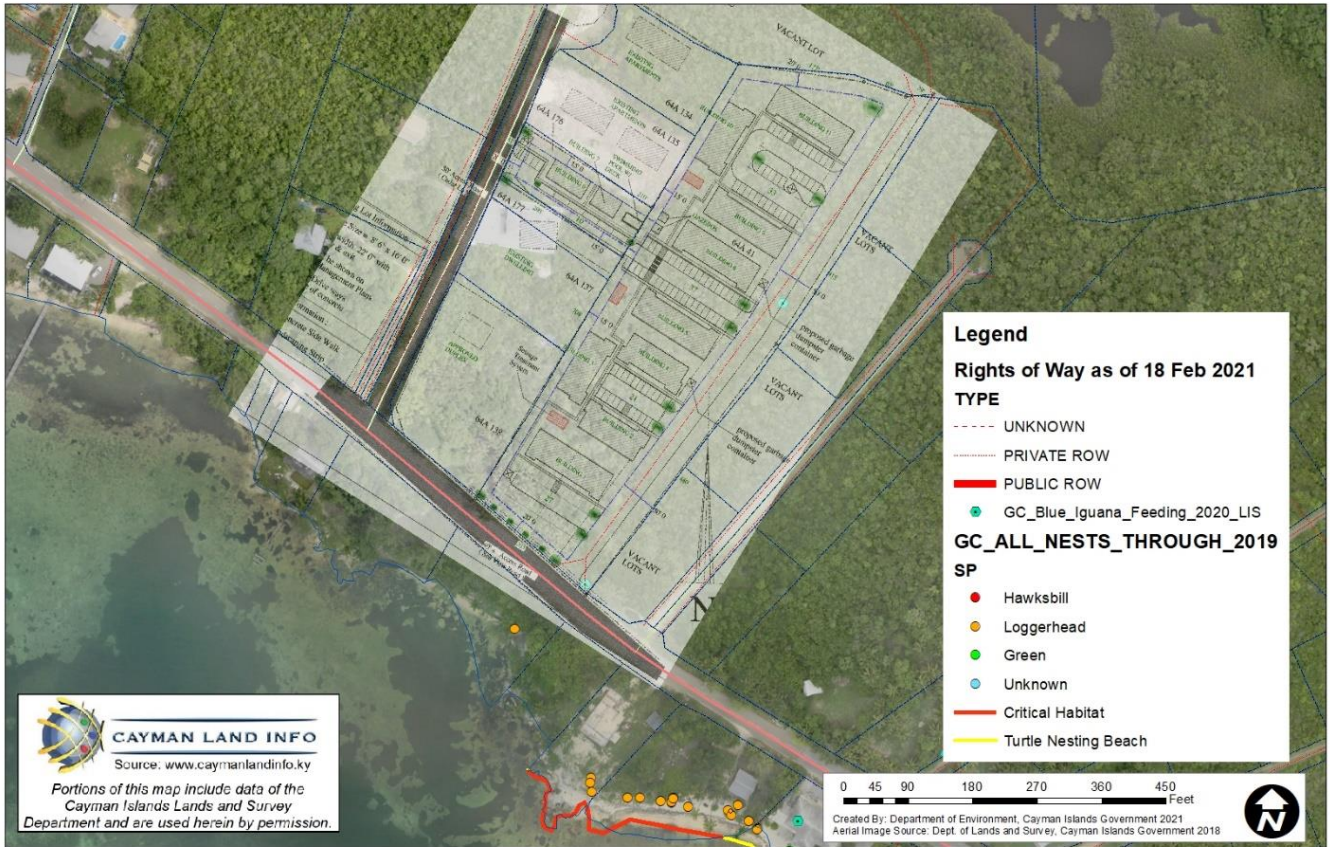
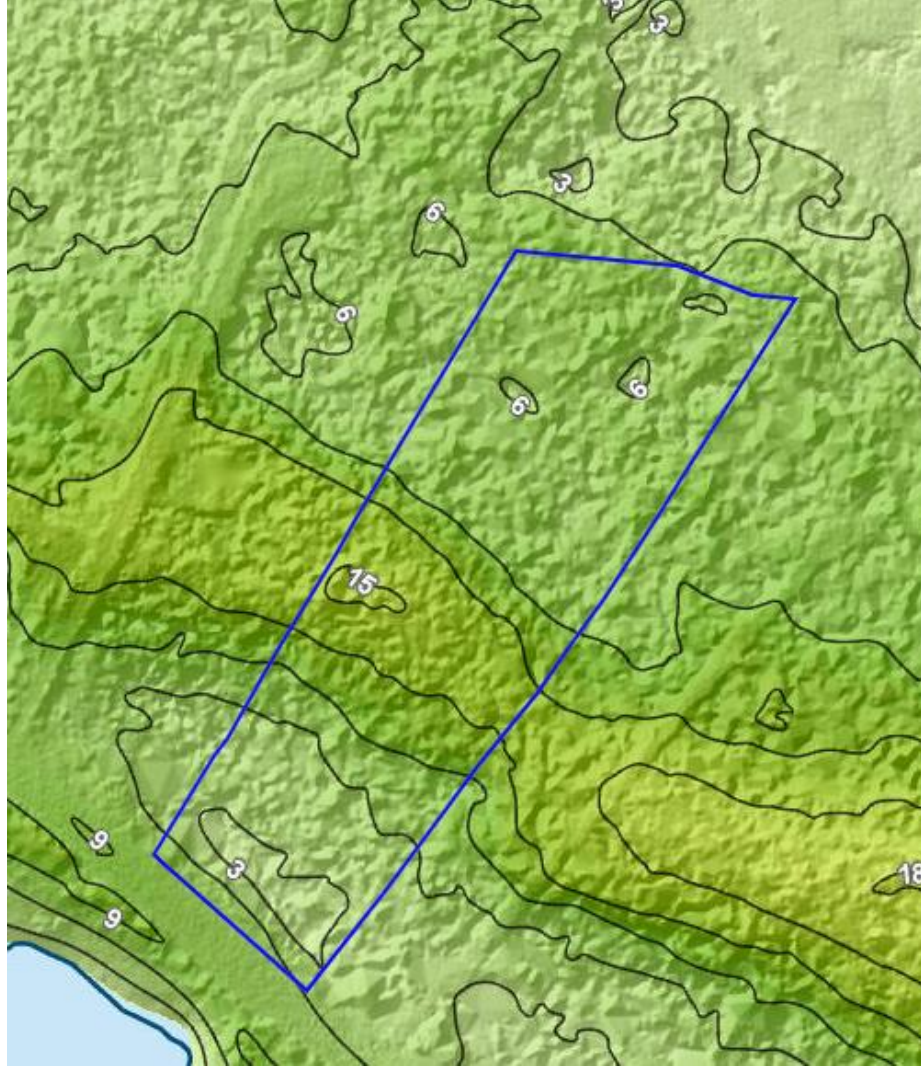


Figure 3: Plan Extract Overlaid onto LIS 2018 Aerial Imagery showing location of Iguana Food Collection sites (Blue Dots) (Plan source: Jay Welcome March 2021; Aerial Imagery, Lands and Survey Department, 2018)

**Terrain/Topography of Site**

The terrain model as provided by the Lands and Survey Department (see Figure 4 and 5), indicates that there is a ridge in the center of the parcel that goes up to approximately 15 feet above mean sea level. The Department does not support any excavation or mining of the ridge. This geological feature of the site should remain and to be incorporated into the design of the development. It will assist with the resilience of the development to the ioacts of climate change, including storm surge.



*Figure 4: Showing LIS Terrain Model of the application site's (outlined in blue) ridge  
(Source:Lands and Survey Department)*

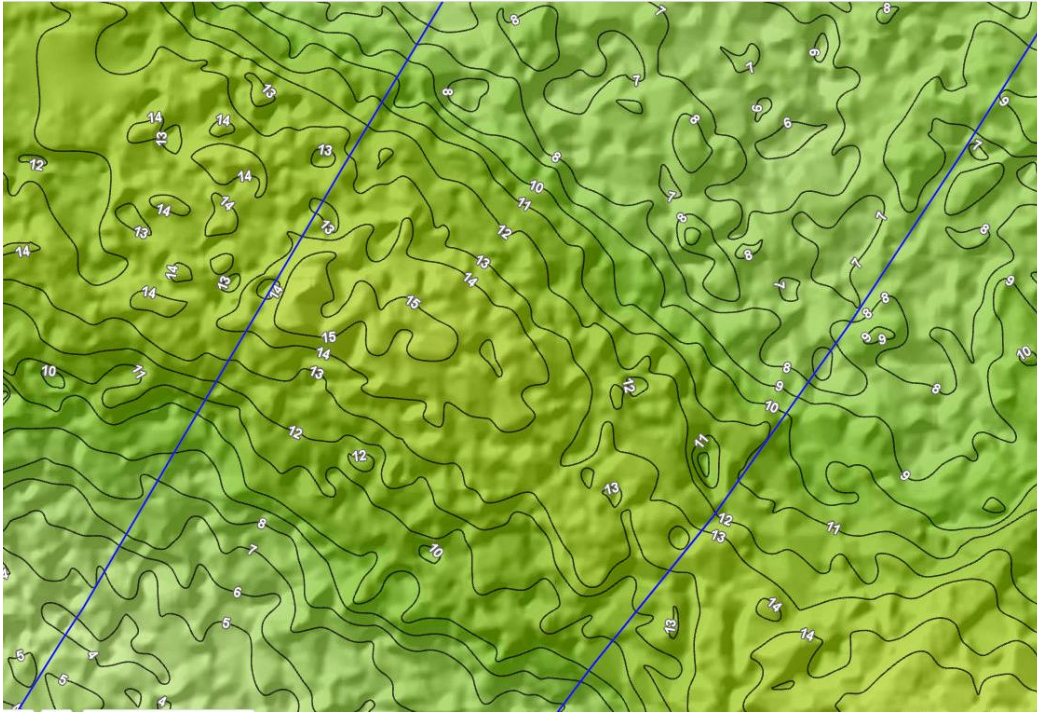


Figure 5: Showing LIS Terrain Model (zoomed in) of the application site's (outlined in blue) ridge (Source: Lands and Survey Department)

### **Critical Turtle Nesting Habitat**

*Artificial lighting on and around turtle nesting beaches is one of the greatest threats to the survival of Cayman's endangered sea turtle nesting populations. Bright lights on or near the beach can deter female turtles from nesting and cause baby turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles. Given that apartment complex is not directly on or opposite a turtle nesting beach, but within the vicinity as shown in Figure 3, and that the existing houses and vegetation should help block artificial lighting from reaching the beach a turtle friendly lighting plan is not required. Nonetheless, the applicant should be mindful that they are located near a critical turtle nesting habitat when designing the lighting for the apartment complex and we request that the applicant does not include any floodlights or spotlights which are directed towards the turtle nesting beach.*

### **Planning Zone – Low Density Residential**

*The application site is within a low density residential planning zone, and the development appears to be very dense for what is allowed within a low density residential development. Therefore, it recommended to ensure that density is in line with what the site is zoned for and if it is over, the applicant should be encourage to redesign the development. This will also allow for the retention of more native vegetation on site.*

### **Conclusion**

*In conclusion if the CPA is minded to grant planning approval for this development the following planning conditions are recommended:*



- *Retain native vegetation where possible and incorporate it into the landscaping scheme as native vegetation is best suited to the site conditions and is a cost effective option.*
- *A vegetated buffer strip should be left between the development access road and the eastern boundary to allow for the retention of Blue Iguana Recovery Programme food collection sites on the parcel. This vegetated buffer would also provide some privacy between the development and the adjacent parcels*
- *The natural ridge on site should remain as is. There shall be no excavation or mining of the ridge.*
- *The applicant should not include any floodlights or spotlights which are directed towards the turtle nesting beach.*

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

### **Fire Department**

*Please provide scaling for Fire Access review. Please note fire Access require a minimum of 20 feet. Please depict proposed Fire Hydrant/ Fire Well.*

### **APPLICANT'S LETTER**

*On behalf of our client, we wish to apply for a variance, in regards to proposed Apartments on Block: 64A Parcel: 41 & 176.*

*This request for variance pertains to the density. The proposed apartments complex consist of 80 units with a total of 128 bedrooms. Where the allowable is 67.7 units with 108.2 bedrooms (as the lot size is 4.51 acres). Although we are asking for this variance, we are well under our allowed site coverage of 30%, with a site coverage of 22%.*

*Please further note that at present, there are apartments in the area on lots of smaller size, that did not meet the 25,000 sq ft. required. Which we do.*

*In reference to section 8(13) of the Development and Planning Regulations. Our proposal characteristics are consistent with that of the surrounding area.*

*Also all the surrounding neighbours have been notified, and there was no objections to our proposal.*

*Which is clearly an enhancement to the area.*

*We hope that the CPA will favourably consider our proposal.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for an 80 Unit Apartment Complex (11 Buildings), Office, Gym, Pool, Managers Quarters & 2 Gazebos with Unit & Bedroom Density Variance to be located off Sea View Rd., East End.

### **Zoning**

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

### **Specific Issues**

#### **1) Suitability**

Section (8) states the following development is permitted in a Low Density Residential Zone.

- (a) Detached & semi-detached houses.
- (b) Duplexes
- (c) In locations considered as suitable by the Authority guest houses and apartments.

An overview of the proposed site shows the surrounding area to be primarily residential homes and vacant parcels with apartments within the nearby vicinity.

- 64A 134 :- Sea Watch Villas (Approved November 22, 2017) (CPA/24/17; Item 2.12)
- 64A 135:- Sea Watch Villas (Approved January 18, 2017) (CPA/02/17; Item 2.9)
- 64A 138:- Duplex (Approved February 9, 2017)

#### **2) Apartment Density**

Regulations 9(8)(c) states “*the maximum number of apartments is 15 per acre with a maximum of 24 bedrooms.*” The proposed development is proposing a total of 81 units which is 13 units over the maximum allowable 68 units. The applicant has provided a letter, but it does not explain that there is sufficient reason and exceptional circumstance to allow the additional units.

#### **3) Bedroom Density**

Regulations 9(8)(c) states “*the maximum number of apartments is 15 per acre with a maximum of 24 bedrooms*”. The proposed development is proposing a total of 128 bedrooms which is a difference of 18 bedrooms more than the maximum allowable of 110 bedrooms. The applicant has provided a letter, but it does not explain that there is sufficient reason and exceptional circumstance to allow the additional bedrooms.

## **SUPPLEMENTAL INFORMATION**

The Authority is reminded of the following two approvals on adjacent parcels for the same applicant:

- January 18, 2017 (CPA/02/17; Item 2.9) – Block 64A Parcel 135 - 10 apartments approved when 8.7 were allowed
- November 22, 2017 (CPA/24/17; Item 2.12) - Block 64A Parcel 134 – 7 apartments approved and 7 were allowed. A lot size variance was granted (20,908 sq ft vs 25,000 sq ft)

**2.0 APPLICATIONS**  
**REGULAR AGENDA (Items 2.3 to 2.20)**

**2.3 ALVIN POWELL (Abernethy & Associates Ltd.) Block 59A Parcel 2 (P21-0521) (\$4,291) (BES)**

Application for 4-lots subdivision and 1-remainder lot

**FACTS**

<i>Location</i>	Off Botanic Road.
<i>Zoning</i>	<b>A/R</b>
<i>Notification result</i>	No Objectors
<i>Parcel Size Proposed</i>	6.5 ac. (283,140 sq. ft.)
<i>Parcel Size Required</i>	21,780 sq ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	4-lots subdivision + 1-remainder lot

**BACKGROUND**

No previous CPA history

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

- 1) Access
- 2) Whether the Authority is satisfied that the area is suitable for Low Density regulations to be applied

**AGENCY COMMENTS**

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

**Water Authority**

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

**Water Supply:**

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

- *The developer shall contact Water Authority's Engineering Services Department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the piped water supply.*

- *The developer shall submit plans for the water supply infrastructure for the development to the Water Authority for review and approval.*
- *The developer shall install the water supply infrastructure within the site, under the Water Authority's supervision, and in strict compliance with the approved plans and Water Authority Guidelines for Constructing Potable Water Mains. The Guidelines and Standard Detail Drawings for meter installations are available via the following link to the Water Authority's web page: <http://www.waterauthority.ky/water-infrastructure>.*

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

**Wastewater Treatment:**

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

**Department of Agriculture**

No comments from the agency

**National Roads Authority**

No comments from the agency

**Department of Environment (NCC)**

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

*The Department notes that, although much of the parcel appears to have been previously cleared, much of the habitat land cover appears to be dense vegetation regrowth. DOE recommends that any future development on the resulting lots should only clear the building footprint and retain as much native vegetation as possible and incorporate it into the landscaping scheme. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a very cost-effective choice.*

**APPLICANT'S LETTER**

*Enclosed please find the relevant documents relating to the above subdivision. Our client, Mr. Alvin Powell and Mrs. Annie Powell are conducting this subdivision to give each of their children a parcel of land to construct a house in the future.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission to subdivide the above-captioned property into four (4) lots and one remainder lot located at the above-captioned. The site is located off Botanic Road.

After the subdivision, the resultant acreage of the lots would range from 10,640 sq ft to 15,010 sq ft for lots 1-4 and the remainder lot 230,868 sq ft.

### **Zoning**

The property is zoned Agricultural/Residential.

### **Specific Issues**

#### **1) Access**

There is an existing road leading from Botanic Rd to the subject site, but the road is not to NRA standards. The subject site has a 30' vehicular right-of-way over 59A 254 and 255, but there is no right-if-way leading from those two parcels over 59A 5 and 58A 3 to Botanic Rd.

#### **2) Density/lot size**

Regulation 21 states that two houses per acre may be built on agricultural/residential land but if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit development which complies with the requirements for low density residential areas.

Although no minimum lot size is specified, it has generally been accepted that a density of two houses per acre would equate to a minimum lot size of 0.50 acre (21,780 sq ft). In this instance the proposed lots would range in size from 10,640 sq ft to 15,010 sq ft. Further, given the design of the subdivision, it would appear that there would likely be future applications for subdividing more lots from the parcel.

As noted in the Regulation 21, if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit development which complies with the requirements for low density residential areas. If this criteria is applied then the lots would comply with the minimum lot size requirement in the LDR zone. In this regard, the site is not over a water lens, but does have a high agricultural class rating. A review of the available aeriels seems to indicate that the land is typically dry with some seasonal standing water.

The Authority should discuss whether the property is suitable for the Low Density Regulations to be applied.

**2.4 FOSTERS (Frederick & McRae) Block 5C Parcels 163, 164 & 407 (P21-0801) (\$2.2 million) (NP)**

Application for proposed supermarket expansion.

**FACTS**

<i>Location</i>	West Bay Road, West Bay
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	4.534 acres (combined)
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Supermarket (30,780 sq ft)
<i>Proposed use</i>	Supermarket
<i>Proposed Building Footprint</i>	11,094 sq. ft.
<i>Proposed Building Area</i>	11,094 sq. ft.
<i>Parking Required</i>	140
<i>Parking Proposed</i>	190

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

- 1) Historic Overlay Zone

**AGENCY COMMENTS**

Comments from agencies that have responded to the circulation of the plans are provided below.

**Water Authority Cayman**

*Following are the Water Authority's requirements for this development proposal:*

**Wastewater Treatment:**

*The existing development is served by an onsite aerobic wastewater treatment system with a design treatment capacity of 7,500 gallons per day. A 1,500-gallon grease interceptor is also installed.*

*The design capacity of the existing wastewater treatment system can accommodate the wastewater flows from the proposed expansion, given that the treatment system is being operated and maintained as designed to produce an effluent that meets the Authority's discharge limits.*

*The Water Authority is recommending that the existing grease interceptor be upgraded as it is not working as per manufacturer’s specifications.*

**Fire Department**

The Fire Department has submitted stamp approved drawings for the proposed expansion.

**Department of Environmental Health (DEH)**

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

*However, if this addition includes a commercial kitchen or food prep area, the applicant shall submit the floor plan, including the equipment schedule and specifications to DEH for review*

**National Roads Authority**

*As per your memo dated August 12<sup>th</sup>, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

***The Bridge***

*The applicant has proposed to ‘shift’ the public road as a fifteen (15)ft. ROW to the eastern boundary of the site. The NRA is satisfied with this per two conditions,*

- 1. That the fifteen (15)ft. ROW be registered with Lands and Survey as a Public ROW; and*
- 2. That the existing public road be closed and vested (at the cost of the applicant per todays land value) to normalize the site.*

***Road Capacity Issues***

*The traffic demand to be generated by the above proposed development of 41,680 sq. ft. has been assessed in accordance with ITE Code 854 - Supermarket. The anticipated traffic to be added onto West Bay Road is as follows:*

<b>Expected Daily Trip</b>	<b>AM Peak Hour Total Traffic</b>	<b>AM Peak In</b>	<b>AM Peak Out</b>	<b>AM Pass By</b>	<b>PM Peak Hour Total Traffic</b>	<b>PM Peak In</b>	<b>PM Peak Out</b>	<b>PM Pass By</b>
<b>3,789</b>	<b>106</b>	<b>47</b>	<b>34</b>	<b>24</b>	<b>348</b>	<b>134</b>	<b>134</b>	<b>80</b>

*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***

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

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

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

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

#### ***Ecological Value***

*There is primary habitat along the southern boundary of the site, which is seasonally flooded mangrove forest (see Figure 1). Mangroves are a Schedule 1 Part 2 Protected Species under the National Conservation Act 2013 and there is an adopted Mangrove Conservation Plan (2020).*

*We recommend the retention of mangroves where possible. We note that the Applicant is proposing to keep the mangroves behind the existing supermarket, but is proposing to clear, fill and use the area of mangroves to the west, however the purpose is not outlined on the map – it may be recycling or storage. It is recommended that this area be retained as mangroves, which can also assist with drainage. As shown in Figures 5 to 8, the area with the existing mangroves is low-lying and is likely providing stormwater drainage for the area.*

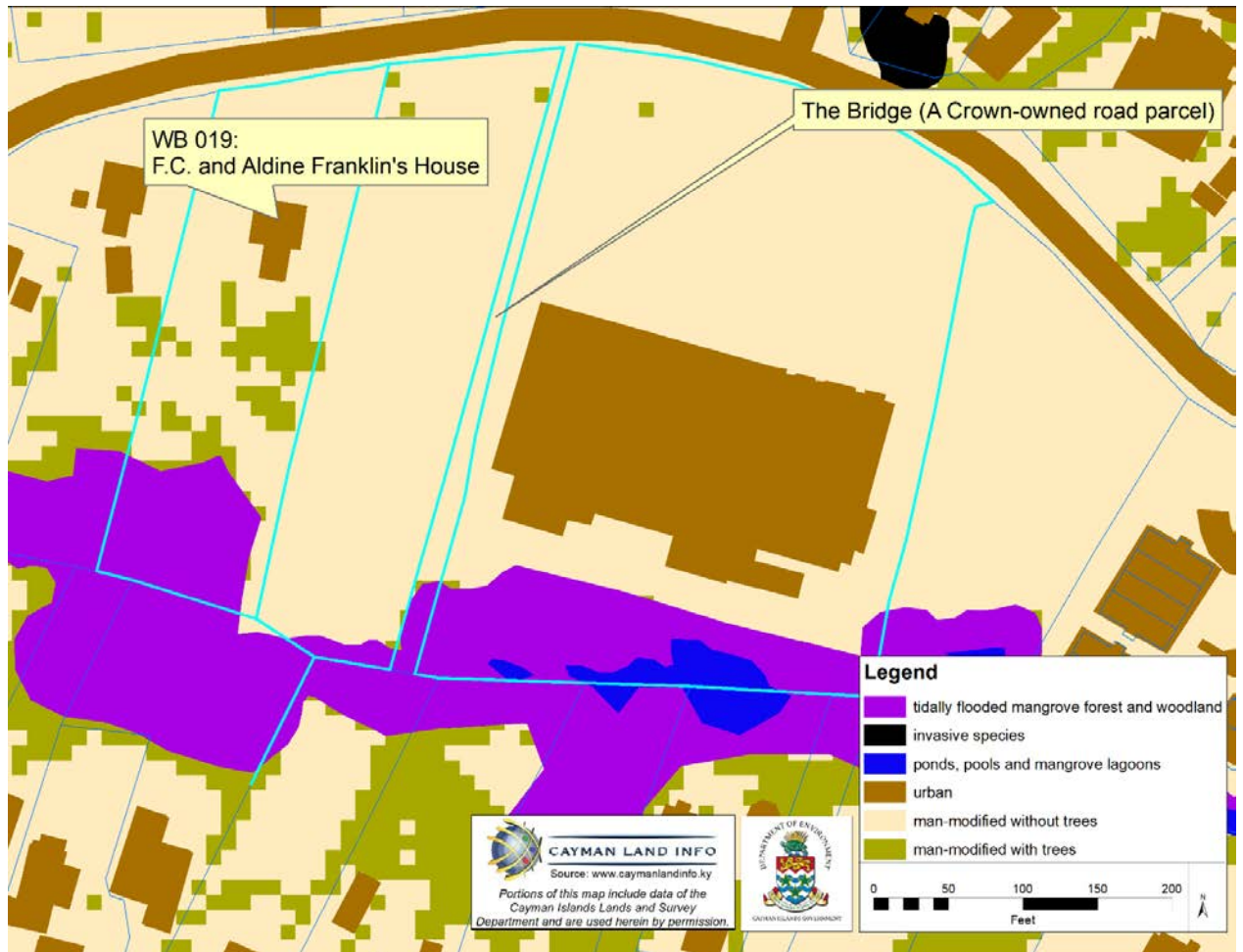


Figure 1. The habitat present at the site (outlined in light blue), indicating mangroves along the southern boundary.

### ***Traditional Caymanian House***

*The traditional Caymanian house located on the parcel is listed on the National Trust for the Cayman Islands Heritage Register as WB 019. Based on this register, the house is F.C & Aldine Franklin’s House and was built in approximately 1908 by Samuel Matthew Ebanks III. The house is listed as constructed with ironwood stilts and wattle and daub. The house has also been known as Miss Cassie’s House.*

*The site also appears to fall within a Historic Overlay Zone. The Development and Planning Regulations (2021 Revision) state, “In a Historic Overlay zone, the Authority shall have a duty to promote and encourage the preservation of historic buildings and conserve their historic architectural heritage.” The importance of protecting heritage assets was also reflected in the draft National Planning Framework 2018.*

*The Development Plan 1997 states, “The purpose of the Historic Overlay Zone is to promote and encourage the perpetuation of historic buildings and structures with the underlying zone remaining in effect. Development will be strictly controlled to conserve the Cayman Islands historical and architectural heritage.*

*Subject to the Development and Planning Law and Regulations, the Authority shall apply the Historic Overlay Zone provisions and other relevant provisions of the Statement in a manner best calculated to:*

- a) Preserve and protect the established historical, architectural or cultural character of the area,*
- b) Preserve any significant aspect, appearance or review of the area, and*
- c) Preserve and protect any prospect or view, being an environmentally important prospect or view, from any public area.”*

*Based on information received from the National Trust Historic Advisory Committee, the house was used in 1942-1943 as a kindergarten school. Figure 2 shows the house today, and Figure 3 shows the house sometime in the past with a traditional Caymanian front yard. The property was derelict for some time (Figure 4) but was restored in approximately 2018.*



*Figure 2. The traditional Caymanian house, known as F.C. & Aldine Franklin’s house built in 1908, that is proposed to be demolished and replaced with 8 parking spaces.*



*Figure 3. An older photo of the traditional Caymanian house, of an unknown date, showing the traditional-style front yard (Source: Alice Mae Coe).*



Figure 4. The house was derelict for some time (as shown) but was restored in 2018.

*The plans state “existing house to be demolished” and in its place, there are proposed to be 8 parking spaces and part of the parking lot turning area.*

*In situ preservation (leaving it in its original location) is the first option with respect to cultural heritage. It is often best to conserve heritage assets in place, because there is value in keeping the location of heritage assets authentic. In addition, the context surrounding a heritage asset is valuable, especially in this case where it is adjacent to ‘the Old Homestead’ (WB 020 on the National Trust for the Cayman Islands Heritage Register) and the Bridge (discussed below), and within a Historic Overlay Zone.*

*Heritage is finite, and to demolish the house to build 8 parking spaces does not seem a wise use of this heritage asset. We recommend that the applicant redesigns the parking lot to preserve the house in situ.*

*The Department of Environment requested additional information from the Historic Advisory Committee of the National Trust who stated, “The National Trust also calls on the developers of parcel 5C164 (F.C. & Aldine Franklin’s House) to find a possible use*

*for the historic residence by possible relocating it on the parcel where allowed by the proposed site usage and to carry out suitable structural renovation that will preserve it for the benefit of the community as an outstanding example of 'old time' West Bay residential architecture." We understand that the Applicant has later clarified to the National Trust that the house is to be transported to a site in Frank Sound. Although we are pleased that the house would not be demolished (as stated on their architectural plans), it will lose its authenticity of location and reduce the historical architectural heritage of this area of West Bay. The Department continues to recommend that the house be preserved in situ because it is in an authentic location within a Historic Overlay Zone.*

### ***The Bridge***

*The expansion of the grocery store is proposed directly over an existing road parcel. The existing road parcel is the site of 'the Bridge'. The Department of Environment has not been able to source significant written historical records of the Bridge. However, it is understood that the Bridge was used as a way to go from West Bay Road to the beach near Boggy Sand Road. The wetlands here are traditionally low-lying and the Bridge was a raised boardwalk made of tree trunks and logs resting on big rocks over the wetlands to provide access between the road and the beach. We understand from the Historic Advisory Committee of the National Trust that the Bridge was also known as "Mr. Hillard's Bridge", who was the father of the late Mr. Spurgeon Ebanks. It is clearly visible in the 1958 aerial imagery (see Figure 6) and is understood to also have been used in 1942 to 1943 to access Ms. Belle's kindergarten school at the heritage house located at the site. Therefore, the Bridge has been used for at least 80 years as a traditional footpath.*

*A National Trust sign is present at the site, see Figure 5 below. The Bridge is likely also part of a much wider network of historical footpaths, and connected Batabano Road with the beach along the general route of what is now Willie Farrington Drive. The Bridge is also registered on the Beach Access Report (although it is incorrectly referred to as SMB – Brooklyn Bridge).*

*The Bridge was registered as a public road, leading to a Right of Way across private property to Boggy Sand Road and onward to the beach. The Bridge is visible up until as recent as the 2004 aerial imagery (see Figures 6 to 8). In the 2008 aerial imagery, the Fosters supermarket is shown as expanding and under construction and any structures for the Bridge likely were demolished.*

*In 2013, the Bridge is no longer visible, and is now part of the parking lot and a grassy area for the Foster's supermarket, even though the parcel is still registered as a public road. The expansion proposed would place the buildings of the supermarket over the public road. Currently, very little evidence of the Bridge is present (see Figure 9).*



*Figure 5. A National Trust Heritage sign near the location of The Bridge, aka Mr Hillard's Bridge.*

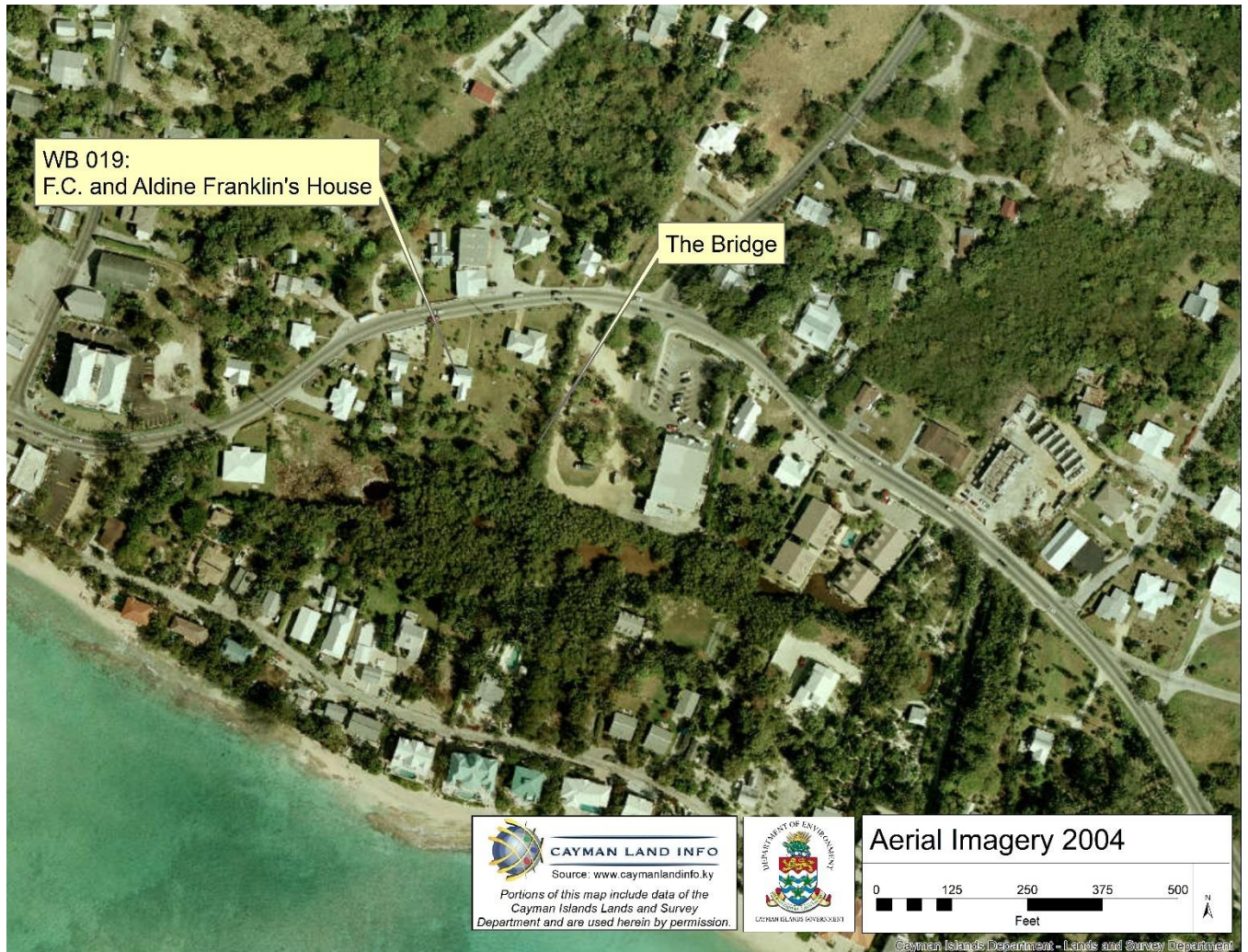




*Figure 6. The Bridge and F.C. Aldine Franklin's House in the 1958 aerial imagery. Water is visible at the centre of the mangrove basin.*



Figure 7. The Bridge and F.C. and Aldine Franklin's house shown in the 1971 aerial imagery.



*Figure 8. The Bridge is still visible as recently as the 2004 aerial imagery. In the 2008 Aerial imagery, the Bridge has been demolished as part of the previous expansion of the Foster's supermarket.*



*Figure 9. The location of 'the Bridge' has been replaced with a parking lot and a grassy area associated with the existing Foster's supermarket.*

*Although the Bridge is in very poor condition as a heritage asset, it is a public road and therefore owned by the government. It was historically used as a footpath and is currently registered as a public road and therefore the historical use is not significantly different from the current designation as a road. On the ground, there is little evidence of the Bridge as any structures remaining in 2008 were demolished as part of the previous expansion of the supermarket. However, in its current configuration, it could be restored and the heritage value enhanced. The proposed development would result in a supermarket building being built into the public road and removing any opportunity to conserve this heritage asset in its existing location in the future, and it would be permanently lost.*

*It is not known whether the government has entered into an agreement with Foster's Supermarket to divest or give over this land. It is also not known whether the heritage value of the Bridge or that the parcel is owned by the Crown was considered when the*

*supermarket was expanded in approximately 2008 resulting in the loss of any physical signs of the Bridge.*

*The applicant has proposed on their architectural plans to leave a right of way along the boundary of the parcel, however this is not in its original location. In addition, according to the Historic Advisory Committee of the National Trust, the Applicant has agreed to replace the sign and not block access. Under the applicant's proposals, a Crown-owned public road with historical significance would be lost and replaced with an access over private property nearby. The Department does not consider this to be an equal trade, given that the applicant has not detailed the finishes or treatment with respect to the right-of-way to know if it would enhance the heritage asset in any way.*

*The Department of Environment contacted the Historic Advisory Committee of the National Trust who requested that the Central Planning Authority to "allow further research into the boardwalk*

*and trail using local knowledge and the Trust's own records and to be allowed to erect interpretive signage in due course that acknowledges the trail and the 'bridge' and places it in context of the West Bay community's heritage."*

*Therefore, it is considered that it would not be appropriate to approve this application at this time given that:*

- The Central Planning Authority (CPA) has a duty to promote and encourage the preservation of historic buildings and conserve their historic architectural heritage within a Historic Overlay Zone. Therefore, the CPA has a duty to consider the heritage of the traditional Caymanian house on the site and the location of the Bridge.*
- The plans state that the house is to be demolished, and the house is listed on the National Trust of the Cayman Islands Heritage Register. The CPA has a duty to encourage the preservation of this building.*
- Given that the Applicant does not own the land where the Bridge was located, the Applicant will be required to enter into discussions with the government to build a supermarket building on this public road. We understand from the Ministry of Lands that such activity would require National Roads Authority and Cabinet permission.*

*The Department recommends that:*

- The plans be modified to preserve the mangroves in the southwestern corner of the site,*
- The plans are revised to retain F.C. and Aldine Franklin's house in situ,*
- Further research into the boardwalk and trail is conducted by the National Trust, and*
- The plans are revised to protect or conserve the Bridge as agreed pending further discussion.*

## **SUPPLEMENTARY DOE COMMENTS**

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

*The Applicant has provided a letter and requested our review following our initial comments dated 2 September 2021.*

### ***Traditional Caymanian House***

*The Applicant has provided revised plans indicating that the house will be relocated. While a better option than demolishing it, it will still result in the loss of a traditional Caymanian house in a Historic Overlay Zone and a prominent location visited by tourists.*

### ***The Bridge***

*The Applicant has provided further correspondence from 2008 regarding the Bridge which indicated that the National Roads Authority (NRA) was satisfied to stop up the road and vest to the Applicant in exchange for a relocated roadway, filled and compacted with aggregate to a suitable walking level, including adding canopy trees of an indigenous nature and public access signage in a prominent location. However, it does not appear that the agreement was fulfilled by either party, with the exception of the placement of a sign. The road was not vested to the Applicant and the Bridge was not improved in its new proposed location. In addition, based on the NRA's comments for the Proposed Development which is the subject of this application, they do not attribute any significance to the Bridge and are satisfied to vest the land over to the Applicant without any improvements.*

*The Department is not opposed to relocation of the Bridge, but considers that any relocation should be in tandem with restoration of the physical footpath and heritage context. It is noted that the attached letter contains many possibilities (e.g. the mangroves 'could' be kept) but no commitments. The Central Planning Authority should seek to secure improvements by conditions.*



*Figure 1. The 2008 correspondence indicates that the Bridge should have been relocated here, with public access signage and an area suitable for walking.*

### ***Ecological Value***

*The letter notes that the mangrove will be removed and replaced with skips/dumpsters for recycling and that this is 'beneficial to with the preservation of the environment' [sic]. It is not a wise use of wetlands to convert them into waste handling areas, and it does not benefit the environment to remove mangroves and replace them with concrete/tarmac and dumpsters.*

*The Department's recommendations remain unchanged, that:*

- *The plans be modified to preserve the mangroves in the southwestern corner of the site,*
- *The plans are revised to retain F.C. and Aldine Franklin's house in situ,*
- *Further research into the boardwalk and trail is conducted by the National Trust, and*

*The plans are revised to protect or conserve the Bridge as agreed pending further discussion*

## **APPLICANT'S LETTER**

*On behalf of our client Foster's Supermarket, we confirm the following as it relates to the review as presented by the Department of Environment.*

- *The environmental Area: We note that low area identified as 'Tidal Flooded Mangrove Forest and Woodland' is largely preserved as part of the Landscape requirements of the regulation. A part of the defined area proposed to be filled for the placement of recycle goods (Glass, metals, Plastic & paper) which is a beneficial to with the preservation of environment. We note that the 'Right of Way' is proposed to be relocated and is included as a part of the natural landscape. The revised location of the 'The Bridge' would be a more accurate reflection of why the bridge was indeed necessary in the olden days. This path and landscape could remain. Additionally, the proposed grade can be contoured to allow the swamp area and mangroves to remain as a flood rain period collection area.*

*Our client has communicated with the West Bay Heritage Committee, and they are satisfied that the signage of 'The Bridge' will be retained located along the most western boundary. Additionally, they would support story board/s being erected along the proposed public right of way relocation and close to the Homestead house and as an extension of the tourist attraction of the house of parcel 5C, 186. Our client embraces this this idea.*

- *The Bridge: 'The Bridge' is no longer present. The bridge was a path of temporal fallen logs to allow foot path passage to the beach through the swampy wet area at the southern boundary of the site. We have presented documentation based on the Planning approval of 2009 which indicated that the planning approval at the time permitted the public road/right of way to be relocated to the far western boundary of site 5C 163. The client provided the paved passage as was a condition to the 2009 approval. We are uncertain as to why the registration of the relocation of the right of way was not recorded at lands and survey, however, we have provided you with documentation relating to the discussions with planning at that time. Additionally, a sign was provided as was agreed with the West Bay Historical Committee that identified the path and the sign. This sign remains in place as a National Trust point of interest.*

*Our client has no objection to the combination of the land parcels and for the registration of the Public Right of Way as indicated on the proposed site plan. We are also aware that the National Roads Authority is also supportive of this proposal.*

- *The Aldine Franklin's house: We note that the house has received some basic repairs but has not been Restored.*

*While the house has had some improvements, the original state has many factors that have simply been done to provide a mimicked appearance of the original, which is not indicative of a proper restoration. The house has had three, possibly four alterations with few elements remaining that would appear to be in their original state. For example, the interior ceiling and a few of the parting walls of lime daub and wattle remain. The roof has had modifications with the profile being changed when additions were carried out over time. The wooded floor has been altered and tiled over. The external walls have received*



*a cement render coating to seemingly prevent a/c cooling loss and water ingress. The roof gables are sheeted with T 1-11 sheeting and not shiplap siding as was traditionally used. The windows are not original.*

*We confirm that we have carried out preliminary investigations and measurement to enable the original element of the house to be relocated to a property in Frank Sound (59A – 260). The owner of this parcel is very interested in the relocation of the original elements of the house and recreating the appearance. The new owner wishes to reconstruct the building for use as a functioning house and is willing to import materials to closely resemble the lime daub and wattle walls, shiplap siding and zinc roofing, gingerbread, and wooden trims similar to the original. Additionally, the client already has some stored material of posts and framing members that can be used to refurbish the old house.*

*We note that we have been in communication with ‘Unit Construction’ review and comment with regards to the feasibility of relocating the house and they are of the opinion that the original structure can be relocated. This entails dismantling the existing structure into components and trucking them to the new site, where it would be placed on a new foundation and reconstructed to recreate the historical features.*

*In this process, the house would be upgraded to have the necessary convenience of bathroom facilities, kitchen and utilities installed. While the house currently has these features, it appears to have been haphazardly executed/installed.*

*We can confirm that we have measured the house as it exists and are in the process of creating drawings to make a Planning Application for the house to be placed on its new site 59A – 260. We anticipate making the Planning submission the house within 3 to 4 weeks.*

*We feel that it is not a feasible to properly restore the existing house to its original state and that the above proposal presents reasonable options for addressing the points raised by the Department of Environment to help preserve the important historical past.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

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

The property is the site of the Fosters Republic supermarket, which is a free standing 30,780 square foot building.

The proposal is to expand the building to the west with an 11,094 square foot addition.

If the application is granted planning permission, the total area of the supermarket will be 41,874 square feet.

As part of the proposal, the applicant is proposing to relocate an existing pedestrian access to the historic “bridge” pedestrian trail further west, to the edge of the owner’s three lots (parcel 164). The owner acknowledges that the relocated right of way must be registered on title as a public right-of-way and it is suggested that this requirement be added as a condition if the application is approved. It should be noted that the right of way beyond the

Fosters property leading to Boggy Sand Road is a private right of way and not open to the public.

In addition, the owner is proposing to close a narrow public road allowance that travels in a north south direction across the property. The NRA agrees with this proposal to close and convey the allowance to the owner.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Historic Overlay**

In accordance with Regulation 16, the subject area is designated with a “Historic Overlay” zone.

Regulation 16(1) states that the Authority shall have a duty to promote and encourage the preservation of historic buildings and conserve their historic architectural heritage.

Regulation 16(2) indicates that in considering any application for permission to develop within an Historic Overlay zone, the Authority shall, in its discretion, ensure that the development:

- a) Conforms to the traditional workmanship, design, scale, massing, form, materials, decoration, colour and methods of construction of the buildings and the locations of windows and doors in them: and
- b) In its setting, reflects the historic pattern of development in the Islands.

With regard to the existing historic Cayman house that is located on parcel 164, the applicant has engaged an interested party willing to move the dwelling to a property in East End. The proposed relocation will require a separate application for planning permission.

There is also an existing sign for the “bridge” trail that the owner has agreed to relocate to the location of the new right of way.

In addition, the agent has discussed affixing large historic weatherproof photos of Cayman to the blank areas of the north and west facing exterior elevations of the building and this could be addressed as a condition should the application be granted planning permission.

It would seem these measures will assist the proposal with meeting the spirit of the historic overlay zone.

#### **2) Parcel combination**

The owner is aware that if approved, a condition will be included requiring the three lots to be combined.

**2.5 ANTHONY POWELL (Whittaker and Watler) Block 52C Parcel 89 (P21-0457) (JP)**

Application for land clearing by mechanical means.

**FACTS**

<i>Location</i>	Sea View Road, East End
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.79 ac. (34,412.40 sq. ft.)
<i>Current use</i>	Vacant

**BACKGROUND**

September 29, 2021 (CPA/20/21; item 2.15) Members adjourned determination to invite the applicant to appear before the Board. The applicant has declined the invitation and requested the application is remitted back to CPA for rendering of a decision.

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

- 1) Timing of the land clearing
- 2) Department of Environment comments

**AGENCY COMMENTS**

**Department of Environment (NCC)**

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

*The Applicant proposes to clear primary habitat, namely dry shrubland, dry forest and seasonally flooded mangrove forest and woodland. There is no justification provided from the applicant, and there is no development proposed to justify the loss of primary habitat. Clearing this site in the absence of an approved development or use, is considered to be speculative clearing which is not a practice that the DoE supports. Speculative land clearing removes the option of retaining native vegetation outside the footprint of a prospective development. It also results in the fragmentation of undisturbed primary habitat in the surrounding area. It is important to note that fragmentation is continuing to affect primary habitat interrupting important ecological services, wildlife corridors and facilitating the introduction of invasive species on cleared land.*

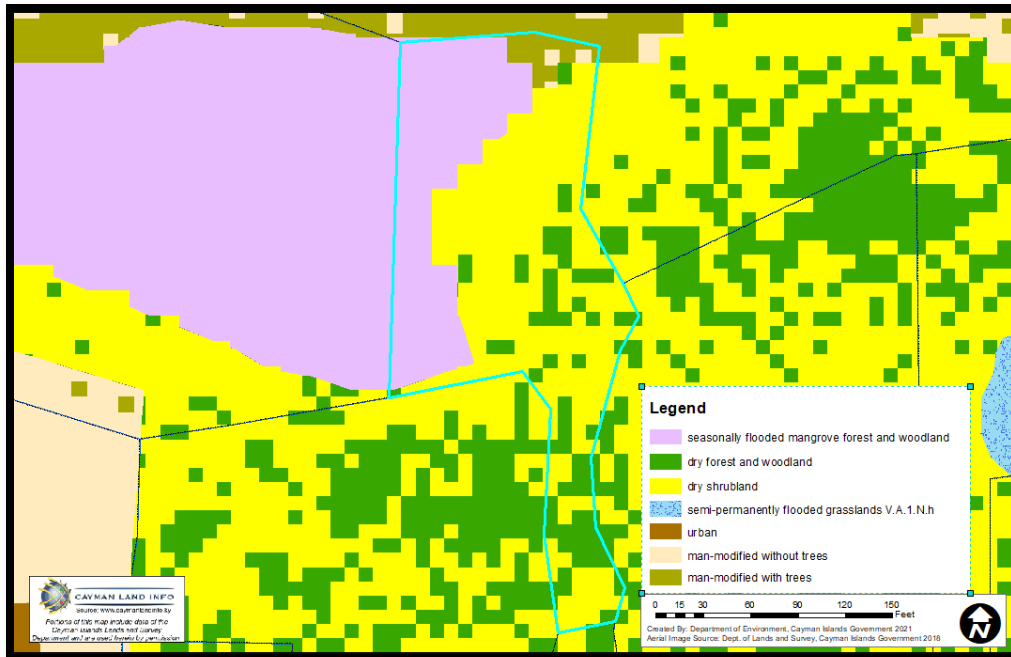


Figure 1: DOE's 2013 Habitat Map Extract showing Application Parcel Outlined in Blue  
 Retaining vegetation can provide benefits to the property owner and the surrounding area, including:

- Generally contributing to a more productive soil;
- Provision of habitat and food for wildlife;
- Provision of sound and privacy buffers neighbouring properties/developments;
- Provision of mature vegetation which can enhance landscaping and immediately offer shade;
- Assisting with the management of run-off and drainage;

*In conclusion we do not support this application for approval as there is no rationale provided for the clearing and therefore recommend this application for refusal.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located in Bodden Town Road sited and accessed by a rights of way across 52C 27, 52C 30 and 52C 32 from the south. Vacant land surrounds the entire application site.

The application seeks Planning Permission for land clearance using mechanical method.

### **Zoning**

The property is zoned Low Density Residential.

## **Specific Issues**

### **1) Timing of the land clearing**

There is no application at this time to develop the site and the Authority has typically expressed concern with the clearing of land in the absence of such an application

## **2.6 ANTHONY POWELL (Whittaker and Watler) Block 68A Parcel 28 (P21-0439) (JP)**

Application for land clearing by mechanical means.

### **FACTS**

<i>Location</i>	Sea View Road, East End
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	1.5 ac. (65,340 sq. ft.)
<i>Current use</i>	Vacant

### **BACKGROUND**

September 29, 2021 (**CPA/20/21; item 2.14**) Members adjourned determination to invite the applicant to appear before the Board. The applicant has declined the invitation and requested the application is remitted back to CPA for rendering of a decision.

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

- 1) Timing of the land clearing
- 2) Department of Environment comments

### **AGENCY COMMENTS**

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

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

*The Applicant proposes to clear 16 acres of primary habitat, namely dry forest and shrubland. No justification is provided from the applicant, and there is no development proposed to provide a benefit to set against the loss of primary habitat.*

*The National Biodiversity Action Plan (NBAP) for the Cayman Islands (2009) identifies “fragmentation” as a key factor negatively affecting forest and woodland in the Cayman Islands. The NBAP states: “Fragmentation: forest and woodland is highly susceptible to fragmentation. Fragmentation interrupts wildlife corridors, introduces invasive species and exposes extensive areas of forest to damaging edge effects, including wind shear, ingress of light, and modification”.*

*The NBAP goes further to comment on the impact on forest environments of speculative clearance and states that: “Speculative clearance: the complete clearance of all vegetation from a saleable lot, to demonstrate its extent and topography, is a common practice in the Cayman Islands. This results in immediate and long-term damage to the ecological value of the land. Regardless of whether a sale is forthcoming, invasive species colonise the cleared area, compromising both the cleared site and impacting neighbouring parcels. Speculative clearance removes any option for a prospective buyer to maintaining native vegetation outside of the footprint of any new development.” The proposed clearing of this property will result in fragmentation of the undisturbed primary forest and woodland in the surrounding area.*

*The Department does not support the speculative clearing of land and we encourage applicants to submit proposals for land clearing along with their proposals for development as there may be varying recommendations for vegetation retention depending on the form and nature of the development being proposed. Retaining vegetation provides benefits to the property owner and the surrounding area. For example, retaining vegetation can:*

- Affect soil development over time generally contributing to a more productive soil;*
- Provide habitat and food for wildlife;*
- Provide sound and privacy buffers from the road and neighbouring properties/developments;*
- Provide mature vegetation which can enhance landscaping and immediately offer shade;*
- Assist with the management of run-off and drainage;*
- Reduce the amount of greenhouse gas emissions by avoiding the unnecessary clearing of land which releases carbon dioxide into the atmosphere. Therefore, we recommend that this application is refused.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located in East End sited and accessed by a right of way across 68A 132 from the north of Sea View Road. An existing structure bounds the site to the south-west and vacant land surrounds all remaining perimeter.

The application seeks Planning Permission for land clearance using mechanical method.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Timing of the land clearing**

There is no application at this time to develop the site and the Authority has typically expressed concern with the clearing of land in the absence of such an application.

**2.7 DWIGHT ALLEN Block 49A Parcel 53 (P20-0285) (\$3,500) (AS)**

Application for a shipping container to be used for storage.

**FACTS**

<i>Location</i>	Sandstone Drive
<i>Zoning</i>	<b>MDR</b>
<i>Parcel Size</i>	.2833 AC (12,340 sq. ft.)
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Container to be used for storage.
<i>Building Coverage</i>	13.8%

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

- 1) Suitability of a permanent shipping container used for storage

**BACKGROUND**

Administrative approval was granted on the 27<sup>th</sup> May 2019 for a 1,169 sq ft house. On the 17<sup>th</sup> September 2019 administrative approval was also granted for a 384 sq ft gym/storage bldg.

April 29, 2020 (CPA/07/20; item 2.7) - the Authority adjourned the application for the following reason:

- 1) The applicant shall first obtain a permit for the previously approved building(s) prior to the container being considered for approval.

On the 12<sup>th</sup> April 2021 a building permit was issued for the 1,169 sq ft house that was conditionally approved on 27<sup>th</sup> May 2019.

On the 12<sup>th</sup> April 2021, a building permit was issued for a 384 sq ft gym/storage building that was conditionally approved on 17<sup>th</sup> September 2020.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a container to be used for storage.

**Zoning**

The property is zoned Medium Density Residential.

**Specific Issues**

**1) Suitability**

There are no existing structures on the parcel. A house and gym/storage building have received administrative approval, but building permit applications have not been

submitted for either. The applicant states the wish to have the container for temporary storage. The Authority should determine if it is suitable to have a shipping container on a vacant parcel in a residential subdivision.

**SUPPLEMENTARY INFORMATION**

The applicant has obtained permits for the approved house and gym/storage building, but has not indicated that they wish to keep the container permanently on the parcel.

**2.8 ALDO GIANNE (Elegant Design) Block 19E Parcel 190 (P21-0571) (\$2.48 million) (NP)**

Application for proposed gas station, convenience store, 6 apartments, rental vehicle wash facility, rental vehicle office, & 6 signs.

**FACTS**

<i>Location</i>	George Town
<i>Zoning</i>	<b>Heavy Industrial</b>
<i>Parcel size</i>	24,763.86 sq. ft.
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Vacant
<i>Buildings Footprint</i>	7,450 sq. ft.
<i>Building Area</i>	12,411 sq. ft.
<i>Site Coverage</i>	72.0% (parking & buildings)
<i>Parking Required</i>	19
<i>Parking Proposed</i>	20
<i>Notification Results</i>	No Objections

**BACKGROUND**

August 25, 2021 (CPA/17/21; item 2.9) – the application was adjourned for the following reasons:

- 1) The Authority requires comments from the National Roads Authority in order to fully consider the application.
- 2) The applicant is required to submit revised plans showing:
  - a) Allowance for the full width of the 30’ r-o-w leading to 19E 149.
  - b) A 6’ sidewalk along Caterpillar Lan within the applicant’s property boundary
  - c) Remove all grasscrete
  - d) The number of signs reduced to the satisfaction of the Director of Planning



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

- 1) revisions to the plans
- 2) number of signs (reduced from 8 to 6)

**AGENCY COMMENTS**

Comments from the Department of Environmental Health (DEH), Fire Department, and Water Authority are noted below.

**Department of Environmental Health (DEH)**

*DEH has no objections to the proposal.*

*This development requires (1) 8 cubic yard container with five times per week servicing.*

*Table 1: Specifications for Onsite Solid Waste Enclosures*

*Container size 8 yd<sup>3</sup>*

*Width 10 ft*

*Depth 10 ft*

*Height 5.5 ft*

*Slab Thickness 0.5 ft*

*Requirements Water (hose bib), drain, Effluent Disposal well; guard rails*

*NOTE: The drain for the enclosure must be plumbed to a garbage enclosure disposal well as per the Water Authority's specifications.*

**Fire Department**

The Fire Department has stamped approved the drawings.

**Water Authority**

*The water authority is returning for resubmission this development.*

*The architect is required to submit more details on the car rental car washing operations and the best management practices of groundwater protection associated with this operation.*

**National Roads Authority**

*As per your memo dated June 17<sup>th</sup> 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

### ***Access Issue***

*Please note that there is a thirty (30) ft. vehicular easement over Block 19E Parcel 190 granting access to the parcel in the rear (19E149) which recently received planning permission for a warehouse development (your ref: P20-1044).*

*The NRA **vehemently** recommends that the applicant relook at the project layout and then revise the site to address this issue, as it will affect multiple components of the site, inclusive of the onsite circulation, parking, garbage collection and the sewage treatment plant.*

*Until the above access issue is addressed the application should **not** be allowed to proceed.*

### **APPLICANT'S LETTER**

*As a follow up to the comments from the CPA and on behalf of our client South Newbury LTD. we are resubmitting revised plans for this mixed use commercial complex recently reviewed by the CPA.*

*We were given the comments as shown below with our Replies on how we adjusted each item.*

*CPA Comments: They would like revised plans with the following:*

- 1. full 30 foot wide right of way to the parcel to the north Reply: See site plan revisions where we trimmed off about 3'9" from the western side of the building to show the clear 30' easement.*
- 2. show a 6 foot wide sidewalk on Caterpillar lane Reply: See attached A100 revisions, we adjusted the plan to fit the 6' sidewalk.*
- 3. remove grass-crete – max 75% asphalt and building coverage Reply: See attached revisions, we removed the western driveway and left the easement as lawn and removed all the grass-crete.*
- 4. reduce number of signs" Reply: We removed 2 signs from the front building elevation*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The subject property is located in George Town, on North Sound Road at the intersection with Caterpillar Lane. For reference, the Government (DVES) gas station is located across the street from the subject property.

The property is currently vacant.

#### **Zoning**

The property is zoned Heavy Industrial.

## **Specific Issues**

### **1) Proposed Use**

Regulation 12(1) states that Industrial Development is permissible within Heavy and Light Industrial zones provided that:

- a) It is not detrimental to the surrounding area;
- b) It provides centres of local employment;
- c) Access to industrial areas is ensured; and
- d) This regulation is complied with fully.

Section 2 of the Regulations defines “heavy industry as any industry other than light or cottage industries”.

Regulation 12(6) notes that in a Heavy Industrial zone, heavy industrial development may be permitted as a principal use, and, for the purposes of this regulation, heavy industrial uses shall include but not be limited to power generation, fuel refining and storage, solid waste disposal and recycling, quarrying and mining, and mechanised and other forms of manufacture.

Department staff would consider the proposed uses for this site as commercial uses, which would not appear to be permitted within the Heavy Industrial zone. In this regard, Section 15(3) of the Regulations indicate that any other form of development is permissible in an Industrial zone if it does not change the primary use of the zone for industrial purposes. In this regard, it should be noted that there is a limited supply of vacant heavy industrial zoned lands on the Island. In fact, the only lands zoned Heavy Industrial on the Island are in the vicinity of the subject parcel and north to the Government landfill site. It is recommended that such lands should be preserved for the industrial uses envisaged by the Regulations.

Indeed the November 2018 National Planning Framework draft for public consultation, which was adopted by the previous Authority, contains a goal which partially states “ensure (an) adequate long-term supply of industrial land within existing industrial zones”. The National Planning Framework goes on to state as an objective that “encourage industrial uses to locate in industrial areas and restrict the infringement of retail, office, and residential land uses into these areas.”

The Authority should carefully consider whether the proposed commercial uses (a gas station, car wash, and car rental business) are appropriate for lands zoned Heavy Industrial.

### **2) Proposed Residential Use**

The application proposes six one-bedroom apartments located above the combined convenience store, car rental office, and carwash building.

A site visit revealed that the subject area is a mix of land uses but does not include existing residential uses.

It would appear that residential uses are not compatible with the existing land uses in

the area and the proposed land uses. In support of this opinion, the November 2018 National Planning Framework draft for public consultation contains an objective to “amend regulations prohibiting new residential development within industrial zones”.

The Authority should carefully consider whether the proposed residential uses are appropriate for this proposed development, the surrounding area, and lands zoned Heavy Industrial.

**3) Access**

The subject parcel is encumbered by a 30’ vehicular right-of-way in favour of 19E 149 and 153. There is an application for two warehouses on this Agenda and located on 19E 149 and 153. The plans for the warehouse development intend to utilize the 30’ right-of-way over 19E 190. The site plan for 19E 190 has been designed to allow for a 24’ driveway leading to 19E 149 and 153, but not 30’, and it is not in the exact location on North Sound Rd as shown on the registry map. The owners of 19E 149 and 153 were notified of this application and no objections were received. The Authority needs to determine if the access location and width shown on site plan for 19E 190 is acceptable.

**4) Sidewalk along Caterpillar Lane**

A site visit revealed that Caterpillar Lane is a narrow street that ends approximately 400 feet north of North Sound Road.

The Authority should discuss whether a six foot wide sidewalk is required along this street frontage.

**5) Amount of proposed Grasscrete**

Twelve of the twenty proposed parking spaces as well as the car wash entrance lane are proposed to be finished with grasscrete. This is due to the fact that the building and paved parking areas total 72 percent site coverage, whereas a maximum 75 percent is permitted. If the proposed grasscrete areas were standard asphalt, the maximum permitted 75 percent guideline would be exceeded.

There have been long standing concerns with the durability of grasscrete and, specific to this proposal, the amount of grasscrete proposed for high traffic areas.

The Authority should discuss the use of grasscrete and the amount of grasscrete proposed in this instance.

**6) Size and Number of Proposed Signs**

The proposal includes one totem pricing sign located at the corner of North Sound Road and Caterpillar Lane. The height of this sign is indicated as 23.5 feet and the area of the sign is 78.6 square feet.

The proposed canopy contains two signs facing different directions, each with an area of 30 square feet.

The proposed building contains three signs facing south, two that are 20 square feet in area and one sign that is 30 square feet in area.

The proposed building also contains one 20 square foot sign facing west.

There is also one ground mounted sign that measures 26 square feet in area.

The Authority should discuss the number and size of signs proposed for this development.

### **SUPPLEMENTARY ANALYSIS**

Subsequent to the August 25, 2021 meeting, the NRA provided comments, see above, and the applicant made the following revisions to the plans:

1) **30 foot wide easement**

The site plan has been revised to show a thirty foot wide easement, but it does interfere with two parking spaces which would have to be relocated should approval be granted.

2) **Sidewalk along Caterpillar Lane**

A six foot wide sidewalk has been provided along the Caterpillar Road frontage.

3) **Amount of proposed Grasscrete**

The applicant has removed the grasscrete from the site.

Site coverage is now at 74.7 percent whereas 75 percent is allowed.

4) **Size and Number of Proposed Signs**

Two proposed signs have been removed from the front elevation.

**2.9 TREASURE ISLAND JERK CHICKEN (Shoreline Construction) Block 14C Parcel 374 (P21-0478) (\$50,000) (NP)**

Application for a proposed restaurant and bar.

### **FACTS**

<i>Location</i>	Eastern Avenue at Treasure Island Liquor & Store
<i>Zoning</i>	<b>General Commercial</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	0.3 acres
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Auto Parts Store
<i>Proposed use</i>	Restaurant & Bar
<i>Building Footprint</i>	144 square feet
<i>Parking Required</i>	15 spaces (existing & proposed use)
<i>Parking Provided</i>	25 spaces

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

- 1) Suitability
- 2) Proposed location of the garbage skip

## **AGENCY COMMENTS**

None received to date

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located directly south of the Popeyes Restaurant on Eastern Avenue.

The proposed application is in response to an Enforcement Notice that was served on the property. The restaurant and bar kiosk was erected without planning permission.

### **Zoning**

The property is zoned General Commercial.

### **Specific Issues**

#### **1) Site layout**

A site visit revealed that the existing development consists of a commercial building and a large paved area with undemarcated parking. The proposal, if approved, will add some formality to the existing parking lot arrangement.

The existing solid waste container is presently located in the vicinity of the proposed kiosk. The new solid waste facility will be located in the south east corner of the property and it will be important that it is properly screened.

#### **2) Parking**

The proposed restaurant and bar consists of a 144 square foot kiosk. There is also an outdoor seating area that is estimated to be approximately 435 square feet in area. As a result, based upon a requirement of one parking space per 200 square feet for a restaurant or bar, the proposed use requires a total of 4 parking spaces.

The existing auto parts building consists of 3,149 square feet. The building requires a total of 11 parking spaces based upon one parking space per 300 square feet.

Therefore, based upon the existing and proposed uses, a total of 15 parking spaces are required.

The site plan depicts a total of 25 parking spaces.

#### **3) Suitability**

The Authority should determine if the proposed structure is suitable for a restaurant and bar.

**2.10 LORI MONCRIEFFE (DDL Studio Ltd) Block 57A Parcel 125 (P21-0695) (\$258,750) (NP)**

Application for proposed six apartments, pool, & cabana.

**FACTS**

<i>Location</i>	Aquamarine Court in North Side
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notice Requirements</i>	No objectors
<i>Parcel size</i>	18,012 sq. ft.
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed use</i>	6 Apartments, Pool, Cabana
<i>Building Footprint</i>	3,658 sq ft
<i>Building Area</i>	6,868 sq ft
<i>Site Coverage</i>	20 %
<i>Number of Units Allowed</i>	6
<i>Number of Units Proposed</i>	6
<i>Number of Bedrooms Allowed</i>	9
<i>Number of Bedrooms Proposed</i>	8
<i>Parking Required</i>	9
<i>Parking Provided</i>	9

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

- 1) Suitability for Apartments
- 2) Lot Area (18,012 sq ft vs 25,000 sq ft)
- 3) Lot Width (63'10" vs 100')

**AGENCY COMMENTS**

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

**Water Authority Cayman**

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

### **Wastewater Treatment & Disposal**

- *The developer shall provide a **septic tank(s)** with a capacity of at least **1,750 US gallons** for the proposed apartments.*
- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- ***Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licensed driller in strict accordance with the Authority's standards.** Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- ***To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4'5" above MSL.** The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

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

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

### **Water Supply**

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

- *The developer shall contact Water Authority's Engineering Services Department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the public water supply.*



- *The developer shall submit plans for the water supply infrastructure for the development to the Water Authority for review and approval.*
- *The developer shall install the water supply infrastructure within the site, under the Water Authority's supervision, and in strict compliance with the approved plans and Water Authority Guidelines for Constructing Potable Water Mains. The Guidelines and Standard Detail Drawings for meter installations are available via the following link to the Water Authority's web page: <http://www.waterauthority.ky/water-infrastructure>*

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

### **Department of Environmental Health**

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

*This development require six (6) thirty three (33) gallon bins and an enclosure built to the department's requirements.*

*The enclosure should be located as closed to the curb as possible without impeding the flow of traffic.*

*The enclosure should be provided with a gate to allow removal of the bins without having to lift it over the enclosure.*

*Table 1: Minimum Enclosure Dimensions*

*Number of Containers 6*

*Width 5' Length 7.5' Height 2.5'*

*Swimming Pool: A swimming pool application must be submitted to DEH for review and approval prior to constructing the pool.*

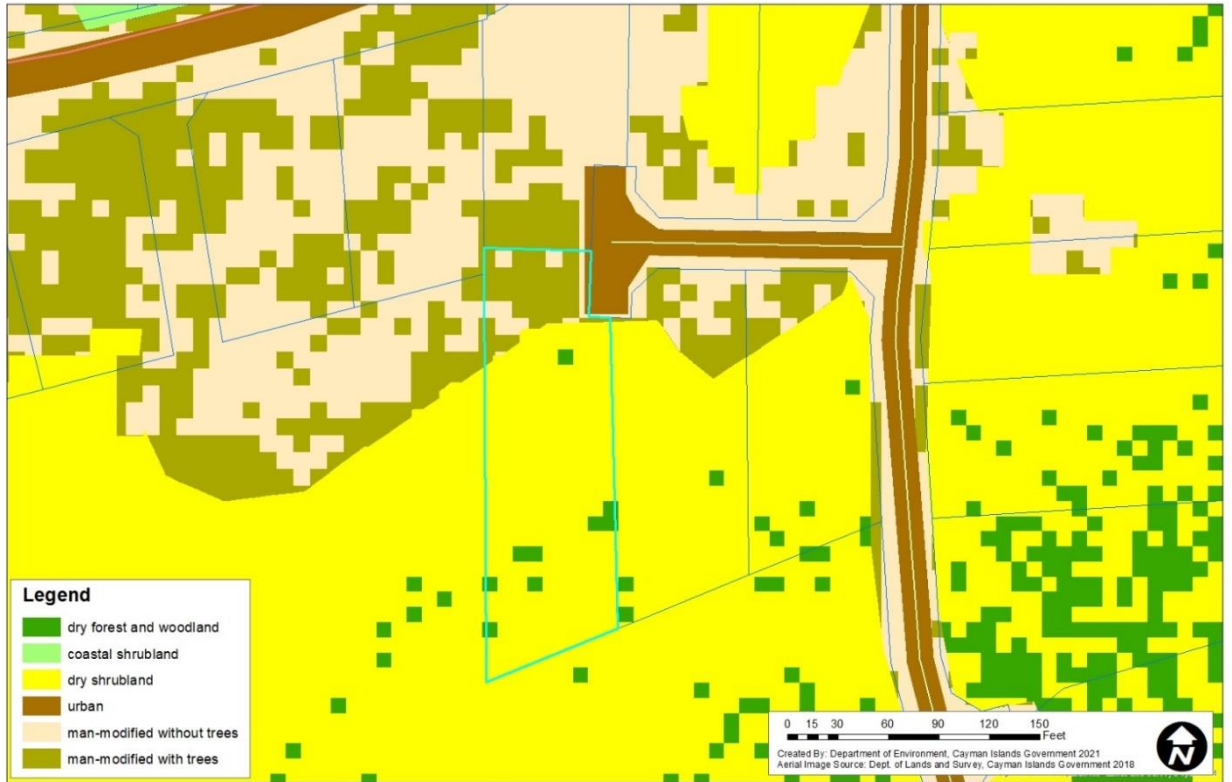
### **Fire Department**

The Fire Department has stamped approved the drawings.

### **Department of Environment**

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

*The Department notes that the majority of the subject parcel is primary dry shrubland and dry forest habitat, as shown in figure 1 below. Therefore it is recommended that native vegetation should be retained or planted where possible and incorporated into the landscaping scheme. 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.*



**National Roads Authority**

*As per your memo dated July 23<sup>rd</sup> 2021 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 six (6) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.65, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Aquamarine Court is as follows:*

<b>Expected Daily Trip</b>	<b>AM Peak Hour Total Traffic</b>	<b>AM Peak 20% In</b>	<b>AM Peak 80% Out</b>	<b>PM Peak Hour Total Traffic</b>	<b>PM Peak 65% In</b>	<b>PM Peak 35% Out</b>
<b>40</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>1</b>

*Based on these estimates, the impact of the proposed development onto Aquamarine Court 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 Aquamarine Court, within the property boundary, to NRA standards.*

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

### ***Stormwater Management Issues***

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

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

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

### **APPLICANT'S LETTER**

*We write on behalf of our client, Lori Moncrieffe.*

*As part of the planning application, we are requesting the following variances.*

- *Lot Size - Regulation 9(8)(e) states, "the minimum lot size for apartments is 25,000 sq. ft.". The proposed existing lot size would be 18,012 sq. ft., a difference of 6,988. sq. ft. respectively.*
- *Lot Width - Regulation section 9(8)(g) states, " the minimum lot width for apartmentst is 100' ft." The proposed, existing lot width would be 63' - 10" ft. a difference of 36' - 2". ft. respectively.*
- *The proposed development consists of a new two-story building containing 6 apartments units, 3 on each floor. It is located on the block and parcel 57A-125 in the North Side area.*

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

- *The proposed apartments are consistent with the residential character of the surrounding area, following Section 8 (13) (b) (i) in the planning law.*
- *The owners within a radius of 250ft have been notified, and the project will not be materially detrimental to persons residing or working in the vicinity of the property and the neighborhood; or to the public welfare, following Section 8 (13) (b) (iii) in the planning law.*
- *With the exceptions of the lot width and the size, the application complies with the Development and Planning Regulations (2021 Revision).*
- *The project will help increase the number of residential units required to develop the North Side Area of the island.*
- *There is sufficient infrastructure on this site and in the surrounding neighborhood, e.g., public road, water line, electrical service, etc., to support the residents of the proposed apartments.*

*We have ensured that the project complies with all other requirements for Low-Density Residential developments. We trust this explanation satisfies any concerns that the board*

*members may have, and they will propose a favorable decision to grant this variance request.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located on Aquamarine Court (off of Palm Crest Drive) in North Side.

The property is currently vacant.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Suitability for Apartments**

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

It is questionable whether the subject property is a suitable location for apartments.

A review of 2018 aerial photography and GIS mapping indicates that only one of the fifteen lots accessible by Aquamarine Court and Palm Crest Drive is developed: and that property has a detached dwelling upon it.

Furthermore, of the fifteen properties, only one meets the minimum lot area for apartments.

The Authority should discuss whether this is a suitable area for apartments.

#### **2) Lot Area**

Regulation 9(8)(f) states that the minimum lot area for apartments is 25,000 square feet.

The subject property has 18,012 square feet of area.

The applicant's agent has submitted a variance letter and the Authority should consider whether a variance is warranted under the circumstances.

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

Regulation 9(8)(g) states that the minimum lot width for apartments is 100 feet.

The subject property has a minimum lot width of 63'10" and a maximum lot width of approximately 80 feet.

The applicant's agent has submitted a variance letter and the Authority should consider whether a variance is warranted under the circumstances.

**2.11 KHOURI (Abernethy & Associates) Block 75A Parcel 335 (P21-0863) (\$9,902) (NP)**

Application for a proposed 11 lot subdivision.

**FACTS**

<i>Location</i>	West of Cooper Drive, East End
<i>Zoning</i>	<b>LDR</b>
<i>Notification Results</i>	No objectors
<i>Parcel size</i>	3.065 acres
<i>Parcel size required</i>	10,000 sq. ft. for dwellings
<i>Parcel width required</i>	80 feet for dwellings
<i>Proposed lot sizes</i>	10,090 sq. ft. to 12,810 sq. ft.
<i>Current use</i>	Vacant

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

- 1) Determine if one 15' road parcel plus a 15' easement next to it is acceptable for access to the lots.

**AGENCY COMMENTS**

**Water Authority Cayman**

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

**Water Supply:**

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

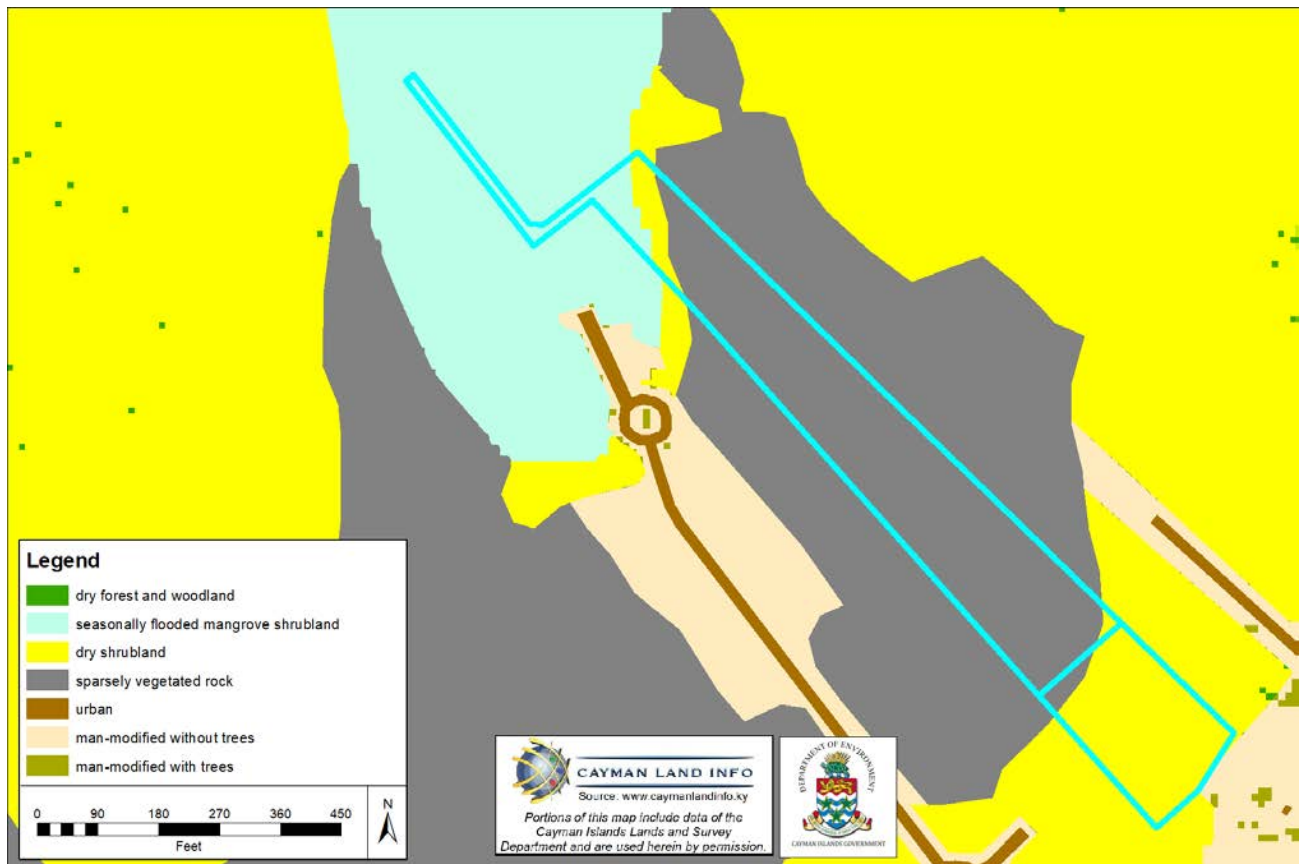
**Wastewater Treatment:**

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

## Department of Environment

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

*The site is primary habitat, occupied by dry forest and shrubland in the south, sparsely vegetated rock in the central area and some seasonally flooded mangrove shrubland to the north, as shown in Figure 1. The site is very low-lying, lower than the road and development to the south. The low elevation is likely one of the reasons for the lack of vegetation in the central area.*



*Figure 1. The habitat present at the site.*

*Therefore, if the Central Planning Authority is minded to approve this application, we recommend the following:*

- Any application for future development of the site should be subject of a separate consultation with the National Conservation Council.*
- No clearing should occur until development is imminent.*

## National Roads Authority

*As per your memo dated August 25<sup>th</sup> 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

### **Stormwater Management Issues**

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

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

### **Infrastructure Issues**

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

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

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

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

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located in East End, west of Cooper Drive.

The property is currently vacant and the proposal is to create nine new residential lots, one parcel (6,645 square feet) as Lands for Public Purposes, and one road parcel.

Proposed residential lot sizes range from 10,090 square feet to 12,810 square feet. Rights of way over the proposed road parcel are proposed.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Access**

The applicant is proposing a 15' wide road parcel within the boundaries of Parcel 335 together with a 15' easement over the adjacent lands to provide access for the



proposed lots. The Applicant needs to determine if this access arrangement is acceptable.

**2.12 KHOURI (Abernethy & Associates) Block 75A Parcel 336 (P21-0864) (\$3,960) (NP)**

Application for proposed 4 lot subdivision.

**FACTS**

<i>Location</i>	West of Cooper Drive, East End
<i>Zoning</i>	<b>LDR</b>
<i>Notification Results</i>	No objectors
<i>Parcel size</i>	43,560 sq ft
<i>Parcel size required</i>	10,000 sq. ft. for dwellings 25,000 sq. ft. for apartments
<i>Parcel width required</i>	80 feet for dwellings 100 feet for apartments
<i>Proposed lot sizes</i>	12,560 sq. ft. to 14,005 sq. ft.
<i>Current use</i>	Vacant

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

- 1) Determine if one 15’ road parcel plus a 15’ easement next to it is acceptable for access to the lots.

**AGENCY COMMENTS**

**Water Authority Cayman**

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

**Water Supply:**

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

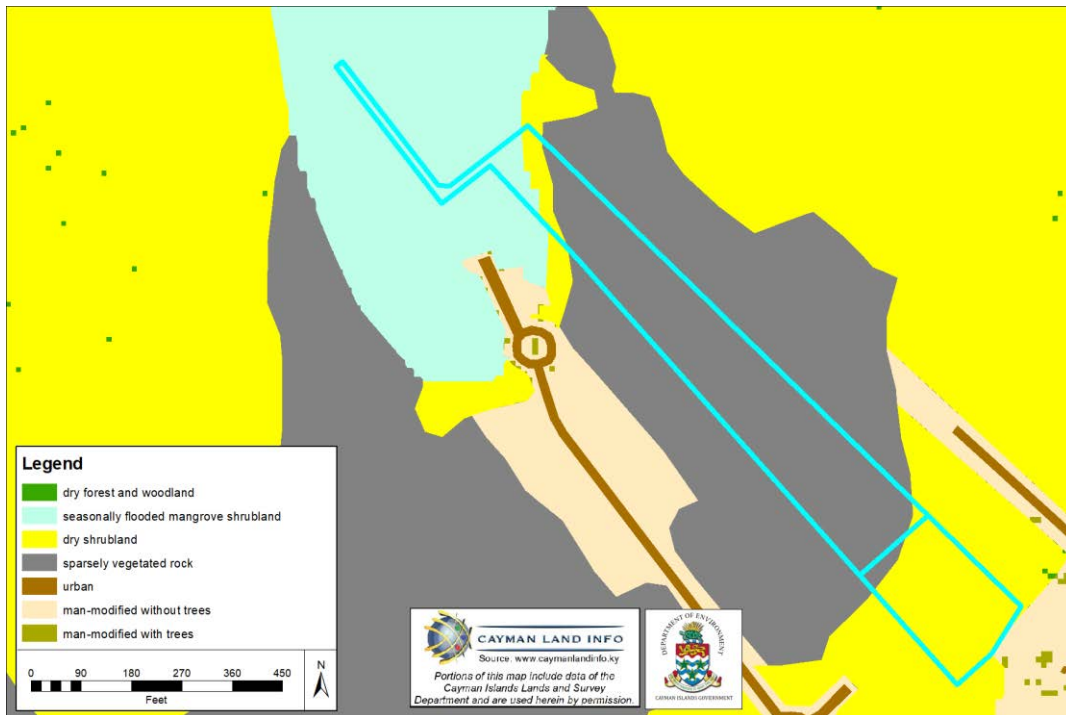
### **Wastewater Treatment:**

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

### **Department of Environment**

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

The site is primary habitat, occupied by dry forest and shrubland in the south, sparsely vegetated rock in the central area and some seasonally flooded mangrove shrubland to the north, as shown in Figure 1. The site is very low-lying, lower than the road and development to the south. The low elevation is likely one of the reasons for the lack of vegetation in the central area.



*Figure 1. The habitat present at the site.*

Therefore, if the Central Planning Authority is minded to approve this application, we recommend the following:

- Any application for future development of the site should be subject of a separate consultation with the National Conservation Council.
- No clearing should occur until development is imminent.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The subject property is located in East End, west of Cooper Drive.

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

Proposed residential lot sizes range from 12,560 square feet to 14,005 square feet. Rights of way over the proposed road parcel are proposed.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Access**

The applicant is proposing a 15’ wide road parcel within the boundaries of Parcel 335 together with a 15’ easement over the adjacent lands to provide access for the proposed lots. The Applicant needs to determine if this access arrangement is acceptable.

**2.13 OSMOND ANDERSON (GMJ Homeplans Ltd.) Block 24E Parcel 260 (P21-0133) (\$579,000) (BES)**

Application for four (4) apartments.

**FACTS**

<i>Location</i>	Orange Drive
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No Objectors
<i>Parcel Size Proposed</i>	0.2385ac. (10,389.1 sq. ft.)
<i>Parcel Size Required</i>	25,000 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Same as above
<i>Proposed building size</i>	3,112 sq. ft.
<i>Total building site coverage</i>	29.9%
<i>Allowable units</i>	3
<i>Proposed units</i>	4
<i>Allowable bedrooms</i>	6
<i>Proposed bedrooms</i>	6
<i>Required parking</i>	6
<i>Proposed parking</i>	6

## **BACKGROUND**

In 1990, a dwelling house was approved

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

- 1) Suitability
- 2) Number of apartments (4 units vs 3 units)
- 3) Lot size (10,389 sq ft vs 25,000 sq ft)
- 4) Rear setback (15' 6" to steps vs 20')

## **AGENCY COMMENTS**

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

### **Water Authority**

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

### **Wastewater Treatment & Disposal**

- *The developer shall provide a septic tank(s) with a capacity of at least (1,500) US gallons for the proposed apartments.*
- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority's standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4'5" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

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

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

### **Water Supply**

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

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

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

### **National Roads Authority**

*As per your memo dated March 5<sup>th</sup>, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

### **Road Capacity Issues**

*The traffic demand to be generated by a residential development of four (4) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Orange Drive 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>
<i>27</i>	<i>2</i>	<i>0</i>	<i>2</i>	<i>3</i>	<i>2</i>	<i>1</i>

*Based on these estimates, the impact of the proposed development onto Orange 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 Orange Drive, within the property boundary, to NRA standards.*

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

***Stormwater Management Issues***

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

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

*recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

- *Sidewalk detail needs to be provided as per NRA specifications. See (<https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf>)*

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

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

*We recommend the planting of native vegetation. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a very cost-effective choice.*

### **Fire Service**

The CFO approved the site layout.

### **Department of Environmental Health**

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

## **APPLICANT'S LETTER**

See Appendix F

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is for four (4) apartments at the above-caption property. The site is located on Orange Drive.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issue**

#### **1) Suitability**

Pursuant to Regulation 9(8) of the Development and Planning Regulations (2021 Revision), apartments are permissible in suitable locations. The surrounding land uses in the area include apartments, duplexes, dwelling houses and vacant properties. It should be noted that the adjacent parcel, 24E 259 is the same size as the subject parcel was approved with 3 apartments.

#### **2) Density**

Per Regulation 9(8)(c) of the Development and Planning Regulations (2021 Revision), the maximum allowable number of apartments is 3 and the applicant is proposing 4.

#### **3) Lot Size**

The proposed lot size is 10,389.1 sq ft whereas the minimum allowable lot size for apartments in LDR zone is 25,000 sq ft. per regulation 9(8)(f).

#### **4) Rear Setback**

The proposed rear setback is 15'-6" (steps and ac units), whereas the minimum required rear setback is 20'-0" per regulation 9(8)(i) of the Development and Planning Regulations (2021 Revision).



**2.14 PURITAN CLEANERS LTD. (EKT Architecture) Block 13EH Parcel 197 (P21-0620) (\$600,000) (NP)**

Application for proposed warehouse.

**FACTS**

<i>Location</i>	Autumn Lane, George Town
<i>Zoning</i>	<b>General Commercial</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	17,145.2 sq ft
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Vacant
<i>Proposed use</i>	Warehouse
<i>Building Footprint</i>	5,000 sq. ft.
<i>Building Area</i>	5,000 sq. ft.
<i>Site Coverage</i>	67.8.0% (building and parking)
<i>Parking Required</i>	5
<i>Parking Proposed</i>	13

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

- 1) Proposed Warehouse Use in a General Commercial Zone.
- 2) Front Setback after Autumn Lane Road Widening

**AGENCY COMMENTS**

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

**Water Authority Cayman**

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

**Wastewater Treatment & Disposal**

- *The developer shall provide a **septic tank** with a capacity of at least **(1,500) US gallons** for the proposed warehouse.*
- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal*

*and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*

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

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

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

#### *Water Supply*

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

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

to the Water Authority's web page: <http://www.waterauthority.ky/water-infrastructure>

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

### **Fire Department**

The Fire Department has stamp approved the drawings.

### **Department of Environmental Health (DEH)**

*This development will require (1) 4 cubic yard container with once per week servicing.*

*Specifications for Onsite Solid Waste Enclosures*

*Container size 4 yd<sup>3</sup>*

*Width 10 ft*

*Depth 8 ft*

*Height 5.5 ft*

*Slab Thickness 0.5 ft*

*Requirements Water (hose bib), drain, Effluent Disposal well; guard rails*

*NOTE: The drain for the enclosure must be plumbed to a garbage enclosure disposal well as per the Water Authority's specifications.*

### **National Roads Authority**

*As per your memo dated June 29 2021 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 5,000 sq. ft. has been assessed in accordance with ITE Code 150 – Warehouse. The anticipated traffic to be added onto Autumn Lane and Eastern Avenue is as follows:*

<b>Expected Daily Trip</b>	<b>AM Peak Hour Total Traffic</b>	<b>AM Peak In</b>	<b>AM Peak Out</b>	<b>PM Peak Hour Total Traffic</b>	<b>PM Peak In</b>	<b>PM Peak Out</b>
<b>18</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>1</b>

*Based on these estimates, the impact of the proposed development onto Autumn Lane and Eastern Avenue 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 Autumn Lane, 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. Four (4) 8" vertical wells in 3ft by 3ft catchbasins for both road and 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. 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.*

*As new standard practice, the NRA at the inspection stage will be having unconnected vertical wells tested to confirm their viability. The testing request is applicable only for the vertical wells located in the parking lots. On that basis, please liaise with a local engineering firm to carry-out the flow testing. The NRA is recommending the ASTM D4050 – "Standard Test Method for Withdrawal and Injection Well Tests for Determining Hydraulic Properties of Aquifer Systems" but the retained engineering firm may*

*recommend an alternative representative testing method that can be discussed and approved after consultation with the NRA in this regards.*

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

## **Department of Environment**

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

### **APPLICANT'S LETTER**

*Please be advised that my client is applying for planning approval for a four-unit, 5,000 square foot warehouse building. The board will note that the zoning for the property is "Commercial".*

*My client is requesting that approval be given for a warehouse structure based on the following;*

*There are some adjacent properties and others in the immediate vicinity that are actual storage buildings. Said buildings are those of Uncle Bills and Kirk Home Center, there is a mini warehouse development on Bodden Road (less than one hundred feet from the applicant's site) which was developed over twenty years ago.*

*My client is in need of space to store their extra equipment, parts and supplies so as to maximize their existing operations in the adjacent building.*

*It is also my client's position that given the remote/ inconspicuous location of the property, a warehouse building is best suited for the site as opposed to a commercial building.*

*The storage building and its uses would mean significantly less traffic than that of a commercial facility.*

*Additionally, the proposed parking for the storage building consists of eight more spaces over and above the minimum five spaces required.*

*With the above having been stated, once again my client is requesting that the board issues a variance for a storage building and thanks you in advance for your consideration. I trust that the board understands my client's position and request for variance. We look forward to your favorable reply*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The subject property is located in George Town, near the terminus of Autumn Lane.

The property is currently vacant.

**Zoning**

The property is zoned Marine Commercial.

**Specific Issues**

**1) Proposed Use**

Regulation 13(1)(a) lists an extensive number of permitted uses in the General Commercial zone. It is noted that a warehouse is not listed as a permitted use.

In this instance the proposed use is for a 5,000 square foot, 4 unit warehouse building. Typically warehouse developments similar to the one proposed are most appropriate in a Light Industrial or Industrial zone.

In this regard, the applicant has submitted a letter for the consideration of the Authority.

The Authority should discuss whether the proposed warehouse use is appropriate for the General Commercial zone.

**2) Front Setback Following Autumn Lane Road Widening**

The site plan depicts a proposed twenty foot setback from the current edge of Autumn Lane, which is a very narrow access road. In view of this, the proposal also includes a 9 foot wide future road widening along the Autumn Road frontage. Should Autumn Lane be widened in the future, the building setback from the edge of the widened road would be 11 feet.

The Authority should discuss whether a future 11 foot front setback for the building is appropriate in this instance.

**2.15 RENIERE JOSE POWELL (Eric Cronier Ltd) Block 32E Parcel 100 (P21-0820) (\$5,900) (NP)**

Application for proposed 2 lot subdivision.

**FACTS**

<i>Location</i>	Right of way off of Damsel Close, Lower Valley
<i>Zoning</i>	<b>A/R</b>
<i>Notification Results</i>	No objectors
<i>Parcel size</i>	37,731.7 sq ft
<i>Parcel size required</i>	Two houses per acre
<i>Proposed lot sizes</i>	13,270 sq. ft. & 24,450 sq. ft.
<i>Current use</i>	Vacant with abandoned vehicles and structures

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

- 1) Whether the Authority is satisfied that the area is suitable for Low Density regulations to be applied.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located in Lower Valley off of Damsel Close, south of the Department of Agriculture headquarters

The property is currently vacant and the proposal is to create two residential lots.

Proposed residential lot sizes are 13,270 square feet and 24,450 square feet.

Rights of way over the abutting unnamed road are proposed.

A site visit revealed that there are a number of abandoned vehicles and structures on the property. Should the application be approved, it is recommended that the site be cleared of all vehicles and structures prior to final approval of the subdivision.

### **Zoning**

The property is zoned Agricultural Residential.

### **Specific Issues**

#### **1) Density/lot size**

Regulation 21 states that two houses per acre may be built on agricultural/residential land but if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit development which complies with the requirements for low density residential areas.

Although no minimum lot size is specified, it has generally been accepted that a density of two houses per acre would equate to a minimum lot size of 0.50 acre (21,780 sq ft). As noted above, the proposed lot A is 13,270 sq ft and proposed lot B is 24,450 sq ft. Lot A would not satisfy the 0.50 acre requirement.

As noted in the Regulation 21, if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit development which complies with the requirements for low density residential areas. If this criteria is applied then lot A would comply with the minimum lot size requirement in the LDR zone. In this regard, the site is not over a water lens, but does have a high agricultural class rating. Notwithstanding the latter point, the immediate area does appear to have been subdivided over the years such that residential development is anticipated.

The Authority should discuss whether the property is suitable for the Low Density Regulations to be applied.

**2.16 JEFF WATLER (GMJ Home Plans Ltd.) Block 14CF Parcel 85 (P21-0263) (\$325,000) (BES)**

Application for a commercial building and 10 apartments.

**FACTS**

<i>Location</i>	McField Lane, George Town
<i>Zoning</i>	<b>N.COM</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.6094 ac. (26,545.5sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	apartments
<i>Proposed building size</i>	7,982sq. ft.
<i>Total building site coverage</i>	20.6%
<i>Allowable units</i>	CPA discretion
<i>Proposed units</i>	10 + 6-existing
<i>Allowable bedrooms</i>	CPA discretion
<i>Proposed bedrooms</i>	13 + 7-existing bedrooms
<i>Required parking</i>	25
<i>Proposed parking</i>	25

**BACKGROUND**

July 21, 2021 (**CPA/15/21; Item 2.10**) - It was resolved to adjourn the application for the following reasons:

- 1) The applicant is required to submit revised plans that comply with the minimum required number of parking spaces and show the width of the driveway aisle increased so it functions properly (the applicant is directed to liaise with the Department in regard to the latter item).

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

- 1) Determine whether the revised site plan is satisfactory to the CPA's request

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Fire Service and Department of Environment (NCC) 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 2,941gpd US gallons per day (gpd), based on the following calculations.

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Building 1	5 x 1-Bed Units & 1 x 3-Bed Unit	150gpd/1-Bed Unit & 300gpd/3-Bed Unit	1,050gpd	1,050gpd
Building 2	3 x 1-Bed Units & 1 x 2-Bed Unit	150gpd/1-Bed Unit & 225gpd/2-Bed Unit	675gpd	675gpd
Building 3	4 x 1-Bed Units & 2 x 2-Bed Units	150gpd/1-Bed Unit & 225gpd/2-Bed Unit	1,050gpd	1,050gpd
Building 4	4 x Retail Units Net (1,110sqft)	0.15gpd/sqft	166gpd	166gpd
<b>TOTAL</b>				<b>2,941gpd</b>

Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority’s standards.

- Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.
- **To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4’6” 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.

Existing Septic Tank

The developer is proposing to utilize the existing 2,500-gallon septic tank serving building 1. The developer has provided the Water Authority with a satisfactory service report for the septic tank serving building 1. The developer is advised that the Water Authority policy graduates the requirement for achieving “30/30” limits by applying it to larger

developments, defined as those where calculated flows exceed 1,800 gallons per day (GPD) on a given parcel. The policy also applies to existing developments when there is a change of use or expansion of the development. Therefore, approval for the proposed development requires that all wastewater generated on the parcel; i.e., both proposed and existing structures, shall be treated in an onsite aerobic wastewater treatment system(s). The existing septic tank shall either be incorporated into an upgraded Aerobic Treatment System or alternatively decommissioned as per the Water Authority's Best Management Practices (BMP's) below and the wastewater flows re-plumbed towards the Aerobic Treatment System.

[http://www.waterauthority.ky/upimages/download/BMPs\\_abandoned\\_WW\\_systems1\\_1423220782.pdf](http://www.waterauthority.ky/upimages/download/BMPs_abandoned_WW_systems1_1423220782.pdf)

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

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

### **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.*

### **National Roads Authority**

No comments received.

### **Department of Environmental Health**

1. *The department has no objections to the proposed in principle.*

#### **1.1. Solid Waste:**

*The development requires (1) 8 cubic yard container with once per week servicing.*

1.2. The applicant is advised that the drain that is required for the garbage enclosure cannot be plumbed to a storm drain. The drains must be plumbed to a garbage effluent disposal well. Contact the Water Authority ([development.control@waterauthority.ky](mailto:development.control@waterauthority.ky)) for well specifications.

Table 1: Specification for Onsite Solid Waste Enclosures

Container size (yd <sup>3</sup> )	Width (ft)	Depth (ft)	Height (ft)	Slab Thickness (ft)	Requirements
8	10	10	5.5	0.5	Water (hose bib), Garbage Effluent Disposal Well

### **Fire Department**

The CFO approved the site layout

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

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

*We have no objection to the proposed development at this time as the parcel is man-modified and of limited ecological value. We recommend that the applicant plants and incorporates native vegetation in the landscaping scheme. Native vegetation is best suited for the habitat conditions of the Cayman Islands resulting in vegetation that requires less maintenance which makes it a very cost-effective choice.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application seeks planning permission for commercial building (1,278 sq ft) and 10-apartments with 13 bedrooms (3,752 sq. ft.) at the above captioned property. The site is located McField Lane, George Town.

#### **Zoning**

The property is zoned Neighbourhood Commercial.

#### **Specific Issues**

##### **1) Regulation 13**

Regulation 13(b), *Neighbourhood Commercial zones are zones in which the primary use is a less intense form of development of that permitted in a General Commercial*

*zone and which cater principally for the needs of persons resident in, or in the vicinity of, the zone.*

Regulation 13(9), *In a Neighbourhood Commercial zone ... residential development is permissible if the development is not on the ground floor of the building.* In building# 2, the applicant is proposing two-apartments and a laundry room on the ground floor. Building# 3 would have 6-apartments with four units on the ground floor and two units on the second floor. As indicated on Cayman Land Info, there is residential development on the site.

Regulation 13(10), *Notwithstanding subregulations (8) and (9), residential development may be permitted on any or all floors of a building in a General Commercial zone, a Neighbourhood Commercial zone or a Marine Commercial zone if—*

*(a) the development is a replacement or redevelopment of an existing residential development; or*

*(b) the development forms part of a mixed-use development situated on one parcel of land and the planned development includes a mixture of commercial and residential uses proposed for close interaction.*

The Authority needs to determine if the proposed development satisfies sub-regulation (b) as a mix of residential and commercial in close interaction.

## **2) Parking Requirements**

The parking requirements are based on the existing and proposed land uses are as follows:

- Existing 6-apartments: 1-parking space per unit – 6 spaces
- Proposed 10-apartments: 1.5 parking spaces per unit – 15 spaces
- Commercial (1,276 sq ft): 1- parking per 300 sq ft – 4 spaces
- Total required parking spaces: 25-spaces
- Proposed parking spaces: 17 spaces
- Parking spaces deficit: **8 spaces**

## **3) Driveway aisle**

The site plan includes several angled parking spaces (60°) with a 15' wide drive aisle and it can be quite difficult for vehicles to reverse out of these spaces given the narrowness of the aisle.

## **SUPPLEMENTAL ANALYSIS**

As noted above, CPA adjourned the application for the following reasons:

- 1) The applicant is required to submit revised plans that comply with the minimum required number of parking spaces and show the width of the driveway aisle increased, so it functions properly.

The applicant has submitted revised site plans as follows:

The number of buildings on site has been reduced from 4 to 3 which has allowed additional room for parking and the applicant is now providing the required 25 parking spaces

- The drive aisle has been increased in width to 22' and the parking area now functions properly

### **Applicant's Letter**

*We write on behalf of our client, Jeff Watler, with regards to the adjournment of the application*

*a commercial building and ID apartments, CPA/15/21; item 2.10, where it was decided "the applicant is required to submit revised plans that comply with the minimum required number parking spaces and show the width of the driveway aisle increased so that it functions properly".*

*We request permission for the proposed development per the revised drawings submitted. Based on the authorities concerns with the original design regarding parking and driveway we offer the following:*

- *The revised plans now show the driveway aisle increased from 16ft to 22ft.*
- *The revised changes to the proposal include changing the original submission comprised of 7 - one bedroom units and 3 - two bedroom units to 10 - one bedroom units, requiring 15 parking spaces at 1.5 spaces per unit. Our revised proposal also includes the change in orientation of the proposed commercial building, allowing complete redesign of the parking lot increasing parking numbers significantly. In we now provide 25 spaces to accommodate the proposed development. Per planning regulations, the proposed development would require a total of 10 spaces. In addition, we have provided 6 parking spaces for the existing apartments which have no formal parking area. It is well known that rentals in this area and of this size is not normally associated with vehicular ownership and therefore less residential parking will be required. We humbly ask the Authority to allow less required parking spaces for residential part of the development which would allow more spaces to be allocated the commercial part of the proposal.*
- *Per section 8(13)(d) of the Planning Regulations, the owners of the adjacent properties were notified by register mail and no objections were received;*
- *Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, the neighborhood, or to the public welfare. The proposed development is a major upgrade to the George Town area in general but more specifically to the Mcfield and its immediate surroundings.*
- *The application complies with all other minimum planning requirements.*

*We would ask the Authority to consider all of the above points with regards to the revised proposal.*

**2.17 LEON WATSON (Craftman’s Touch) Block 27C Parcel 549 (P20-0747) (\$10,000) (JP)**

Application to clear and fill land.

**FACTS**

<i>Location</i>	Leeward Dr. North Sound Estates
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	2.168 ac. (94,438.08 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant

**BACKGROUND**

January 25, 2019 (CE19-0009) – Enforcement notice issued on previous land owners for the unauthorised clearing by mechanical means

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

- 1) Timing of the land clearing

**AGENCY COMMENTS**

**Department of Environment (NCC)**

**APPLICANT’S LETTER**

*In relation to block 27C parcel 549 where an application was made to clear the property. I wish to state that Mr Watson was unaware that the previous owner did not obtain permission to clear such property. He also certainly did not anticipate inheriting any penalties for this transaction.*

*Mr. Watson has plans to build on the property in the near future hence his reason for the purchase.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application site is located within an established subdivision in Savannah. Canal fronting along the southern perimeter and occupying a corner lot with subdivision roads running to the north and west. Neighbouring lots bound the site to the east and south.

The applicant purchased the property from the person whom the enforcement notice was issued on. The applicant has since filled the site.

Retrospective Planning Permission is sought for the clear and fill of the application site.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**2) Timing of the land clearing**

There is no application at this time to develop the site and the Authority has typically expressed concern with the clearing of land in the absence of such an application.

**2.18 SHERENE MARGON (Craftman's Touch) Block 37E Parcel 219 (P21-0651) (\$75,000) (BES)**

Application for addition to house to create a duplex.

**FACTS**

<i>Location</i>	Minzett Dr., Lower Valley.
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No Objectors
<i>Parcel Size Proposed</i>	0.2888 ac. (12,580.12 sq. ft.)
<i>Parcel Size Required</i>	12,500 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Duplex
<i>Proposed building size</i>	1,251.63 sq. ft.
<i>Total building site coverage</i>	17%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

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

- 1) Rear setback (13' 10" to steps and 15' 10" to building vs 20')

**APPLICANT'S LETTER**

*With respect to our submission for an addition on block 37E parcel 219 located on Minzett Drive, Bodden Town, we hereby request variances as follows:*

- 1. *Rare setback for the landing where the landing is at 13'- 10" from the boundary line and the regulations requires 20ft setback.*

*In making the application for such a variance, our client is mindful of provisions of Regulations 8(13) of the Development and Planning Regulations, and would submit that*

*there is sufficient reason and exceptional circumstances that would permit such setback allowance, in that:*

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

*ii. The proposed structures will not be materially detrimental to persons residing in the vicinity, to the adjacent properties, or to the neighboring public welfare.*

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is for addition (1,251 sq ft) to the dwelling house to create a duplex at the above-caption property. The site is located on Minzett Dr., Lower Valley.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issue**

#### **1) Rear Setback**

The proposed rear setback is 13'-10" (steps) and 15'-10" (building), whereas the minimum required rear setback is 20'-0" per regulation 9(8)(i) of the Development and Planning Regulations (2021 Revision).

The Authority should determine if the applicant has demonstrated whether there is sufficient reason and exceptional circumstance in accordance with Regulation 8(13)(b) of the Development and Planning Regulations (2021 Revision) to warrant granting the setback variances.



**2.19 CUC (Kariba Architecture) Block 5C Parcel 70 (P21-0738) (\$10 million) (NP)**

Application for proposed sub-station expansion.

**FACTS**

<i>Location</i>	Willie Farrington Drive in West Bay
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	2.055 acres.
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	CUC Complex and Communications Tower
<i>Proposed use</i>	Power station and Battery Centre
<i>Building Footprint</i>	5,904 sq. ft.
<i>Building Area</i>	5,904 sq. ft.

**Recommendation:** Grant planning permission.

**AGENCY COMMENTS**

The Department of Environmental Health stated that they have no concerns with the proposal.

The Fire Department has stamp approved the drawings.

**PLANNING DEPARTMENT ANALYSIS**

**General**

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

The property contains an existing CUC power facility and a communications tower.

The proposed building will be located to the east of the existing CUC building on the property, approximately 140 feet from Willie Farrington Drive.

The proposed building will contain Medium Voltage Power Stations and Battery Enclosures.

As there is an existing CUC facility on the property, the proposed building would be complementary to the existing use.

**Zoning**

The property is zoned Low Density Residential.

**2.20 RITZ CARLTON HOTEL (Decco Ltd) Block 12C Parcel 393 (P21-0783) (\$400,000) (NP)**

Application for proposed luggage storage and planter addition.

**FACTS**

<i>Location</i>	Seven Mile Beach
<i>Zoning</i>	<b>Hotel/Tourism</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	136 acres
<i>Parcel size required</i>	0.5 acres
<i>Current use</i>	Resort Hotel
<i>Proposed use</i>	Luggage storage & planter addition

**Recommendation:** Grant Planning Permission.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The proposal is to remove three separate canvas luggage storage structures and replace them with a formal luggage storage building and planter at the Ritz Carlton Resort. The proposed 614 square foot addition is located at the hotel entrance area and complies with all applicable Regulations.

**Zoning**

The property is zoned Hotel/Tourism.

**3.0 DEVELOPMENT PLAN MATTERS**

**4.0 PLANNING APPEAL MATTERS**

**5.0 MATTERS FROM THE DIRECTOR OF PLANNING**

**6.0 CPA MEMBERS INFORMATION/DISCUSSIONS**

## Appendix 'A'

**MEMORANDUM**

**TO:** Director of Planning **YOUR REF:** P19-1189

**ATTN:** Colleen Stoetzel

**FROM:** Director of Environment **DATE:** 14 April 2020

**SUBJECT:** **Waterfront Centre Ltd – Balboa Beach**  
*After-the-fact Land Filling*  
**BLOCK: OPY PARCEL: 193**

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 is very concerned at the extent of unauthorised works which have taken place on this site, including the works which are the subject of this application. The application site is adjacent to a Marine Protected Area, namely a Marine Park and is in a prominent location in the heart of George Town.

At the time of the unauthorised works taking place in June 2019, the Department of Environment reached out to the Department of Planning to clarify if planning permission has been granted for these works and, if not, what action would be taken. To-date it appears that no action has been taken and the landowner has now submitted an application for after-the-fact approval some 6 months after the works took place. Figure 1 illustrates the extent of works and Figure 2 is from an in-water site visit taken by the DoE in December 2019.



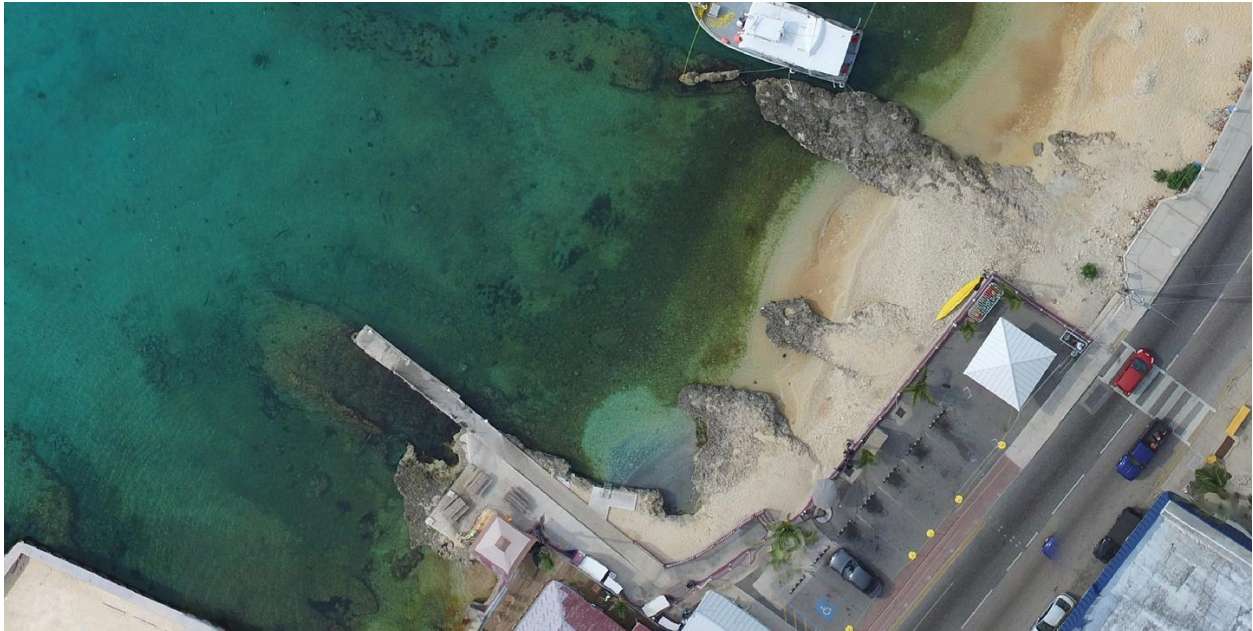
**Figure 1: DoE site visit photo showing the illegal filling of the application site in June 2019.**



**Figure 2: DoE site visit photo showing the displacement of the illegally placed rocks in December 2019.**

As a consequence of these and several other unpermitted works which have taken place over the years, including the repeated use of construction aggregate as beach sand and the removal in some areas of underwater ironshore formations in some areas, the nearshore area and immediate offshore environment is now considerably degraded. These works have likely contributed to enhanced levels of sedimentation and excessive mechanical damage to underwater features from loose unconsolidated quarried rocks, that were used as fill material, being washed around by storm events and heavy wave action.

The cumulative effect of the ongoing unauthorised placement of construction sand and other unconsolidated material (including the fill material that is the subject of this application) into and adjoining the marine environment, together with the proximity to the local fish market (where regular fish cleaning results in increased nutrient loading and subsequent marine algal growth in the nearshore environment) is creating negative impacts on water quality. This is evident from the nearshore sediments and beach in the area which are often black or grey in colour with a strong odour exhibiting the anoxic characteristics of a highly disturbed environment (see Figures 3 & 4).



**Figure 3: DoE drone image from March 2019 showing the anoxic black/grey sediment nearshore.**



**Figure 4: DoE site visit photo from December 2019 showing the anoxic black/grey sediment nearshore.**

The Department notes that this application for the after-the-fact filling of this area forms part of a proposal for the creation of an extension to the existing dock which entails filling the seabed in this location. The Department does not support the filling of the submerged ironshore and recommends that no further filling and/or concreting of the area takes place. As regards the unconsolidated fill that was placed in the sea, this has now been widely dispersed across the seabed and is no longer in the position that it was originally placed. It will likely continue to cause damage to the marine environment through the ongoing attrition caused by the suspension and movement of these rocks during wave activity. The purpose of this after-the-fact application is therefore unclear.

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

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**Director of Environment**  
**Under Delegated Authority of the National Conservation Council**

## MEMORANDUM

**TO:** Director of Planning                      **YOUR REF:** P20-0108  
**ATTN:** Colleen Stoetzel  
**FROM:** Director of Environment              **DATE:** 14 April 2020

<p><b>SUBJECT:</b>    <b>Waterfront Centre Ltd</b> <i>Filling portion of land to the original level</i> <b>BLOCK: OPY    PARCEL: 193</b></p>
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Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) offers the following comments for your consideration.

### **Incompatibility of Proposal with the Surrounding Area**

The Department notes that this application for the proposed filling of the seabed accompanies separate applications by the applicant for the concreting of ironshore in conjunction with the extension of an existing dock, the after-the-fact construction of a concrete pad on the ironshore and the after-the-fact placement of rocks on the seabed. Presently, the application site is adjacent to a Marine Protected Area, namely a Marine Park. However, when the enhanced Marine Protected Area regulations are introduced, this area will no longer be a Marine Park and will instead be designated as a Port Anchorage Zone under separate regulations. It is understood that these regulations will control in-water activities, including recreational use of the area. Given the proximity to the proposed cruise pier and cargo redevelopment project and the potential for the area to have limited access to offshore marine resources as a tourism attraction, the Department questions the compatibility of the site's use as an in-water attraction staging and launching area and the requirements to enhance the site for those purposes.

### **The Validity of the High-Water Mark**

The Department previously noted that the submitted High Water Mark (HWM) survey is an amalgamation of a recent survey and a historic one and that the area seaward of the ironshore and dock is entirely underwater as shown in Figures 1 and 2 below and has been for many years. We raised the acceptability of the historical survey and its amalgamation with the recent one with Lands and Survey who confirmed that the area in question was allegedly excavated in the late 50s or early 60s to create a ramp for launching and pulling boats. The Department was advised that the excavation, therefore, is deemed to be a 'sudden change' that occurred to the parcel boundary and as with the boundary of a canal, the historical boundary line can be retained as being representative of the HWM. However, given the significant period of time that has elapsed since this excavation (approximately 60 years), the DoE is concerned about the precedent that is set by this approach to re-establishing the HWM for historical boundaries. The Department does not support the reclaiming of submerged or excavated ironshore, particularly within a Marine Protected Area. DoE recommends ironshore is left as natural as possible. Besides its natural wave attenuating properties, ironshore forms an important coastal habitat for marine life and is a part of the cultural identity of the Islands' capital.



**Figures 1 & 2: DoE site visit photos from December 2019 showing the ironshore within the applicant's boundary completely submerged.**

### **Construction Methodology**

The Department reached out to the applicant for details on the proposed construction methodology and from the information provided it is evident that the methodology has not been devised by an engineer (coastal or otherwise). Whilst the application plans were prepared by a local engineering firm when we contacted them to confirm the construction methodology to be used the firm advised that they had not been retained to construct the works and they could not provide a construction methodology. Instead, the applicant has written a construction methodology, which is of concern to the Department. The proposed methodology includes the use of plywood shuttering and sunken cement bags in an active wave dominant environment, which from experience we know is prone to considerable risk of failure. The Department has witnessed the use of a similar methodology in other applications in similar environments which resulted in sedimentation impacts to the surrounding area (see Figure 3).





**Figure 3: DoE site visit photo from July 2014 showing the sedimentation impacts at a development site on South Church Street using a plywood shuttering method similar to that proposed by the applicant.**

Given that this is currently a prominent tourism area with considerable in-water activity and healthy reefs offshore, the consequences of concrete and associated sediment plumes leaching out into the marine environment would be significant. The area is also extremely vulnerable during Nor'westers and storms as witnessed recently when the illegally placed rock fill was completely washed into the surrounding marine environment, likely causing considerable damage to nearby living marine resources.

### **Environmental Impacts**

As a consequence of the unpermitted works which have taken place over the years, including the illegal filling with rocks, the repeated use of construction aggregate as beach sand and the removal in some areas of underwater ironshore formations, the nearshore area and immediate offshore environment is considerably degraded. The previous works have likely contributed to enhanced sedimentation and excessive mechanical damage to underwater features from loose quarried rocks washed around by storm events and heavy wave action. Water quality is also compromised by the proximity to the local fish market where regular fish cleaning results in increased nutrient loading and subsequent marine algal growth in the nearshore environment. The nearshore sediments and beach in the area are often black or grey in colour with a strong odour exhibiting the anoxic characteristics of a highly disturbed environment (see Figures 4 & 5).



*Figure 4: DoE drone image taken March 2019 showing the anoxic black/grey sediment nearshore.*



*Figure 5: DoE site visit photo from December 2019 showing the anoxic black/grey sediment nearshore.*

## **Conclusion & Recommendations**

For the reasons highlighted above, the Department **does not** support this application. **As the subject parcel is currently still located adjacent to a Marine Protected Area, under Section 41(5)(b) of the National Conservation Law, the National Conservation Council (NCC) respectfully directs the Central Planning Authority (CPA) to refuse this application.**

Should the applicant wish to reapply for Planning permission with a construction methodology developed by a civil or coastal engineer, the Department is willing to re-assess the application at that time. If the applicant chooses to pursue reapplying for permission, please note that this will require a separate

consultation with the NCC. We would also recommend that should the applicant reapply, the CPA should also consult with the Port Authority regarding this application given its location within the proposed Port Anchorage Zone and the active George Town Harbour area.

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

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**Director of Environment**  
**Under Delegated Authority of the National Conservation Council**

**MEMORANDUM**

**TO:** Director of Planning **YOUR REF:** P20-0004  
**ATTN:** Colleen Stoetzel  
**FROM:** Director of Environment **DATE:** 26 March 2020

**SUBJECT:** **Waterfront Centre Ltd**  
*After-the-fact concrete slab*  
**BLOCK: OPY PARCEL: 193**

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 does not support the concreting of ironshore and prefers that it is left in its natural state. Besides forming an important habitat, ironshore represents a unique and visually appealing vista to complement the shoreline of George Town and is an important component of the cultural identity of the capital. The placement of large concrete platforms or pads along the shoreline removes much of these important aesthetic characteristics vital to the memorably quaint appeal of the area. The Department acknowledges that this is an after-the-fact application and as such this section of ironshore has unfortunately already been irreversibly damaged. Removal of the concrete slab will likely cause more environmental harm than leaving it in place. The Department would not support any further concreting of the ironshore in this area.

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

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**Director of Environment**  
**Under Delegated Authority of the National Conservation Council**

## Appendix 'B'

17th April, 2020

Director of Planning  
Cayman Islands Planning Department  
C I Government Administration Building  
George Town, Grand Cayman

Dear Sir / Madam,

**Objection to Waterfront Centre Ltd (OPY 193) Planning Application for Extension of Existing Dock**

Will you kindly accept this letter as a formal objection to the plans put forward by the Waterfront Centre Ltd on block and parcel OPY 193 on behalf of my clients namely Shireoak Limited, a company owned by Christopher D. Johnson, and the Estate of the late Kenneth Spraggon, one of whose executors is Mr. Johnson. Specifically the objections are:

1. Planning permission for Balboa Beach was granted but is currently under appeal. No other planning applications on this block and parcel should be heard until a decision has been made.
2. The proposed structure is entirely on the Queens Bottom (beyond the HW Mark). The application should be a Coastal Works Application, not a planning one. I have attached a photograph for reference.
3. A complete and current H W Mark survey is required before the project can be heard by the planning board. The surveyor acting on behalf Waterfront Centre Ltd has conveniently overlooked sections of the coastline (labeled as per 04/074, last surveyed in the 1970's). The survey is attached here for your reference. Arising out of this, 3 areas of land are misrepresented as OPY 193 when in fact they are in excess of 3 feet underwater. The area most southerly is of significant concern as unprotected sheet piles have rusted and consequently the property has been undermined by the sea. Thus, large amounts of fill, under the new outdoor bar at the Sandbar (neighboring property) have been hollowed out and a large dangerous cavern now exists underneath. Natural erosion has washed away these chunks of land and are no longer part of this parcel.
4. The boat launch excavated sometime between the 1950s and 1960s has had much natural erosion since then. The area proposed to be infilled is a mixture of excavated and naturally eroded shoreline. The old boat launch was in fact smaller than what is shown in this photo.
5. Much aquatic life has inhabited the boat launch which is in as much as 3 feet of water. The

proposed dock extension is in a Marine Park zone. Any construction with concrete will spill into the sea and kill aquatic life. It should be noted that on March 24<sup>th</sup>, 2017 the developer damaged and removed coral from the sea with a crane and flatbed truck without any government permission.

In conclusion, we would respectfully advise the board that any application for filling in the seabed should be a coastal works license and follow standard procedure as stated on the Government webpage for 'Coastal Works Licenses', a copy of which is attached.

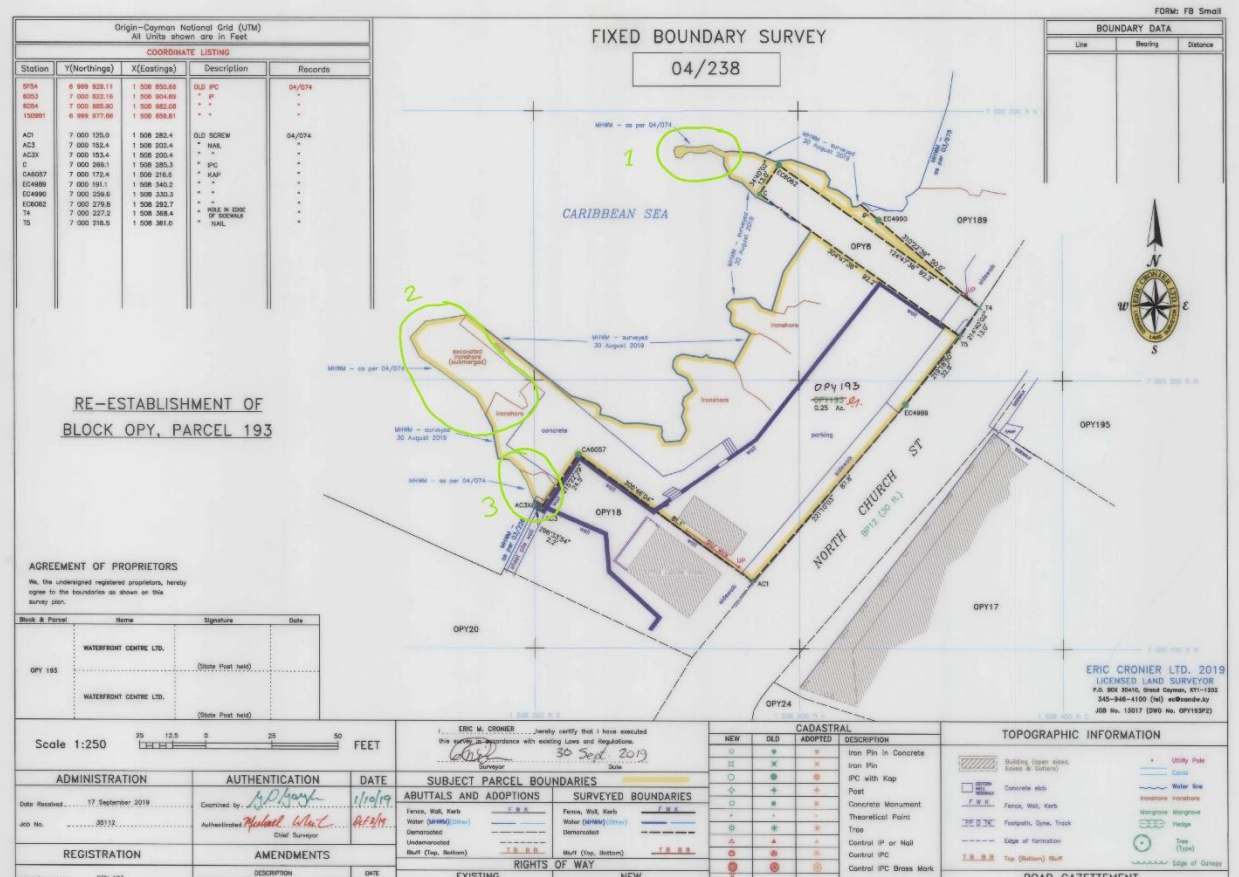
If you have any questions or comments, you may call me at 938-3828 or email [Robert@rjda.ky](mailto:Robert@rjda.ky).

Yours truly,



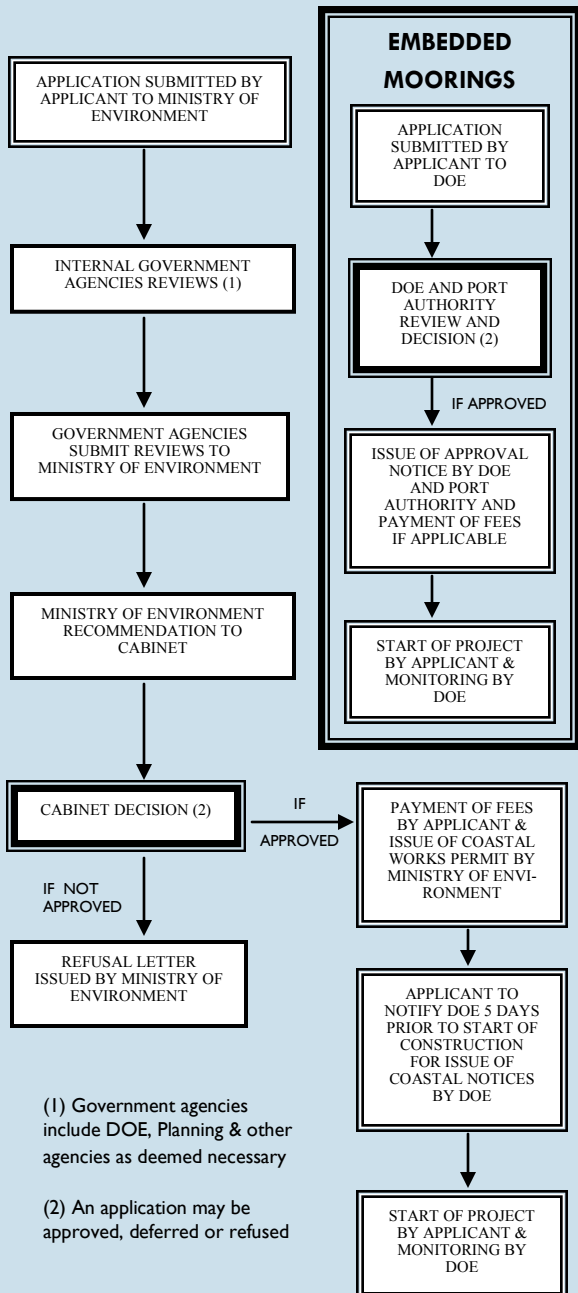
Robert Johnson, B.Eng, M.Arch, NCARB  
Principle Architect, Johnson Architecture







## How The Process Works



## EMBEDDED MOORING INSTALLATIONS

The Department of Environment and the Port Authority jointly review applications for embedded mooring installations (e.g. moorings that are installed by drilling, screwing or driving anchor rods into the seabed). Application forms can be obtained from the DOE office in the Cayman Islands Environmental Centre. Applicants must provide the proposed embedded mooring location, mooring design and materials, details of vessel using the mooring, and installation equipment and technique. The completed application form should be submitted to the DOE (Refer to process flowchart).

Generally, a fee is not applied when granting permission to install an embedded mooring.

It is the responsibility of the owner to maintain the embedded mooring in a useable condition.

## STORM MOORING INSTALLATIONS FOR COMMERCIAL VESSELS ONLY

The Environmental Zone is an exceptionally important feature of our marine ecosystem and access is limited under the National Conservation Law. Government recognizes the area also may offer hurricane protection and may permit installing permanent moorings under exceptional circumstances. Applications for installing commercial vessel storm embedded moorings within the Environmental Zone can be obtained from the DOE. If the application is approved, the applicant will pay an annual permit fee. The annual sum will be based upon the size of the embedded mooring and the impact to the seabed.

Prior to submission of the formal application, applicants are encouraged to consult with the Department of Environment regarding potential impacts of the proposed project or for information about the environment within which the project is proposed.

## Guide to Submitting Applications for Coastal Works



### Cayman Islands Government Department of Environment

Cayman Islands Environmental Centre  
P.O. Box 10202  
580 North Sound Road, George Town,  
Grand Cayman KY1-1002, Cayman Islands  
Tel: 345-949-8469  
E-mail: [doe@gov.ky](mailto:doe@gov.ky) Website: [www.doe.ky](http://www.doe.ky)

### Ministry of Health, Environment, Culture & Housing

Government Administration Building, George Town,  
Grand Cayman KY1-9000, Cayman Islands  
Tel: 345-244-377



## GETTING STARTED

### Who needs a coastal works permit?

Persons who want to construct in, on, or over waters at or seaward of the mean high water mark (MHWM) or in, on, or over Crown-owned canals such as Governor's Harbour, Lime Tree Bay, Safe Haven Canal and Snug Harbour/Hyatt Canal must apply for a coastal works permit (formerly called a licence). This typically includes construction of:

- Seawalls
- Docks & jetties
- Launching ramps & slipways
- Groynes
- Embedded moorings (see reverse for embedded mooring application requirements and process)
- Dredging & filling

### What needs to be submitted?

Application forms for coastal works may be obtained from the Ministry of Environment at the Government Administration Building, the DOE at the Cayman Islands Environmental Centre or at <http://doe.ky/resources/brochures/>. Applicants must provide a written description of the proposed project and its location, how works will be completed, what materials and equipment will be used, and what precautions will be taken to ensure the protection of the marine and terrestrial environments. Once the application form is complete, the following should be submitted to the **Ministry of Environment**

- A completed application for each type of proposed works (with notarised Register of Directors/Register of Members if Applicant is a company);
- 5 complete sets of construction plans/drawings/surveys (6 sets for Cayman Brac or Little Cayman applications);
- Registry Map Extract not more than 60 days old;
- Land Register not more than 60 days old;
- Proof of newspaper advertisements;
- Proof of Registered Mail Notices;
- Buffer Map and Owner Listing; and
- Proposed environmental mitigation plan.

Construction plans must be certified by an engineer, architect, or surveyor and must include:

- A dimensioned site plan indicating:
  - MHWM (not more than 12 months old);
  - Location & volume of proposed excavation or land fill areas;
  - Sediment settling areas & associated drainage systems;
  - Boundaries of significant geographical features e.g. channels, shoals;
  - Natural communities e.g. seagrass, mangroves, coral, hard bottom, sand;
  - Proximity to special aquatic or terrestrial sites e.g. marine parks, animal sanctuaries;
- A dimensioned cross-section & elevation views
- A bathymetric survey drawing of the site
- Details of construction must include Materials, Equipment, and General procedures.\*

Failure to submit all information requested may result in significant delays in processing the application.

*\* Docks must be elevated at least 4 feet above high water level and must have at least 1/2 inch spacing between planks in order to promote seagrass growth.*

## PERMITS & NOTICES

Once Cabinet has approved the project application, a coastal works permit is issued to the applicant by the Ministry. Permits are legally binding documents which contain specific conditions on how the works must be carried out, and must be signed by applicants and the Chief Officer of the Ministry of Environment to take effect.

The permit requires the applicant to notify the DOE five working days prior to commencement of works. The DOE will then issue two notices to the applicant. These notices must be visibly displayed on site near the area of coastal construction and by the roadside. Works shall not commence without these notices. If notices are not visible, Conservation Officers will suspend works and penalties may be applied.

## FEES

There is no fee associated with submitting a coastal works application. If the application is approved, applicants may incur fees for royalties for use of Crown property, mitigation for damage of natural resources, and administrative and monitoring fees at the discretion of Cabinet.

## REBUILDING DAMAGED STRUCTURES

Previously permitted coastal structures that have been damaged by storms can be rebuilt without the issuance of a new coastal works permit provided the following conditions are met:

- The Ministry of Environment must be advised of the applicant's intention to rebuild the approved structure. Application forms are available at the Ministry and the DOE.
- The structure must be rebuilt to the **same dimensions** as previously approved and permitted.
- The approved location, footprint and plan area of the structure must remain unchanged.
- Subject to the above requirements, the applicant will receive a Coastal Works Approval from the Ministry.
- The DOE must be notified of the commencement of works to allow for issuance of notices and monitoring.

No additional fees are incurred to rebuild a previously permitted structure provided that all above conditions have been met.

## UNAUTHORISED COASTAL WORKS & AFTER-THE-FACT APPLICATIONS

It is illegal to conduct coastal works without a permit. Unauthorised structures may be ordered to be removed. Offenders may incur fines, and/or be subject to prosecution under the National Conservation Law. An application for an after-the-fact coastal works permit may incur additional fees.

## Appendix 'C'



Photographs of After-The-Fact concrete slab and filling of land.



Concrete slab with ladder to enter water.



Additional After-The-Fact concrete slab.

## Appendix 'D'

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**IN THE PLANNING APPEALS TRIBUNAL**

**IN THE MATTER OF SECTION 48 OF THE DEVELOPMENT & PLANNING ACT (2017 REVISION)**

**AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF THE CENTRAL PLANNING AUTHORITY WHEREBY PLANNING PERMISSION WAS GRANTED WITH RESPECT TO REGISTRATION SECTION GEORGE TOWN COMMERCIAL BLOCK OPY, PARCEL 193**

**BETWEEN:**

**(1) SHIREOAK LIMITED**

**Appellant**

**-AND-**

**(1) CENTRAL PLANNING AUTHORITY**

**Respondents**

**(2) WATERFRONT CENTRE LIMITED**

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**JUDGEMENT**

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**CORAM:**

Richard Barton (Chair)

Nicholas Dacosta

Andrew Gibb

**APPEARANCES:**

Mr Kyle Broadhurst of Broadhurst LLC (Counsel for the Appellant)

Mr Nigel Gayle of the Attorney General's Chambers (Counsel for the 1<sup>st</sup> Respondent)

Ms Selina Tibbets of JacksonLaw (Counsel for the 2<sup>nd</sup> Respondent)

## **INTRODUCTION**

1. This is an appeal against the decision of the First Respondent on 12 October 2020 (the “Decision”), to grant retroactively (“After-the-Fact”) the Second Respondent planning permission for a concrete slab to be constructed on the ironshore (the “Development”) on Block OPY Parcel 193 (the “Property”).
2. By way of background, on 2 September 2020, the First Respondent heard an application (the “After-the-Fact Application”) filed by the Second Respondent for approval of the Development. The First Respondent gave reasons for the Decision on the day of the hearing, which were later certified on 12 October 2020.

## **SUBMISSIONS AND ANALYSIS**

3. The grounds of the Appellant’s complaints in respect of the appeal are that the Decision is:
  - (a) erroneous in law;
  - (b) unreasonable; and
  - (c) contrary to the principles of natural justice.

### Erroneous in Law

4. The Appellant complains that the First Respondent erred in its failure to properly apply Regulation 8(10) of the Development and Planning Regulations (2020), (the “Regulations”).
5. Mr Broadhurst argues that the First Respondent failed to consider all the relevant factors set out in Regulation 8(11) (a) – (f) and unlawfully exercised its discretion to vary the setback requirements for the concrete slab, based solely on the location of adjacent developments as prescribed by 8(11) (e). It is this aspect of the Decision that is being criticised:

*“In this instance, the Authority is of the view that there are existing developments on the adjacent properties with similar setbacks*



*from the highwater mark. Therefore, the setback of the proposed development is consistent with the established development character of the area, and it will not detract from the ability of the adjacent land owners from enjoying the amenity of their land.”*

6. Mr Gayle submits that the lack of specific reference to each factor listed in Regulation 8(11) (a) – (e) does not reflect a failure by the First Respondent to give due consideration to all factors. He contends that the First Respondent properly applied the discretion assigned by Regulation 8(11) and duly considered all relevant factors. Counsel further submitted that the First Respondent was well within its right to exercise its discretion and specifically identify Regulation 8(11)(e) as the basis for the Decision and to omit reference to factors deemed irrelevant for the purposes of the After-the-Fact Application.
7. Ms Tibbetts, on behalf of the Second Respondent, argues that the Appellant is misguided in the assertion that the First Respondent is required to expressly consider each factor under Regulation 8(11). Ms Tibbetts submits that the explicit reference to Regulations 8(10) and 8(11) in the Decision confirms that all factors were considered by the First Respondent. Counsel claims that it is rather difficult for the Appellant to suggest that all relevant factors were not considered and further noted that, in any event, not all factors were deemed applicable. Reference to a beach ridge was cited by illustration, which Ms Tibbetts suggests is irrelevant to the instant case.
8. We agree with the arguments advanced by counsel for the Respondents in relation to this aspect of the appeal. The Decision reveals that the First Respondent initially considered the primary issue of the minimum high water mark setback from the watermark, as evidenced by reference to Regulation 8(10). It then properly exercised the discretion provided by Regulation 8(11) and relied upon 8(11)(e) based on the location of the adjacent developments.

9. The relevant extract of the Decision at paragraph five above reveals that the First Respondent considered the issue and gave, what it deemed, sufficient reasons for its decision. It is unnecessary for the First Respondent to explicitly reference every factor set out in Regulation 8(11). The First Respondent exercised its discretion in the way it deemed fit, and it is not for this Tribunal to substitute the decision to vary the setback for its own.

### **Unreasonable**

10. Counsel for the Appellant asserts that the First Respondent acted unreasonably by failing to consider relevant matters whilst giving undue weight to matters it ought not to have considered. A summary of both sets of complaints and the factors cited by Mr Broadhurst are set out below in the same order in which they appear within the written submissions filed on behalf of the Appellant.

### Relevant Matters

11. Mr Broadhurst alleges that the First Respondent erred in its failure to consider the following:
  - (a) That planning permission for this application as a whole was under appeal and that the After-the-Fact Application should have been adjourned on the basis of the possibility of an adverse ruling, which counsel for the Appellant claims ultimately transpired.
12. We agree with the arguments advanced by counsel for the Respondents in their assertion that the After-the-Fact Application did not feature in the previous applications referred to by Mr Broadhurst, or at all. Further, the discretion to adjourn matters remains within the ambit of the First Respondent and it was not improper for the After-the-Fact Application to be considered separately. We do not accept that this is a position so unreasonable that no reasonable authority could ever have come to it.

(b) The concerns raised by the Planning Department (the “Department”) in relation to the high water mark were not addressed.

13. Mr Gayle, on behalf of the First Respondent, argues that there is no obligation to accept the recommendations made by the Department or any other agency for the relevant purpose.
14. Ms Tibbetts cites page 61 of the Appeal Brief to convey that the issue was fully ventilated at the hearing. We accept this line of reasoning and can see no justifiable basis to interfere with the Decision. The issue was clearly considered, and it is not for this tribunal to substitute its own decision simply because the decision to dispense with the recommendation made by the Department produced a ruling adverse to the Appellant.

(c) That a concern raised in relation to the justification for the concrete slab was not addressed.

15. Counsel for the Appellant contends, *inter alia*, that the First Respondent should have been required to justify the need for the concrete slab in light of concerns raised by the Department.
16. Mr Gayle argues that the First Respondent duly considered the issue and was satisfied as to the necessity of the concrete slab, as evidenced by the approval. Ms Tibbetts also rebuts this argument and claims that there is no stipulation under the Act or the Regulations for an applicant to justify the need for a development. Counsel for the Second Respondent asserts that the test is whether “*the development causes a demonstrable harm or recognized and material planning interest...*”
17. The process for planning approval is prescribed by virtue of the Act and Regulations. The Central Planning Authority (“CPA”) is guided by this process in the determination as to

whether to grant or deny an application. We see no stipulation within this regime that imposes a duty on the applicant to “*justify*” the need for a particular application. This argument is artificial and cannot form a proper basis of appeal. The use or purpose of a development is a matter for the applicant entirely, provided it falls within the framework of the Act and Regulations, and it is not for the CPA to require its justification.

(d) That the Department raised concerns in relation to other works undertaken by the Appellant to the ironshore without approval.

18. Mr Broadhurst argues that the First Respondent should have considered the fact that additional works done to the ironshore went beyond the scope of the various applications. Counsel for the Appellant specifically asserts that the First Respondent ignored evidence of damage that resulted directly from the unauthorised works.
19. Counsel for the Respondents, in response to this contention, state that the First Respondent is not permitted to consider any works beyond the scope of the After-the-Fact Application. This would have caused the First Respondent to trespass into the area of irrelevant considerations and risk a decision deemed wrong in law. We find no basis for criticism in this regard. The First Respondent properly considered the narrow issues in relation to the concrete slab as it ought to have done.

(e) Whether or not a shoreline modification permit was required.

20. Mr Broadhurst claims that the Appellant raised the issue of the shoreline modification, which was not addressed by the First Respondent. Mr Gayle asserts that the consideration of this issue is self-evident from the Decision. Ms Tibbetts argues that there is no reference to the term “*shoreline modification*” either under the Act or Regulations. Counsel for the Second Respondent further asserts that, had the First Respondent considered this issue, it

would have erred based on an irrelevant consideration. We agree. There is no such concept and if there is, counsel for the Appellant failed to demonstrate this.

(f) All other factors cited, save and except for the adverse effect of the removal of the concrete slab raised by the Department.

21. Mr Broadhurst complains that the Decision is devoid of any consideration of all factors raised except for the recommendation by Department of Environment (“DoE”) to leave the concrete slab in place rather than to remove it, based on the damage that would arise.
22. Mr Gayle claims that this assertion is unfounded and that the First Respondent clearly based the Decision on the need to maintain the consistency and characteristic of the adjacent properties, in addition to the adverse effects that would be associated with its removal.
23. Both counsel for the Respondents noted the increase in fees generally attached to an after-the-fact application and its intended punitive effect. Ms Tibbetts argues that any further differentiation by the First Respondent so as to draw a negative inference would create a bias.
24. We see no merit in this argument advanced on behalf of the Appellant. The First Respondent plainly cited the basis for the Decision by underscoring the adverse impact of the removal of the concrete slab, despite the unequivocal acknowledgement of the overall impact of the concrete slab itself, as evidenced by the passage from the Decision below:

*“While discouraged with (sic) the after-the-fact nature of the slab, the Authority concurs with the National Conservation Council (via comments from the Department of Environment) that the removal of the concrete slab will likely cause more environmental harm than leaving it in place.”* (Our emphasis)

25. However, notwithstanding the reasons provided by the First Respondent, we are concerned that the above reason appears to conflate the issue of approval as distinct from that of enforcement. The issues are, in our view, quite separate and not mutually exclusive. Put another way, it is quite possible for the After-the-Fact Application to be denied and the issue of removal of the concrete slab remaining a matter of enforcement. This position was advanced by counsel for the Respondents, albeit in a different context, as noted in paragraph 19 above.
26. It appears the First Respondent confused the matter and felt compelled by the recommendation from the National Conservation Council (the "NCC"). The words emphasised above prove instructive. For this reason, we find that the First Respondent erred when it trespassed into matters of enforcement that are separate and apart from that of approval.

#### Irrelevant Matters

27. Mr Broadhurst argues that the First Respondent erred when it based its Decision solely on the damage associated with the removal of the concrete slab, as noted by the Department. Counsel for the Appellant contends that the Decision is inherently flawed on the basis that all subsequent after-the-fact applications, specifically where concrete slab is poured on the ironshore prior to an application for planning permission, would then be approved. The First Respondent, Mr Broadhurst suggests, acted unreasonably in its failure to consider other remedies that may have been available other than the removal of the concrete slab.
28. Counsel for the First Respondent refutes this suggestion and asserts that the possible environmental effect from the removal of the concrete slab is relevant to the process. Mr Gayle claims that Regulation 8 (11)(f) permits the First Respondent to consider any other

material consideration that is likely to affect the proposal. Ms Tibbetts adopts this position on behalf of the Second Respondent.

29. The suggestion by Mr Broadhurst that the Decision is likely to set a precedent is refuted, by Mr Gayle, on the basis that each application is to be determined on its own facts and circumstances. Mr Gayle argues that the Decision was based on the character of the development's area and the effect on the ability for the adjacent land owner to enjoy the amenity of their land, which he claims is not unreasonable.
30. Ms Tibbetts submits that the Decision is devoid of any reference that supports this contention advanced by Mr Broadhurst and that the Appellant has failed to establish that the First Respondent either acted unreasonably or considered irrelevant matters.
31. For reasons articulated at paragraph 24 and 25 above, we accept the argument advanced by counsel for the Appellant to the extent that the First Respondent erred in law. The effect of environmental impact of the removal of the concrete slab is a matter of enforcement that is beyond the scope of the After-The-Fact Application. Though the First Respondent is authorised under Regulation 8(11) to consider any other material consideration that will affect the proposal, it should have confined itself to the decision whether to approve or deny the After-the-Fact Application, rather than to speculate as to the means of enforcement in the event of the After-the-Fact Application being refused.

#### Failure to give adequate reasons

32. Mr Broadhurst submits that the First Respondent failed to address the relevant factors and to the extent that it did, there was a failure to give adequate reasons. Counsel for the Appellant relies specifically on the significance of the matters and argues that the failure to give reasons caused the First Respondent to err in law.

33. Mr Gayle states that sufficient reasons were provided, though the Appellant may not have liked the reasons given. Counsel for the First Respondent relies on Rule 4 of the Development and Planning (*Appeal*) Rules (1999 *Revision*) (the “Rules”) in the contention that the Decision met the requirement of providing a written statement.
34. Ms Tibbetts also asserts that the reasons provided are more than adequate for the purposes of Rules and that there is no duty on the First Respondent to mention every material matter considered, provided such reasons are comprehensible and logical. Counsel for the First Respondent relies on the case of *Seven Mile Beach Resorts Ltd and another v Planning Appeals Tribunal and another* [1997] CILR Notes-12.
35. We note the well-established principle enunciated in the case of Grand View Strata Corporation v. The Planning Appeals Tribunal (Grand Court 8 April 2016), where the Grand Court overturned a decision on the basis that the CPA failed to provide adequate reasons in relation to an application for a ten-storey building. The Honourable Justice Panton in relation to the issue of setback stated the following:

*“The Department of Planning also referred to the drawings as depicting a rather aesthetically bland building. Given those observations from the Department of Planning, although the CPA is entitled to differ from the objectors and all others, one would expect that the CPA would not only give its reasons for applying the minimum setbacks to a project of this size, but also for approving a building that is apparently generally regarded as ugly and out of character with those around it. In particular, the CPA ought to have stated how it dealt with the question of setbacks in respect of the 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> storeys, if it dealt with it at all. I am not saying that the CPA is obliged to give reasons for all its decisions. Indeed, there is no requirement in the legislation for this to be done. In the instant case, it may well have very good reasons for its decision. However, given the intensity of the objections and*



*the obviously informed comments of the Department of Planning, the CPA ought to have stated its reasons in respect of the aspect that I have just mentioned.”*

36. The instant case is vastly different from the issues that arose in Grand View. The latter involved an application for a ten-storey building that was heavily resisted by numerous objectors. Conversely, this matter relates to a single objection to an After-the-Fact Application for a concrete slab. Further, the First Respondent made explicit reference to the established character of the relevant area unlike the proposed ten-storey building in Grand View.
37. We agree with counsel for the Respondents that the instant case is easily distinguishable and that sufficient reasons were given proportionate to the nature of the After-the-Fact Application and the notable objections. We also note that Honourable Justice Seymour Panton determined that the CPA is not obliged to give reasons for all its decisions. Notwithstanding this, the Decision expressly states that the approval was granted on the basis of the established character of the area and the ability for adjacent landowners to enjoy their lands, in addition to the environmental impact that would arise from the removal of the concrete slab. It is difficult to see how the Appellant could be unclear as to the reasons that formed the basis for the Decision.

### Conclusion

38. The appeal is granted to the extent that the First Respondent erred when it deemed the non-removal of the slab as the basis of approval of the After-the-Fact Application. The former is a matter entirely for enforcement and should not influence the Decision in the way it has. Whilst we accept that Regulation 8 (11)(f) permits the First Respondent to consider any other material consideration that is likely to affect the proposal, we deem the

remit of the CPA restricted to the approval process only. It is for this reason that the matter is to be remitted to the CPA for rehearing.

Costs

39. No order as to costs.

Dated this 13 day of July 2021

A handwritten signature in black ink, appearing to be 'RHB', written over a horizontal line.

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Chairman, Planning Appeals Tribunal

## Appendix E

**IN THE PLANNING APPEAL TRIBUNAL**

**IN THE MATTER OF SECTION 48 OF THE DEVELOPMENT & PLANNING ACT (2017 REVISION)**

**AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF THE CENTRAL PLANNING AUTHORITY WHEREBY PLANNING PERMISSION WAS GRANTED WITH RESPECT TO REGISTRATION SECTION GEORGE TOWN COMMERCIAL BLOCK OPY, PARCELS 193**

**BETWEEN:**

**(1) WATERFRONT CENTRE LTD.**

**Appellant**

**-AND-**

**(1) CENTRAL PLANNING AUTHORITY**

**(2) SHIREOAK LIMITED**

**Respondents**

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**JUDGEMENT**

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Appearances: Mr Samuel Jackson and Ms Selina Tibbets of JacksonLaw for the Appellant.

Mr Nigel Gayle of the Attorney General's Chambers for the 1<sup>st</sup> Respondent.

Hearing Dates: 30 April and 28 May 2021

***INTRODUCTION***

1. This is an appeal against the decision of the First Respondent on or about 20 September 2020 (the "Decision"), to deny the Second Respondent planning permission to retroactively fill, expand and install rocks on a dock situated at Registration Section George Town Commercial Block OPY Parcel 193 (the "Property") (the "Application").

2. The First Respondent gave reasons for the refusal on 30 October 2020 (“Reasons”). The relevant extract reads as follows:

*“Decision: In regard to the applications for the proposed deck extension (P19-0989), the after-the-fact rock filling (P19-1189) and the proposed filling of the submerged portion of the site (P20-0108) in accordance with the directive issued by the National Conservation Council planning permission is hereby refused pursuant to Section 41(5)(b) of the National Conservation Law.*

*Reasons for the decision:*

*The Authority was directed by the National Conservation Council to refuse planning permission.”*

### **SUBMISSIONS AND ANALYSIS**

3. The grounds of the Appellant’s complaints in respect of the appeal are that the Decision is:
  - (a) erroneous in law;
  - (b) unreasonable; and
  - (c) contrary to the principles of natural justice.
4. For the reasons set out below, this tribunal is satisfied that the first ground of appeal is sufficient to grant the appeal and we direct that the matter be remitted for rehearing pursuant to section 48 of the Development and Planning Act (2021 Revision) (the “DPA”).
5. Counsel for the Appellant submits that the First Respondent unlawfully relied upon a document (the “Directive”) claimed to be from the National Conservation Council (“NCC”) to refuse the Application. The Directive is said to have been issued pursuant to section 41(5)(b) of the National Conservation Act (2013 Revision (the “NCA”), which states:

*"...If the Council considers that the adverse impact of the proposed action cannot be satisfactorily mitigated by conditions, the Council shall so direct the originating authority and that authority shall refuse to agree or to refuse to proceed with the proposed action..."*

6. An unsigned document (the "Memorandum") apparently authored by the Director of Environment, under the supposed delegated authority of the NCC is titled, "*Director of Environment, Under Delegated Authority of the National Conservation Council*". The relevant extract states:

*"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."*

7. The matter initially came before this tribunal for hearing on 30 April 2021 and was adjourned to 28 May 2021 as a substantive hearing. We have considered the written and oral submissions on behalf of the Appellant and the position advanced by Mr Gayle on behalf of the First Respondent.
9. Nowhere contained in the record of the hearing nor within the written submissions filed does there appear to be any document signed by the agents, members nor anyone authorised to do so on behalf of the NCC.
10. We are guided by section 41(5)(b) of the NCA which specifically states that "***the Council shall so direct the originating authority***" (our emphasis). This tribunal has not seen any document authored by, or on behalf of, the NCC that would form the basis for the First Respondent to arrive at the decision that the NCC did so direct, based on the Reasons.

11. From all the information we have seen, no such directive seems to have been given by the NCC to and for this reason, the First Respondent erred when it blindly placed reliance on the Memorandum and resolved to refuse the Application.

**CONCLUSION**

12. We are satisfied that the failure by the First Respondent to provide proof of the salient Directive is a reason sufficient to grant the appeal. We do not deem it necessary to consider the further grounds of appeal given our decision to remit the matter for rehearing.

12. No order as to costs.

Dated this 29 day of September 2021



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Chairman, Planning Appeals Tribunal

## Appendix F





September 07, 2021

**Central Planning Authority**  
c/o Planning Department  
P.O. Box 113 GT  
Grand Cayman, KY1-9000  
Cayman Islands

Dear Members:

**Re: Proposed Apartments on Block 24E Parcel 260 Prospect**

We write on behalf of our client, Mr. Osmond Anderson with regards to the following variance:

- A lot size variance - The proposed lot size is 10,389.06 sqft which is less than the required 25,000 sqft. for apartments in areas zoned Low Density Residential.
- A density variance - for 4 apartments instead of the maximum of 3 per density calculations (0.2385 Acre x 15 units/Acre=3.6 units)
- A rear setback variance - for door steps and AC pads that are being proposed with a 15'6" setback instead of the required 20'.

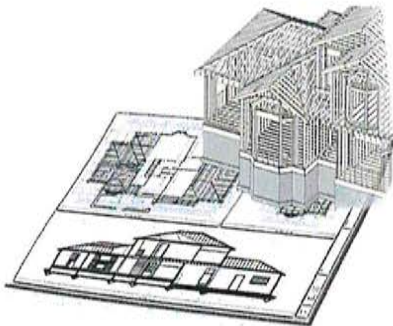
We request permission for the proposed development to remain as shown on the drawings provided and humbly give the following reasons:

1. Per section 8(13)(d) of the Planning Regulations, the owners of the adjacent properties were notified by register mail and they are no objections to date.
2. The proposed is suitable for the community of Prospect which consists of numerous similar cases.
3. Where a higher density was permitted within the community of prospect, there are no signs that their adjacent surroundings or the community has been negatively affected by their existence.
4. In year 2019 the applicant was given approval for a similar proposal on parcel 24E304.
5. Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare;
6. The application complies with all other relevant planning requirements.

We look forward to your favorable response to this variance request. Should you have any queries, please do not hesitate to contact us at 947-7020 or via email at [gjm@candw.ky](mailto:gjm@candw.ky).

Yours sincerely,

George Manderson Jr.



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