

# **Central Planning Authority**

**Minutes of a meeting of the Central Planning Authority held on March 17, 2021 at 10:00am, in Conference Room 1038, 1<sup>st</sup> Floor, Government Administration Building, Elgin Avenue.**

**06<sup>th</sup> Meeting of the Year**

**CPA/06/21**

**Mr. A. L. Thompson (Chairman)**

**Mr. Robert Walter Jr. (Deputy Chairman) (arrived 12:20, left 4:20) (Acting Chairman 2.22)**

**Mr. Kris Bergstrom**

**Mr. Peterkin Berry (apologies)**

**Mr. Edgar Ashton Bodden**

**Mr. Roland Bodden**

**Mr. Ray Hydes**

**Mr. Trent McCoy**

**Mr. Jaron Leslie (absent)**

**Ms. Christina McTaggart-Pineda**

**Mr. Selvin Richardson**

**Mr. Fred Whittaker**

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

**Mr. Ron Sanderson (Deputy Director of Planning (CP) (Acting Executive Secretary 5.16)**

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

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**APPLICANTS ATTENDING THE AUTHORITY’S MEETING**

<b>APPLICANT NAME</b>	<b>TIME</b>	<b>ITEM</b>	<b>PAGE</b>
Sharol Bush	10:30	2.1	6
George & Marcia Wright	11:00	2.2	15
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Ergun Berksoy	1:30	2.4	28
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**1. 1 Confirmation of Minutes of CPA/05/21 held on March 03, 2021.**

**Moved:** Selvin Richardson

**Seconded:** Trent McCoy

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

<b>ITEM</b>	<b>MEMBER</b>
2.4	Fred Whittaker, Roland Bodden
2.12	Fred Whittaker
2.18	Christina McTaggart-Pineda
2.22	A.L. Thompson
2.25	Roland Bodden
5.16	Haroon Pandohie

**2.0 APPLICATIONS**  
**APPEARANCES (Items 2.1 to 2.4)**

**2.1 SHAROL BUSH (GENESIS 3D STUDIO) Block 4D Parcel 103 (P20-0786) (\$75,000) (JP)**

Application for a house.

**Appearance at 10:30**

**FACTS**

<i>Location</i>	Willie Farrington Drive
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	0.10 ac. (4,356 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	487 sq. ft.
<i>Total building site coverage</i>	11.18%
<i>Required parking</i>	1
<i>Proposed parking</i>	2

**BACKGROUND**

January 20<sup>th</sup>, 2021 (**CPA/02/21; item 2.1**) – it was resolved to adjourn the application and re-invite the applicant and the objector to appear before the Authority to discuss details of the application.

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

Conditions (1-2) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall submit a revised site plan showing the two parking spaces with a minimum width of 8' 6" and illustrative references to a fence removed.
- 2) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the

stockpiling of material excavated from the site and material brought to the site for fill purposes.

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

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

Reasons for the decision:

- 1) With the exception of the side and rear setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) A very small portion of the rear landing steps does not comply with the required rear setback and the septic tank does not comply with the required side setback per Regulations 9(8)(i) and (j), respectively, of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area, i.e. a detached dwelling on a parcel of land. Additionally, the Authority notes that a previous dwelling existed on the parcel, therefore the proposed dwelling is consistent with the historic use of the land.
  - b) It appears to the Authority that there are other properties in the immediate area with similar setback (e.g. 4D 113, 231, 265, 316 and 490), therefore the proposed development is consistent with the established development standards in the area.
  - c) The rear stairs are deficient of the required setback by 4" and this difference is not discernible to the eye and therefore is consistent with the intent of the required setback.
  - d) The septic tank is an ancillary feature to the house and does not generate activity and therefor the impact of the reduced side setback will be negligible. Regarding the comments from the Department, the Authority disagrees that the septic tank will have to be moved further away from the house as the septic tank can be engineered in such a way to satisfy the provisions of the building code in that regard.
  - e) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and

- f) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 3) Per Regulation 22, “Where circumstances so justify, the Authority may permit building of dwelling units on a lot the size of which is below the prescribed minimum and must so permit if the lot existed as a separate lot on the 28th day of August, 1977.” The subject lot was first registered at October 24, 1973, therefore the Authority must permit the proposed dwelling.
- 4) The applicant must submit revised plans removing any illustrative reference to a fence as that would require a separate application for planning permission.
- 5) The Authority will impose a condition of approval requiring the parking spaces to have a minimum width of 8’ 6” per Regulation 8(1) to ensure proper functionality.
- 6) The Authority is of the view that the objectors did not raise sufficient grounds for refusing permission, more specifically:
- The authority has provided reasons for the grant of setback variances
  - A construction operations plan will be required to ensure the site is developed in a safe manner
  - There is no evidence that the proposing dwelling and parking of vehicles on the site will obstruct sight lines on the access road
  - There is no evidence that constructing a dwelling on a parcel of land that previously contained a dwelling is impacting on the privacy of nearby owners.
  - There is no right to a view for one land owner over another land owner’s property
  - A lot size variance is not required per Regulation 22.
  - The proposed development is in keeping with the character of the area.
  - There is no evidence that the proposed dwelling violates human rights.
  - A survey of the property is not required.
  - If there is an open well on the site, it will likely be replaced by the driveway or addressed by the land owner in order to access the site safely.

### **APPLICANT’S LETTER**

*My client, the owner of the above-named property is seeking planning permission for the one- bedroom house which requires lot size and set back variance.*

*The lot size is 3,268 sq. ft. which is built over the minimum requirement for single family house in that zone. Because of the small lot size, The septic tank was not able to fit the setback recurrence.*

*In accordance with regulation 8(13)(b) of the Development and Planning Regulations (2018 Revision) a letter of variance must be submitted to the Department regarding the side setback, lot size, and lot width explaining that there is sufficient reason to grant a*

*variance and an exceptional circumstance exists, which may include the fact that*

- (i) the characteristics of the proposed development are consistent with the character of the surrounding area;*
- (ii) unusual terrain characteristics limit the site development potential; or the proposal will not be materially detrimental to persons*

## **OBJECTIONS**

### **Letter 1**

*Thank you for your notification of the application for a one-bedroom house on the above mentioned parcel which shares a boundary with my dwelling house on 4D 316.*

*I note that lot size and set back variances will be required. Considering the extent by which this application falls short of the zoning requirements for this area I am doubtful that it will meet CPA's approval. If such wide discretion were applied I would be concerned that it would set a precedent for further similar approvals to the detriment of homeowners and landowners in my neighborhood as well as in other neighborhoods.*

*In considering this application I would ask you to take account of my concerns in relation to the safety issues during and after construction.*

*I would wish to be satisfied that during construction there will be adequate space on the site for construction material, vehicles and equipment to be located so as not to block traffic or obstruct the views of the road from my driveway, or create a danger for other road users.*

*Secondly persons exiting my driveway and from the subdivision road on my north boundary already have some difficulty seeing on-coming traffic from the south due to a bend in the road. I am concerned that this building and any vehicles parked on the property will further obstruct the view.*

*Please note that I could not access your recommended website to view the site plans and elevations. If I am able to visit your office to view them I may have further concerns.*

### **Letter 2**

*Regarding the above subject matter and having received notice that an application for planning permission for the purpose of one bedroom house which require lot size and set back variance the following objections are submitted.*

- 1. This variance cannot be treated lightly and therefore cannot be held to be minor. It is too important on the impact of the two neighbouring properties 4D231 and 4D316 in the immediate area. The primary issues are related to loss of privacy, view, spacing, drainage and noise.*
- 2. It is clear that the applicant thinks the variance is desirable but the issue here is whether it is desirable for a variance in respect of the 2 neighbouring homes built on 4D 231 and 4D 316 not the Applicant. Also the Applicant's notice states for the purpose of one bedroom house which require lot size and set back variance nothing further. **There is nothing indicated on the Notice of Application as to***

***what is the variance footage being asked for. It is obvious the land size is a problem. It is clear that no good cause exist for a variance for the setbacks.***

3. *Does the variance requested maintain the general input and purpose of the zoning by law which is a high residential area? The intent and purpose of zoning by law is to prescribe the front, rear and sides yard setbacks, building size and use. It speaks to matters such as spacing, privacy, density, light and air and gives the neighbourhood its form of character. Any proposed variance which is not compatible with existing homes in the neighbourhood with respect to size, setbacks and side yards and sensitive to issues such as privacy is detrimental of the neighbourhood cannot pass the test to grant such permission. By requesting a variance is the test and evidence that the application cannot meet such a test as the land size is too small to build on. Attached is a photograph showing land size taken from Willie Farrington Road from front of the land plus the aerial map. It is also very clear from the site plan the land is too small for a building. Also please see attached Aerial Map with the size dimension of parcel 4D103. The Planning and CPA (Central Planning Authority) is under a statutory requirement that all planning decision must be consistent with the law, regulations and policy.*

*A variance asked for in this matter is a request to sever this parcel from its existing form to create the lot on which a building can be constructed and perhaps later sold. As the land stands it is impossible to fulfill the planning requirements for proper setbacks.*

4. *Character of the Neighbourhood: The building form of the 2 adjoining properties 231 and 316 should be considered to see whether the application exhibits a reasonable uniform building in style or design scale and spacing. It does not seem so in character of the 2 buildings on parcels 231 & 316 which is deserving of protection and this factor should be seriously considered by the CPA in respect of those adjoining properties. This proposed application which seeks to require lot size and set back variance is out of character, inappropriate, destabilizing the character of the neighbourhood and should be discouraged and therefore the application should be rejected for any required lot size and setback variance.*
5. *Privacy: There is the necessity for privacy of visual intrusions which can take the form of views into windows of the exiting home on 231 if the variance is allowed. Please see an attached photo of the home on 231 and any variance for parcel 4D103 will have a serious affect to that property.*
6. *This application appears to be for a cramming situation on parcel 103 which can affect the 2 adjoining properties mentioned above. The CPA is under a duty to take into consideration Human Rights Article 1. “ a person has the right to peaceful enjoyment of all possessions, which include the home.”*
7. *Any construction on the lot as maxed out by the square foot of the intended house which will be to the detriment of particularly to the adjoining property of 4D231.*
8. *The construction of the building will have an affect on the home on 231 from much construction dust and other construction dangers. Lot size cannot accommodate vehicles for construction parking. Also for the proposed application*

wants 15 feet from the road. Will there be sufficient space for the owner to park plus guess. It appears not. Insufficient parking will be a nuisance as well. (See photograph showing frontage of land facing Willie Farrington Drive)

9. It appears that there was no survey done to the property.
10. It appears that there is a fence in respect of the application but not applied for.
11. There is an old open well on parcel 103 very near to the road side of Willie Farrington Drive not shown on the site plan, a danger where it is located. It is only 5 feet from the edge of the road. A vehicle has already ran into it which has left it open to danger for years. A photo graph is attached showing the well with overgrown bush around it. Are there any plans to discontinue the location of the well? See none.
12. The photograph of the proposed building appears to be something which has been goggled as seen from the Application.
13. This objector asks for an invitation for a representative of the Planning Department to meet at the property to allow objections first hand so that a fair hearing decision can be reached.
14. The request asked for in the application could go against public interest because the Applicant has not presented any reasonable circumstances and it is very obvious from the property size she cannot comply with the planning requirements therefore the application will impact on the adjoining properties. There is no explanation because it is obvious that the land size is a problem to meet the planning requirements and would definitely be an adverse impact on parcel 231 the adjoining property particularly the north boundary. (south boundary for parcel 103) (See attached Aerial Map and photo of house on 231). Although the CPA may have discretion to grant a variance please see the attached English Appellate Court decision which upheld the Zoning Board decision not to grant setback variance. The Court stated that the Zoning Board was correct in determining that the variance would have a detrimental impact on the neighbouring properties if the boundaries were varied. The Board noted that the neighbour who was most affected by the variance spoke out against granting the variance. This is a situation where I will be most affected like that person.

I trust that my objections will be seriously considered by the Planning Department and the Central Planning Authority (CPA) and deny the Application particularly for the lot size and setback variance.



*In July of 2016, Lisa and Robert Gerbino (hereinafter “Gerbinos”) made an application to the Town of East Hampton Zoning Board of Appeals (“ZBA”) for setback relief to allow an existing patio that was built without a permit to remain 10.2 feet from the southern property line where 20 feet is required at their property located at 3 Old Station Place, Amagansett. The Gerbinos purchased their property with the subject patio which is located next to their legally constructed pool. They discovered the patio was built without a permit and in violation of setbacks when they sought a certificate of occupancy for a- legally constructed pool house.*

***At the ZBA hearing held on February 28, 2017, the applicant submitted that (i) the patio was built by the prior owner and the Gerbinos believed it was constructed legally along the southern side of the pool, (ii) the patio is entirely screened by large evergreen trees along the southern side of the property and (iii) there would be no adverse impact on the neighbors or community. The applicant further submitted a letter from the neighboring property to the east, 52 Atlantic Avenue, in support of the application.***

*A representative for the vacant property owner at 5 Old Station Place, which shares the lot line from which the variance is requested, testified in opposition to the application. Citing Town Code 255-11-89, which requires accessory structure setbacks for pool patios to be doubled, the opposition asserted that the purpose of the law is to protect property owners’ use and enjoyment of their back yards since pools are active recreational structures. The doubled setback requirement creates adequate buffer and transitional yards for pools. Moreover, the representative in opposition stressed that the construction on the lot was maxed out by constructing an approximate 6,000 square foot house (she included the finished basement in her calculation) on a lot shy of 1/2 acre with the pool placed at a maximum distance from the house in an effort to extend the back yard, negatively impacting her client’s design flexibility with respect to his vacant parcel. Finally, she submitted that the neighbor’s letter in support was submitted from the prior owner of the subject property that constructed the pool and pool patio at issue and was not impacted by the requested variance.*

*The Zoning Board of Appeals denied the variance request by determination dated*



*May of 2017, stating that, “granting the requested variance will create a detriment to nearby properties. The reason setbacks are doubled for pool patios are to mitigate the noise impact to neighbors caused by the use of the pool and patio. Applicant is requesting a 51% variance along the entire length of the patio. Moreover, the applicants have not presented the Board with any unique circumstances explaining why they cannot comply with the Town Code. There is area along the north side of the pool that can accommodate the same amount of pool patio without requiring a variance from the Board. The Board notes that the neighbor most affected by the patio spoke out against granting the variance.”*

***The Gerbinos appealed, and the Supreme Court. Suffolk County in Gerbino, et al., v. Whelan, Supreme Court, Suffolk County, Index No. 2989-2017, overturned the ZBA determination and granted the Article 78 Petition. The Court held that the decision of the DBA was not supported by rational basis and as such, was arbitrary and capricious. The Court stated, except for an unsupported objection by one adjoining property owner, there was no evidence proffered that the requested variance would have an undesirable effect on the character of the neighborhood ... [f]urthermore, a patio 10.2 feet from the southern border of the property as opposed to the no feet required, clearly does not impact the adjoining property owners or neighbors.” The Town appealed.***

*By decision dated August 19, 2020, the Appellate Division, Second Department overturned the Supreme Court decision and upheld the ZBA’s denial of setback relief. Noting the broad discretion afforded to local zoning boards in considering applications for variances, the Court found that, the Supreme Court should have denied the petition and dismissed the proceeding as the Zoning Board’s determination had a “rational basis in the record.” The Court stated that “the record supports the Zoning Board’s determination that the variance is substantial, that granting the variance would have a detrimental impact upon neighboring properties, that feasible alternative locations exist to situate a pool patio on the property, and that any hardship was self—created (see Matter of Kramer v Zoning Bd. of Appeals of Town of Southampton, 131 AD3d at 1172; Matter of Sacher v Village of Old Brookville, 124 AD3d 902, 904). Accordingly, the Supreme Court should have denied the petition and dismissed the proceeding on the merits.”*

*As a result, the Gerbinos are faced with having to either (i) remove the existing noncompliant patio, (ii) relocate the pool patio to a conforming location, or (iii) go back to the ZBA with a proposed patio in a new location should that new location require zoning relief.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is seeking permission for the proposed one-bedroom house.

### **Zoning**

The property is zoned Low Density Residential.

## **Specific Issues**

### **1) Lot size**

The applicant has indicated there is a need for a lot size variance and the objectors have referred to it as well. However, a lot size variance is not required in this instance. Regulation 22 states that “*Where circumstances so justify, the Authority may permit building of dwelling units on a lot the size of which is below the prescribed minimum and must so permit if the lot existed as a separate lot on the 28th day of August, 1977.*” The subject lot was first registered at October 24, 1973 and therefore a lot size variance is not required.

### **2) Setback variances**

A small portion of the rear stairs/landing is 19’ 6” vs the required 20’. The septic tank is setback 3.9’ vs the required 10’ and the garbage enclosure has a 0’ side setback instead of the required 6’. It should also be noted that the Code requires the septic tank to be 5’ from the house but only 2.6’ is provided in this instance meaning the septic tank will have to be relocated.

### **3) Parking spaces**

The applicant is proposes two parking spaces, however, neither space meets the minimum width of 8’ 6”. The Department has repeatedly requested a revised plan showing the parking spaces in compliance with the Regulation.

At 10:30am, Sharol Bush appeared as the applicant and Kevin Johnson appeared as her agent. Ezmie Smith appeared as an objector and Karen Thompson appeared with Ms. Smith. Summary notes are provided as follows:

- The Authority noted that the parcel was created in 1973.
- Mr. Johnson confirmed they were requesting setback variances and they haven’t revised the site plan for wider parking spaces as he is taking over from the previous architect.
- Ms. Smith summarized the points from her written submission.
- Ms. Bush noted that previously a small home existed on the property.

**2.2 GEORGE & MARCIA WRIGHT (GMJ HOME PLANS) Block 27D Parcel 291 (P20-0901) (\$160,000) (JP)**

Application for two-bedroom house addition to create a duplex.

**Appearance at 11:00**

**FACTS**

<i>Location</i>	Bermuda Way
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	None
<i>Parcel size proposed</i>	0.1568 ac. (6,830 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Two-Bedroom House
<i>Proposed building size</i>	1,187.24 sq. ft.
<i>Total building site coverage</i>	24%
<i>Allowable units</i>	1
<i>Proposed units</i>	2
<i>Required parking</i>	2
<i>Proposed parking</i>	3

**BACKGROUND**

December 9<sup>th</sup> 2020 (**CPA/21/20; 2.17**) It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the deficient lot size and setbacks.

February 22<sup>nd</sup> 2006 - the Department granted permission for a two (2) bedroom house.

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

- 1) The Department is directed to investigate the existence of approved duplexes in the immediate area and to ascertain whether any such approvals we related to after-the-fact construction. The application will be re-scheduled for consideration once the required information has been obtained.

**APPLICANT'S LETTER**

*We write on behalf of our clients, Mr. George Wright G Mrs Marcia Wright, with regards following variance;*

- *A rear setback variance - The rear setback proposed is 1ST" which is less than required 20'.*
- *A side setback variance - The side setback to the left of the property is proposed 13'2" which is less than the required 15' for a two-story building.*

*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;*
- 2. 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 neighbourhood, or to the public welfare;*
- 3. The application complies with all other relevant planning requirements.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is seeking planning permission for the proposed two-bedroom, 2-storey addition with lot size variance and setback variances.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Setback variances**

The proposed two-storey addition to the rear of the existing house, does not meet the required rear setback (13.1' vs 20') and also does not meet the required right side setbacks (13' vs 20'); therefore, the applicant is seeking both rear and right side setback variances from the Authority.

#### **2) Lot size variance**

In addition to the setback variances, the applicant is seeking a lot size variance (6,830 sq. ft. vs 12,500 sq. ft.).

At 11:00am, Adrian Bodden appeared on behalf of the applicant. Summary notes are provided as follows:

- The Authority noted they haven't been allowing duplexes in this subdivision as there is a concern with undersized lots.
- Mr. Bodden noted that on two other occasions the Authority granted permission for duplexes in this subdivision on 27D 253 and 27D 311 and those applications required lot size and setback variances. He noted that the building design on 27D 253 is exactly like this one.
- The Authority advised that they would need the Department to look into the two previous approvals to determine the specifics, such as if they were after-the-fact. In response to a query, Mr. Bodden advised that he had not provided the background of the other two applications to the planner for the file.

**2.3 CHARLES RUSSELL (Tropical Architectural Group Ltd.) Block 44B Parcel 440 (P20-0869) (\$5.1 million) (BES)**

Application for 40 apartments, cabana, pool, 4' vinyl fence; sign and (3) 1,000 gals LPG tanks.

**Appearance at 11:30**

**FACTS**

<i>Location</i>	Bodden Town Road
<i>Zoning</i>	<b>MDR</b>
<i>Notification result</i>	Objectors
<i>Parcel Size Proposed</i>	2.278 ac. (99,229.7 sq. ft.)
<i>Parcel Size Required</i>	20,000 sq. ft.
<i>Current Use</i>	Vacant
<i>Building Size</i>	40,272 sq ft.
<i>Building Footprint</i>	18,742 sq ft
<i>Building Site Coverage</i>	18.9%%
<i>Allowable Units</i>	45
<i>Proposed Units</i>	40
<i>Allowable bedrooms</i>	68
<i>Proposed bedrooms</i>	56
<i>Required Parking</i>	60
<i>Proposed Parking</i>	72

**BACKGROUND**

No previous CPA file history

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

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

- 1) The applicant shall submit a revised site plan showing the side boundary fence terminating 6' from the road side boundary.
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).

- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under Policy Development, Policy Drafts.*
- 6) Construction drawings for the proposed wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 7) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

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

- 8) The construction drawings for the proposed swimming pool shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 9) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 10) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

- 11) If the development includes access gates, the applicant shall provide written confirmation from the Department of Public Safety Communications (DPSC) that the access gate(s) includes acceptable measures to allow access for emergency service vehicles and personnel.
- 12) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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

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

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

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

Reasons for the decision:

- 1) Per Regulation 9(7) of the Development and Planning Regulations (2020 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
  - There are no physical constraints on the site that would prevent the development of apartments.
  - There is a mix of residential, commercial and vacant parcels in the area that have direct access to Bodden Town and the proposed apartments are consistent and compatible with the established building character of the area.
  - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 3) The proposed application does not comply with the minimum required side setbacks per Regulations 9(7)(j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 4) The Authority is of the view that the objectors did not raise sufficient grounds for refusing permission, namely:

- The objectors have raised a concern that the proposed development will change the character of the area. The proposed site is currently vacant as are several other parcels in the immediate area. It is clear that these parcels will someday be developed in accordance with the provisions of the Medium Density Residential zone and therefore the character of the area will of course be changed, but that doesn't equate necessarily to a negative change. As noted above, the Authority is of the view that the proposed apartments will be in keeping with the existing mix of uses in the area and will not have a negative impact on surrounding land owners.
- The traffic from the apartment will lead directly to a main public road and the National Roads Authority (NRA) has indicated that the impact on the road from this development will be minimal. Further, the NRA has raised no concerns with the intersection of the access road with Bodden Town Road.
- The proposal complies with the density provisions of the Medium Density Residential zone. The original plans included a note that the site was zoned Low Density Residential, but this was incorrect and was later changed to reflect the correct Medium Density Residential zone.
- The original plans indicated a feature that could have been interpreted to be another access lane, but this was subsequently removed from the plan and was not considered by the Authority.

### **AGENCY COMMENTS**

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

#### **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 confirms that we have no objection to the proposed apartments at this time as the site is man-modified and of limited ecological value. However, we recommend the applicant plants and incorporates native vegetation into 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.*

#### **National Roads Authority**

*As per your memo dated November 2<sup>nd</sup>, 2020 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

#### **General Issue**

*The width of the registered V.R.O.W on Block 44B Parcel 439 for Block 44B Parcel 440 is twenty-four (24)ft. As the NRA would consider this a commercial development, twenty-four (24)ft. would be the minimum width recommended, at minimum it should be provided at the entrance/exit.*



**Road Capacity Issues**

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

<b>Expected Daily Trip</b>	<b>AM Peak Hour Total Traffic</b>	<b>AM Peak 16% In</b>	<b>AM Peak 84% Out</b>	<b>PM Peak Hour Total Traffic</b>	<b>PM Peak 67% In</b>	<b>PM Peak 33% Out</b>
<b>266</b>	<b>20</b>	<b>4</b>	<b>16</b>	<b>25</b>	<b>16</b>	<b>9</b>

Based on these estimates, the impact of the proposed development onto Bodden Town 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. Please have applicant provide.

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

**Stormwater Management Issues**

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

- The applicant shall provide both existing and intended contour elevations for the site. The reason for this request is late last year during TS ETA substantial flooding occurred in this general area and the NRA would like to advise the CPA on the drainage of the local area and the potential impacts of the proposed development on the surrounding area. The NRA requests that the CPA have the applicant provide the SWMP prior to the overall plan being approved, as the site layout may be affected.
- 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 Bodden Town 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.*

## **DEH**

*Please see the department's comments on the above application:*

- 1) *The department has no objections to the proposed in principle.*
- 2) *This development will require two eight cubic yard containers serviced twice weekly.*
- 3) *Plans and specifications for the swimming pool must be submitted for review and approval.*

## **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 7,200 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	4 x 1-Bed Units	150gpd/1-Bed Unit	1,500gpd	1,500gpd
	4 x 2-Bed Units	225gpd/2-Bed Unit		
Building 2	4 x 1-Bed Units	150gpd/1-Bed Unit	600gpd	600gpd
Building 3	4 x 1-Bed Units	150gpd/1-Bed Unit	1,500gpd	1,500gpd
	4 x 2-Bed Units	225gpd/2-Bed Unit		
Building 4	4 x 1-Bed Units	150gpd/1-Bed Unit	1,500gpd	1,500gpd
	4 x 2-Bed Units	225gpd/2-Bed Unit		
Building 5	4 x 1-Bed Units	150gpd/1-Bed Unit	1,500gpd	1,500gpd
	4 x 2-Bed Units	225gpd/2-Bed Unit		
Building 6	4 x 1-Bed Units	150gpd/1-Bed Unit	600gpd	600gpd
<b>TOTAL</b>				<b>7,200gpd</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.***

*Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*

- *To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4’11” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

*Water Supply:*

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

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

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

### **APPLICANT'S LETTER**

*Further to the application submitted in relation to the above referenced Project, we hereby request for a setback variance which requires a minimum of 15' side setback per Planning Regulation 9(8)(i).*

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

- (1) ***Under Regulation 8 (13)(b)(ii), the unusual terrain characteristics limit the site's development potential:*** *While we have complied with the required minimum 20ft front and rear setback, we would also like to request for a setback variance due to the odd shape/orientation of the lot. The actual proposed apartment buildings are within the required minimum setbacks. Only part of the back patio is beyond the setback line. These areas will also be heavily landscaped, which will serve as a privacy screen for both properties. We hope that the CPA board will find this acceptable.*

### **OBJECTION**

*The Notice for the proposed apartment development on Block 4B Parcel 440 is dated as being served on 6th November 2020, but in fact the letter was posted on 11th November 2020. In our view this means that*

*the 21-day notice period for objections ends on 2'd December 2020 and that our objection, emailed on Monday 30th November 2020, should be considered by the CPA. A copy of the notice and envelop, mailing date 11th November 2020 is attached.*

*We, the undersigned are the owners of Block 44857, 44B393, and 448228, which properties are located in close proximity to the proposed development on 448440. Mrs. Ruth Veta Louise Frederick, our mother and mother-in-law, has lived in her home on Block 448393 since 1960. Mrs. Frederick, at her age of 88, is elderly and copes with various health issues. Her home was built from humble beginnings and over the years she*

*has made numerous improvements, after hurricane Ivan we rebuilt her home as it was severely damaged. Her health is failing her, but she will do whatever it takes to continue to live in her home in peace and tranquility as she ages.*

*The proposed development of 40 apartments is of great concern to all 3 of us, as this development will change the nature of the area substantially with so many additional residents becoming Mrs. Frederick's neighbour and a substantial increase in traffic in this neighbourhood. This area of Bodden Town has become very busy with heavy traffic over the last 10 years and we are of the view that the proposed development will further disturb Mrs. Frederick's quality of life as she lives so close to the proposed development.*

*We are of the view that what is proposed does not match the character of this neighbourhood. Of specific concern are the following issues:*

- 1. Increased traffic in the area. Although Anton Bodden Road is the bypass road for the main road through Bodden Town, this bypass is not used by the majority of traffic passing through Bodden Town*

*as the exit and entrance from Anton Bodden Road to the main road is of poor design. The majority of traffic including numerous trucks from the quarries prefer to use Bodden Town Road. The access to the proposed apartment is through 44B439, traffic to and from the 40 apartments will enter and exit Bodden Town Road at a location where the main road is of minimal width at a proposed intersection that, in our opinion, is of poor design. This will create a dangerous traffic pattern with so many cars entering and exiting the proposed development on a daily basis.*

- 2. Purpose of road on east side of the property. A road is proposed on the east side of the property as part of the development. It is not clear what the purpose is of this road. In our view the developer should provide full disclosure of the plans to clarify the purpose of that road. Is the road intended to provide access to other properties that are not developed yet and is it the intention to develop more apartments on adjacent properties? If that is the case, our concerns in this letter will only be exacerbated. What if traffic from 100 apartment units has to use the same access road onto the main road?*

- 3. The information the drawings is incorrect, confusing and misleading:*

- The zoning of the property is shown on the drawings as low density residential, per 2020 Development & Planning Regulations (the Regulations) the site development guideline is 15 apartment units per acre and 24 bedrooms per acre. For this 2.278 acre parcel the maximum is therefore 34.17 apartments and 54.67 bedrooms as indicated on the drawing. The proposal is for 40 apartments and 56 bedrooms, this exceeds the permitted maximum and therefore the application should be refused as it does not meet the Regulations. This means that the CPA has all rights to refuse this development.*
- The house that is located on 448226 is not shown, this is misleading as it suggests to the CPA that this lot is vacant.*

*In our view, permitting the proposed development is out of character with this neighbourhood, there is no property nearby that has so many apartments. So many*

*additional apartments and so much more traffic will impact this area, which has already become so busy because of the significant volume of traffic that uses Bodden Town Road.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for 40 apartments, cabana, pool, 4' vinyl fence; sign and (3) 1,000 gals LPG tanks at the above-captioned properties. The subject property is located southwest of Pirates Cave and Webster Memorial United Church in Bodden Town. Vacant properties are located northeast and west adjoining the site and dwelling houses south of the site.

### **Zoning**

The property is zoned Medium Density Residential.

### **Specific Issues**

#### **1) Suitability**

Pursuant to Regulation 9(7) of the Development and Planning Regulations (2020 Revision), apartments are permissible in suitable locations. The surrounding land uses in the area is as follows:

- 43A130 - Duplex approved adjoining the subject property: Feb. 2, 2006, access road off Anton Bodden Drive.
- 43A121 – Duplex approved: March 3, 2006, access road off Anton Bodden Drive
- 44B393 – Duplex approved: July 10, 2006, access road on Bodden Town Road.
- 43A120 – Duplex approved: Jan. 7, 2010, access road off Anton Bodden Drive.
- 43A112 – Apartments approved: Jan. 5, 2011 (CPA/21/11; Item 2.8), access road off Anton Bodden Drive.
- 43A107- Apartments approved: Jan. 12, 2005 (CPA/01/05; Item 2.19, access road off Anton Bodden Drive.

Based on the above surrounding land uses in the area, the Authority is to determine if the proposed apartments are suitable for this site.

#### **2) Setbacks**

Regulation 9(7)(j) of the Development and Planning Regulations (2020 Revision), the minimum required side setback is 15', whereas the proposed sides setbacks for building #1 (back porch) is 8'-7", building #2 (back porch) is 13'-9" and building #4 (back porch) is 14'-5" respectively. From a planning perspective, the buildings on the site can be tweaked to accommodate complying with the minimum side setbacks.

The CPA is to determine whether satisfactory justification has been provided to override the Regulation 9(7)(j) requirements and support for the applicant's request.

### **3) Fence Setback from the Public Road**

The proposed 4' high vinyl fence on the west property line is setback 0'-0" from the road side boundary, whereas the CPA guidelines states that walls and fences are to be setback a minimum of 4' from the road side boundary. From a planning perspective, the vinyl fence could obstruct the visibility of motorist egressing unto Bodden Town – the Authority may want consider a greater setback than 4' from the public road.

At 11:30am, Charles Russell Jr. appeared as the applicant and he was joined by Maria Russell, Mary Ann Villanueva and Darrel Ebanks. Gelia Frederick van Genderen and Hendrik van Genderen appeared as objectors. Summary notes are provided as follows:

- Mr. Ebanks explained the proposal and provided comments:
  - The site is zoned MDR, not LDR as the objectors have said.
  - He pointed out where the setback variances are required.
  - They can cut back the fence from the road.
  - The density complies with MDR.
  - NRA says traffic impact will be minimal.
  - The previous design had a road at the back but that has been abandoned.
  - There are other apartments in the area, 43A 112 and 107.
- Mr. Russell noted that the previous owner subdivided the larger parcel into two and gave the rear parcel a 24' right-of-way over the front parcel. He noted that there will be about 6' between the existing house and the right-of-way.
- Ms. Frederick van Genderen provided comments:
  - The density issue has been cleared up.
  - They do have concerns with the increase in traffic as getting in and out of her mother's property can be a challenge.
  - The apartments noted in the Department report get access from Anton Bodden and they feel a development such as this would be better served by Anton Bodden.
  - They don't feel the development is in keeping with the character of the area.
- Mr. van Genderen explained that they are concerned with the number of people that will be in this development and the impact it will have on the quality of life for Gelia's mother.
- Ms. Frederick van Genderen noted that her mother's parcel includes a private beach and they are concerned that people from this development will try to use it and people now do visit it and leave behind garbage.

- Mr. Russell noted that he doesn't think it is fair to compare this development to other apartments that are not purpose built. This development will have proper garbage collection and it will be built to code and will be fully contained to serve the needs of the people living there. He noted it is geared to families with a pool and cabana and it supports the Go East initiative.
- Mr. Ebanks explained that Building 3 is closest to the objectors and that building has the largest setback and they will maintain as much vegetation as possible.
- The Authority asked that if the development had access from Anton Bodden would it lessen the objections and Ms. Frederick van Genderen replied that it would.
- Ms. Frederick van Genderen asked if there would be a fence on the boundary and Mr. Russell replied there would probably be a chain link fence about 6' in height, but then recalled that he had already applied for a 4' vinyl fence which was shown on the plan.

**2.4 ERGUN BERKSOY (Whittaker and Watler) Block 22D Parcel 141REM12 and 320 (P20-0800) (\$5M) (JP)**

Application for a subdivision application to create 5 apartments lots, 1 neighbourhood commercial lot, 74 residential lots, 3 LPPs and 10 road lots

**Appearance at 1:30**

**Fred Whittaker and Roland Bodden declared conflicts and left the meeting room.**

**FACTS**

<i>Location</i>	Shamrock Road, Prospect
<i>Zoning</i>	<b>NC/LDR</b>
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	53.04 ac. (2,310,205.9 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant

**BACKGROUND**

October 9, 2019 (**P19-0287**) – an application for a two lot subdivision was administratively approved.



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

- 1) Prior to the commencement of any site works such as filling, grading and road construction (with the exception of minor land clearing needed to establish site levels for the preparation of a stormwater management plan), the applicant shall submit:
  - a) Within 60 days of the date of this decision, a revised plan showing:
    - (i) The proposed subdivision road next to Block 23B Parcels 23 & 96 realigned to accommodate the existing pond with a sufficient buffer between the pond and the road to the satisfaction of the Director of Planning and pond shall be labelled as LPP.
    - (ii) The deletion of the canal. Any new lots that replace the canal must comply with minimum lot size and lot width requirements.
    - (iii) A minimum 10' wide parcel along the existing lake and canal.
    - (iv) LPP 2 relocated where Residential Lots (RL) 16, 33, 34 and 35 are currently shown. The remaining area of LPP 2 can be reconfigured as residential lots that comply with minimum lot size and lot width requirements.
    - (v) Apartment lots 3 and 5 replaced with RL parcels that comply with minimum lot size and lot width requirements.
  - b) Specifications of any proposed underground utilities; including location, type of utilities, and trench dimensions.
  - c) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and should include, but not be limited to, the location of all drainage facilities and general grading details of the parcels (roads included). In general, the entire site shall be graded in such a manner that stormwater runoff is no more than that which occurred during predevelopment conditions along private boundaries with any excess runoff directed to one central drainage facility or a series of facilities. ***The plan shall include proposed lot grading in order to facilitate the implementation of condition 2) b) below. Additionally, if the plan includes drainage swales then cross-sections of the swales must be provided.***
- 2) Prior to the subdivision plan being finalized, the following conditions shall be satisfied:
  - a) All underground utilities shall be inspected and approved by the relevant agencies prior to the utilities being buried.
  - b) The property shall be filled in such a manner as to ensure that the subdivision road (s) and a reasonable building envelope for each lot are filled to four (4) feet above mean sea level, with the remaining subdivision land being filled and/or

graded to a level that will assist in the drainage of the subdivision per the stormwater management plan required in condition 1) c) above. **This condition does not apply to the 10' wide parcel required in condition 1) a) (iii) above nor the LPP parcels required in conditions 1) a) (i) and (iv) above.**

After filling the site, the applicant shall submit a plan prepared by a registered land surveyor indicating spot heights at regular intervals, including the finished grade of constructed access road(s), if any.

- c) The 10' wide parcel required in condition 1) a) (iii) above shall be retained in its natural state.
- d) The approved stormwater management system shall be installed on site.
- e) The final subdivision plan shall indicate a vehicular easement over the subdivision access road in favour of each lot. The final plan must be accompanied with the requisite grant of easement forms detailing the easements to be registered.
- f) The access road (s) abutting the proposed lots shall have a minimum of a 30' wide demarcated road parcel and shall be constructed with asphalt and approved by the Central Planning Authority prior to the lots being registered. The applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications for subdivision roads. The NRA shall inspect and certify road base construction prior to road surfacing activities.
- g) The applicant shall provide water infrastructure for the entire sub-division. The developer shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Authority's specifications, under the Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.
- h) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.
- i) The surveyor's final drawing **shall include the surveyed dimensions of all lots** and shall be submitted to the Director of Planning for approval prior to the survey being registered.

#### Reasons for the decision

- 1) The application complies with the lot size, lot width requirements of the Development and Planning Regulation (2020 Revision).
- 2) The proposed uses within the subdivision comply with the Development and Planning Regulation (2020 Revision), more specifically:

- a) The proposed apartment locations appear suitable to the Authority, but the final determination on that issue would be made when an application to develop apartments has been submitted for consideration
  - b) The proposed Neighbourhood Commercial lot encompasses the area of the site currently zoned Neighbourhood Commercial. The proposed lot also encompasses a small area of land currently zoned Low Density Residential and the Authority is of the view that this area of land would be suitable for commercial development, but again, the final determination on that issue would be made when an application for a commercial development has been submitted for consideration.
  - c) The remaining residential lots comply with the Regulations.
- 3) The Authority has requested changes to the plan to address some of the concerns of the objectors and the DOE/NCC.
  - 4) The Authority is satisfied that the westerly access road is acceptable and will be of assistance for emergency vehicle access.
  - 5) The Authority is satisfied with the internal road pattern.
  - 6) The Authority notes that the Red Bay Primary School is adjacent to the subdivision and this satisfies Regulation 30. Further, the need for another school site in the area would be subject to Government policy and the interest of the private school system.
  - 7) The Authority has read in detail the various objection letters and the submissions made at the meeting and determined that the objectors did not raise sufficient grounds to refuse permission, more specifically:
    - a) The Authority has requested the applicant to submit a revised plan showing the proposed subdivision road next to Block 23B Parcels 23 & 96 realigned to accommodate the existing pond with a sufficient buffer between the pond and the road to the satisfaction of the Director of Planning.
    - b) The Authority has considered the proposed subdivision in context of all relevant provisions of the Development Plan 1997 and determined that the proposal is consistent with the provisions of the Plan. The Authority would also note with emphasis that per Part 1, Section 1.1, *“The Plan is still intended to take the form of practical guidelines to be applied with flexibility, understanding and commonsense by the Authority.”*
    - c) The comments from the Department of Environment and the National Conservation Council have been addressed through conditions of approval (e.g. deletion of the canal, creation of a strip of land adjacent to the canal and lakes to preserve mangroves). The issues of preserving mangroves and other natural habitats can be further addressed through the review and consideration of future development applications on the subdivision lots.

- d) Access for the subdivision is an internal road network that connects to other existing roads which eventually connect to Shamrock Road, a major public thoroughfare. The capacity of Shamrock Road to accommodate traffic is the responsibility of the National Roads Authority and/or other Government entities to resolve, not the applicant's. It cannot be rational to refuse planning permission for a subdivision that complies with The Development Plan, the Development and Planning Law and Regulations on the basis of the capacity of the existing public road network which is outside of the control of the applicant.
- e) The Authority is satisfied that the applicant complied with the procedural requirements of Regulation 8(12A).
- f) Drainage within the subdivision will be addressed twofold: firstly, through the implementation of a stormwater management system for the subdivision; and secondly, through the implementation of site specific stormwater management systems for individual development applications on the subdivision lots. To this end, the objectors provided no evidence that the subdivision will cause flooding in the area.
- g) The determination of a Freedom of Information request has no bearing on the consideration and determination of the subdivision application.

### **AGENCY COMMENTS**

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

#### **Water Authority**

##### **Water Supply**

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

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

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

### **Requirement for Canal Permit as per Water Authority Law**

*The Water Authority is charged under the Water Authority Law to protect groundwater. Section 34 (1) of the Water Authority Law (2018 Revision) requires that anyone who undertakes the construction, replacement or alteration of canals is required to obtain a permit from the Authority, subject to such terms and conditions as it deems fit. Section 2 (1) the Water Authority Law (2018 Revision) defines canals as any channel works which provide sea water direct access to inland areas which would not normally be in direct contact with the sea.*

*A canal permit will be considered by the Authority upon receipt of a completed canal permit application form, the application fee and required submittals. The application form may be downloaded from the Water Authority website:*

*[http://www.waterauthority.ky/upimages/pagebox/CanalWorksApplicationRevNOV2018\\_1541708130.pdf](http://www.waterauthority.ky/upimages/pagebox/CanalWorksApplicationRevNOV2018_1541708130.pdf)*

***Please be advised that submitting a canal permit application to the Authority does not guarantee that the permit will be issued. If a canal permit is issued the Authority may require modifications of plans and/or impose specific conditions to protect surface and groundwater and to ensure that the applicant complies with the conditions of the permit.***

### **Wastewater Treatment**

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

### **National Roads Authority**

#### ***Proposed Road***

*The applicant's agent has met with the Ministry of Works and the NRA on a proposed access road through this development. The applicant has restructured their development to accommodate this access road, thereby, providing some much needed internal connectivity between developments as well as reducing the need to access Shamrock Road at this juncture. The forty (40) ft. wide road will connect from Bimini Drive through and up to Island Drive over Dukes Way. The applicant has uploaded the revised plan to OPS.*

#### ***Road Capacity Issues***

*The traffic demand to be generated by the above proposed development of,*

- *Apartments - 9 acres over 5 individual locations;*
- *Neighbourhood Commercial – 4 acres; and*
- *Single Family Homes - 74 individual lots.*

<b>Zone</b>	<b>Land Use</b>	<b>Planning Regulation</b>	<b>Proposed Development</b>	<b>Development per Zoning Regulations</b>
<b>LDR</b>	<b>Apartments</b>	<b>25 units /acre</b>	<b>9.29 acres</b>	<b>233 units</b>
<b>LDR</b>	<b>Single Family</b>	<b>N/A</b>	<b>74 lots</b>	<b>N/A</b>
<b>NC</b>	<b>Neighbourhood Commercial</b>	<b>75% coverage</b>	<b>4.17 acres</b>	<b>3 acres</b>

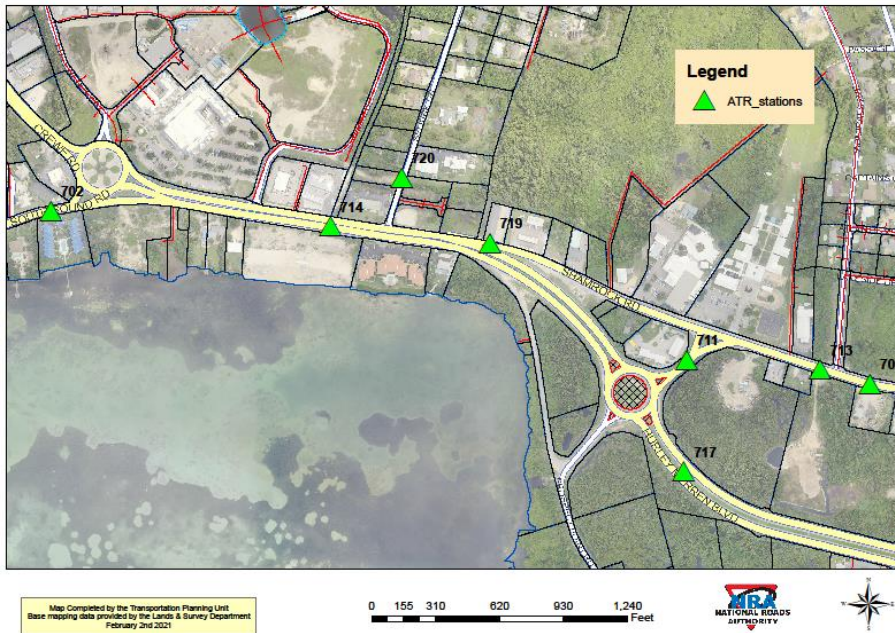
*The anticipated traffic to be added onto the surrounding road system is as follows:*

<b>ITE Code</b>	<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>Pass-By Traffic</b>
<b>Apartments – 220</b>	<b>1549</b>	<b>119</b>	<b>24</b>	<b>95</b>	<b>144</b>	<b>94</b>	<b>51</b>	<b>N/A</b>
<b>Single Family - 210</b>	<b>704</b>	<b>56</b>	<b>14</b>	<b>42</b>	<b>74</b>	<b>47</b>	<b>27</b>	<b>N/A</b>
<b>Shopping Centre – 820</b>	<b>5594</b>	<b>126</b>	<b>51</b>	<b>32</b>	<b>486</b>	<b>154</b>	<b>167</b>	<b>165</b>

*The Average Daily Traffic count in the general vicinity of the proposed development of Block 22D Parcel 141 Rem 12 at ATR location 714, please see diagram below, was approximately 40,935 vehicles in 2018, the volume then splits to about 25% on Shamrock Road and 75% onto Hurley Merren Blvd.*

*With the proposed internal road and the imminent widening of Shamrock Road, that is now taking place, the overall impact of the proposed development onto the surrounding road network, should be fair to moderate.*

ATR Locations



### ***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 does suggest, as was done by the applicant's agent, a one-way in only will be needed on Princess Street and two-way in/out on the proposed Petra Way. Truncations will need to be provided at the Petra Way intersection, therefore, the applicant should liaise with the affected landowners.*

*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. This site will need a stop sign with stop bars at the junction of Shamrock Road.*

*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.*

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

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

4<sup>th</sup> March 2021

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following additional comments for your consideration, which includes our previously submitted comments and therefore this review supersedes the previous review.*

### **Canal Extension**

*Following on consultation response on 9 October 2020, the proposals were revised to include an even longer canal extension into the development. The canal system in this area was never properly engineered and was developed in a piecemeal way. We do not support the proposed canal or its further extension, based on water quality issues. Longer canals result in lower water quality due to lack of flushing. Given the increased length of the canal which forms part of the revised plans, the Department urges the Central Planning Authority (CPA) to require a flushing analysis study to provide a clearer indication of the water quality impacts arising from the proposed design. As shown in Figure 1, the nearest source of freshwater is over 5,000 feet northeast, in an approximately straight line into the prevailing wind direction. The prevailing winds push debris to the end of the canal and the debris collects or sinks, decreasing water quality. A dead-end canal of this length will have little flushing or circulation.*

*The Department of Environment regularly receives complaints or inquiries from members of the public regarding poor water quality in poorly-flushed canals. The members of the public are usually landowners who have purchased lots or properties in similar subdivisions and are not the original developers. They seek solutions for the lack of flushing and poor water quality in their canals, but it can be very difficult and costly to retrospectively design effective solutions as a way to compensate for poor design at the planning stage.*

*The plans do not show a proposed canal depth, however if the Central Planning Authority is minded to approve the application without requiring an appropriate flushing analysis study conducted by an appropriately qualified engineer, we recommend that the canal is constructed to a maximum depth of 8 feet, as this will allow light penetration to the bottom of the canal. Light penetration can allow seagrass to grow, which provides filtration and can encourage other natural marine flora and fauna which contribute to better water quality.*





*Figure 1. The revised canal is 5,000 feet inland in an approximately straight line into the prevailing wind direction and is likely to have poor water quality.*

### ***Adjacent Pond***

*Subsequent to submitting our planning review, we were contacted by an adjacent landowner who wished to make us aware of a freshwater pond which was located on both their property and the application site. The freshwater pond is located between Block 23B Parcel 96 and the site as shown in Figure 2.*

*Freshwater ponds are very valuable resources for birds, especially during dry season where they are of seasonal importance to native and migratory waterfowl. All birds are protected species under the National Conservation Law (NCL). The blue winged teal and the white-winged dove are listed under Part 2 of Schedule 1 of the NCL as they are game birds. All remaining birds are listed under Part 1 of Schedule 1 of the NCL as they are protected at all times.*

*According to Patricia Bradley, a member of the National Conservation Council (NCC) and a well-respected internationally-known ornithologist, the pond has been intentionally managed to increase invertebrates and plants to provide food and habitat for birds at the site for over 10 years. The pond supports populations of birds including West Indian Whistling Ducks. West Indian Whistling Ducks are listed on the IUCN Red List as Near Threatened and the population is decreasing. As the Caribbean’s rarest duck, this species is charismatic and popular. During the Department’s site visit on 1 March 2021, we noted the presence of a green heron and a great blue heron as well as numerous other local birds.*

*As shown in Figure 3, the pond has a special natural beauty as well as being good habitat for birds and other species found in freshwater ponds.*



*Figure 2. The site, with the pond located along the western boundary in the south of the application site (orange).*



*Figure 3. The pond, from the adjacent property looking towards the application site where the applicant wishes to put a road.*

*The construction of the road on the application site adjacent to the pond would likely destroy the pond on Block 23B Parcel 96. The pond would be directly impacted by the clearing and filling of the land on the application site. During construction there would be run-off of sediment into the pond along with the generation of turbidity. It is highly*



*unlikely that typical construction methods could be used to construct the road without adverse impacts on the pond located on the adjacent parcel (Block 23B Parcel 96).*

*During operation, there would likely be run-off from the road directly entering the pond. Run-off from roads typically contains dirt, dust, rubber, metal deposits, engine oil etc. all of which would contaminate the pond and would undo the work done over the last 10 years to make the pond good habitat for birds. Figure 4 shows a recently erected survey marker splitting the pond between the two properties.*



*Figure 4. On the left of the survey tape is the applicant's site and their part of the pond, and on the right is the adjacent landowners site and their part of the pond. It would be impossible to construct a road immediately on the left side of the survey marker without negatively impacting the pond on the right side.*

*Under the Development and Planning Regulations (2021), Section 9(5), it states:*

*(5) Notwithstanding the foregoing regulations, no use of land in a residential zone shall be dangerous, obnoxious, toxic or cause offensive odours or conditions or otherwise create a nuisance or annoyance to others.*

*A fundamental purpose of the regulation of planning and development is to help avoid these types of negative impacts on neighbours from development. The use of the land directly adjacent to Block 23B Parcel 96 as a road would be an obnoxious condition and create a nuisance and annoyance to others (namely the owner of Block 23B Parcel 96 who has said as much in their objection letter). The negative impacts onto the ecology of*



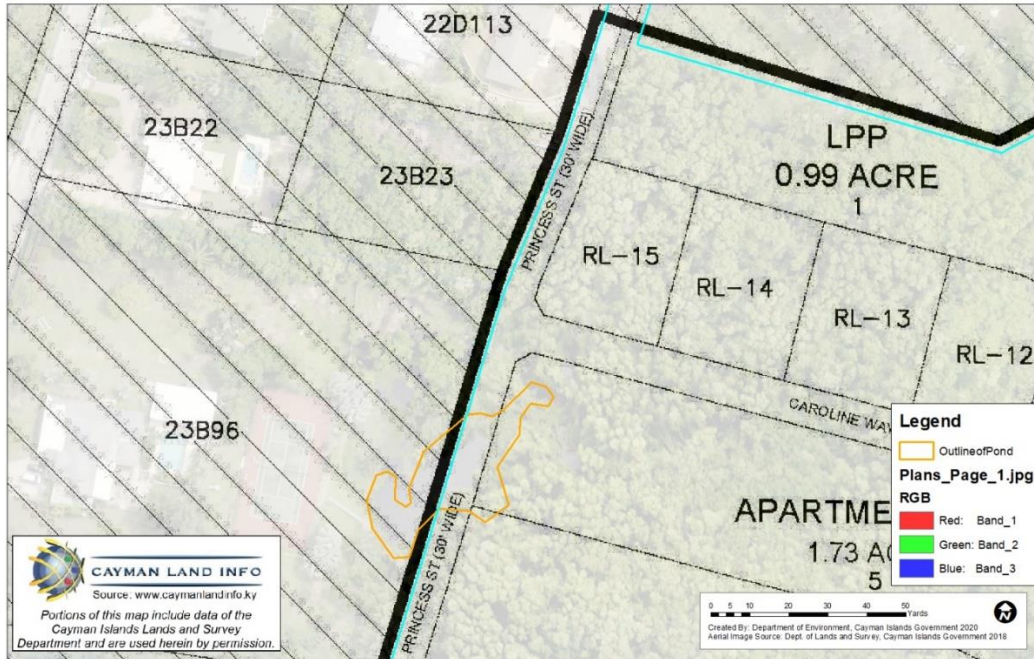
*the area of pond located on the adjacent landowner's property would not be in line with Section 9(5) of the Development and Planning Regulations (2021).*

*A simple solution would be to relocate the Land for Public Purposes (LPP) from approximately 200 feet to the north of the pond, to the location of the pond and realign the road. By relocating the LPP to the area of the pond, and realigning the road, the applicant will not lose any developable space nor lose any potential lots. For reference, the entire site is 54 acres of mangroves proposed to be developed, and the area of the pond on the applicant's property is approximately 0.02 acres.*

*The pond would be a beneficial amenity to users in the proposed subdivision, because they would have a natural space they could also enjoy. In addition, it would benefit the landowner as the LPP would already be improved with the pond as an amenity space. Therefore any improvements required to the LPP (e.g. via LPP Improvement Plan if required by the CPA) would already be partially completed.*



*Figure 5. The pond could provide an amenity feature for the users of the proposed subdivision, if it were preserved by relocating the LPP and realigning the road.*



*Figure 6 shows the location of the pond within the road. A modest realignment of the road would allow the pond to be preserved, and the LPP from the north could be relocated here thereby not changing the applicant’s developable area in any way.*

**Zoning**

*The pond is currently located within an area zoned for residential use as shown in Figure 7 below. The revised site plan shows neighbourhood commercial extending over the pond and further to the north (Figure 8). Approving this subdivision bypasses the normal control procedures for a rezoning application and would further increase the nuisance on adjacent land owners.*



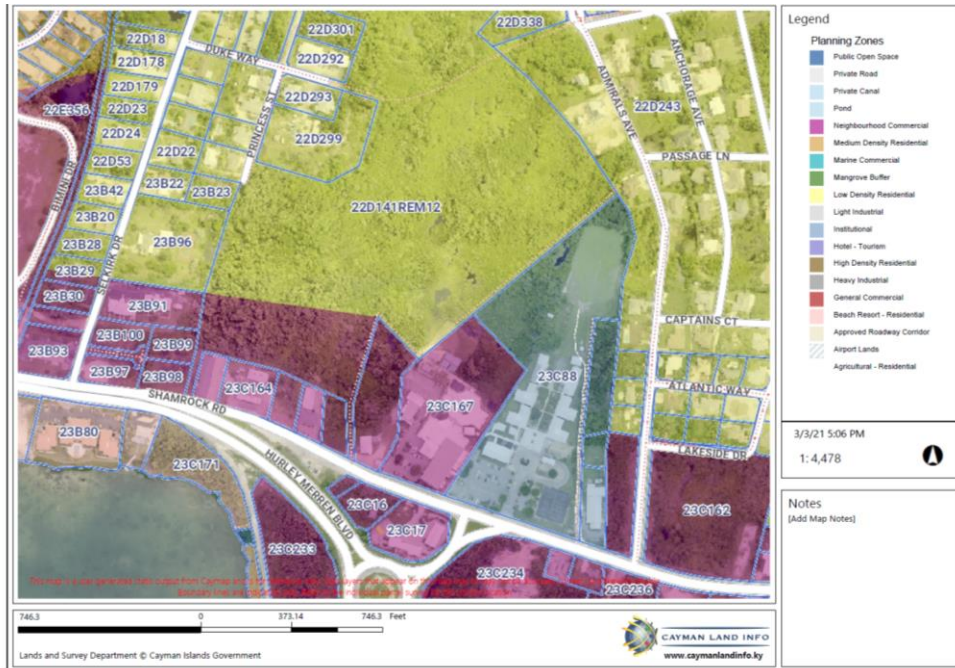


Figure 7. The site is zoned low density residential (yellow) with neighbourhood commercial (pink) adjacent to Shamrock Road.

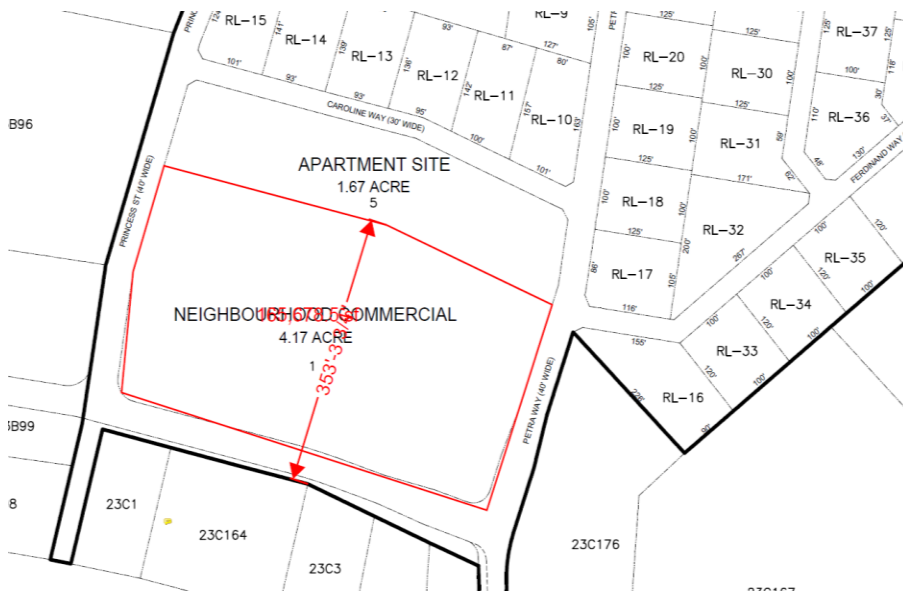


Figure 8. The applicant is proposing to increase the area of neighbourhood commercial space while bypassing the appropriate application procedures for a rezone.

Overall, a modest change to the alignment of the road would protect the amenity of the pond for the adjacent landowner and provide benefits to the subdivision itself.

### ***Loss of Mangroves***

*The application site is partially seasonally flooded mangroves and tidally flooded mangroves and partially man-modified. The proposed development will result in the loss of approximately 50 acres of mangroves and their ecological function. Mangrove loss over recent decades has been so extensive that it triggers local Red-Listing criteria. In 2008, the Cayman Islands national IUCN Red List status of Black Mangrove was assessed as Endangered, White Mangrove and Buttonwood both as Vulnerable, and Red Mangrove as Near-Threatened.*

*The Ramsar Convention (1971) has been extended to the Cayman Islands, requiring a commitment to work towards the wise use of our mangrove and other wetlands through national plans, policies and legislation, management actions and public education. All of the four mangrove species are protected species under Part 2 of Schedule 1 of the NCL.*

*Mangrove communities support a diverse fauna, including crustaceans, insects and birds. They play a key role in supporting marine life, including a highly diverse and productive fish nursery zone where the mangroves interface with the sea. Mangroves are also noted for their role in shoreline protection, carbon sequestration and storage, filtering of sediment and pollutants and as habitat for threatened species.*

*Any mangroves in the buffer should be retained. The LPP could also remain as mangroves and could be adapted for public amenity as well (walking trails or boardwalks, for example).*

*If the Central Planning Authority is minded to approve the application, best management practices should be adhered to during construction to prevent any impacts to the canal; these include but are not limited to:*

- A flushing analysis should be undertaken by an appropriately qualified engineer.*
- Any stockpiled materials should be kept away from the canal edge to reduce the possibility of rainwater runoff washing material into the canal.*
- The interior of the canal extension should be constructed first, with a plug left in situ at the canal opening between the existing canal and the proposed canal. Once the canal excavation is complete and a silt screen has been installed to mitigate turbidity, the plug can then be removed to complete the excavation works as this minimizes the impacts of turbidity and sedimentation.*
- The canal construction area shall be fully enclosed with silt screens with a 4-ft minimum skirt depth to contain any sedimentation or debris arising from construction of the dock as depicted by the submitted site plan.*
- The silt screens shall remain in place until the water contained inside the screens has cleared to the same appearance as the water immediately outside of the screens.*
- Land clearing should not take place until commencement of each phase of development is imminent, following receipt of the necessary planning approvals for each component of the development.*

9<sup>th</sup> October 2020

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

*The application site is partially seasonally flooded mangroves and tidally flooded mangroves and partially man-modified. The proposed development will result in the loss of mangroves and their ecological function. Any mangroves in the buffer should be retained. The LPP could also remain as mangroves and could be adapted for public amenity as well (walking trails or boardwalks, for example).*

*The Department does not support the extension of the canal. The canal system in this area was never properly engineered and was developed in a piecemeal way. As such, the Department often receives complaints regarding poor water quality in this area. The proposed canal extension is very far inland, and designed as a dead-end with no flushing or circulation.*

*The plans do not show a proposed canal depth, however if the Central Planning Authority is minded to approve the application, we recommend that the canal is constructed to a depth of 8 feet, as this will allow light penetration to the bottom of the canal. Light penetration can allow seagrass to grow, which provides filtration and can encourage other natural marine flora and fauna which contribute to better water quality.*

*If the Central Planning Authority is minded to approve the application, best management practices should be adhered to during construction to prevent any impacts to the canal; these include but are not limited to:*

- Any stockpiled materials should be kept away from the canal edge to reduce the possibility of rainwater runoff washing material into the canal.*
- The interior of the canal extension should be constructed first, with a plug left in situ at the canal opening between the existing canal and the proposed canal. Once the canal excavation is complete and a silt screen has been installed to mitigate turbidity, the plug can then be removed to complete the excavation works as this minimizes the impacts of turbidity and sedimentation.*
- The canal construction area shall be fully enclosed with silt screens with a 4-ft minimum skirt depth to contain any sedimentation or debris arising from construction of the dock as depicted by the submitted site plan.*
- The silt screens shall remain in place until the water contained inside the screens has cleared to the same appearance as the water immediately outside of the screens.*

## **OBJECTIONS**

See Appendix A

(Members are invited to note a significant number of redacted pages submitted in support of an objector by their representative – these contain objection letters from persons whom



either were not notified or submitted objections nearly 4 months after the notification window closed and consequently are not recognised as registered objectors.)

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located in the Prospect area off Shamrock Road which forms the southern boundary.

### **Zoning**

The property is zoned Low Density Residential and Neighbourhood Commercial.

### **Specific Issues**

#### **1) Suitability**

Regulation 9(8) permits apartments in suitable locations.

The application proposes 5 apartment lots.

Members are invited to consider the acceptability of such.

#### **2) Neighbourhood commercial lot**

The application site is split zoned with Neighbourhood Commercial to the south and Low Density Residential to the north.

The current NC zone covers approximately 150,480 sq ft of the site plan. The proposed neighbourhood commercial lot measures approximately 165,674 sq ft.

Regulation 9(3) permits commercial uses in residential zones subject to adequate notification, however, this requirement relates specifically to development applications. For this subdivision proposal, members should be mindful that the proposed neighbourhood commercial lot exceeds that permitted by the current zoning.

#### **3) Access points onto Shamrock Road**

The proposed western access point is one way entry into the subdivision which is consider substandard for a subdivision of this scale.

Sidewalks are proposed within the road and substandard at only 4ft in width.

#### **4) Internal subdivision road junctions**

Java Way and Melodi Way junctions onto Ferdinand Way are poorly designed with 45 degree turns immediately after 90 degree entrances.

#### **5) Provision for schools**

Regulation 30 requires one primary school on 3 acres for every 400 families and one secondary school on 7 acres for every 2000 families.

The application is silent regarding this provision.

Members are invited to consider this requirement.

At 1:30pm, Waide DaCosta appeared on behalf of the applicant. Elaine Whitehead, Kate McClymont, Diana Quin and Rachael Costa appeared as objectors. Summary notes are provided as follows:

- The Authority clarified who was present as objectors on record and asked Mr. DaCosta to address discussion items 1) through 6) from the Agenda.
- Mr. DaCosta provided comments:
  - He provided a USB drive that contained a revised plan which was shown on the exhibit screen.
  - In response to NCC comments they have removed the canal.
  - The road has been re-aligned to allow for the pond and it will be LPP.
  - There will only be lots for apartments at the north end of the site.
  - They have listened carefully to the objectors.
  - They are providing a 50' wide road parcel to allow for an east/west connector road for NRA and Princess Street will be continued with a 40' wide road parcel, both of which allow for interconnectivity.
  - They are trying to abide by the NRA and relieve as much traffic onto the main road as possible.
  - This is an 8-10 year project and won't happen overnight.
  - They have two legal access points.
  - Two parcels will gain access when Princess Street is extended.
  - He feels they have dealt with the objections and traffic concerns.
  - There is a natural drainage swale that runs between his client's land and Red Bay and that will be retained.
  - Regarding protecting the mangroves that is where the LPP comes in as it will be left in its natural state.
  - With the revised plan there are about 20 more residential lots as the apartment lots have decreased in number.
- Ms. McClymont noted that the revised plan does substantially change the nature of the objections, but they were just shown the plan minutes before the meeting started. She provided comments:
  - There are still concerns regarding traffic flow and environmental impact.
  - She has a list of developments approved since 2018 in the Red Bay area and there are 11 multi-unit developments under construction and this is contributing to the bottle neck on Shamrock Rd and a subdivision of this magnitude shouldn't be approved at this time.
  - NRA's comments are based on data available up to 2018 so it is premature to approve this subdivision until there is up to date traffic data.

- Her submission contains about 30 letters of objection that were redacted because they were filed out of time, but the views of the community are important.
- She proceeded to summarize her written submissions.
- Ms. Costa noted that the mangroves in the area are almost gone except for this site and if apartments are approved at the end then there will be no more mangroves. The Authority noted that the protection of mangroves comes at the stage of reviewing building applications. She noted that mangroves should be protected on the water.
- Ms. Costa noted that there could potentially be 110 apartments so there would be even more people and traffic, so she asks that there be no apartments in the subdivision.
- The Authority noted that often apartments are better suited at the front of a subdivision and asked Mr. DaCosta if the applicant would consider that option and Mr. DaCosta replied he would have to obtain instructions from his client.
- Ms. Whitefield noted that she agrees with the comments from Ms. McClymont and Ms. Costa. She proceeded to summarize her written submissions. She also noted that she has a letter from 64 residents voicing their concerns. The Authority interjected that she must ensure she is not raising objections from people that didn't qualify to object. Mr. DaCosta noted that he wanted to ensure non valid objections were not being allowed in through the back door. Ms. Whitefield explained that it is important to realize that people that can't object are still affected.
- Mr. DaCosta provided final comments:
  - There are two access points which makes good planning sense.
  - The extension of Princess St. is good planning and gives access to two other parcels.
  - They have allowed for the pond.
  - Environmental concerns have been taken into consideration.
  - There will be a stormwater management plan.
  - This will put on the market much needed homes for Caymanians.
  - There will be no mass clearing of land, just clearing to allow for survey work.

**2.0 APPLICATIONS**  
**REGULAR AGENDA (Items 2.5 to 2.25)**

**2.5 RAINBOW DEVELOPMENT LTD (Abernethy & Associates Ltd) Block 32E Parcel 80 (P20-1137) (\$31,922) (BES)**

Application for a subdivision (33-residential lots, 3-LPP lots, and 1-road parcel).

**Appearance at 3:30**

**FACTS**

<i>Location</i>	Shamrock Road, Savannah
<i>Zoning</i>	<b>LDR</b>
<i>Notice results</i>	No Objectors
<i>Parcel Size</i>	9.64 acre (419,918.4 sq ft)
<i>Lot Size Required</i>	10,000 sq ft per lot

**BACKGROUND**

No previous CPA file history.

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

- 1) Prior to the commencement of any site works such as filling, grading and road construction (with the exception of minor land clearing needed to establish site levels for the preparation of a stormwater management plan), the applicant shall submit:
  - a) Within 60 days of the date of this decision, a revised plan based on the drawing provided by the applicant at the meeting.
  - b) A copy of the documentation provided to the Lands and Survey Department to obtain a vehicular easement for the subdivision road truncation on 32E 81.
  - c) Specifications of any proposed underground utilities; including location, type of utilities, and trench dimensions.
  - d) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and should include, but not be limited to, the location of all drainage facilities and general grading details of the parcels (roads included). In general, the entire site shall be graded in such a manner that stormwater runoff is no more than that which occurred during predevelopment conditions along private boundaries with any excess runoff directed to one central drainage facility or a series of facilities. *The plan*

*shall include proposed lot grading in order to facilitate the implementation of condition 2) b) below. Additionally, if the plan includes drainage swales then cross-sections of the swales must be provided.*

- 2) Prior to the subdivision plan being finalized, the following conditions shall be satisfied:
  - a) All underground utilities shall be inspected and approved by the relevant agencies prior to the utilities being buried.
  - b) The easement required in condition 1) b) above shall be registered.
  - c) The property shall be filled in such a manner as to ensure that the subdivision road (s) and a reasonable building envelope for each lot, and the entirety of all lots designated as Land for Public Purposes, are filled to four (4) feet above mean sea level, with the remaining subdivision land being filled and/or graded to a level that will assist in the drainage of the subdivision per the stormwater management plan required in condition 1) c) above. After filling the site, the applicant shall submit a plan prepared by a registered land surveyor indicating spot heights at regular intervals, including the finished grade of constructed access road(s), if any.
  - d) The approved stormwater management system shall be installed on site.
  - e) The final subdivision plan shall indicate a vehicular easement over the subdivision access road in favour of each lot. The final plan must be accompanied with the requisite grant of easement forms detailing the easements to be registered.
  - f) The access road (s) abutting the proposed lots shall have a minimum of a 30' wide demarcated road parcel and shall be constructed with asphalt and approved by the Central Planning Authority prior to the lots being registered. The applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications for subdivision roads. The NRA shall inspect and certify road base construction prior to road surfacing activities.
  - g) The applicant shall provide water infrastructure for the entire sub-division. The developer shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Authority's specifications, under the Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.
  - h) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.

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

Reasons for the decision:

- 1) With the exception of the width of the wedge shaped lots, the proposal complies with the Development and Planning Regulations (2020 Revision). The Authority is satisfied with the width of the wedge shaped lots and allows the lesser widths per Regulation 8(13)(b).
- 2) The Authority is satisfied with the provision of Land for Public Purposes.
- 3) The Authority is satisfied that the subdivision has been designed to allow for future access to the adjacent parcel of land.
- 4) Notwithstanding the comments from the National Roads Authority, the Authority is satisfied with the access to Shamrock Road as shown on the revised plan provided by the applicant.

### **AGENCY COMMENTS**

Comments from the National Roads Authority, Fire Service, Department of Environment/NCC, and Water Authority are noted below.

#### **NRA**

##### Letter #1

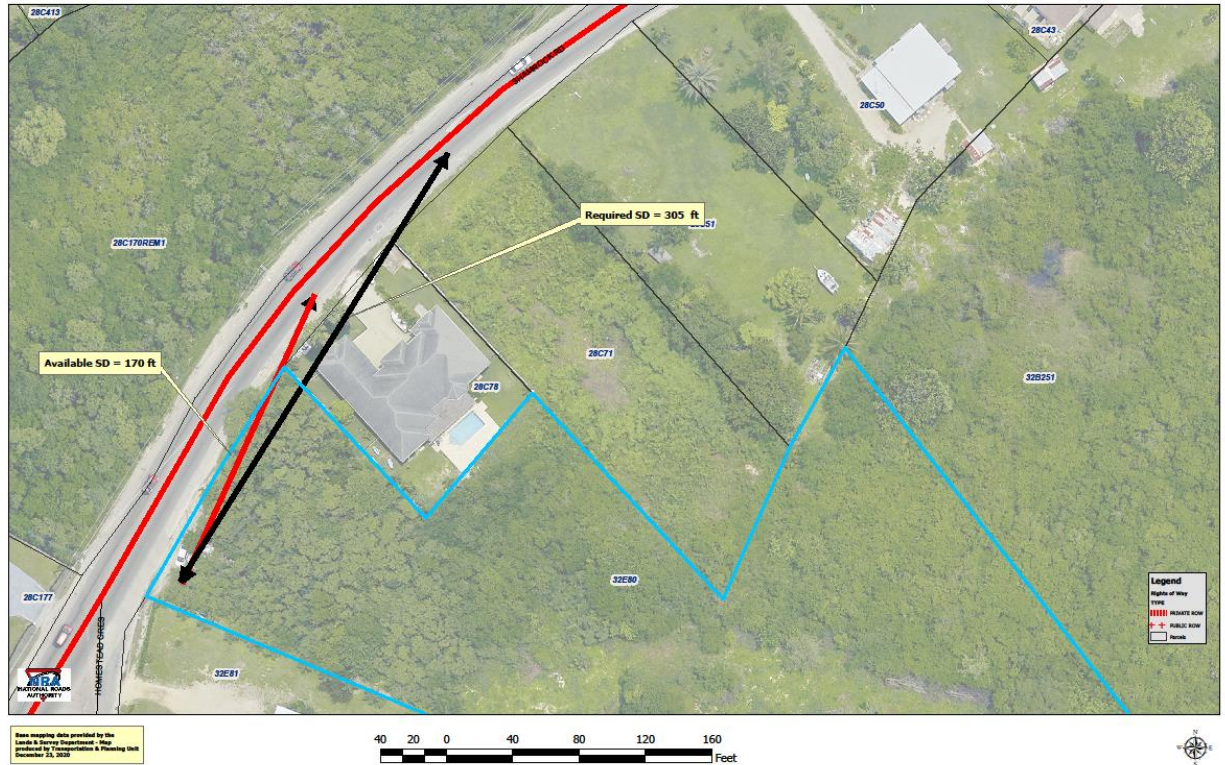
*As per your memo dated January 6th 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

##### ***Sight Distance Issues***

*The horizontal geometric curve on Shamrock Road at the juncture with this proposed subdivision on Block 32E Parcel 80 is a major safety concern for the NRA.*

*The minimum sight distance for a road with a posted speed limit of 30MPH is 305 ft. As can be seen from the graphic below there is only 135 ft. of sightline available for approaching vehicles traveling westbound. This is a significant deficiency. For the safety of the future residents of the development, the NRA strongly recommends to the CPA to have the applicant investigate and obtain a right of way through parcels 28C51 or 28C71 or along the common boundary, or some other means of access, which will provide a safe sightline for the proposed development.*

Sight Distance Requirement for Development of Block 32E Parcel 80 for Intersecting Access Rd (Option 2) onto Shamrock Rd - Available vs. Requirement



## Letter #2

See Appendix D

## Fire Service

*Please note, The Fire Department has no objects to this subdivision. However, when future development occurs an revise drawing has to be submitted for comments.*

## DOE/NCC

*Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment (DoE) confirms that we have no objection to the proposed subdivision at this time as the site is predominately man-modified and is of limited ecological value. However, the DoE believes the parcel was historically used as agricultural land. We recommend that the Department of Agriculture is consulted on this application and similar applications in the future in order to advise on the potential loss of agricultural land which is already at a premium in Cayman. The conversion of good agricultural land for development purposes places greater pressure on already declining areas of primary habitat. As historically good agricultural land is lost, the likeliness for proposals to clear primary habitat for agricultural use could increase.*

## **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.*

### **Stormwater Management**

*This development is located over the Lower Valley fresh water lens or within the 500m buffer zone of the lens. In order to protect the fresh water lens, the Water Authority requests that stormwater drainage wells are drilled to a maximum depth of 60ft instead of the standard depth of 100ft as required by the NRA.*

### **Wastewater Treatment:**

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

## **APPLICANT'S LETTER**

### **Letter# 1**

*Enclosed please find the relevant documents relating to a 37-lot subdivision. We are asking for a variance on the lot width for Lots 2, 3, 7, 13, 18, 22, 23, 24, 26, 27, 31, & 35 under the Planning Regulation 8(13) (b) (iii) to accommodate this.*

### **Letter# 2**

*See Appendix B*



## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a subdivision (33-lots), 3-LPP lots and a road parcel located on Shamrock Road, Savannah. The site is located at the junction of Shamrock Road and Homestead Cres, Savannah. As indicated on Cayman Land Info Map, west of the property are commercial developments, to the north and east of the property are single-family residential development/vacant properties, and to the southwest are vacant properties.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Subdivision Access Points at Shamrock Rd**

The applicant has modified the subdivision access road moving the ingress/egress points to the west boundary to help address safe sightline safe sightline with a truncation on 32E81 – the NRA suggested the applicant should try to obtain a right of way through parcels 28C51 or 28C71 or along the common boundary, or some other means of access, which will provide a safe sightline for the proposed development.

*The applicant submitted a revised plan showing the driveway shifted further to the west. This plan was circulated to the NRA, but at the time of the Agenda being finalized, new comments had not been received.*

Additionally, the access road width reduces from the 30' wide to 20' wide in a one-way traffic circulation around the LPP in the centre – the NRA had no concerns. The Authority is to determine whether the traffic flow is acceptable.

#### **2) Lot Widths**

As indicated on the subdivision plan, lots 3, 6, 7, 13, 18, 22, 23, 24, and 27 are less than the minimum required lot width. Per Regulation 9(8)(g) of the Development and Planning Regulations (2020 Revision), the minimum lot width is 80' for houses and duplexes and 100' for apartments.

#### **3) Road Connection**

In accordance with Regulation 25(g) of the Development and Planning Regulations (2020 Revision), *the Authority may require provision for the continuation of principal roads to adjoining subdivisions or their proper projections when adjoining property is not subdivided and also continuation of such minor roads as may be necessary for extensions of utilities and access to adjoining properties.* From a planning perspective, a road connection to Block 32E Parcel 81 in the area where the access road is abutting 32E81.

#### **4) Lands for Public Purposes**

The applicant is lots 1 (6,320 sq ft) and 25 (8, 930 sq ft) for total of 15,250 sq ft. Per Regulation 28(1) of the Development and Planning Regulations (2020 Revision), *according to the size of a subdivision, the Authority may require the applicant to set*

*aside land not exceeding five percent of the gross area of the land being developed, for public purposes, including active and passive recreation and public rights of way.*

At 3:30pm, Stephen Hislop appeared on behalf of the applicant. Summary notes are provided as follows:

- They have submitted a revised plan with a slight modification to the entrance location. He explained that he has spoken to the neighbour who will allow for the road truncation. This entrance location will improve the line of sight by shifting the entrance 15' further west.
- LPP will be provided in the roundabout and will also act as a buffer at the front of the subdivision.

## **2.6 SEAHAVEN (Encompass Ltd) Block 24E Parcel 653 (P21-0034) (\$5 million) (BES)**

Application for 8 apartments and a pool (to replace previously approved 2 duplexes, 1 triplex and 7 pools).

### **FACTS**

<i>Location</i>	Roxborough St., Bonnie View Subdivision
<i>Zoning</i>	<b>LDR</b>
<i>Notice results</i>	No Objectors
<i>Parcel Size Proposed</i>	1.724 ac. (75,097.4 sq. ft.)
<i>Parcel Size Required</i>	25,000 sq. ft.
<i>Current Use</i>	Apartments
<i>Building Size</i>	19,894 sq ft.
<i>Building Footprint</i>	19,228 sq ft
<i>Building Site Coverage</i>	25.6 %
<i>Allowable Units</i>	25
<i>Proposed Units</i>	16
<i>Allowable bedrooms</i>	41
<i>Proposed bedrooms</i>	44
<i>Required Parking</i>	27
<i>Proposed Parking</i>	33

### **BACKGROUND**

*September 16, 2015 (CPA/19/15; Item 2.6) – CPA granted planning permission for apartments, duplexes, garage buildings (35,955 sq. ft.), seawall, docks and pools.*

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

Conditions (1-6) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under Policy Development, Policy Drafts.*
- 5) Construction drawings for the proposed wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 6) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

In addition to Building Permit requirements, condition (7) listed below shall be met before a Building Permit can be issued.

- 7) The construction drawings for the proposed swimming pool shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

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

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

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

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

Reasons for the decision:

- 1) Per Regulation 9(8) of the Development and Planning Regulations (2020 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
  - There are no physical constraints on the site that would prevent the development of apartments.
  - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
  - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the canal setback and number of bedrooms, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 3) The Authority concurs with the reasons from CPA/19/15; item 2.6 for allowing the lesser canal setback.
- 4) The proposed application does not comply with the maximum allowable number of bedrooms per Regulations 9(8)(c) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the additional bedrooms as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area; and
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

## **AGENCY COMMENTS**

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

### **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 apartment buildings as the application site is man-modified and of limited ecological value. However, we note that the proposed pool does not meet the minimum coastal setback of 50 feet. The Department has continuously stressed the importance of maintaining minimum setbacks. Given the climate change predictions for the region, including sea-level rise and increased intensity of storm events (including storm surge), coastal setbacks should not be reduced but instead should be treated as minimum (as prescribed in the Development & Planning Regulations). We highlight that setbacks seek to provide protection to properties against these inevitable effects of climate change such as coastal flooding and storm surge by ensuring that hard structures are not located in an area susceptible to these hazards. We recommend that all hard structures are designed to meet minimum coastal setbacks.*

*We also note the inclusion of a dock along the length of the canal side of the property. We recommend that best management practices (BMPs) are adhered to during construction of the apartments and the dock. The BMPs include but are not limited to:*

- Any stockpiled materials being kept away from the canal edge to reduce the possibility of rainwater runoff washing material and debris into the canal causing turbidity and impacting water quality;*
- A minimum dock height of 4 feet and the installation of dock decking with a minimum of ½ inch spacing between decking boards to allow light penetration to occur to support marine life under the dock.*
- The dock construction area being fully enclosed with silt screens with a 4-foot minimum skirt depth to contain any sedimentation or debris arising from construction of the dock; and*
- The silt screens being left in place until the water contained inside the screens has cleared to the same appearance as the water immediately outside of the screens.*

*We also recommend that the applicant plants and incorporates native vegetation into 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.*

## **WAC**

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

### ***Existing Wastewater Treatment System:***

*The Sea Haven development is currently served by an existing Bio-Microbics FAST (4.5) aerobic wastewater treatment system with a design treatment capacity of 4,500gpd which can accommodate the proposed planning modification. However, following a review of the Water Authorities maintenance tracking system (Carmody). It appears the system has not been operational or adequately maintained.*

### ***Accommodation of Additional Wastewater Flows:***

*To verify that the wastewater treatment systems' current condition and operation. The system shall be serviced by a Registered Service Provider, per the Water Authority's Standard Service Report. Registered Service Providers submit Standard Service Reports to the client and to the Water Authority via the Carmody maintenance tracking system. The required service should be scheduled without delay. Receipt of a satisfactory Standard Service Report along with a Maintenance Contract are conditions for approval of Certificate of Occupancy.*

## **FIRE SERVICE**

The CFO approved the site layout

## **DEH**

*Please see the department's comments on the above application:*

- 1. The department has no objections to the proposed in principle.*
- 2. This development will require (1) 8 cubic yard container with twice per week servicing.*
- 3. Swimming pool applications must be submitted for review and approval prior to constructing the pools.*

## **NRA**

*No agency comments submitted.*

## **APPLICANT'S LETTER**

*We are requesting a variance to allow our proposed pool and deck to have a 20ft setback from the North Sound Seawall and our buildings to have a 50ft setback from the North Sound Seawall. These same variances were granted with our original Planning approval for the development. We are now applying to modify our original Planning approval by submitting a new application to change the North Sound facing buildings from (2) duplexes and a tri-plex with (7) pools to now only have (2) 4-unit townhome buildings with one shared pool.*

*If granted the variance will not change the character of the zoning district as the setback will be in line with the other houses and it will not adversely affect the health, safety or welfare of the neighboring adjacent developments. The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.*

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

*Please let me know if you have any further questions. We would be happy to come in and meet in person to discuss the project.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is to modify planning permission from 2-duplexes and 3-apartments to 8-apartments with 24 bedrooms and a pool at the above-captioned property. The site is located on Roxborough St., Bonnie View Subdivision.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Density**

The proposal is to replace 2 previously approved duplexes and 1 triplex (total of 7 units), with 8 apartments (2-4plexes). The total unit count will increase by 1 and the total number of bedrooms will increase by 8.

It can be difficult to determine maximum allowable density when duplexes and apartments are mixed on the same site as there is no bedroom density for duplexes. To assist the Authority in this regard, the maximum allowable number of apartments and bedrooms for the site would be 25 and 41, respectively. With the proposed 8 apartments, the total number of units on the site will be 16 and the number of bedrooms would be 44.

#### **2) Building Setbacks from the North Sound**

The proposed pool setback from the High Water Mark (North Sound) is 20', the building at 50', and patio slab at 38'-5" respectively, whereas the minimum required setback is 75 per regulation 8(10)(b). Similarly, apartment building 4 is proposed 20' from the canal boundary.

It should be pointed out that the original approval indicated the buildings setbacks from the North Sound at 50', pools at 21'-10", and deck at 39'-2" respectively.

**2.7 CATHERINE MURRAY (GMJ HOME PLANS) Block 25C Parcel 497 (P20-0932) (\$90,000) (EJ)**

Application for one (1) bedroom addition to create a duplex.

**FACTS**

<i>Location</i>	Quartz Ct.
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel Size Proposed</i>	0.3171 ac. (13,813 sq. ft.)
<i>Parcel Size Required</i>	12,500 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Residential
<i>Building Size</i>	598 sq. ft.
<i>Building Site Coverage</i>	14.69%
<i>Required Parking</i>	2
<i>Proposed Parking</i>	2

**BACKGROUND**

February 3, 2021 (**CPA/03/21; Item 2.7**) CPA adjourned determination to enable the submission of a justification explaining the narrow design of the addition.

August 14, 2009 - the Department granted permission for a three (3) bedroom house.

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

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

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

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



Reasons for the decision:

- 1) With the exception of the side setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required side setback per Regulation 9(8)(j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 3) The Authority is satisfied that the design of the building reflects a duplex.

### **APPLICANT'S LETTER**

*We write on behalf of our client, Ms. Catherine Murray, with regards to the following variance:*

- *A side setback variance - The addition is proposed with a 7'11" setback which is less than the required 10'0" for single storey development.*

*We request permission for the proposed development per 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:*
2. *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;*
3. *The application complies with all other relevant planning requirements.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The applicant is seeking a setback variance for the propose addition to house to create a one-bedroom duplex.

## **Zoning**

The property is zoned Low Density Residential.

## **Specific Issues**

### **1) Side Setback**

The applicant is seeking a setback variance from the Authority for the proposed one-bedroom unit to create a duplex (598 sq. ft.). The proposed side setback is 7.11' whereas the required setback is 10'. Additionally, the Authority should satisfy that the proposed is in keeping with the character of the area and that the definition meets its criteria for "duplex definition.

### **2) Duplex design**

The proposed addition is quite long and narrow and will share a common wall with the existing house of about 5' wide. The Authority should determine if this design satisfies the definition of a duplex.

## **SUPPLEMENTARY ANALYSIS**

On 1<sup>st</sup> March 2021, revised plans were uploaded achieving more than 25% of a common wall with unit A.

The agent provided the following explanation for the narrow design of the addition:

*Our client strongly favors the proposed long and narrow floor plan. This will allow the additional unit to co-exist with Ms. Murray's current way of life on the property. This design is to limit the reduction of the backyard which is very important to Ms. Murray, her kids and the family pets for relaxation, recreational use and backyard gardening. The proposed building wall on the west side with zero openings is deliberate to provide sound and visual privacy. Additionally this wall will be decorated with air plants or equal to give the feel of a courtyard in the backyard space. As for the length of the shared wall, we will revisit the drawings to correct this and at the same time try to eliminate the need for the side setback variance. Will aim to submit the revision next week.*

Members are invited to consider whether the justification is adequate to overcome the long-term impact of the resultant building upon the surrounding environment.

**2.8 PRO-PLUS CONSTRUCTION LTD. (Tropical Architectural Group Ltd.) Block 20D Parcel 171 (P21-0066) (\$45,8906) (BES)**

Application for clearing land by mechanical means.

**FACTS**

<i>Location</i>	Linford Pierson HWY, George Town
<i>Zoning</i>	<b>LDR</b>
<i>Notice results</i>	No Objectors
<i>Parcel Size</i>	10.53 acre (458,686.8 sq ft)

**BACKGROUND**

No previous CPA file history.

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

- 1) The Authority determined that consideration of the application to clear the land would be premature until the application for the primary development of the site is considered.

**AGENCY COMMENTS**

Comments from the Department of Environment/NCC are noted below.

**DOE/NCC**

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

*The application site consists of primary habitat, classified as seasonally flooded mangrove forest and woodland. Mangrove forests are a critical part of our natural environment, providing important ecosystem services, which include assisting to mitigate the effects of climate change. As one of the most productive terrestrial ecosystems, mangrove wetlands are extremely biodiverse and provide habitat and food for an immense variety of species. They also function as natural sponges that trap and slowly release surface water. Inland wetlands in urban areas are particularly valuable, counteracting the greatly increased rate and volume of surface-water runoff from pavement and buildings. Trees, root mats and other wetland vegetation also slow the speed and distribution of storm waters. This combined water storage and braking action lowers flood heights and reduces erosion. Inland wetlands also improve water quality filtering, diluting, and degrading toxic wastes, nutrients, sediments, and other pollutants.*

*Another important function of mangrove forests is that they are extremely effective at sequestering carbon from the atmosphere and serve as carbon sinks/stores. Mangrove roots trap carbon-rich plant material in their water-logged soil sealing it off from the*

atmosphere. This storage of carbon can remain secure for as long as the mangroves remain in-tact. Removing significant tracts of mangrove habitat not only reduces the island's natural carbon sequestration potential but the physical act of removing the mature mangroves and de-mucking the site releases captured carbon back into the atmosphere adding to ever-increasing greenhouse gas emissions. Primary mangrove habitat is particularly useful as it is mature habitat in its natural state, otherwise uninfluenced by human activity. These habitats are often very old and for generations their ecological processes have not been significantly disturbed.

The subject parcel of mangrove habitat is located within the South Sound drainage basin (see Figures 1 & 2). The South Sound basin functions as a water catchment and storage basin which provides flood controls and storm-water retention. Surface water is stored in the wetlands, which provides a natural mechanism for reducing flow velocity and flooding. This basin also contributes to the maintenance of water quality in the South Sound Lagoon. Unfortunately, the South Sound drainage basin has become severely fragmented by current and future developments impacting the overall capacity of the remaining wetland area to accommodate drainage for the whole basin.

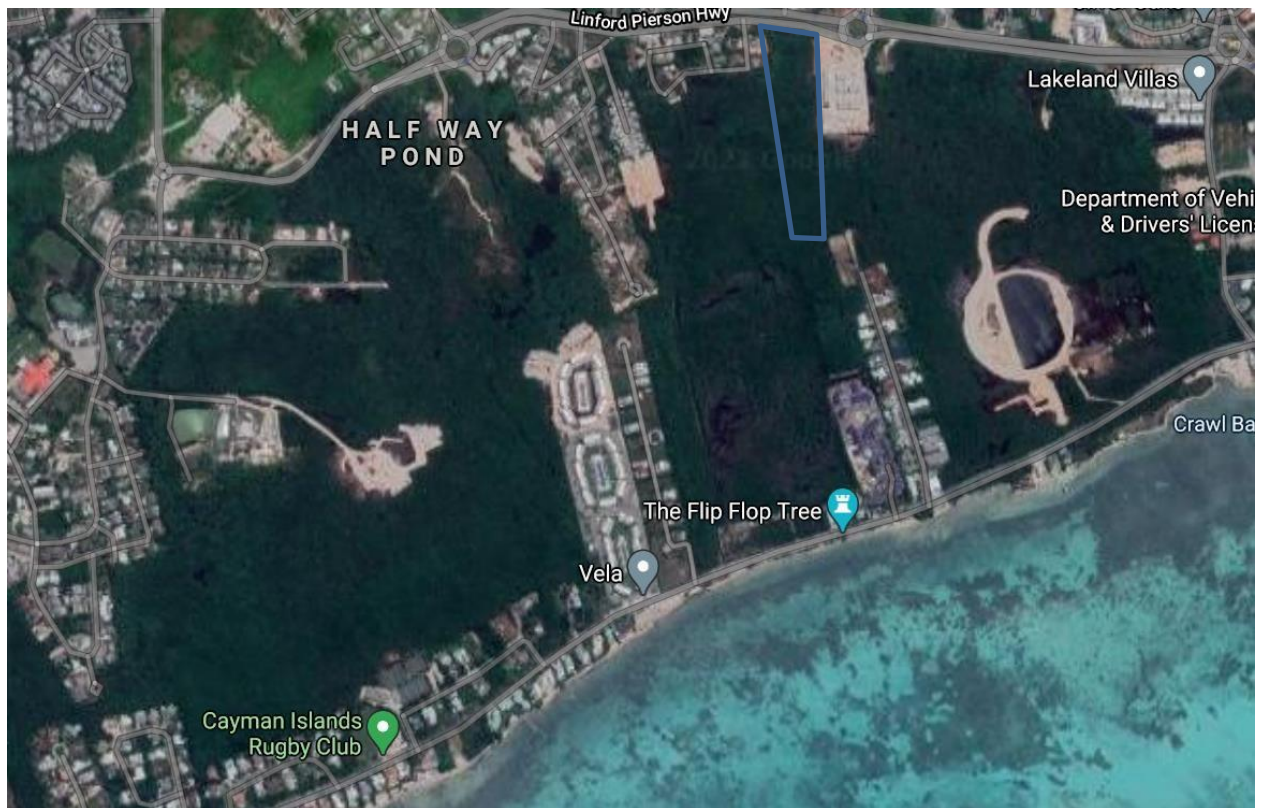


Figure 1: Google Map screenshot showing application site location outline in blue in 2021



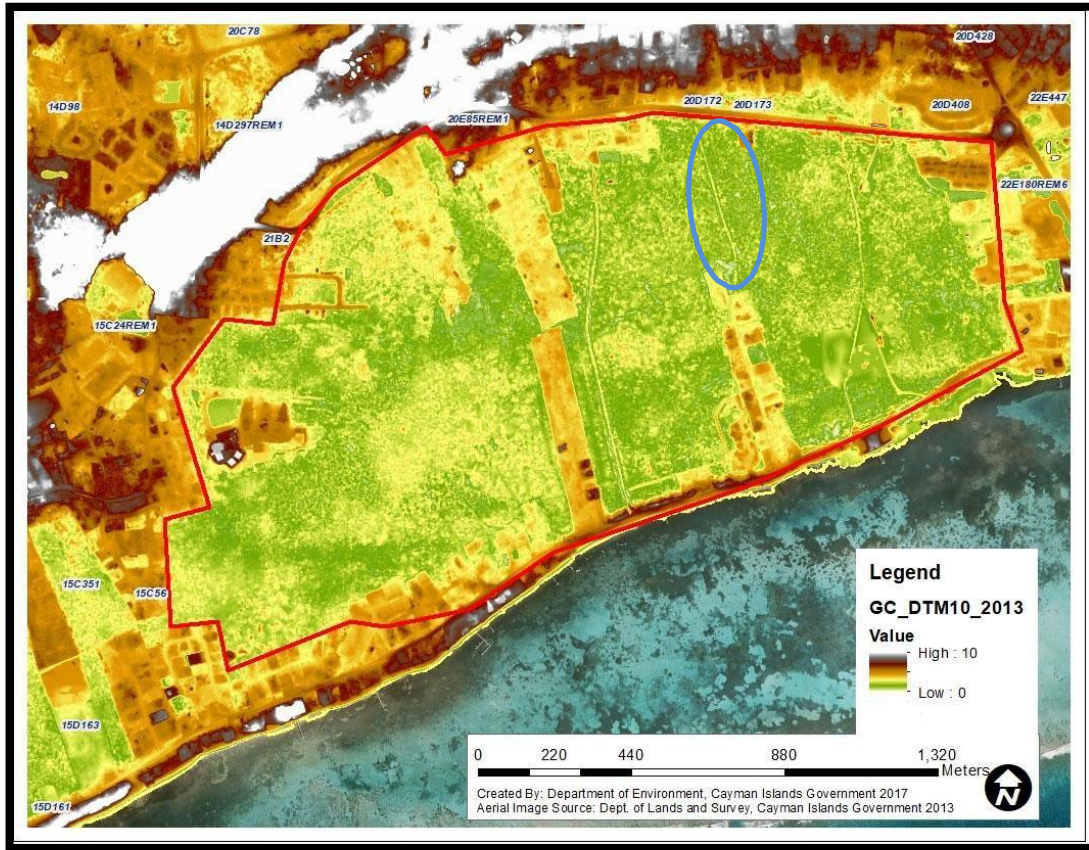


Figure 2: Elevation model showing the South Sound drainage basin (outlined in red) and the approximate location of the application site within the blue outline.

The DoE has consistently raised concerns about the lack of a comprehensive stormwater management strategy for the South Sound drainage basin over the years. As outlined in the attached Memo dated 30 January 2015 from the DoE, Water Authority and National Roads Authority, to the Ministry of PLAHI, there are significant concerns regarding the development of this area without an adequate comprehensive stormwater management strategy. The specific recommendation of the Memo was “to issue an RFP to select a suitably qualified consultant to undertake a hydrological assessment of the South Sound drainage basin and devise a regional stormwater management plan, which will include drainage engineering specifications for the proposed road and future development and Best Management Practices to minimise the impacts of stormwater flooding”.

The Memo outlined that “rather than continuing with the current practice of requiring each development to deal with stormwater management in isolation, we believe a basin-wide approach to managing stormwater in this location is urgently required”. Several existing developments in the basin continue to be inundated with rainwater during the wet season; most notably Randyke Gardens. Several new residential subdivisions have been granted CPA approval in recent years. Further development without implementing an effective strategy is likely to exacerbate flooding within the area.

The Department notes that the current proposal is to clear and fill the entire site without any indication of a development coming forward. The DOE has consistently recommended against speculative or whole clearing of primary habitat without a proposal for development, especially for sites that have important ecological and hydrological functions. In August 2015, the Department reviewed an application for a subdivision by Datang Ltd on Block 21C 1REM1 (Planning Ref: P15-0656), also within the South Sound Drainage Basin. Figures 3a and b show that the Datang Ltd. 's site was cleared sometime between 2013 and 2018, however, there has yet to be any development application put forward for the site. Whilst vegetation has started to regrow, it is dominated by invasive casuarina trees, rather than ecologically valuable mangrove habitat (see Figure 4). Invasive flora such as the casuarina pine and other non-native vegetation do not provide the same ecological benefits and functions as native mangrove forest vegetation that was originally found on site.



Figures 3a & b: LIS 2013 and 2018 Aerial Imagery showing Datang Ltd Subdivision (outlined in Red) (Source: Department of Lands and Survey)

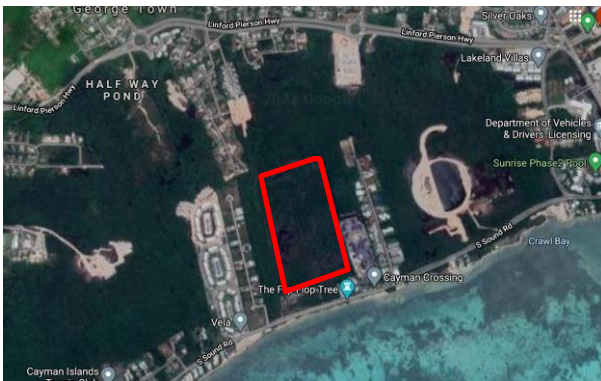


Figure 4: Google Map Screenshot showing the Datang Ltd Site (outlined in red) in 2021

It is the Department's preference to see clearing of sites happen as the development happens i.e. phasing of construction so that ecosystem services can continue to be provided for the longest time possible. However, if the applicant requires some form of clearing for the purpose of surveying, it should be carried out by hand with the minimal clearing footprint as possible and should be the subject of a separate consultation with the National Conservation Council.

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

### **APPLICANT'S LETTER**

*"Thanks for taking the call earlier today.*

*Please be advised that we have lodged a planning application for 104 units at the above site. It has a combination of one and two bedroom units with a swimming pool and kids playground.*

*We have several people interested due to affordable price point and hence would like to commence construction by June before the rain season starts pending planning approval.*

*I would appreciate if you can kindly assist us with getting the planning approval for site clearance."*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for clearing land by mechanical means located on Linford Pierson HWY, George Town. The property is 10.53 acres, and the property lies an average of 3' above mean sea level.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

##### **1) Land Clearing**

The applicant would be clearing the above mentioned parcel by mechanical means. It should be pointed out that planning applications have been submitted for apartments and raw land strata subdivision on the subject property. The Authority needs to determine if the proposes clearing of 10 acres of land is premature until the associated application for apartments has been determined.



**2.9 KEN THOMAS AND MILTON MORRISON (Kariba Architecture and Interiors)  
Block 20E Parcel 83 Rem3 (P20-0750) (\$250,000) (BES)**

Application to modify planning permission for an approved subdivision.

**FACTS**

<i>Location</i>	Adjacent to Randyke Gardens
<i>Zoning</i>	LDR
<i>Notification result</i>	No objections
<i>Parcel Size</i>	6.24 ac (271,814.4 sq ft)
<i>Number of Lots</i>	8

**BACKGROUND**

Dec. 14, 2011 (CPA/26/11; Item 2.2) – CPA granted planning permission for a thirty one (31) lot subdivision.

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

- 1) The applicant is required to submit a revised plan showing an 80’ wide parcel of land at the south end of the site reserved for a future road corridor per the comments from the National Roads Authority.

**AGENCY COMMENTS**

Comments from the Department of Environment/NCC, National Roads Authority, Water Authority and Fire Services are noted below.

**DOE/NCC**

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

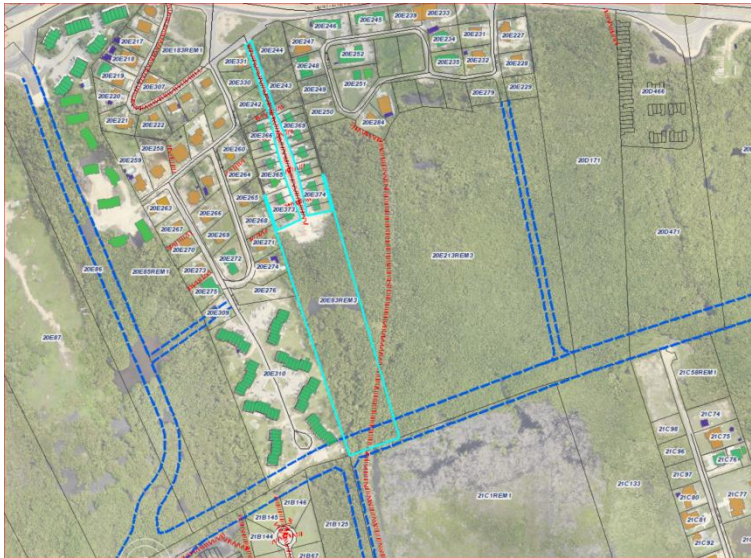
*The application site was the subject of a previous planning application for a 31 lot subdivision to include 24 duplexes lots 5 apartment lots 1 road parcel and 1 LPP parcel, which got approval in December 2011, (Planning Reference CPA/26/11 Item 2.2). Nonetheless, the Department reiterates that the application site lies within the mangrove basin of South Sound and is highly susceptible to flooding. The mangrove basin’s water quality may also degrade if stormwater runoff from the developed subdivision is allowed to flow into this area untreated. It is therefore strongly recommended that a stormwater management plan is designed and implemented on-site to adequately address drainage. The stormwater management plan should ensure any site derived runoff is managed on the site itself to ensure that it does not impact surrounding properties and the remaining wetland basin. Strategically placed landscaping along with vegetated swales will promote infiltration and treatment for stormwater runoff before entering the mangrove*

basin as the vegetation acts as a biological buffer which will filter any sediment and runoff.

## **NRA**

As per your memo dated September 17<sup>th</sup>, 2020 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

### **Section 26 Proposed Road Corridor**



The subject lands are affected by the proposed Section 26 planned road corridor known as the South Sound By-Pass. The intended width of the road corridor is 100 feet.

The construction of the road corridor is currently anticipated for the medium-term horizon (5-10 years). The alignment of that planned road corridor along the southern section of the subject property will require

the applicant to preserve about 80 feet from their existing property boundary. On that basis, the NRA asks that the applicant submits a revised site plan that respects the proposed road corridor for the South Sound By-pass and that it sets any proposed buildings at least 20 feet, and preferably 30 feet, away from the planned road corridor.

### **Infrastructure Issues**

The NRA advises the CPA to require the developer to provide for traffic calming features, such as speed tables and a NRA approved cul-de-sac at end of the road. 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 centerline 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 centerline radius. This requirement ensures that the minimum vehicle sweeps for a standard garbage and/or fire truck can be accommodated by the site layout.

**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.

**WAC**

The Water Authority was not originally included during the plan review stage to calculate the estimated wastewater flows and to submit comments to OPS on the proposed multi-residential development.

The Water Authority’s requirements for the 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 15,600 US gallons per day (gpd), based on the following calculations.**

<b>DEVELOPMENT</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Casa Bella (Phase 1 & 2)	26 x Duplex Buildings (52 Units)	300gpd/Unit	600gpd/Duple x	15,600gpd
<b>TOTAL</b>				<b>15,600gpd</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 4'5" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

**Water Supply:**

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

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

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

**Fire Service**

The CFO approved the subdivision plan layout

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is for a modification for 8-lots subdivision phase 2 at the above-captioned property. The site is located adjacent to the Randyke Gardens development

**Specific Issues**

**1) NRA comments**

The NRA is requesting the applicant to set aside an 8' wide strip of land for a future by-ass road. The original subdivision was approved without that strip of land and the applicant currently has not provided for it.

**2.10 DELBERT SMITH (Island Drafting) Block 14CF Parcel 8 (P20-0268) (\$241,025) (JP)**

Application for additions to ground floor and provision of upper floor accommodation to create a duplex, retention of after-the-fact container and storage shed.

**FACTS**

<i>Location</i>	Rock Hole Road
<i>Zoning</i>	NC
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.1405 ac. (6,120.18 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	Residential
<i>Proposed building size</i>	2416.1 sq. ft.
<i>Total building site coverage</i>	21.7%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

**BACKGROUND**

No Planning history

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

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

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

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

Reasons for the decision:

- 1) Per Regulation 13(10)(a), the Authority is satisfied that proposal is the redevelopment of an existing residential development.

- 2) The proposal complies with the required 6' side setback in the Neighbourhood Commercial zone.
- 3) The container and shed have existed for many years and are not subject to current setback requirements.

### **APPLICANT LETTER**

*We have submitted an application on behalf of Delbert Astronaut Smith on the above mentioned block and parcel number who would like to add and renovate the existing building which has existed for over 50 years which he has purchased last year, the building is presently vacant and it is Mr. Smith's intention to complete the much needed work as soon as possible,*

*The building will be added to on the ground floor towards the northern boundary and to the loft area of the proposed addition/renovation to create a duplex, majority of the proposed ground floor addition is proposed to the northern boundary/left side elevation which by adding to the building would not create an encroachment/setback issue.*

*Notwithstanding regulation 8 (13) (b) (iii) the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare;*

*And notwithstanding regulation 8(13) (d) in the case of an application where lesser setbacks are proposed for a development or a lesser lot size is proposed for a development, the adjoining property owners have been notified of the application. The building as presented for approval is located on the east boundary which is closer than the required setback of 6'-0" (0'-8") and the north fronting boundary (Rock Hole Rd). Which the setback should be 12'-0" (2'-3")*

*We would like to request a setback variance to be granted to allow the proposed duplex to be approved as submitted.*

*We would appreciate the board's favorable decision to this request to allow the proposal to be approved as submitted.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application site is located in central George Town surrounded by land parcels in various states and types of development.

The application seeks Planning Permission for a ground floor and upper floor addition to create a duplex and retrospective Planning Permission to retain an after-the-fact shed and container.

#### **Zoning**

The property is zoned Neighbourhood Commercial.

## **Specific Issues**

### **1) Suitability**

The application site is located in a Neighbourhood Commercial zone. Regulation 13(8) does not permit residential development on the ground floor.

The application seeks Planning Permission to extend the existing residential offering.

Members should be mindful that the residential property has existed on the site in excess of 60 years pre-dating zoning of the area.

### **2) Side setbacks**

Regulation 8(8)(a) enables the Authority to use discretion with regards to minimum setbacks. The application site is located in a Neighbourhood Commercial area and is used for residential purposes.

On that basis, the Authority may be mindful to apply the residential 10' single storey and 15' more than one storey side setbacks to the site.

If the Authority applies the residential setbacks to this house lot, members should be mindful regarding the variances which would be required.

The existing dwelling is 8" from the side boundary at the narrowest point and 9' 6" at the widest, along the eastern boundary.

The proposed development would, therefore, result in the upper floor addition requiring a variance of 8" v 15' and 9' 6" v 15'.

Members are invited to consider the content of the variance letter.

### **3) Rear setback**

Regulation 8(8)(a) enables the Authority to use discretion with regards to minimum setbacks. The application site is located in a Neighbourhood Commercial area and is used for residential purposes.

On that basis, the Authority may be mindful to apply the residential 20' rear setback.

The after-the-fact container and shed are sited 2' 8" from the rear boundary and the shed appears to encroach onto neighbouring lot 14CF 9.

Members are invited to consider the variance letter as part of their determination.



**2.11 PATRICK TURBIDE (Carolyn Bodden) Block 22D Parcel 132 (P21-0029) (\$3,000) (MW)**

Application for shipping container to be used for storage.

**FACTS**

<i>Location</i>	Woodstock Rd., George Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.5461 ac. (23,788.116 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Existing Residence (1,171 sq. ft.)
<i>Proposed building size</i>	160 sq. ft.
<i>Total building site coverage</i>	5.6%

**BACKGROUND**

July 22, 2004 – House 1,171 sq. ft. - the application was considered and it was resolved to grant planning permission.

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss the intended use of the container and the time frame for retaining the container on site.

**APPLICANT’S LETTER**

*The provide Site Plan Schematic illustrated a proposed shipping container to be used for temporary storage of tools.*

*Please contact me should you have any further questions.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a Shipping Container for Storage Shed; 160 sq. ft. to be located on Woodstock Rd., George Town.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Suitability**

The applicant is seeking the Authority's permission for a 160 sq. ft. metal container to be used for temporary storage of tools. The Department has requested from the applicant a more detailed time frame for the use of the container, but they have not provided that information.

The proposal meets all planning requirements for site coverage, setbacks etc.; however, the Authority has traditionally discouraged metal containers in residential areas. In this case, the site is zoned Low Density Residential, but the surrounding lots are vacant and/or with existing residential homes.

**2.12 REGAL BEACH (Whittaker & Watler) Block 13B Parcel 1 (P21-0002) (\$10,000) (BES)**

Application for reinstatement of a seawall.

**Fred Whittaker declared a conflict and left the meeting room.**

**FACTS**

<i>Location</i>	West Bay Road
<i>Zoning</i>	<b>H/T</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	3.22 ac. (140,263.2 sq. ft.)
<i>Current use</i>	Apartments

**BACKGROUND**

January 9, 2002 CPA/01/02; item 5.04(A) – CPA granted planning permission to rebuild the seawall that was damaged during hurricane Michelle. For the Authority's information, *the Authority had endorsed the location of the seawall at CPA/37/01; item 8.01.*

January 20, 2021 (CPA/02/21; item 5.5) – the Authority determined that the reinstatement of the seawall would not require a new HWM survey

February 16, 2021 (CPA/04/21; item 5.2) – the Authority determined that if the 21 day notification has expired, the application could be scheduled for the March 17, 2021 meeting with or without comments from NCC

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

Imposed by the Central Planning Authority:

- 1) The applicant is required to submit a revised plan showing the pool in its correct location and the stairs revised as they previously existed and constructed from wood.
- 2) The applicant shall provide the proposed construction methodology for review and approval by the Director of Planning.
- 3) All construction material and debris shall be retained on the land side of the seawall.

- 4) The applicant shall obtain written approval from the Department of Environment that there are no turtle nests on site that will be negatively impacted by the commencement of works.
- 5) No construction work, vehicle access, storage of equipment/materials or other operations should take place on the beach during turtle nesting season (1<sup>st</sup> May – 30th November) without the express consent of the DoE.
- 6) Any sand that is to be excavated during construction should be retained on site and beach quality sand should be put back along the active beach profile of the property.
- 7) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Directed to be imposed by the National Conservation Council per Section 41(5)(a) of the National Conservation Law:

- 8) The section plans shall be updated to clarify where upon the beach, relative to the existing walls, the new wall shall be built. The proposed wall shall be built no further seaward than the existing pool deck sea wall.
- 9) All construction material shall be stockpiled landward of the proposed seawall to prevent runoff and debris from entering the Marine Protected Area.
- 10) Prior to the commencement of works, the appointed project contractor shall provide a written construction methodology statement for review and approval by the DoE. The construction methodology should include but is not limited to, details of the stages and methods of construction, details of the heavy equipment required for the works, the access route for equipment, any mitigation measures proposed to prevent run-off and debris entering the Marine Protected Area, the location of stockpiled construction materials and demolition debris and a timeline for the duration of works.

Reasons for the decision:

- 1) With the exception of the high water mark setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(b) of the Development and Planning Regulations (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 the wall already exists and has existed for many years. The proposal before the Authority is only to re-instate a portion of the wall that had deteriorated. The Authority views this scenario as representing a material consideration per sub-regulation f) for allowing the lesser HWM setback.

- 3) The Authority took into consideration the comments provided by the DOE/NCC and imposed certain conditions as directed and included other conditions based on recommendations from those agencies.

### **AGENCY COMMENTS**

Comments from the DOE/NCC are noted below and in Appendix E.

#### **DOE/NCC**

*The DoE notes that the preferred review date for agency comments is listed as today 09 Feb but unfortunately the DoE, on behalf of the National Conservation Council, cannot meet this deadline on this occasion. The site is located on a directly adjacent to a marine park and is adjacent to a turtle nesting beach to the north. Given the historical erosion issues on the site and this area of southern Seven Mile Beach, the Department is obtaining input from a coastal engineer and is therefore taking a little longer than normal to fully assess the environmental impacts of the project.*

*We trust that the Planning Department will await the comments of the DoE (provided under section 41 of the National Conservation Law), on behalf of the NCC, prior to presenting this application to the Central Planning Authority. An email has also been sent to the applicant's agent, the Planner and the Director and Deputy Director of Planning regarding this delay. Thank you in advance for your patience.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The applicant is seeking planning permission for reinstatement of a seawall at the above-captioned property located at Regal Beach next to the Marriott Resort on West Bay Road.

#### **Zoning**

The property is zoned Hotel Tourism.

#### **Specific Issue**

##### **1) HWM Setback (Regulation 8(10)(e))**

As indicated on the site plan, the seawall is setback approximately 94'-8" from the MHW, whereas the minimum required setback is 130' per Regulation 8(10)(e). The seawall would be 8'-6" MSL in height. Additionally, the proposed steps would be setback approximately 115'-10" from the MHW.

**2.13 ANNETTE RANKIN Block 38C Parcel 113 (P21-0077) (\$10,000) (BES)**

Application for 4' high concrete fence and gates.

**FACTS**

<i>Location</i>	Bright Cl & Lustrous CT
<i>Zoning</i>	<b>MDR</b>
<i>Notification result</i>	N/A
<i>Parcel size proposed</i>	0.3 ac. (13,068 sq. ft.)
<i>Current use</i>	Dwelling house

**BACKGROUND**

In September, 1997, a dwelling house was approved, and Nov. 7, 1997 a Building Permit was issued.

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

- 1) The applicant shall submit a revised site plan showing the walls and gates setback from the road side property boundaries 4' and 12', respectively.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Reason for the decision:

The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2020 Revision).

**AGENCY COMMENTS**

Comments from the National Roads Authority have not been submitted.

**APPLICANT'S LETTER**

*I write in regards to my fence application on Block 38C Parcel 113 and you recent correspondence to me. I am asking that you send my plans to the Central Planning Authority (CPA) for decision as proposed for the following reasons:*

*The fence/wall is in an area with only 25 houses only of which 11 houses are in my subdivision. The fence will be a continuation of the existing entry gate which has been part of the subdivision since 1998.*

*The gate cannot meet the required 20-ft setback from the road due to the location of the house.*

*Similar wall and fences are located in the vicinity.*

*There has been burglaries in my community of which I was a victim and would like the fence/gate to secure my home and family.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is seeking planning permission to erect a 4' high concrete fence and gates at the above-captioned property located on Bright Ct & Lustrous Ct, Bodden Town.

### **Zoning**

The property is zoned Medium Density Residential.

### **Specific Issues**

#### **1) Wall on Roadside Boundaries**

As indicated on the site plan, a 4' high concrete fence, with 6' columns and two gates is proposed around the perimeters of the property which include Bright Ct and Lustrous Ct. The fence is proposed at 0'-0" setbacks from the subdivision roads. The CPA guidelines recommend that walls/fences are to be setback 4' from the roadside boundary and gates setback 16' to 20' from the roadside boundary respectively.

#### **2.14 FITZROY WILSON (TSC Architecture) Block 13D Parcel 255 (P20-1144) (\$375,000) (MW)**

Application for change of use from church to 6 unit apartment complex.

### **FACTS**

<i>Location</i>	Greenwood Dr., George Town
<i>Zoning</i>	<b>High Density Residential</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.60 ac. (26,136 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	Existing Church
<i>Proposed building size</i>	4,528 sq. ft.
<i>Total building site coverage</i>	17.32%
<i>Allowable units</i>	15 units
<i>Proposed units</i>	6 units
<i>Allowable bedrooms</i>	25 bedrooms
<i>Proposed bedrooms</i>	6 bedrooms
<i>Required parking</i>	9 spaces
<i>Proposed parking</i>	10 spaces

## **BACKGROUND**

January 24, 1991 – Proposed Apartments -the application was considered and it was resolved to grant planning permission.

December 21, 1993 – Proposed Church – the application was considered and it was resolved to adjourn the application.

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

Conditions (1-5) listed below shall be met before permit drawings can be submitted to the Department of Planning.

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under Policy Development, Policy Drafts.*
- 5) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.
- 6) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 7) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 8) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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



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

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

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

Reasons for the decision:

- 1) Per Regulation 9(6) of the Development and Planning Regulations (2020 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
  - There are no physical constraints on the site that would prevent the development of apartments.
  - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
  - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the rear setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 3) The proposed application does not comply with the minimum required rear setback per Regulation 9(6)(h) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The existing building setback already exists;
  - b) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - c) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - d) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

**AGENCY COMMENTS**

Comments from the Water Authority, National Roads Authority, Department of Environmental Health 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:*

**Wastewater Treatment & Disposal**

- *The developer shall provide a **septic tank(s)** with a capacity of at least **(1,500) US gallons** for the proposed, based on the following calculations:*

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD/BLDG</b>	<b>GPD</b>
Apartment Building	6 x 1-Bed Units	150gpd/1-Bed Unit	900gpd	900gpd
<b>TOTAL</b>				<b>900gpd</b>

*e 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.

#### **Change-of-use with Existing Septic Tank**

If the developer proposes to utilize the existing septic tank and/or disposal well, the system shall be inspected and serviced per the Septic Tank Inspection Form that can be downloaded from the Water Authority's website via the following link: <https://bit.ly/2RO8MBB>. The completed inspection form shall be returned to the Water Authority for review and determination as to whether the existing system meets Water Authority design specifications. Any deficiencies noted will require repair or replacement prior to final approval for certificate of occupancy.

#### **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 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.

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**

*None received at this time.*

## **Department of Environmental Health**

*Please see the department's comments on the above application:*

1. *DEH has no objections to the proposed in principle.*
2. *This development require six (6) thirty three (33) gallon bins and an enclosure built to the department's requirements.*
  - a. *The enclosure should be located as closed to the curb as possible without impeding the flow of traffic.*
  - b. *The enclosure should be provided with a gate to allow removal of the bins without having to lift it over the enclosure*

## **Department of Environment (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 note that the application site is zoned light industrial. However, we have no objection to the proposed change-of-use at this time as the site is man-modified and of limited ecological value. We recommend the applicant plants and incorporates native vegetation into 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.*

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a change of use from a church to a 6 unit apartment complex to be located on Greenwood Dr., George Town.

### **Zoning**

The property is zoned High Density Residential.

### **Specific Issues**

#### **1) Suitability**

Section (6) states the following development is permitted in a High 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.

- 13D 222 :- Apartments
- 13D 230:- 8 Studio Apartments (Approved 16-8-17) (CPA/16/17; Item 2.2)
- 13D 231:- Apartments
- 13D 319:- Apartments (Approved 5-16-2007)(CPA/13/07; Item 2.27)
- 13D311:- 4 Studio Apartments (Approved 3-7-2019) (CPA/14/19; Item 2.10)

The Authority should access if the proposed is suitable and acceptable for the proposed location

## 2) Rear setback

Regulation 9(6)(h) states “*the minimum front and rear setbacks are 20 feet*” the existing building would be 7’-11” from the rear boundary a difference of 12’-1” respectively.

### 2.15 CLAUDE BODDEN (Caribbean Home Planners) Block 27D Parcel 476 (P20-1098) (\$5,000) (MW)

Application for storage shed.

#### **FACTS**

<i>Location</i>	Farrell Rd., Bodden Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Current use</i>	Existing Residence (1,662 sq. ft.)
<i>Proposed building size</i>	160 sq. ft.
<i>Total building site coverage</i>	18.03%

#### **BACKGROUND**

April 23, 2019 – House 1,662 sq. ft. - the application was considered and it was resolved to grant planning permission.

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

- 1) 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) With the exception of the rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required rear and side setbacks per Regulations 9(8)(i) and (j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

### **APPLICANT'S LETTER**

*With respect to our submission for a storage shed 160 sq. ft. on 27D 476 located on Farrell Road in North Sound Estates, Bodden Town. We hereby request variances as follows:*

*1. Setback Variance for Proposed storage shed to be located 5'-0" ft. from the side boundary shared with parcel 27D 433 and 5'-0" ft. from the rear boundary shared with parcel 27D 474. It is the applicant's intention to propose the storage shed as far back as possible on the site as to not take away from the existing yard space. As can be seen on the site plan the existing site is quite narrow and due to the modern design of the existing residence there is currently not enough storage space.*

*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.*

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

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

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

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a storage shed; 160 sq. ft. with side & rear setback variance to be located on Farrell Rd., Bodden Town.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Rear Setback**

Regulation 9(8)(i) states “*the minimum front and rear setbacks are 20 feet*”. The proposed storage shed would be 5’-0” from the rear boundary a difference of 15’-0” respectively.

**2) Side Setback**

Regulation 9(8)(j) states “*the minimum side setback for a building of one storey is 10 feet*”. The proposed storage shed would be 5’-0” from the side boundary a difference of 5’-0” respectively.

**2.16 BARBARA POWELL (GMJ Home Plans Ltd.) Block 38B Parcel 263 (P20-1051) (\$60,000) (MW)**

Application for ATF one bedroom house; 443 sq. ft. with rear setback variance.

**FACTS**

<i>Location</i>	Peseta Dr., Bodden Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.52 ac. (22,651.2 sq. ft.)
<i>Parcel size required</i>	22,500 sq. ft.
<i>Current use</i>	Existing Duplex & ATF House
<i>Proposed building size</i>	443 sq. ft. (4,708 sq. ft. Existing)
<i>Total building site coverage</i>	16.7%
<i>Required parking</i>	1
<i>Proposed parking</i>	1

**BACKGROUND**

July 23, 1998 – House Addition - the application was considered and it was resolved to grant planning permission.

May 4, 2017 – Addition to Create Duplex – the application was considered and it was



resolved to grant planning permission.

January 20, 2021 – ATF House – the application was considered and it was resolved to adjourn the application.

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

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

Reasons for the decision:

- 1) With the exception of the rear setback for the septic tank, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The septic tank does not comply with the minimum required rear setback per Regulation 9(8)(i) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

### **APPLICANT'S LETTER**

*We write on behalf of our clients, Mrs. Barbara Powell, with regards to the following variance;*

- *A rear setback variance – The rear setback proposed is 10'0" which is less than 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;*
2. *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 neighbourhood, or to the public welfare;*
- 3. The application complies with all other relevant planning requirements.*

*We look forward to your favourable response to this variance request. Should you have any queries, please do not hesitate to contact us*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for an ATF One Bedroom House; 443 sq. ft. to be located on the corner of Peseta Dr. & Branch Dr., Bodden Town.

### **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) Rear Setback**

Regulation 9(8)(i) states “*the minimum front and rear setbacks are 20 feet*”. The ATF residence would be approximately 10’-0” from the rear boundary a difference of 10’-0” respectively.

The adjoining parcels were notified and no objections were received.

The Authority should assess if there is sufficient reason and an exceptional circumstance that exists in accordance with Section 8(13) to warrant granting the setback variance.

## **SUPPLEMENTAL ANALYSIS**

The Board should be reminded the mentioned application was seen on January 20, 2021 (CPA/02/21; Item 2.22). The application was considered and it was resolved to adjourn the application for the following reason:

- 1) The applicant is required to submit a revised site plan that accurately reflects the existing size and location of the after –the-fact house.

The applicant has now submitted a revised plan that appears to accurately locate the house when compared to the aerial photography. The new plan shows a rear setback for the house of 20’ 1”, which complies with the required 20’ rear setback, but the septic tank has a deficient rear setback of 14’ 10”.

**2.17 NICKEISHA PEARSON (Caribbean Home Planners) Block 72B Parcel 165 (P20-1076) (\$26,000) (MW)**

Application for a 261 sq ft house addition.

**FACTS**

<i>Location</i>	James Sidney Jackson Dr., East End
<i>Zoning</i>	<b>Medium Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.1121 ac. (4,883.076 sq. ft.)
<i>Parcel size required</i>	7,500 sq. ft.
<i>Current use</i>	Existing Residence (978 sq. ft.)
<i>Proposed building size</i>	261 sq. ft.
<i>Total building site coverage</i>	25.4%
<i>Required parking</i>	1
<i>Proposed parking</i>	1

**BACKGROUND**

July 3, 2009 – House - the application was considered and it was resolved to grant planning permission.

April 29, 2020 – ATF 4’ Fence – the application was considered and it was resolved to grant planning permission (CPA/07/20; Item 2.11)

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

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

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

Reasons for the decision:

- 1) With the exception of the rear setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).

- 2) The proposed development does not comply with the minimum required rear setback per Regulation 9(7)(i) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

### **APPLICANT'S LETTER**

*With respect to our submission for a house addition; 261 sq. ft. on 72B 165 located on James Sidney Jackson Dr., East End. We hereby request a variance as follows:*

1. *Rear setback variance for the proposed house addition to be located 13'-0" ft. from the rear boundary shared with parcel 72B 170. It is the applicant's intention to propose the addition as an additional room for our eldest child who has been sharing a room. As this is part of the National Housing Development scheme and the lots were previously approved at a lesser than required lot size in a Medium Density zone the existing lot size does not offer much space for the addition, hence the request for a variance.*

*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.*

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

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

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a house addition; 261 sq. ft. with a rear setback variance to be located on James Sidney Jackson., East End.

### **Zoning**

The property is zoned Medium Density Residential.

### **Specific Issues**

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

Regulation 9(7)(i) states “*the minimum front and rear setbacks are 20 feet*”. The proposed addition would be 13’-0” from the rear boundary a difference of 7’-0” respectively.

The adjoining parcels were notified and no objections were received.

The Authority should assess if there is sufficient reason and exceptional circumstance in accordance with Section 8(13) to warrant granting a rear setback variance.

#### **2.18 GILLIAN HARVEY (Cayman Survey Associates Ltd.) Block 27C Parcel 759 (P21-0087) (\$1,000) (MW)**

Application for (2) lot subdivision.

**Christina McTaggart-Pineda declared a conflict.**

### **FACTS**

<i>Location</i>	Teal Island Dr., Bodden Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.8559 ac. (37,283.004 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant

### **BACKGROUND**

January 4, 2000 – Five Bedroom House – the application was considered and it was resolved to grant planning permission.

March 24, 2017 – Storage Shed (150 sq. ft.) – the application was considered and it was resolved to grant planning permission.

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

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

Reasons for the decision:

- 1) With the exception of the lot width, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required lot width per Regulation 9(8)(g) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot width as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area; and
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

### **APPLICANT'S LETTER**

*27C 759 was created by the Combination of 27C 733 & 734 in early 2000. As the proposed development of the Combined parcel will now not occur, the same Proprietors wish to return to the original 2-lot configuration.*

*A Variance request for this Application is required because the southern boundaries are at the head of a Cul-de-Sac and are less than 80'.*

*We make specific reference to Regulation 8(13)(b), and believe that this will not be in any way detrimental to the neighbourhood, as the Subdivision will identically create the 2 parcels prior to Combination.*

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

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for a two (2) lot subdivision with lot width variance to be located on Teal Island Dr., Bodden Town.

#### **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) Lot Width**

Regulation 9(8)(g) states “the minimum lot width for detached and semi-detached houses and duplexes is 80 feet.” The proposed Lot A would be 50.9’ in width and Lot B would be 48.5’ in width, a difference of 29.1’(Lot A) and 31.5’ (Lot B) respectively.

The parcels within 150’ radius were notified and no objections were received.

The Authority should assess under Section 8(13) if there are exceptional circumstances and sufficient reasons to grant the lot width variance.

**2.19 RANDY MERREN (Frederick & McRae Ltd.) Block 24B Parcel 72 (P21-0088) (\$1,434,000) (MW)**

Application for a house, carport, cabana and pool.

**FACTS**

<i>Location</i>	Omega Dr., George Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.2984 ac. (12,998.304 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	5,108 sq. ft.
<i>Total building site coverage</i>	27.3%
<i>Required parking</i>	1
<i>Proposed parking</i>	2

**BACKGROUND**

N/A

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

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

In addition to Building Permit requirements, condition (4) listed below shall be met before a Building Permit can be issued.

- 4) The construction drawings for the proposed swimming pool shall be submitted to the



Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.

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

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

Reasons for the decision:

- 1) With the exception of the canal setback and side setback, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required side setback per Regulation 9(8)(j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 3) The proposed development does not comply with the minimum required setback from the canal per Regulation 8(10)(ea) 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 the main house complies with the required setback and it is only the ancillary features that do not. The Authority is of the view that the canal wall provides sufficient protection for the ancillary features and the lesser setback will not detract from that protection. Per sub-regulation f)

above, the Authority views these reasons as a material consideration that allows for the lesser setback.

### **AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

#### **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.*

*The Department notes that there are proposed reduced setbacks from the canal edge of only 10ft whereas the Planning Regulations prescribe minimum setbacks of 20ft for all structures. Whilst this is not a significant concern, the Department does recommend that conditions of approval are included to ensure the retention of the mangroves which are growing along the canal edge of this property.*

*Mangroves provide a nursery habitat for fish and other marine life and are vital in helping to maintain good water quality. Both mangroves and other canal-side vegetation provide a natural buffer which helps to intercept surface water that may run-off the land into the canal impacting water quality. In addition, canal-side vegetation, especially mangroves, also helps to prevent soil erosion by binding the substrate.*

*For this reason, we recommend the retention of these mangroves along the canal edge in accordance with the Species Conservation Plan for Mangroves (2020) under the National Conservation Law (2013). With guidance, mangroves can be trimmed to give vistas without causing severe injury to or killing mangroves. Should the applicant wish to trim the mangroves to give a view of the canal, we recommend this is done in accordance with the Department of Environment's Mangrove Trimming Guidelines (see link below).*

<https://conservation.ky/wp-content/uploads/2021/01/Species-Conservation-Plan-for-Mangroves-FINAL.pdf>

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

### **APPLICANT'S LETTER**

*On behalf of our client Mr. & Mrs. Randy Merren, we are requesting a setback variance to the setback between the edge of the pool & pool deck, the Cabana and the Canal wall. We note that the pool setback and cabana would not provide obstruction or impede view to the adjoining properties. We confirm that the proposed pool and pool deck works would vastly improve the generally low-lying and swampy grounds without require excessive (excavated from other areas of the island) fill to raise the existing grade level to a reasonable elevation of approximately +/-6 feet.*

*We confirm that we are of the opinion that there are various houses, some completed and some currently under construction in the vicinity, which appears to have been granted variances as related to the proximity of the pool to canals. We would also note that the application conforms with the Development and Planning Regulations (2015 Revisions)*

*Regulation 8 (13) (b) (i) and (iii) which state that (i) the characteristics of the proposed development are consistent with the character of the surrounding area and (iii) the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood or to the public welfare.*

*Given the above, we trust that you will review our requests and decide favorably to grant the variances.*

*Should you require additional information please do not hesitate to contact us.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a two storey 3 bedroom house; 4,341 sq. ft. with carport; 535 sq. ft., cabana; 232 sq. ft. & pool with a rear & side setback variance to be located on Omega Dr., George Town.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Canal Setback**

Regulation 9(8)(i) states “*the minimum front and rear setbacks are 20 feet*”. The proposed deck, pool & cabana would be 0’-0” & 10’-0” from the rear boundary a difference of 20’-0” & 10’-0” respectively.

#### **2) Side Setback**

Regulation 9(8)(j) states “*the minimum side setback for a building of one storey is 10 feet*”. The proposed cabana would be 9’-11” from the side boundary a difference of 1” respectively.

**2.20 KEL THOMPSON (TAG Ltd) Block 25B Parcel 575 H23 (P21-0058) (\$170,000) (JP)**

Application for a 3 bedroom house.

**FACTS**

<i>Location</i>	Off Poindexter Road, Prospect
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.11 ac. (4,820 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	1,360 sq. ft.
<i>Total building site coverage</i>	28.1%
<i>Required parking</i>	48
<i>Proposed parking</i>	55

**BACKGROUND**

Previous application granted permission for a subdivision establishing lot size and width.

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

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

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

Reasons for the decision:

- 1) With the exception of the side setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required side setback per Regulation 9(8)(j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:

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

### **APPLICANT'S LETTER**

*Further to the application submitted to build Three (3) Bedroom- One Storey House on Block 25B Parcel 575H23, we hereby request for a setback variance of which requires a minimum of 10 ft side setback per Planning Regulation 9 (8)(j) and 80ft lot width Planning Regulation 9(8)g .*

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

1. *Under Regulation 8 (13)(b), the characteristics of the proposed development are consistent with the character of surrounding area and the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare. We'd like to present the following points for consideration:*
  1. *We would like to request for a 4'-6" setback on the right and left side. We would also like to request for your consideration on the allowable lot width of 54'-6". The request for variance is due to the application of the previous house templates on the same development to the respective lot. Also, please note that the similar developments within the vicinity was granted with the same setback request for the similar lot condition. The proposed application complies with all other requirements for a Single-Family Dwelling.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application site is within a new subdivision in Prospect. The site is bound and accessed to the north by the subdivision road. Boundaries to the east, west and south are shared with neighbouring units. A small portion of the south-east boundary is shared with the subdivision pool and cabana area.

#### **Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Side setback variance (4' 6" v 10')**

Regulation 9(8)(j) requires minimum side setbacks of 10' for single storey developments.

The proposed scheme includes setbacks of 4' 6". Members are invited to consider the content of the variance letter to assess the acceptability of the lesser setback.

**2.21 MARCO WHITTAKER (Caribbean Home Planners) Block 27C Parcel 153 (P20-1117) (\$8,500) (JP)**

Application for a 168 sq ft shed.

**FACTS**

<i>Location</i>	Yellowstone Street, North Sound Estates
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.288 ac. (12,563.9 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Residential
<i>Proposed building size</i>	168 sq. ft.
<i>Total building site coverage</i>	15.5%

**BACKGROUND**

June 12<sup>th</sup>, 2007 (**Administrative Approval**) – Application for a house approved - P07-0775

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

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

Reasons for the decision:

- 1) With the exception of the rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required rear and side setbacks per Regulations 9(8)(i) and (j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:

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

**APPLICANT’S LETTER**

*With respect to our submission for a storage shed 168 sq. ft. on 27C 153 located on Yellowstone Street in North Sound Estates, Bodden Town. We hereby request variances as follows:*

- 1. *Setback Variance for Proposed storage shed to be located 5’-0” ft. from the side boundary shared with parcel 27D 91 and 10’-0” ft. from the rear boundary shared with parcel 27C 162. It is the applicant’s intention to propose the storage shed as far back as possible on the site as to not take away from the existing yard space as there are proposed future additions to the existing residence.*

*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:*

- (iii) *The characteristics of the proposed development are consistent with the character of the surrounding area.*
- (iv) *The proposed structures will not be materially detrimental to persons residing in the vicinity, to the adjacent properties, or to the neighboring public welfare.*

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

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application site is located in North Sound Estates, an established subdivision. The existing dwelling is centrally located within the lot and bound to the east by the subdivision road. To the north and west existing dwellings occupies the neighbouring lots and a vacant parcel forms the southern boundary.

The application seeks Planning Permission for the installation of a shed.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

- 1) **Side setback variance (5’ v 10’)**

Regulation 9(8)(j) requires a minimum side setback of 10’

The application seeks a variance for 5’ side setback.

Members are invited to consider the variance letter in determining the application.

**2) Rear setback variance (10’ v 20’)**

Regulation 9(8)(i) requires a minimum rear setback of 20’

The application seeks a variance for 10’

Members are invited to consider the variance letter in determining the application.

**2.22 ANTHONY WELLINGTON (Architectural Designs and Cayman Contemporary)  
Block 14C Parcel 355 (P20-1058) (\$8,000) (JP)**

Application for canopy addition to existing auto repair garage.

**A.L. Thompson declared a conflict.**

**FACTS**

<i>Location</i>	Sound Way, George Town
<i>Zoning</i>	<b>GC</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.681 ac. (29,664.36 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Commercial/light industrial
<i>Proposed building size</i>	498 sq. ft.
<i>Total building site coverage</i>	90%
<i>Required parking</i>	10
<i>Proposed parking</i>	22

**BACKGROUND**

*October 5, 2020 (CE20-0146) – Enforcement file created for after-the fact canopy/garage and addition to existing building*

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the type of structure and its proposed location.

**APPLICANT’S LETTER**

*On behalf of our client, we wish to apply for a variance. This is in regards to the rear setback being 2’ from the boundary. The property is in a commercial zone and most of the adjoining properties have similar setbacks. Please note in reference to section 8(13)*



*of the development and planning regulations, due to the characteristics of the unusual shape of the property. There are sufficient reasons to apply for this variance.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located south of Sound Way and is multi-tenant in occupation and use. The existing tyre/repair business has been *in situ* in excess of five years.

After-the-fact structures have been removed and the application now seeks Planning Permission for a proposed canopy.

### **Zoning**

The property is zoned General Commercial.

### **Specific Issues**

#### **1) Rear setback variance (2' v 6')**

Regulation 8(8)(b) requires minimum side and rear setbacks of 6'.

The proposed canopy would be sited 2' from the rear boundary.

Members are invited to consider the variance letter in determining the acceptability of the proposed structure.

**2.23 MARTIN & NICOLA CALLENDER (BDCL Architects) Block 13B Parcel 40 (P20-1177) (\$100,000) (MW)**

Application to rebuild a carport & new front porch.

**FACTS**

<i>Location</i>	Park Ln., George Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.35 ac. (15,246 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Existing Residence (2,567sq. ft.)
<i>Proposed building size</i>	310 sq. ft.
<i>Total building site coverage</i>	18.9%

**BACKGROUND**

*June 6, 2017 – Modification to floorplan; 308 sq. ft. - the application was considered and it was resolved to grant planning permission.*

*October 8, 2020 – Internal Renovation to kitchen area with new windows and doors – the application was considered and it was resolved to grant planning permission.*

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

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

Reasons for the decision:

- 1) With the exception of the side setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required side setback per Regulation 9(8)(j) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;

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

### **APPLICANT'S LETTER**

*With this letter, we are requesting a variance to Development and Planning Regulations (2018 Revision) 8(13) pertaining to the minimum setbacks as follows:*

*The proposed rebuild to the side car port area adjacent to the neighbouring property encroaches the setback by 1'0".*

*Justification:*

*The existing car port is built in this area and we will be rebuilding maintaining its current footprint. We will be adjusting the angle of the carport roof and adding louvers to the neighbours side, screening for add privacy. The additional louvers have minimal impact on the boundary site lines and is not a substantial material change to the existing property.*

*Such minor encroachments do not adversely affect the surrounding properties. Under regulation 8(13)(B) of the development and planning regulations (2018 revision), we believe there is sufficient reason to grant a variance as an circumstance exists, which may include the fact that:*

- A. The characteristics of the proposed development are consistent with the character of the surrounding area.*
- B. The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or the public welfare.*

*We trust the aforementioned meets with your approval. We now look forward to your favourable consideration of our request for a variance. You require additional information, please do not hesitate to contact this office.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for a rebuild of a side carport & new front porch; 310 sq. ft. with side setback variance to be located on Park Ln., George Town.

#### **Zoning**

The property is zoned Low Density Residential.

## **Specific Issues**

### **1) Side Setback**

Regulation 9(8)(j) states “*the minimum side setback for a building of one storey is 10 feet*”. The proposed rebuild carport would be 9’-1” from the side boundary a difference of 11”.

The adjoining parcel owners were notified and letters of consent were received.

The Authority should assess if there is sufficient reason and an exceptional circumstance in accordance with Section 8(13) to warrant granting a side setback variance.

### **2. 24 STEELE RESIDENCE (BDCL Architects) Block 17A Parcel 64 (P20-0937) (\$200,000) (MW)**

Application for pool deck refurbishment, reduce size of cabana & revise its location and increase the size of the garden storage/pump room.

#### **FACTS**

<i>Location</i>	Crystal Dr., West Bay
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.4538 ac. (19,767.528 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Existing Residence & Cabana (8,063.56 sq. ft.)
<i>Proposed building size</i>	150 sq. ft.
<i>Total building site coverage</i>	21.6%

#### **BACKGROUND**

August 13, 2008 – Proposed House - the application was considered and it was resolved to grant planning permission. (CPA/27/08; Item 2.5)

August 21, 2008 – Proposed Pool – the application was considered and it was resolved to grant planning permission.

August 21, 2008 – Proposed Dock – the application was considered and it was resolved to grant planning permission.

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

- 1) 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) With the exception of the front setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed application does not comply with the minimum required front setback per Regulation 9(8)(h) of the Development and Planning Regulations (2020 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
  - d)

### **AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

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

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

*The application site is man-modified and of limited ecological value. There is a sand pit located adjacent to the canal, with no elevations or detail provided on any separation between the sand pit and the canal. The sand pit should be relocated away from the canal in order to prevent the run-off of sand into the canal during periods of heavy rain.*

*In addition, any stockpiled materials should be kept away from the canal edge to reduce the possibility of rainwater runoff washing material into the canal.*

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

## **APPLICANT'S LETTER**

*With this letter, we are requesting a variance to Development and Planning Regulations (2018 Revision) 8(13) pertaining to the minimum setbacks as follows:*

*The proposed pool deck and hard landscaping extend into the canal front setback line at various points with the greatest dimension being 20'2.5" from boundary to 20'0" setback line.*

### **Justification:**

*The existing approved and built hard landscaping already is beyond the setback. We are refurbishing and piling under the existing pool deck area due to subsidence. The pool deck width allows for safe passage around the pool deck area as there is a great level difference between the existing deck and the landscaping. We are oversailing to ensure this safe passage at the higher level.*

*The additional hard landscaping element around the fire pit area is at landscape grade and has minimal impact on the site lines. The existing pool deck is already at high level and this is not a great material change to the existing property.*

*Such minor encroachments do not adversely affect the surrounding properties.*

*Under regulation 8(13)(B) of the development and planning regulations (2018 revision), we believe there is sufficient reason to grant a variance as an exceptional circumstance exists, which may include the fact that:*

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

*We trust the aforementioned meets with your approval. We now look forward to your favourable consideration of our request for a variance. If you require additional information, please do not hesitate to contact this office.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant proposes to refurbish the existing deck by adding pilings due to the deck sagging, proposes to relocate and reduce the existing cabana from the approved 215 sq. ft. to 148 sq. ft. and increase the pool equipment room and increase the size of the garden storage room.

### **Zoning**

The property is zoned Low Density Residential.

**Specific Issues**

**1) Front Setback**

Regulation 9(8)(i) states “the minimum front setback is 20 feet”. The proposed increased garden storage would be 12’-2” & 13’-4” from the front road boundary a difference of 7’-10” & 6’-8” respectively.

**2. 25 PETER KANDIAH (Roland Bodden & Company) Block 15E Parcels 82 and 238 (P20-0808) (BES)**

Application for 3’-high rope fence on the shoreline.

**Roland Bodden declared a conflict.**

**FACTS**

<i>Location</i>	South Sound
<i>Zoning</i>	<b>Beach Resort Residential</b>
<i>Parcel Size Proposed</i>	1.25 ac. (54,450 sq. ft.)
<i>Current Use</i>	House
<i>Proposed Use</i>	Same as above

**BACKGROUND**

August 30, 1999 – Addition to House granted planning permission

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

- 1) The applicant shall submit a revised site plan showing the rope fence setback a minimum of 5’ from the 2018 registered high water mark.
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Reasons for the decision:

- 1) With the exception of the high water mark setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(b) of the Development and Planning Regulations (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 the proposal is for a rope fence only, not a solid seawall. As such, the impact of the rope fence on the shoreline will be negligible. The Authority views these reasons as a material consideration per sub-regulation f) to allow a lesser HWM setback. However, the Authority will require the rope fence to be situated at least 5' behind the 2018 registered HWM.

### **AGENCY COMMENTS**

Comments from the DoE/NCC are noted below.

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

*The application site is located in a coastal area designated as 'Critical Habitat' for turtle nesting and this particular beach is known to have considerable seasonal fluctuations in width and volume. For coastal properties such as this, the predicted and related impacts of climate change, particularly for the Caribbean region (sea level rise, increased storm frequency, intensity and associated storm surge), are likely to be significant. Given that the DOE is also documenting an increasing prevalence of exacerbated coastal erosion associated with inappropriately sited developments and their amenity structures, it is not unrealistic to expect this trend will worsen with climate change. Taking into account the basic principle that the fence's current proposed placement on the active beach does not meet the minimum required coastal setbacks as outlined in the Development and Planning Regulations, the DOE strongly recommends that the fence is repositioned landward, behind the current registered Mean High Water Mark (MHWM), existing beach dune and seaward vegetation which are all depicted in Figure 1.*





Figure 1: LIS 2018 aerial showing the proposed fence line (yellow) with the existing registered mean high water mark (MWHM) (blue) and the recently surveyed MWHM (red).

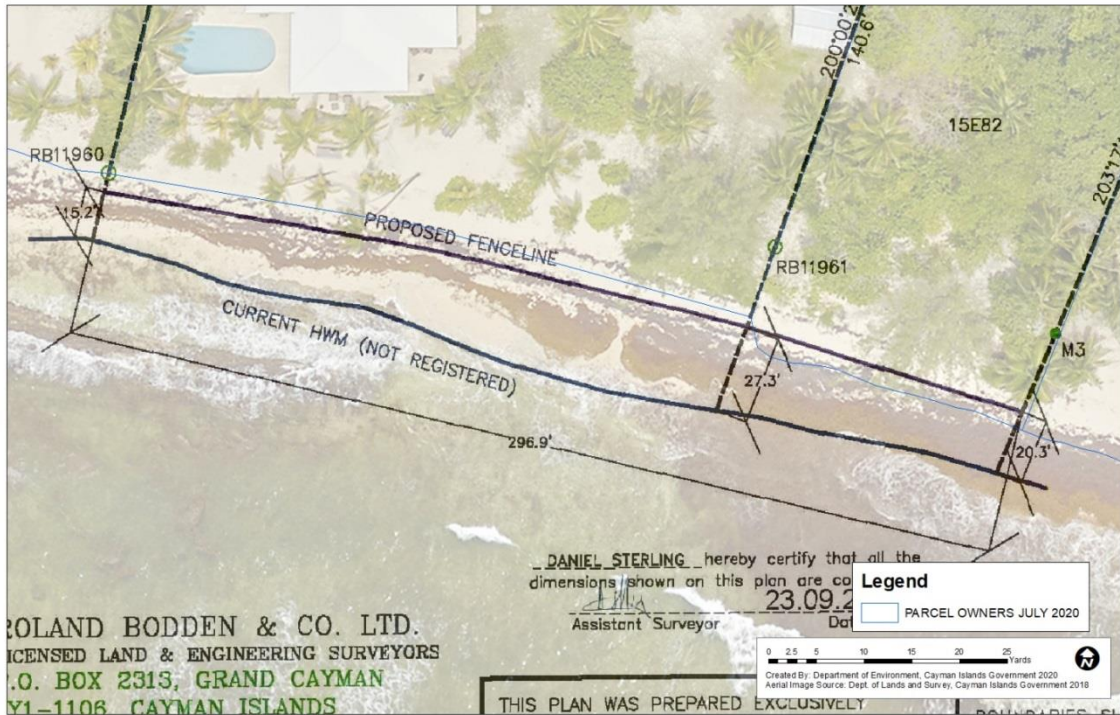


Figure 2: LIS 2018 Aerial image overlaid with site plan (Source: Roland and Bodden 23 Sept 2020)

The site plan submitted (Drawing Ref: 15E238SiteMap.dwg) when overlaid onto the



*aerial imagery (see Figure 2) shows that the proposed fence line is position seaward of the current registered MeanHigh Water Mark survey, even though the most recent survey (which is not registered) as depicted by the site plan is seaward of the proposed fence line. This illustrates that the beach is extremely dynamic.*

*It is also important to highlight that survey posts were erected along the beach in June 2020 (see Figure 3) to show the proposed fence location, as confirmed by one of the owners. Once in receipt of this application, the Department undertook a site visit to determine if the survey posts were still in place and to observe the condition of the beach (see Figure 4, 5, 6 & 7). From the site visit, there were sections along the property where there had been significant erosion over the course of merely four months and many of the originally installed temporary fence posts were missing, presumed swept into the ocean. As anticipated it can be concluded from the site visits that the beach is highly dynamic and that the proposed fence is not an ideal location. Had the proposed fence been erected instead of the survey posts, the fence would have been damaged and sections lost due to recent inclement weather. The proposed fence is located within an area where the Mean High Water Mark constantly adjusts, and therefore may not always be on the applicant's property. If not damaged or destroyed, it may block public access along the foreshore during natural cycles of erosion.*



*Figure 3: The application site with posts and survey tape erected (Source DOE, June 2020)*



*Figure 4: The application site after Tropical Storm Delta (Source: DOE, October 2020)*



*Figure 5: The application site after Tropical Storm Delta (DOE, October 2020)*





*Figure 6: The application site after Tropical Storm Delta (DOE, October 2020)*





*Figure 7: The application site after Tropical Storm Delta (DOE, October 2020)*

*Therefore in conclusion, the Department would recommend not placing a fence in the proposed location on the active beach along this coastline. However, if the CPA is minded to grant permission, the following is strongly recommended:*

- *The fence should be moved further landward behind the existing beachside vegetation and the registered Mean High Water Mark as shown in Figure 1 (the blue line). The existing vegetation represents the boundary of the most recent erosion cycles and consequently behind it the beach is most stable.*

- *The fence, as depicted in the plans should only be a roped fence to allow for the movement of beach sediment and to allow for nesting turtles to access the nesting habitat.*
- *At no time should this fence be converted to a solid wall structure. This would hinder turtle nesting and would increase the site's susceptibility to climate change impacts and coastal erosion associated with the structures placed on the active beach.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for 3'-high rope fence at the above-captioned properties. The site is located on South Sound Road next to South Sound Community Centre.

### **Zoning**

The property is zoned Beach Resort Residential.

### **Specific Issues**

#### **1) High Water Mark setback**

In Beach Resort Residential zone, the minimum setback from the High Water Mark (HWM) is 75' per Regulation 8(10)(f), whereas the proposed rope fence is setback 15.2' from the HWM.

It should be pointed out that the following seawalls were granted planning permission on the coastline near the subject property:

- Block 7D Parcel 6, a seawall was granted planning permission on May 18, 2005 (CPA/12/05; Item 2.2) setback at 50' from the HWM; and,
- Block 7D Parcel 30, planning permission on December 1, 2004 (CPA/29/04; Item 2.21) was granted for a seawall setback 65' from the HWM.

## **3.0 DEVELOPMENT PLAN MATTERS**

## **4.0 PLANNING APPEAL MATTERS**

## **5.0 MATTERS FROM THE DIRECTOR OF PLANNING**

### **5.1 CUC – NATURAL GAS STRATEGY (HP)**

#### **Appearance at 2:00 via e-conference**

Representatives from CUC provided a brief presentation on their consideration of natural gas as a transitional fuel in the Cayman Islands energy program that would result in a cost of fuel that is lower and less volatile than diesel with a significant reduction in emissions.

## 5.2 MELANIE JACKSON Block 28B Parcel 349 Rem 1 (P18-0926) (MW)

On November 14, 2018 (CPA/25/18; item 2.10) the Authority granted planning permission for a 12 lot subdivision. Standard conditions of approval were imposed, including the following:

- 3) *Prior to the commencement of any site works such as filling, grading and road construction (with the exception of minor land clearing needed to establish site levels for the preparation of a stormwater management plan), the applicant shall submit:*
  - e) *Within 60 days of the date of this decision, a revised plan showing Land for Public Purposes not exceeding 5% of the subdivision area included in the current phase of the overall subdivision.*

On March 1, 2021, the applicant's surveyor submitted a final survey to be signed. It was the determination of the Department that the plan did not comply with the above noted condition and the plan was rejected.

The surveyor contends that a revised plan showing the same LPP location as on the final survey had been submitted on December 3, 2018 and it is unfair to now advise that the LPP location isn't acceptable as his clients have already spent a great deal of money on infrastructure to complete this phase of the project. It should be noted that on December 3, 2018, the Department did provide comments through OPS that the LPP location did not comply with the CPA's condition.

The surveyor has also provided documentation to show that LPP was provided from a previous subdivision and his clients are of the view that this existing LPP was intended for the entire overall parcel and that new LPP should not be required.

It is recommended that the Authority consider this material as well as the documentation provided by the applicant (see Appendix C) and make a determination on the matter.

**Decision:** The Authority considered the drawing contained in Appendix C and determined that it satisfied the condition of approval regarding the provision of LPP in Phase 1.

### 5.3 ANDY PARSONS Block 20C Parcel 174 (P21-0111) (BES)

An application to modify planning permission has been submitted in order to remove the LPP designation. The application has pursued this matter through the provisions of Regulation 28 regarding paying cash-in-lieu in order to “buy back” the parcel without the LPP designation.

Pursuant to Regulation 28(3), the Authority may allow the cash-in-lieu option through the payment of a sum of money not less than the improved value of the LPP provided the Authority is satisfied that:

- a) the subdivision has sufficient land set aside for public purposes; or greater public benefit would be derived from the payment.
- b) The majority of landowners within the subdivision have given their written consent to the cash-in-lieu proposal.

The Authority is advised that the applicant has obtained written consent from 87.5% of the owners in the subdivision.

Should the Authority be of the view that the provisions in a) above have been satisfied then the LPP designation could be removed upon receipt of the required cash-in-lieu payment of CI \$445,200.

**Decision:** It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Act (2021 Revision) hereby orders that planning permission be modified by removing the Land for Public Purposes (LPP) designation, subject to the following condition:

- 1) The required steps to remove the LPP designation from the subject parcel will be initiated upon receipt of the cash-in-lieu payment of CI\$445,200.



**5.4 ROSWORTH & SONIA MCLAUGHLIN Block 45A Parcel 62 (P20-1146) (JP)**

Application for a duplex and three cabanas.

**FACTS**

<i>Location</i>	Rum Point Drive, North Side
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.78 ac. (33,976.8 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	2341 sq. ft.
<i>Total building site coverage</i>	6.033%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

**BACKGROUND**

April 12, 2017 (**CPA/08/17; item 2.7**) – an application for a duplex was approved with the following HWM setbacks:

- retaining wall at 50’
- trellis carport at 65’ 4”
- duplex A at 70’-8”
- duplex B at 73’-3”.

Also, a front setback of 18’ was allowed for the steps vs the required 20’.

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

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

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

Reasons for the decision:

- 1) With the exception of the high water mark setback, which is addressed below, the application complies with the Development and Planning Regulations (2020 Revision).
- 2) The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(b) of the Development and Planning Regulations (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.

### **AGENCY COMMENTS**

Comments from the Department of Environment (NCC) are noted below.

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

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

*The application site is comprised of primary coastal shrubland and is located on a beach that is fronting a shallow reef-enclosed lagoon. It is not a currently active turtle nesting beach. The Department notes that there were two previous applications (Planning Ref: P16-0862 and P17-0064) made for a duplex on this site, both proposing a seawall approximately 50ft from the Mean High Water Mark (MHW) with the duplex and ancillary structures located landward of it. This current application is similar as it also shows the seawall at approximately 50ft from the MHW and therefore our previous comments still apply and are outlined below.*

*The most recent MHW survey (carried out on 19 October, 2020) and a review of historical aerial imagery and the 2016 MHW survey of the previous applications indicates that the beach is fairly stable in this location, likely due to the fact that the vegetation line has not been altered significantly and the coastal protection provided by the fringing reef and shallow lagoon. As a general principle, we believe that variances of*

*coastal setbacks should be considered on a case-by-case basis and must take account of site-specific conditions. Given the presence of a protective reef and shallow water adjacent to the proposed development, **we feel the proposed setback variance could be justified on the condition that the existing vegetation is retained between the proposed seawall and the sea.** If the coastal vegetation (especially seagrape) is removed it is likely that during storm conditions wave action will cause of the erosion of the beach and, ultimately, impact the proposed seawall leading to scouring. This would result in a narrowed beach profile, reducing public access along the foreshore and potentially compromising the stability of the proposed seawall which would expose the building to damage in severe weather. **If the CPA is not minded to require retention of the vegetation seaward of the seawall the DOE would not support this application.***

*Any sand excavated during the proposed construction must be retained on site and placed seaward of the proposed seawall to renourish the beach. If the volume of such sand exceeds the capacity of the beach ridge in this location then any removal of sand off site should be the subject of a separate consultation.*

*Finally, the section of the parcel south of the road remains as primary vegetation and should not be used for storage (e.g. for construction material or stockpiled excavated sand) in conjunction with this application. Any works such land clearing, and for the storage of materials/ equipment on the southern parcel should also be the subject of a separate planning application.*

### **APPLICANT'S LETTER**

*We write on behalf of our clients, Mr. Rosworth McLaughlin & Mrs. Sonia McLaughlin, with regards to the following variance;*

- *A rear setback variance – The rear setback proposed for the retention wall and the duplex is 50'0" & 62' respectively which are less than the required 75' from the high water mark for beachfront property.*

*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 there are no objections to date;*
- 2. 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;*
- 3. The retention wall is necessary to provide protection from soil erosion for the proposed development.*
- 4. A rear setback variance was granted for a similar proposal on the subject parcel in year 2017.*
- 5. The application complies with all other relevant planning requirements.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application site is located in North Side. Surrounding parcels are all vacant with the Caribbean Sea forming the northern boundary.

The application seeks Planning Permission for a duplex and 3 cabanas.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) High Water Mark setback variance (51' 9" and 56' 11" v 75')**

Regulation 8(10)(b) requires a minimum 75' setback from the High Water Mark. The cabanas are proposed at 51' 9" and the duplex is 56' 11".

Members are invited to note the previous approval where a variance for 65' 4" was granted, a difference of 9' 8" compared to the current scheme which seeks a difference of 18' 1".

#### **2) Site access**

The entrance radii are inadequate for safe entry and egress to and from the site. A minimum of 15' radii are usually required. The plans fail to indicate the actual measurement, however, the depth and distance from road boundary clearly demonstrates inadequate radii.

Members are encouraged to consider whether parking would be better sited on the remaining parcel of land to the east.

#### **5.5 FLOY BODDEN 55A Parcel 258 (LRR20-0029) (RS)**

The Authority was advised that an application had been submitted to have the land register restriction removed from the parcel. The Authority was advised that the parcel has not yet been filled in accordance with the condition of approval. The Authority determined that the transfer of the parcel to Mr. Bodden could be allowed provided the restriction remains on the land register.

#### **5.6 NEW TESTAMANT CHURCH WEST BAY Block 1C Parcel 260 (HP)**

The Authority was advised that the church has approached the Department with a request to occupy the building without the parking area being started or any site drainage being installed. The Authority determined that a Special Permission to Occupy could be approved for 24 months subject first to the parking area being graded with gravel and deep wells installed.

#### **5.7 DARIOUS DEVELOPMENT Block 53A Parcel 131 (HP)**

The Authority viewed plans for a proposed duplex and determined that the design of the building did sufficiently represent a duplex with a common wall.

**5. 8 NOEL A. JACKSON, CHRISTOPHER A. JACKSON, VERONICA E. JACKSON  
Block 15C Parcel 139 (CE20-0067) (YR)**

The Authority viewed photographs of the storage of derelict metal shipping containers and determined that a Maintenance of Land notice would be issued.

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

**5. 9 JOAN WEST & ANDRE DACRES Block 31A Parcel 56 (CE21-0065) (YR)**

The Authority viewed photographs of the storage of derelict heavy equipment and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

**5. 10 LAURA BUTZ Block 25C Parcel 185 (CE20-0068) (YR)**

The Authority viewed photographs of the ruinous condition of land due to the keeping of landscaping debris and other debris and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

**5. 11 DESMOND & CATHY KINCH Block 25C Parcel 186 (CE20-0068) (YR)**

The Authority viewed photographs of the ruinous condition of land due to the keeping of landscaping debris and other debris and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

**5. 12 BRAC ACE LIMITED Block 19A Parcel 89 (CE21-0070) (YR)**

The Authority viewed photographs of the storage of derelict metal shipping containers, a dilapidated trailer and other derelict vehicles and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

**5. 13 SHORELINE DEVELOPMENT COMPANY LIMITED Block 19A Parcel 4 Rem 6 (CE21-0071) (YR)**

The Authority viewed photographs of the storage of derelict vehicles and other miscellaneous debris and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

**5. 14 NICOLA YANE EIFFERT & ALAN EIFFERT Block 24E Parcel 457 (CE21-0073) (YR)**

The Authority viewed photographs of the storage of derelict metal shipping containers and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

**5. 15 ALEXANDER ABSHIRE BODDEN Block 28D Parcel 284 (CE21-0074) (YR)**

The Authority viewed photographs of the storage of derelict metal shipping containers and vehicles and determined that a Maintenance of Land notice would be issued to the owner and occupier of the land.

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

Section 29A(2) and (3) of the law.

**5.16 ORCHARD ECO VILLAGE Block 38C Parcel 72 (RS)**

**Haroon Pandohie declared a conflict and left the meeting room. Ron Sanderson sat as Acting Executive Secretary (AES).**

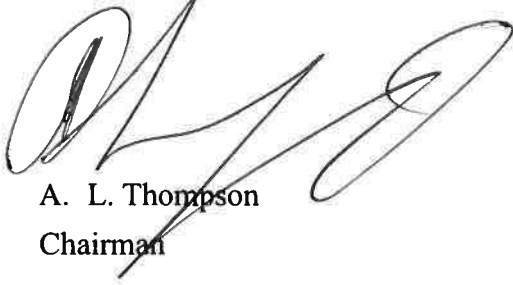
The Authority was reminded of a letter dated February 24, 2021 written on behalf of the Central Planning Authority and signed by the Chairman which was sent to a staff member of the Department. The letter essentially advises the staff member that the subject project was always considered to be a mix of townhomes/condos and stacked duplexes/condos and had been presented to the Authority as R-3 Residential under the International Building Code.

After some discussion it became clear that there was some misunderstanding by the members as to the factual nature of the application which contradicted the statements in the letter. It was made clear by the AES to the members that the project was always submitted as apartments, as that was the only classification available per the Development and Planning Regulations, and that planning permission was granted for apartments. The members confirmed their acceptance of this factual position. The AES also made it clear that anything to do with building code regulations and classifications is outside of the remit of the Authority, therefore any reference to same in the letter is erroneous and the members accepted this conclusion.

The members were advised that the Department has recently met with the applicant and all parties agreed that planning permission was granted for apartments and the permit must also be reviewed as apartments, which means an R-2 classification.

**6.0 CPA MEMBERS INFORMATION/DISCUSSIONS**

The meeting adjourned at 4:50pm. The next regular meeting of the Central Planning Authority is scheduled for **Wednesday, March 31, 2021 at 10:00 a.m.** in Conference Room 1038, 1<sup>st</sup> floor, Government Administration Building.



A. L. Thompson  
Chairman



Haroon Pandohie  
Executive Secretary

c.c. All members of the Central Planning Authority



## Appendix 'A'

Director of Planning  
PO BOX 113  
KY1-9000

56, Selkirk Drive, Red Bay  
PO Box 10744  
KY1-1007  
2<sup>nd</sup> February 2021.

**RE: Application for the planning permission for an 83 Lot Subdivision on Block 22D/320 & 22D/141 REM 12, owned by Ergun Berksoy (the "Planning Application")**

1. On 4<sup>th</sup> November 2020 (posted on 6 November 2020), W & W Architects submitted the Planning Application (defined above) on behalf of Ergun Berksoy.
2. By letter dated 24 November 2020, I submitted an objection to the Planning Application. This letter is supplemental to my letter of objection dated 24 November 2020 and is enclosed with documentation provided in support of it.
3. The Planning Application seeks permission for:
  - a. 5 apartment lots;
  - b. 64 residential lots;
  - c. 1 neighbourhood commercial lot;
  - d. 3 LPP lots; and
  - e. 10 road lots.

The nature and scale of the proposed development is entirely unsuitable for the area in which it is proposed, will be environmentally devastating and put untenable strain on the current infrastructure in the area.

**1<sup>st</sup> Formal Objection – Road and Freshwater Pond**

4. In my letter dated 24 November 2020, I assert two formal categories of objection. My 1<sup>st</sup> formal objection relates to the impact of the proposed road on a permanent freshwater pond that straddles my property and the property owned by Mr. Berksoy, that is the subject of the Planning Application.
5. I intend to file formal legal submissions in advance of the hearing of the Planning Application but briefly raise two legal issues, that will be elaborated on in those submissions. Firstly, significant setbacks and other restrictions apply to waterfront property, such as the subject property, that

do not appear to have considered in the Application. Secondly, it appears Mr. Berksoy intends to erect a road on that part of the pond that is within the boundary of his property; however, it is not possible to do so without devastating that part of the pond that is on my property. In addition to being an environmental catastrophe, the impact of that construction on that part of the pond that is located on my property is an actionable nuisance and if planning permission for that aspect of the project is granted, I will consider taking separate legal action.

6. Enclosed are the following documents that I intend to refer the tribunal to at the hearing:
  - a. A topographical survey of my boundary;
  - b. An aerial photograph showing the boundary between my property and the property that is the subject of the Planning Application, which runs through the middle of the pond.
  - c. A series of photographs taken over the years showing that the pond is permanent, the bird watching platform, various resident and visiting water birds including two families of the endangered West Indian Whistling Ducks.

I also intend to submit an expert report from an ornithologist prior to the hearing.

**2<sup>nd</sup> Formal Objection – scale of the development & position of exit roads**

7. My second formal objection relates to the unsuitability of the property that is the subject of the Planning Application for the project that has been proposed on it.
8. The proposed project will require the removal of the native vegetation, predominantly mangroves, and the filling of the permanent freshwater ponds and wetland areas on the subject property. That vegetation and the wetland areas on the property act as buffers in times of heavy rains and storms, allow the land to absorb these environmental impacts and prevent it being washed away. Removing these natural defenses will make an already very low-lying and vulnerable area more susceptible to severe flooding and erosion, particularly in the event of storm surges. It will also destroy an already vulnerable and steadily diminishing habitat for native wildlife.
9. The stormwater system in this area is ill-equipped to handle the current level of development and will be overwhelmed if this development is allowed to proceed. The Cayman Islands Government will have access to documentation that confirms the size and capacity of this system that I do not have access to. I have requested this information in an FOI request but ask that the Department of Planning make information in respect to the storm water system available to me and the Tribunal in advance of the hearing.

10. The roading in this area is also already extremely over-burdened. The access road in an out of the proposed development is intended to exit onto Shamrock Road at a point that is already so congested that it was necessary for the Government to station police officers at the intersections on both ends of the area, to physically manage the traffic in both the morning and evening busy periods. I am aware that the government has been grappling with how to manage the inadequacy of the roads in this area, which are already unable to adequately manage existing traffic flows. A number of studies and proposals for traffic management in this area have been done but and I have requested this information in an FOI request but ask that the Department of Planning make that information available to me and the Tribunal in advance of the hearing.
11. **Enclosed** is a map showing points in the area of this proposed development where traffic counts have recently been done and a document that provides the corresponding traffic figures.
12. The low-lying nature of the land in the area means that the elevation to which the proposed development will be required to be raised will create a flooding risk to neighbouring areas such as Admirals Landing and Red Bay. With the flooding of developed areas comes areas of standing water and increased mosquito breeding grounds, amongst other issues such as degradation of the man-made elements in those developments.
13. Climate change is affecting all of us already, we have seen it in the ferocity of the recent hurricanes in this region and extreme weather in different parts of the world. Destroying the Island's natural defenses to make way for developments like this, which are undesirable and out of character for the area anyway, is irresponsible. It falls to all of us to do what we can to help reduce this catastrophic climate change, not court it as this development will.
14. It must be the responsibility of every country to ensure that any future development which takes place is done sensitively to preserve the integrity of its land. Preservation of the natural trees which are the lungs, freshwater ponds and mangroves which act as natural buffers to extreme weather are vital for the safety of these islands.
15. The proposed development is too large for this area. If allowed to proceed, it will have a devastating impact on the environment, the local community and the roading in the area.

#### **Postponement of Hearing**

16. As mentioned above, I have submitted a request for information that is pertinent to this Planning Application under the FOI. I have not yet received a response to that request, and I do not expect to receive the requested documents until after 16 February, when this application is scheduled to be heard. To allow me to properly present my case before the tribunal, I would be grateful if the hearing of this Planning Application could be postponed until I have received the documents requested under the FOI.
-

17. Thank you for taking the time to consider my points and understand the reasons for my objections.

Yours Faithfully,

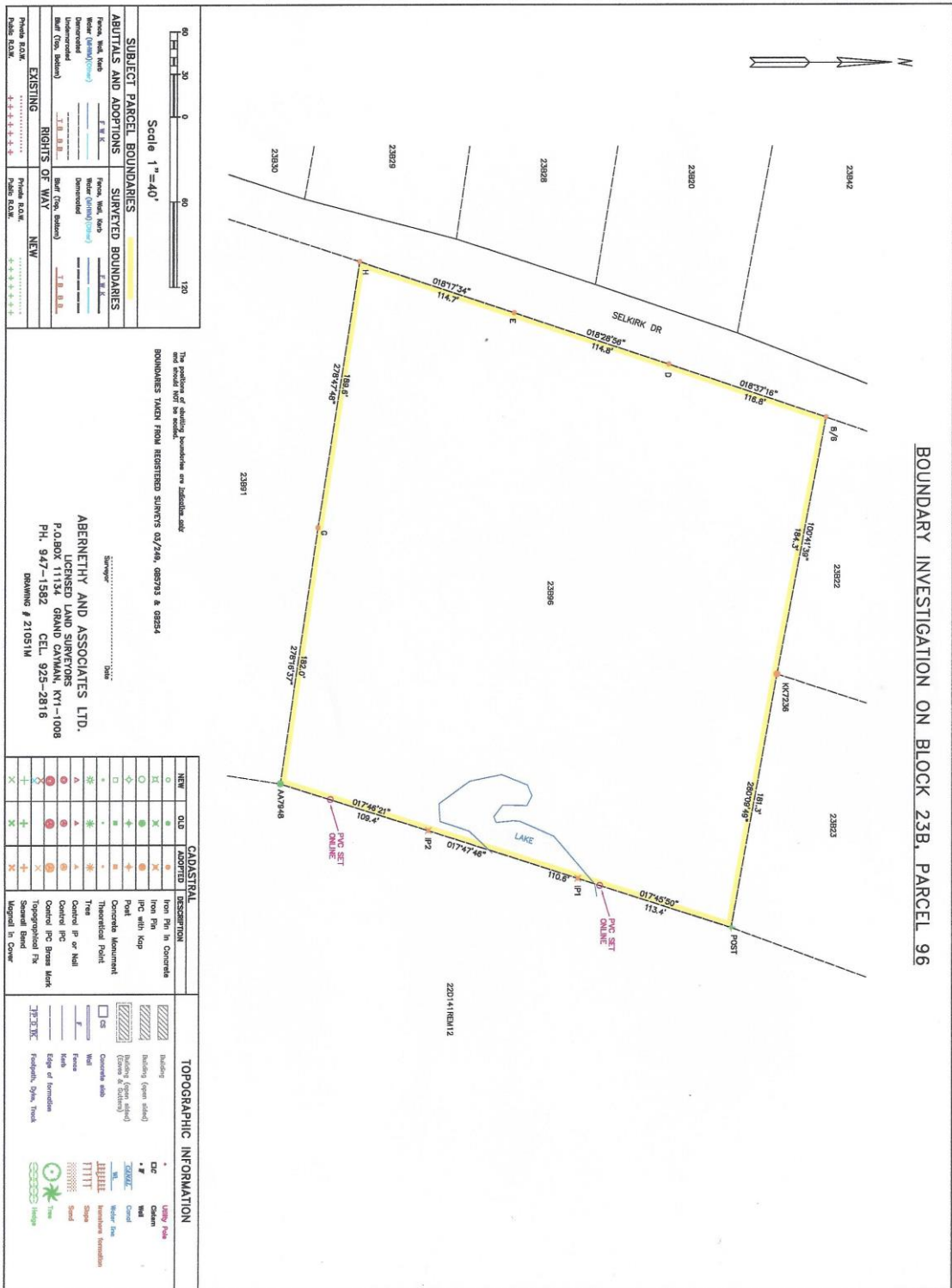
A handwritten signature in black ink, appearing to read "Diana Quin", is written over a horizontal dashed line.

Mrs Diana Quin and the Quin Family

Supporting documents for letter dated 2<sup>nd</sup> February as follows:

6.
  - a. Topographical Survey of the boundary
  - b. Aerial Photograph showing the boundary
  - c. Series of Photographs showing the pond and resident water birds
  
11. ATR Traffic Locations  
ATR Counts

6. a. Topographical Survey of the boundary





6. b. Aerial Photograph showing the boundary



[Add Map Title]



Legend

2/1/21 10:46 AM  
1: 1,128



Notes  
[Add Map Notes]

1880 0 9400 1880 Feet  
Lands and Survey Department © Cayman Islands Government































11. ATR Traffic Locations



ATR Locations



ATR Counts Shamrock Rd

Subject: ATR Counts - Shamrock Rd

ATR Code	ATR Location Description	Road Classification (2017)	Winter Weekday ADT2016	Winter Weekday ADT2017	Winter Weekday ADT2018	Speed Data - Avg	Speed Data - 85th Percentile
701	Shamrock Rd - E/O Marina Dr	Collector	6,670	6,735			
702	South Sound Rd. - W/O Shamrock Rd	Sec. Art.	7,625	8,270	8,215	26	33
714	Shamrock Road - W/O Selkirk Drive	Prim. Art.	37,870	39,100	40,395	33	39
716	Shamrock Rd - S/O EWA Tomlinson Roundabout	Sec. Art.	25,270	N/D	21,970	34	39
717	EWA - E/O AutoSpa Roundabout	Prim. Art.	22,950	23,230	24,990	40	46
719	Shamrock Road - EB slip lane at EWA (by Dilbert's Plaza)	Collector	8,140		7,805	29	35
720	Selkirk Drive - north of Shamrock Drive	Collector		2,335			

24<sup>TH</sup> November 2020

Director of Planning  
PO BOX 113  
KY1-9000

56, Selkirk Drive, Red Bay  
PO Box 10744  
KY1-1007

Dear Sir / Madam,

**RE: Application for the planning permission on Block 22D/320 & 22D/141 REM 12 owned by Mr. Ergun Berksoy and submitted by W & W Architects , PO Box 1342 GT, KY1-1108 and submitted on 4<sup>th</sup> November 2020 and posted on 6<sup>th</sup> November 2020 for the purpose of an 83 Lot Subdivision consisting of: 5 Apartment lots; 64 Residential Lots; 1 Neighbourhood commercial lot; 3 LPP Lots and 10 Road Lots ("The Application")**

I am an adjacent landowner, on Block 23B Parcel 96, to the application. My husband, the late Mr. Justice Charles Quin QC and I have owned this property and lived on it for over 35 years. I received the notice of application for planning purposes and visited the planning department to view the plans. Having studied the plans carefully I am now making a formal objection to the application as my right as an adjacent landlord.

#### **1<sup>st</sup> Formal Objection – Road and Freshwater Pond**

My first formal objection is in relation to the position of a 30 foot road which is proposed to run adjacent to my land and join Princess Street and Shamrock Road. This seems to be a proposed new road into the land owned by Mr Berksoy. At present this road appears to be going right through the middle of a permanent freshwater pond which straddles both his and my property. For background, please note that we have never been able to enclose this section of our property because of the presence of the permanent pond. I am very surprised a road could even be proposed there as when viewed from the aerial photographs it shows the boundary going straight through the middle of the pond.

This freshwater pond has been in existence prior to our purchase of our property in 1985 and was pointed out by the previous owner. Following Hurricane Ivan, many of our trees were destroyed, we cleared them from the land and opened up the pond area. The pond and surrounding vegetation are an important ecosystem being one of the rare freshwater habitats remaining in Grand Cayman, especially in the Western half of the island. This pond supports many species of breeding waterfowl including moorhens and green herons as well as a feeding area for all species of waterfowl both resident and migrant. It also supports nesting endemic land birds: yellow warbler, loggerhead Kingbird, Western Indian Woodpecker and more as well as migrants in winter.

Most importantly, the pond has a resident population of the endemic West Indian Whistling Duck, a species listed as **vulnerable** under the International Conservation Classification of endangerment, it is threatened locally in the Cayman Islands and throughout its decreasing range in the Caribbean. We have watched pairs of West Indian Whistling Ducks rear broods of ducklings every year for the last 15 years and would be appalled that these endangered and vulnerable birds would lose yet another safe sanctuary on this island so that a road could be built through it.

There appears to be plenty of land to develop within this proposed development and it should be possible to avoid destroying another special wildlife habitat. I therefore strenuously object to the Application and the plans that call for a road to be built adjacent to our Eastern boundary as it will adversely affect and/or

destroy this freshwater pond and habitat for all types of water birds including vulnerable West Indian Whistling Ducks.

**2<sup>nd</sup> Formal Objection – Scale of Development & Position of Exit Roads:**

My second formal objection regards the scale of the development and the adverse effect that it could have to the surrounding established neighbourhoods in its present form.

- a) The proposed area of development is very low lying so I presume it will have to be filled to a high level in order to prevent flooding. This could cause dramatic drain off problems to the adjacent low lying older residential areas of Admirals Landing and Red Bay. I am most concerned about the storm water management plans.

This is also the narrowest part of Grand Cayman and such a huge development will destroy the native vegetation and will make the area more vulnerable to the storm surges experienced during a hurricane, as happened in Hurricanes Gilbert and Ivan, which could contribute to devastating flooding into our areas.

- b) On the plans there are 5 apartment lots and a large commercial neighbourhood planned as a warehouse site. Neither of these seem appropriate to placed in an area zoned as low density residential.
- c) My last major concern is about the roads leading into the development. The private road on the plans running from Princess Street by my boundary to Shamrock Road looks as if it will access onto a dangerous part of Shamrock Road, where the traffic is already very congested, close to a school zone and very fast. This is another reason I'm objecting to the position of this road.

I look forward to hearing from you so that I may attend the Planning Application meeting when it is scheduled.

Yours Faithfully,

-----  
Mrs Diana Quin and the Quin Family

Director of Planning  
PO BOX 113  
KY1-9000

78 Selkirk Drive, Red Bay  
PO Box 11125  
KY1-1008  
25<sup>TH</sup> November 2020.

RE: Application for the planning permission on Block 22D/320 & 22D/141 REM 12 owned by Ergun Berksoy and submitted by W & W Architects , PO Box 1342 GT, KY1-1108 and submitted on 4<sup>th</sup> November 2020 and posted on 6<sup>th</sup> November 2020 for the purpose of an 83 Lot Subdivision consisting of

- 5 Apartment lots;
- 64 Residential Lots;
- 1 Neighbourhood commercial lot;
- 3 LPP Lots and
- 10 Road Lots ("The Application")

Dear Sir / Madam,

We are adjacent landowners, on Block 23B Parcel 22 & Parcel 23, to the application.

We have owned our property and lived on it for ~10 years. We received the notice of application for planning purposes and visited the planning department to view the plans. Having reviewed the plans, as well as speaking with a representative at the NRA, we are making a formal objection to the application as our right as an adjacent owner.

#### **First Objection – 10 Road Lots**

Our first formal objection is in relation to the position of a 30 foot road which is proposed to run adjacent to our land and join Princess Street to Shamrock Road. This seems to be a proposed new road into the land owned by Mr Berksoy. At present this road appears to be going right through the middle of a permanent freshwater pond which straddles both his and our neighbour's land. When we purchased our land, there was no official indication of a Princess Street continuation being gazetted to happen, or be a Shamrock Road connector & there cut so close to our property.

To add the freshwater pond has been in existence prior to our neighbour's purchasing their property in 1985. The pond and surrounding vegetation are an important ecosystem being one of the rare freshwater habitats remaining in Grand Cayman, especially in the western half of the island. This pond supports many species of waterfowl & bird, which our neighbour is going to describe in their letter to you. Some of the species are listed as vulnerable in the Cayman Islands and the Caribbean.

There is adequate land to develop within the proposed application and therefore it should be possible to avoid destroying a special wildlife habitat in Cayman. I therefore strenuously object to the application and the plans that call for a road to be built adjacent to our eastern boundary as it will adversely affect and possibly destroy this freshwater pond and habitat for all types of water birds.

The proposed area of development is very low lying so will require to be filled to a high level in order to prevent flooding. This could cause dramatic drain off problems to the adjacent low lying older residential areas of Admirals Landing and Red Bay. We are most concerned about the storm water

management plans. Some wells will not suffice. Due to the Grand Harbour development, the opposite side of Selkirk residence flood frequently in heavy rains, this did not occur prior to Grand Harbour being built. We foresee this issue occurring to our properties if the current development application is approved in its current state.

This is also the narrowest part of Grand Cayman and such a huge development will destroy the native vegetation and will make the area more vulnerable to the storm surges experienced during a hurricane, as happened in previous storms, which could contribute to devastating flooding into our areas.

**Second Objection – Scale of Development & Position of Exit Roads**

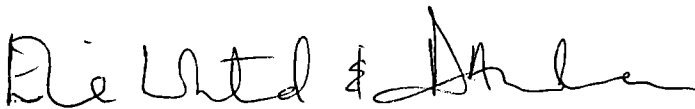
Our second objection regards the scale of the development and the adverse effect it could have to the surrounding established neighbourhoods in its present form.

In the application there 5 apartment lots and a large commercial neighbourhood planned as a warehouse site. Neither of these seem appropriate to be placed in or near an area zoned as low density residential.

The NRA representative that we spoke to also shared our concern about the roads leading into the development. The private road on the plans running from Princess Street by our boundary to Shamrock Road looks as if it will access onto a dangerous part of Shamrock Road, where the traffic is already very congested, and close to a school zone and moving very fast.

We look forward to hearing from you so that we may attend the Planning Application meeting once scheduled.

Kind regards,



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Elaine Whitefield & Douglas Anderson

02 March 2021

Central Planning Authority  
Government Administration Building  
Elgin Avenue  
Grand Cayman  
Cayman Islands

**RE: Application by Ergun Berksoy to Subdivide block 22D/320 & 22D/141 REM 12  
(the "Planning Application")**

1. I, Rachael Costa, am the owner of the property described as block 22D, parcel 148 (my "Property").
2. I have received notification that Ergun Berksoy has applied for permission to subdivide block 22D parcel 320 & block 22D parcel 141 REM 12 to create the following lots:
  - 1 canal lot ;
  - 23 canal lots;
  - 5 apartment lots (each of which will presumably cater to a number of apartments);
  - 51 regular residential lots;
  - 10 road lots;
  - 3 lots for public purposes; and
  - 1 neighbourhood commercial lot,

referred to as the proposed "Development". My Property is within 1,000 feet from the edge of the proposed Development.

3. I object to the proposed Development for the following reasons:
  - a. It will substantially change the character of the Red Bay area, which is predominantly single-family homes. I have lived in Grand Cayman my whole life (and in this neighbourhood for almost 30 years), and the proposed density increase of residents will be drastic and not at all within the normal growth of an already established neighbourhood.
  - b. One of the road parcels in the proposed Development is planned to abut directly against the property boundary of residential properties in Red Bay making it unsuitable for use as a road parcel.

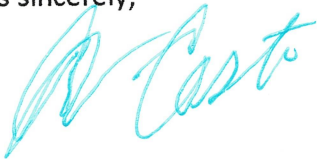


- c. It will destroy a large area of mangrove forest that serves to protect the entire Red Bay area. Red Bay requires the protection of the mangrove forest even more than is usually the case as it is the lowest lying and thinnest part of the island. The mangrove forest that covers the entire area planned for the proposed Development protect Red Bay not only in extreme weather events but also the normal seasonal rains which already flood much of the area.
- d. There is a lake, forming part of a larger wetland area within the area for the proposed Development, which the plans for the proposed Development show are intended to form part of a road parcel. Cayman's wetland areas are being lost at an astonishing rate, meaning the loss of essential habitat for Cayman's endemic birds, such as the West Indian Whistling Duck, which is protected under Cayman Islands law.
- e. The comments from the NRA show that the proposed Development will add over 5,000 additional cars to Shamrock Road, in the vicinity of Red Bay, every single day. This section of Shamrock Road is already utterly inadequate to support the level of traffic already in the area. The NRA says the proposed widening of Shamrock Road will mean it can support the proposed Development; however, increasing demand on an already failing system is not good practice. Given the poor traffic management in this area, it is reasonable to expect that the existing problem should be addressed by the NRA (by the widening of Shamrock Road or otherwise), the results monitored and only then, if it is shown that the problem has been addressed at the road system has more capacity, should the CPA consider approving an development that would create such a massive additional amount of traffic. Also, the connecting of the existing neighbourhood through Duke Way and Parrot Way will cause additional through traffic in an already busy entrance/exit on Selkirk Drive. Consider that we still have many vacant lots in Red Bay that will eventually be built on and have residents, the growth of the existing neighbourhood will naturally happen and all of those cars will be on the road as well.
- f. The comments from the Department of Environment state that they do NOT support the proposed extension of the canal going south-west into the parcel. I complete agree with their view as I have lived on the lagoon connected to that waterway. The stagnation issue, especially with such a long canal, will be a very real problem. Also the fact that the proposed canal looks to go about halfway between the existing canal system, and the South Sound, thereby making the narrowest part of the island, even more so, puts us all at risk during storms, and potentially risks seepage issues as well. Additionally, the waterways that lead out to the North Sound are not designed or capable to safely handle such a significant increase in boat traffic. The narrow canal, that the proposed additional canal would come off of, is already recently lined with a boat ramp to service the new "Mustique Cove" development. That parcel will be single family homes only, with covenants from what I

understand, and docks off of the seawall. This will already be a significant increase in boat traffic in these small and shallow waterways.

- g. The proposal of apartment lots, particularly on the water frontage directly across the canal from Mustique cove, and on the lagoon is totally outside of the normal density of the area. On this lagoon, there are presently only 3 families, all in our own homes, and one complex under construction with 12 units (on nearly 2 acres if I recall correctly.) To permit two apartment lots, capable of having over ONE HUNDRED units between them, would completely destroy the quiet and uncrowded lifestyle of the entire area. As there are now already several vacant lots at Musique Cove that will have family homes, growth will already gradually increase the number of waterfront residents. However, this growth would "max out" at a manageable amount, and in line with the design, history and feel of the entire neighbourhood. A potential 100 units, that can total several hundred rooms and residents, will be not only be over overcrowded, but it will overburden a waterway that serves as an access, an environmental aesthetic, and a VERY important part of wildlife refuge to the many birds mentioned before.
4. I strenuously object to the proposed Development and request the CPA, which is appointed to make sure developments like this that pose a risk to the local community are not undertaken or are undertaken with significant restrictions in place to ensure the local community is not disadvantaged and the Cayman Islands as a whole is able to flourish in a manner that is sustainable. As a multi-generational Caymanian, with roots going back over 200 years, I hope the CPA will make a decision that protects and sustains what is most important, our beautiful Cayman Islands, which have already given us so much and should be kept in balance for our Caymanians of tomorrow.

Yours sincerely,



Rachael Costa

**ERGUN BEKSOY (Whittaker and Walker) Block 22D  
Parcel 141REM12 and 320 (P20-0800) (\$5m) (JP)**

**Submissions on behalf of Mrs Diana Quin**

**Introduction**

1. These submissions are made on behalf Mrs Diana Quin (“Mrs Quin”) and her family who object to the above planning application. Mrs Quin is the owner of Block 23B Parcel 96 (“the Quin Property”), which lies adjacent to and immediately to the west of Block 22D/320 & 22D/141 REM 12 (“the Land”) owned by Mr Ergun Berksoy (“Mr Berksoy”).
2. Mrs Quin and, until his passing Mr Justice Charles Quin QC, has lived on the Quin Property for over 35 years as her residence. The Quin Property and the Land share a property boundary which runs through a permanent freshwater pond (“the Pond”) straddling the Quin Property and the Land. Enclosed are the following documents that show the location of the Pond:
  - a. Schedule 1 - an aerial photograph of the Quin Property and the Land with the boundary between the two superimposed, clearly showing the boundary line running through the middle of the Pond.
  - b. Schedule 2 – a survey of the Pond (referred to as a lake) prepared by Abernathy & Associates.
3. The Land extends to 53.04 acres and is undeveloped. It currently comprises an extensive area of mangroves, wetlands and both permanent and seasonal freshwater ponds, providing important habitat for a range of flora and fauna. The natural environment in this area was enhanced by the Quin family following a study conducted in 2010 with a view to encouraging the development of the Pond area into a bird sanctuary. A copy of that study is enclosed and marked Schedule 3. The study recommends the planting of 18 different species of native plants (and other introduced species) to encourage the proliferation of birds in the area. Following this study, planting and other steps were taken, resulting in a significant increase in the diversity of endemic plants in the area and in the number of endemic birds using the Pond area as their habitat.
4. Local Ornithologist, Patricia Bradley, has been working in the area of the Pond for a number of years and studying the birds using the Pond as its habitat. Enclosed and marked Schedule 4 is a letter from Ms. Bradley addressing the bird life in this wetland area. In that letter, Ms. Bradley confirms that:

*“[she is] very familiar with the Quin pond having advised, over 10 years, on the management of the site to increase invertebrates and plants to provide food and habitat for birds. The project has been a success resulting in a*

*highly biodiverse site with 5 species of heron feeding in flocks, one heron and 3 rails breeding and 2 flocks of WIWD raising young twice a year. The latter is a threatened species under international law, as the rarest duck in the Caribbean, and is protected in the Cayman Islands.”*

She goes on to address the vital importance of wetland areas such as those on the Land, stating:

*“Freshwater habitat is the most threatened ecosystem on Grand Cayman. It has declined over 95% in the western half of the Island due to intense development pressure in the last 20 years.”*

5. The Pond supports a breeding population of the endemic West Indian Whistling Duck which live mostly in swamps and marshes surrounded by abundant tree cover, particularly mangroves, but also other shallow, freshwater, brackish or saline ponds. The West Indian Whistling Duck is classed as a “near threatened” species on the Red List of threatened species held by the International Union for Conservation of Nature (“the IUCN”), whose range is now confined to the Cayman Islands, the Greater Antilles and the Bahamas, where only small populations exist. The IUCN estimates that in 2013 there were 360 – 650 breeding pairs on Grand Cayman<sup>1</sup>. A significant cause for its reduced numbers in Cayman, and elsewhere, is habitat destruction and the loss of mangroves, fresh and saline water bodies. One of the threats specifically identified by the IUCN to the West Indian Whistling Duck is residential and commercial development<sup>2</sup>.

## **Proposed Development**

6. The proposed development comprises the subdivision of the land to form 5 apartment lots, 1 neighbourhood commercial lot, 74 residential lots, 3 Land for Public purpose lots and 10 road lots (“the Proposed Development”). As part of the Proposed Development, Mr Berksoy intends to extend Princess St southwards to connect via a new junction to Shamrock Road (“the New Road”). The New Road is on an alignment that will cut directly through the Pond. The Proposed Development will result in the destruction of the existing mangroves and ponds (fresh and saline), the loss of the wetland area which is the most threatened ecosystem in the Cayman Islands, the loss of habitat for numerous native birds, at least one of which is near threatened and protected under law. In addition, the part of the Pond that is on the Quin Property will inevitably be destroyed if a road is built through that part of it that is on the Land.
7. The total additional traffic generated by the Proposed Development is estimated by the National Roads Authority to be 7,847 traffic movements per day. It is unclear what

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<sup>1</sup> See <https://www.iucnredlist.org/species/22679770/154611660#geographic-range>

<sup>2</sup> See <https://www.iucnredlist.org/species/22679770/154611660>

proportion of that traffic would use the New Road; however, the inadequacy of Shamrock Road to deal with even current traffic levels is well documented. The place at which this massive amount of additional traffic is anticipated to enter and exit Shamrock Road is the thinnest part of the Island and an area that every vehicle travelling from Prospect onwards out to the East Districts is required to pass.

8. In addition to the additional 7,847 traffic movements generated by this Proposed Development, this area of the Island will also experience a substantial increase in the volume of traffic generated by nearby developments in close proximity of this area, including (but not limited to): Indigo Bay, Aura, Paraiso, Grand Palmyra, Harbour Walk, Allure and Arvia, as well as possibly others that are still in the pipeline.
9. All those extra cars will necessarily have to use the Hurley's roundabout and a fair number of them will also add to the congestion in roads coming off the roundabout, such as South Sound Road for example, where there already are considerable problems which include:
  - a. high volume of traffic, including HGV traffic;
  - b. illegal parking around the roundabout that dangerously restricts visibility of oncoming traffic of local residents;
  - c. speeding and dangerous driving of cars entering and exiting the roundabout causing serious accidents;
  - d. lack of sidewalks or other areas for pedestrians to get around safely;
  - e. lack of crossings to enable pedestrians to cross the roundabout safely thus reducing the need for them to drive in already congested areas;
  - f. bad drainage and flooding problems on the slip roads, especially the area of South Sound Road nearest the roundabout which, combined with the absence of sidewalks and safe crossing and pedestrian areas, puts local residents at great risk and accidents and injury and inconvenience.
10. The above are but a few of the problems in these areas with an already failing road system infrastructure that will be exacerbated by allowing the Proposed Development to proceed.
11. The Hurley's roundabout area, including its slip roads, is already extremely congested and incredibly dangerous for drivers and pedestrians alike, with serious accidents occurring on a regular basis. Sometimes two or three accidents occur in the same day due to high volume of traffic and poor road safety measures and generally a lacking infrastructure.
12. Approval of a development that would add so many additional vehicles to a road system that is already unable to adequately accommodate current traffic levels and ensure that road users are kept safe is not good practice.

## **Procedural matters**

13. Notification of the planning application was sent via registered mail on 2 November 2020. We have been informed by the developer's agent that the notices were sent out to the proprietors of properties within 450 square foot of the boundary of the development. This means only properties one or two lots away from the boundary were notified, which is inconsistent with a development of this size, which will impact not only the entire Red Bay community but also communities in neighbouring districts, such as for example, Prospect and South Sound, as is shown in letters written by residents of these districts.
14. Following publication, Mrs Quin objected to the application and Proposed Development in her letter dated 24<sup>th</sup> November 2020 and supplemental letter dated 2<sup>nd</sup> February 2021.
15. On 4<sup>th</sup> February 2021, Broadhurst LLC wrote on her behalf to the Ministry of Commerce, Planning and Infrastructure making a Freedom of Information Request under s.7(1) of the Freedom of Information Law (2018 Revision) requesting, *inter alia*, any and all information and documentation relating to storm water management and traffic congestion in the Red Bay (particularly Shamrock Road) and all documentation relating to the planning application (including professional studies and/or construction drawings) ("the Request").
16. The Ministry has not yet complied with the Request. Clearly, the provision of the information and documents are critical to Mrs Quin being able to object to the Proposed Development on a fully informed basis and to determine the application before she has had an adequate opportunity to fully consider the application and supporting documents and information would be a plain breach of natural justice.
17. We request that consideration of this application be deferred until such time that we have received the documents requested under the FOI request, which we expect will occur sometime in March 2021.

## **Relevant statutory framework and policy**

18. Control over development is provided by s.13 of the Development and Planning Act (2021 Revision) ("the Planning Act") and the regulations made thereunder, which currently comprise the Development and Planning Regulations (2021 Revision) ("the Regulations").
19. S.13 of the Planning Act provides that, except where otherwise provided for by the Planning Act, permission shall not be granted which would result in a development at variance with the development plan.
20. The development plan is The Development Plan 1997 and comprises the planning statement ("the Planning Statement") and the zoning map ("the Zoning Map").



21. The Zoning Map designates land into different categories and sub-categories. The Land is designated as Neighbourhood Commercial (“NC”) and Low Density Residential.

22. The Planning Statement explains that its objectives are (emphasis added):

*“... to maintain and enhance the quality of life in the Cayman Islands by effectively directing development so as to safeguard the economic, cultural, social and general welfare of the people, and subject thereto the environment.”*

*The primary objective of the Development Plan is to maintain and enhance the Cayman Islands and the well-being and prosperity of its people subject thereto its environmental character. It is intended to define and develop a planning strategy for the Islands which is flexible enough in concept and implication to accommodate individual requirements, special circumstances and changing conditions...”*

23. In relation to the sub-division of land, the Planning Statement provides that the Central Planning Authority shall apply the subdivision of land provisions in the Planning Statement and other relevant provisions of the Planning Statement in a manner best calculated (emphasis added):

*“(1) to ensure that the layout and design of subdivision proposals are sensitive to a site’s physical and environmental characteristics;*

*(2) make the most efficient use of land designated for the intended purposes; and*

*(3) prevent the unnecessary fragmentation of large tracts of open plan.”*

24. In addition to the Planning Act and Regulations, the National Conservation Law (2013) (the “Conservation Law”), amongst other things, protects and conserves endangered, threatened and endemic wildlife and their habitats. S.41 of the Conservation Law provides:

*“41. (1) Subject to subsections (2), (3) and (4), every entity shall comply with the provisions of this Law and shall ensure that its decisions, actions and undertakings are consistent with and do not jeopardise the protection and conservation of a protected area or any protected species or its critical habitat as established pursuant to this Law.”*

(2) *For the purposes of subsection (1) the Council shall formulate and issue guidance notes to entities on their duties under this Law, and any action taken in full accordance with such guidance shall be deemed to be in compliance with this Law.*

(3) *Every entity shall, in accordance with any guidance notes issued by the Council, consult with the Council and take into account any views of the Council before taking any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect on the environment generally or on any natural resource.*

25. Section 15 of the Conservation Law provides that the species of wildlife listed in Parts 1 and 2 of Schedule 1 to the Conservation Law are protected. Schedule 1 identifies species protected at all times (except for those listed in Part 2) and Part 2 only exempts Blue-winged teal and White-winged doves from protection. Consequently, West Indian Whistling Duck is a protected species.

26. Section 43 of the Conservation Law provides that in any consultations pursuant to s.41(3), the Council may, in its discretion and within such times as it may specify, require an environmental impact assessment to be carried out of the proposed action. Where required, s.43(2) of the Conservation Law provides that an environmental impact assessment shall (emphasis added):

*“(a) assess the proposed action having regard to its direct, indirect and cumulative impact and the need to –*

*(i) protect and improve public health and social and living conditions;*

*(ii) preserve natural resources, ecological functions and biological diversity;*

*(iii) protect and conserve protected areas and conservation areas;*

*(iv) protect and conserve protected, endemic and migratory species and their habitats; and*

*(v) avoid any adverse effects of climate change on the quality of the environment;*

*(b) be carried out by a person approved by the Council; and*

(c) *comply with any directives of the Council and regulations made under this Law.*”

27. The National Conservation Council has issued Directive for Environmental Impact Assessments (“the Directive”) under s.3(12(j) of the Conservation Law which provides that all activities listed in Schedule 1 will be considered against the screening criteria in sections 1 to 3 of Schedule 1 to see if an environmental impact assessment is required. It further provides that the assessment of proposals and preparation of the Screening Opinion has been delegated by the NCC to the Department of the Environment. Schedule 1 to the Directive includes both the “Subdivision of Land” and “Large scale residential developments” as being activities which will be considered against the screening criteria in order to determine whether environmental assessment is required.
28. Returning to the Regulations, regulation 9(8) provides that in low density areas, apartments are permissible provided they meet certain criteria. Applications for subdivision made under regulation 23 of the Regulations are required to be accompanied by a statement as to certain matters, including road specifications and drainage. Further, regulation 29 requires that where land is adjacent to the sea, a canal or an inland waterway, the finished floor level of all buildings on the land shall be at least seven feet above mean sea level; and where land is in any other location, at least five feet above mean sea level.
29. In addition to the statutory framework and policies, the Central Planning Authority pursuant to s.5(1) of the Planning Act has drafted a consultation draft of the National Planning Framework (“the Framework”). The Framework consists of 12 sections with each section containing “goals”, “objectives” and “actions”. Section 3, “Zoning” in relation to residential zones includes the following (emphasis added):

**“Goal 2:**

***Ensure residential subdivision is well designed and protects  
naturel resources.***

***Objective 1: Residential subdivision design shall embrace Grand Cayman’s natural environment by retaining natural vegetation, key landscape features, and environmentally significant elements while controlling and retaining storm-water runoffs and protecting property from flood damage.***

***Action Items***

- *Create design standards for new subdivision developments which take into consideration existing landscaping, permeability, variety and connectivity with surrounding developments.*

- *Update subdivision requirements to require a master grading plan and drainage plan.*
- *Require the submission of a tree, native plant, and habitat survey with all subdivision applications.*
- *Require developers to construct sidewalks that are sensitive to topographical and vegetative features prior to final approval of the housing scheme or subdivision.”*

30. Section 9 of the Framework is concerned with “Natural Resources” and contains extensive guidance in relation to the preservation of the environment. As regards “Natural Habitats”, the Framework in Section 9 says:

*“All over the world mangrove forests are now recognised as environmentally valuable, productive biological communities that are essential to the health, welfare and safety of the people who live in and around them. In their natural state mangrove wetlands perform a variety of functions including:*

- *Storm protection and flood mitigation;*
- *Shoreline stabilization and erosion control;*
- *Groundwater recharge;*
- *Retention of sediments and pollutants;*
- *Export of organic matter to coastal areas;*
- *Stabilization of local climate conditions, particularly rainfall and temperature; and,*
- *Provision of nursery grounds and habitat for a variety of marine and terrestrial species.*

*In Cayman the protection of these ecologically important areas currently falls under Section 3.08 of the Development Plan 1997 and Section 18 of the Development and Planning Regulations (2017 Revision). Certain Crown-owned areas, which includes some mangroves, are protected under the National Conservation (Protected Areas) Order 2017. No other legislation exists for the protection of mangroves. This notwithstanding, Cayman is party to the Convention on Wetlands of International Importance (“Ramsar*

*Convention”) which places an obligation on contracting parties to formulate and implement their planning so as to promote the conservation and wise use of all wetlands in their territory. The Convention defines wise use of wetlands as “their sustainable utilisation for the benefit of humankind in a way compatible with the natural properties of the ecosystem.*

*Mangroves are not the only vegetation that require protection.*

- *Natural ponds and pools support a variety of unique species and are important for resident and migratory birds...*

31. As regards goals, objects and actions, Section 9 provides (emphasis added):

***“Goal 1:***

***Protect the Island’s natural resources which directly and indirectly contribute to the general public welfare***

***Objective 1: Minimise the impact of major developments on the environment.***

***Action Items***

- *Ensure that major developments are evaluated against appropriate environmental review standards and processes.*

***Objective 2: Preserve or mitigate for the loss of important vegetation.***

***Action Items***

- *Develop a comprehensive tree survey of all trees that contribute to the character of specified areas or are of historical importance and develop rules and guidelines for the protection of these trees.*
- *A tree, native plant, and habitat survey should be undertaken and submitted with all subdivision applications.*
- *Create an adopt-a-tree program to allow additional planting in public spaces.*
- *Review, strengthen, and revise, where necessary, the current native tree preservation law.*

***Objective 3: Minimise the impact on natural ecosystems and biologically diverse areas found within development sites.***

***Action Items***

- *Establish design requirements and mitigation measures to promote the protection of ecosystems, biologically diverse land, and natural habitats.*
- *Develop and adopt mitigation policies for developments that destroy, reduce, or diminish the quality of natural habitats.*
- *A site habitat survey should be submitted with all applications for new development which meets specific thresholds.*

32. The importance of mangrove is reflected in the NCC’s Species Conservation Plan for Mangroves (which are also protected by Part 2 of Schedule 1 of the Conservation Law) which states:-

*“However within the Cayman Islands, mangrove loss has been so extensive over recent decades that it triggers local Red-Listing criteria. In 2008 the Cayman Islands national IUCN Red List status of Black Mangrove was assessed as Endangered, White Mangrove and Buttonwood both as Vulnerable, and Red Mangrove as Near-Threatened.*

*The Ramsar Convention (1971) has been extended to the Cayman Islands, requiring a commitment to work towards the wise use of our mangrove and other wetlands through national plans, policies and legislation, management actions and public education.”*

33. Under “Ecology and Threats”, the Plan says:

*“In the Cayman Islands, the four mangrove species dominate and form the framework for mangrove ecosystems in tidally flooded and seasonally flooded wetlands. They grow on peat substrates laid down by the mangroves themselves, forming forests and shrublands, with the species occurring alone and in various combinations depending on local patterns including geographic setting, peat depth, salinity, flooding, hurricane history and nutrient availability.*

*These mangrove communities support a diverse fauna, notably including crustaceans, insects and birds. During spring tides and periods of heavy rain they export nutrients to adjacent lagoons and sounds, supporting marine life including a highly diverse and productive fish nursery zone where the*



mangroves interface with the sea. In the Cayman Islands and elsewhere, mangroves are noted for their role in shoreline protection, carbon sequestration and storage, filtering of sediment and pollutants, and as habitat for threatened species.

The dominant threats to mangroves in the Cayman Islands include the continuation of practices involving conversion of mangrove ecosystems into artificial environments for various human uses.”

34. Section 3 of the Conservation Plan identifies conservation objectives and states:

*“The primary objective of this Conservation Plan is to ensure that the ecological benefits the mangroves provide to humans and the environment generally are allowed to continue, by ensuring that:*

...

- *Coastal and inland mangroves throughout the Cayman Islands continue to capture and store greenhouse gasses through deposition of peat while sea level and groundwater levels rise”*

### **Impacts of the Proposed Development**

35. It is clear that the Proposed Development will have a range of adverse impacts relating to ecology, flooding and traffic each of which is considered in more detail below.

#### ***Ecology***

36. In its comments to the application, the Nature Conservation Council (“the NCC”) has advised that the Proposed Development “*will result in the loss of mangroves and their ecological function*” and that “*any mangroves in the buffer should be retained*”. The NCC also does not support the extension of the canal because of poor water quality in the area and the absence of any flushing or circulation.
37. Notwithstanding the absence of any ecological surveys of the Land or environmental assessment of the Proposed Development it is clear that the development of the Land will require the existing mangroves and vegetation to be cleared and will have a significant adverse impact on the ecological importance of the area. This is particularly evident in relation to the Pond where the construction of the New Road will substantially reduce the size of the Pond to the detriment of the wildlife it supports, including the endemic West Indian Whistling Duck which is protected under the Conservation Law.

38. Although zoned for Low Density Residential development in the Development Plan and on the Zoning Map, the Proposed Development fails to ensure that the layout and design is sensitive to the Land's physical and environmental characteristics, contrary to the Planning Statement. Further, the destruction of the mangroves and impact on wildlife is contrary to the Framework's goals and objectives which are aimed at minimising the impact of development and on natural ecosystems, including through undertaking habitat surveys in order to understand what the effects of development are likely to be, none of which have been undertaken.
39. Given the current extent and status of the Land as largely mangrove and the likely impact of the Proposed Development on the Land the application should not be considered by the Central Planning Authority without the NCC requiring Mr Berksoy to undertake an environmental impact assessment pursuant to s.43 of the Conservation Law. The Proposed Development clearly falls within two of the activities in Schedule 1 to the Directive (i.e. the subdivision of land and large scale residential development) to require it to be screened and it would be surprising if an environmental impact assessment was not required. At the very least, the application should not be considered further until the Proposed Development has been screened in accordance with the Directive.
40. In addition to the clearance of the existing mangrove, it is plain from the fact that the Land is already prone to seasonal flooding that significant land raising is required to address the risk of flooding to the proposed buildings and roads which will have a further detrimental effect on ecology.

### ***Flooding***

41. The Red Bay area is already prone to flooding and there is a very real risk that the extent of the land raising will exacerbate the situation. Therefore, the Central Planning Authority should not grant planning permission for the Proposed Development without first requiring a comprehensive drainage plan to be provided demonstrating that surrounding properties and nearby public roads are not adversely affected by runoff from the Land.

### ***Traffic Impacts***

42. The total additional daily traffic generated by the Proposed Development is estimated to be 7,847. The total AM peak traffic movement are estimated to be 301 with 704 total PM peak movements. The additional traffic will add to the existing congestion on the local road network and adversely impact on the safety of Shamrock Road. There appears to have been no assessment as to what the impact of the Proposed Development will be on the operation of existing road junctions or the additional delay that will be caused. There is no safety audit of the junction of the New Road and Shamrock Road which would be in close proximity to a school zone.

43. While there might be an intention to widen Shamrock Road (which may or may not be sufficient to address the existing issues and the additional traffic that will be generated by this Development, if permission to proceed is granted), this does not address the bottle neck at the Hurleys roundabout which all traffic east coming from east of that junction must pass to gain access to George Town and the Western Districts.

### **Other matters**

44. The proposed Neighbourhood Commercial use is shown on the application's Site Plan as comprising 4.17 acres. However, 1.72 acres of this lot are shown as being within the Low Residential Zone. Therefore, this element of the Proposed Development is inconsistent with the Development Plan and the Zoning Map. This means a variation will be required to allow the area of LDR land to be used for neighbourhood commercial purposes and will need to be advertised in advance of consideration of any such variation.
45. It appears the proper setbacks for the extension of Princess Street have not been taken into account. Currently, the plans show Princess Street being built through the middle of the Pond right up against the boundary between the Property and the Quin Property, with no set back from the boundary. While the Roads Law does not stipulate the applicable setbacks for Roads, it is not appropriate for a road parcel to be created directly abutting the boundary to a residential property in a low-density-residential area. This applies *a fortiori* where the New Road in this case is anticipated to have very heavy traffic flow. A mangrove buffer zone between the edge of the Pond and the new road parcel would go some way to addressing this issue, preserving the ecology of the area and providing the mangrove buffer zone anticipated by the Development Plan.
46. The community in the Red Bay area and further afield are extremely concerned about this proposed development. Enclosed and marked Schedule 5 are letters of objection to this sub-division application from members of the Red Bay community and from residents of neighbouring districts that would also be affected by the Proposed Development if it were to be approved. The first of those letters is from the Red Bay Community action group. We invite the members of the CPA to take the views of the community in which this development is proposed into account in making a decision on this application, which will ultimately pave the way for a subsequent application for development.

### **Conclusion**

47. The Proposed Development will result in the loss of an extensive area of mangrove and reduce the size of the Pond. In doing so it will have a substantial adverse effect on the ecology of the area and, in particular the West Indian Whistling Duck. It will also exacerbate flooding and add to traffic congestion in the area. There is a complete lack of supporting information and/or studies assessing the extent of those impacts.

48. The documents and information requested under a Freedom of Information Request made by Mrs Quin have yet to be provided and it would be a breach of natural justice for the application to be considered and determined before those documents/information have been received and she has had a reasonable opportunity to consider them and make further representations and/or objections.
49. In any event, the magnitude of the potential impact is such that the Central Planning Authority should not consider the application further until the application has been screened to see whether it requires environmental assessment and a habitat survey, a traffic impact assessment and storm drainage assessment have been provided. Given this development is at the narrowest part of the Island, through which all traffic travelling between the Eastern Districts and either the Western Districts or George Town must pass, it will impact a significant portion of the population. In these circumstances, public consultation in an area wider than the immediate vicinity of this project is appropriate.
50. Should the Central Planning Authority proceed to determine the application on 17<sup>th</sup> of March 2021, the only reasonable decision would be to refuse it.

**Dated 3 March 2021**

**John Litton QC and Kate McClymont of Broadhurst LLC  
(For and on behalf of Mrs Diana Quin)**



[Add Map Title]



Legend

2/1/21 10:46 AM  
1:1,128



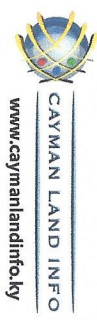
Notes  
[Add Map Notes]



Generated from Cayman Survey Department and is for reference only. Sizes shown on this map may vary from actual sizes. Boundaries are indicative only. Refer to the individual parcel survey for the correct information.

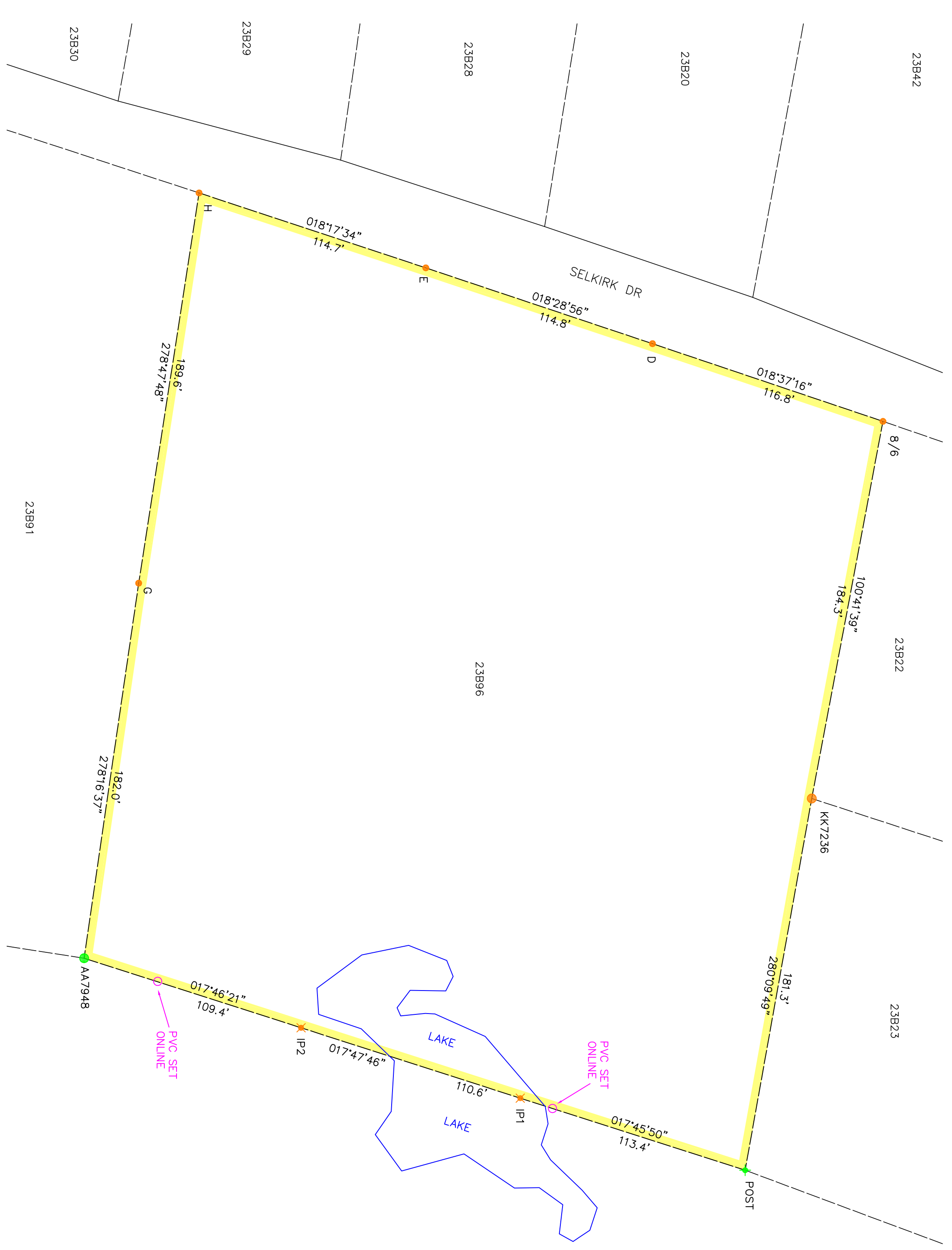
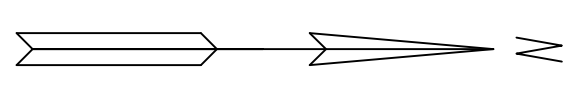


Lands and Survey Department © Cayman Islands Government

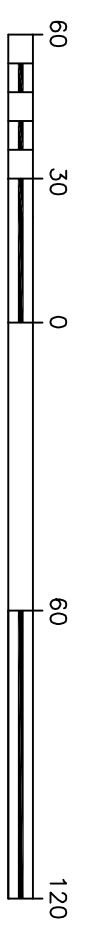




# BOUNDARY INVESTIGATION ON BLOCK 23B, PARCEL 96



22D141REM12



SUBJECT PARCEL BOUNDARIES		SURVEYED BOUNDARIES	
Fence, Wall, Kerb	— F W K —	Fence, Wall, Kerb	— F W K —
Water (MHWM) (Other)	— W —	Water (MHWM) (Other)	— W —
Demarcated	— D —	Demarcated	— D —
Undemarcated	— U —	Demarcated	— D —
Bluff (Top, Bottom)	— T B —	Bluff (Top, Bottom)	— T B —

EXISTING		NEW	
Private R.O.W.	.....	Private R.O.W.	.....
Public R.O.W.	+++++	Public R.O.W.	+++++

The positions of dubbing boundaries are indicative only and should NOT be scaled.  
**BOUNDARIES TAKEN FROM REGISTERED SURVEYS 03/249, 085793 & 08254**

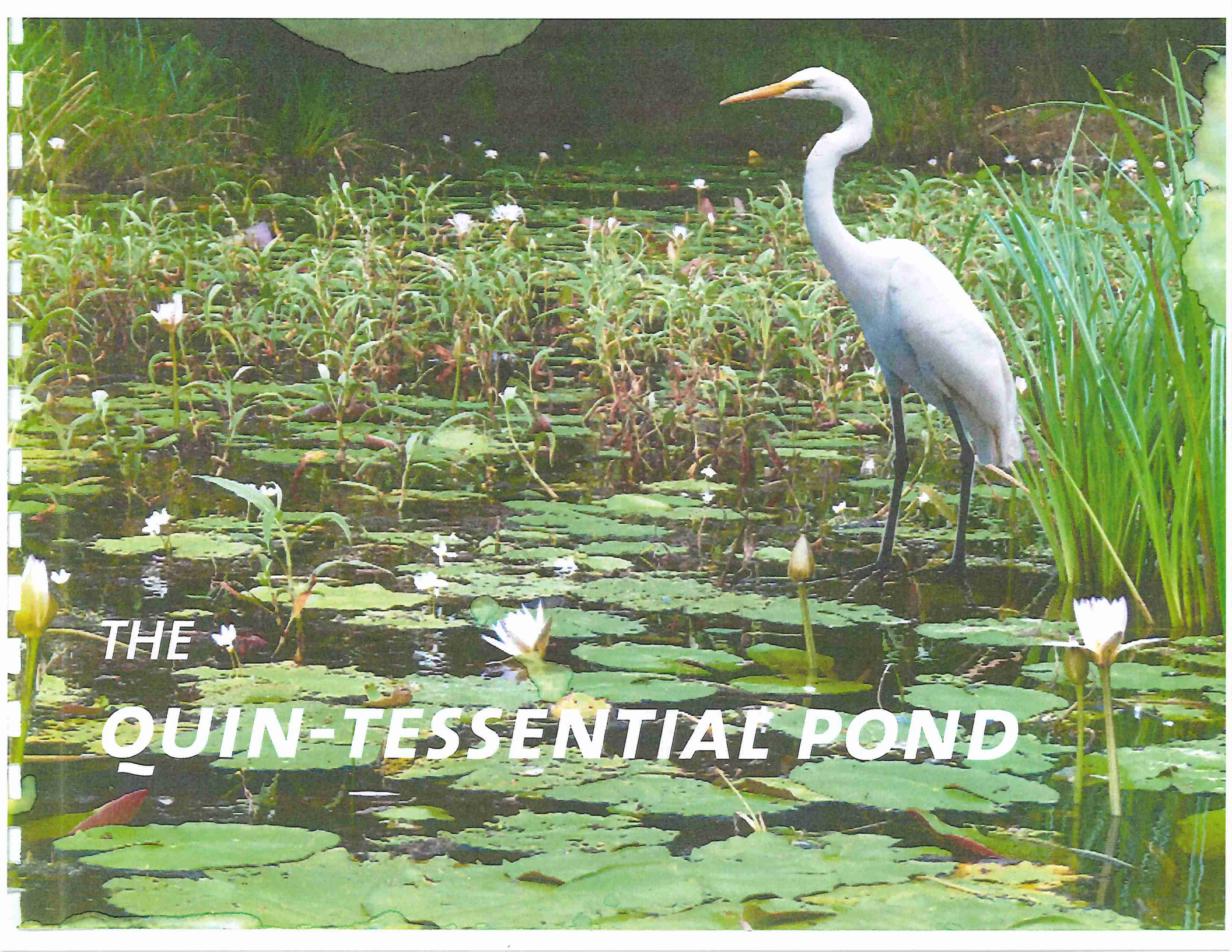
**ABERNETHY AND ASSOCIATES LTD.**  
 LICENSED LAND SURVEYORS  
 P.O. BOX 11134 GRAND CAYMAN, KY1-1008  
 PH. 947-1582 CEL. 925-2816  
 DRAWING # 21051M

Surveyor: .....  
 Date: .....

NEW	OLD	ADOPTED	DESCRIPTION
○	●	●	Iron Pin in Concrete
⊗	⊗	⊗	Iron Pin
○	●	●	IPC with Kap
⊕	⊕	⊕	Post
□	■	■	Concrete Monument
☆	☆	☆	Theoretical Point
★	★	★	Tree
▲	▲	▲	Control IP or Nail
△	△	△	Control IPC
⊙	⊙	⊙	Control IPC Brass Mark
⊗	⊗	⊗	Topographical Fix
⊕	⊕	⊕	Seawall Band
×	×	×	Magnall in Cover

TOPOGRAPHIC INFORMATION	
	Building
	Building (open sided)
	Building (open sided) (Eaves & Gutters)
	Concrete slab
	Wall
	Fence
	Kerb
	Edge of formation
	Footpath, Dyke, Track
	Utility Pole
	Cistern
	Well
	Canal
	Water line
	Ironshore formation
	Slope
	Sand
	Tree
	Hedge





*THE*  
**QUIN-TESSENTIAL POND**



*TRANSFORMING A  
WILD SWAMP*  
INTO A  
BIRD SANCTUARY

CHEZ QUIN

*Margaret Barwick*

GRAND CAYMAN

2010

**BRIEF:**

*We have this large area of swampy land at the rear of our property - what can we do with it?  
Most of the property is very low-lying but luckily the water and the soil is almost salt free.....  
Before Ivan there were many large trees but they were destroyed by the high winds and flood....  
My dream is to create a sanctuary for birds ....'*





#### **THE BEGINNING:**

*One weekend excavations were begun with a back-hoe digging and scraping to a depth of about 2.5ft - even deeper in places.*

*As the swampy land was sculpted, some parts were built up and left to be planted.*

*Heavy marl made it difficult to dig in many areas but, little by little, a largish pond was formed and, as the water table adjusted to the new levels... some curious egrets came to to investigate..... and we began to dream....*





## ACHIEVE OUR GOALS

• excavation is desirable -perhaps even necessitating a hydraulic hammer drill attachment to loosen the marl or rock..  
• depth of 2.0' to 2.5' could be achieved over the main body of water, it may prevent the pond from drying up completely in times of sustained drought.  
• enable the planting, 'island', mounds of soil 2.5' to 3.0' need to be created. Excavated material can be used as well as purchased soil.  
• should provide sufficient depth for large trees and palms. Water-loving plants can then be planted into the shallow banks.



8







**ADISE REGAINED:**

*Using native, wild and easily-grown, water-loving plants, a naturalistic habitat could be created without great expense. Even here (although an exaggerated fantasy), is a lush lagoon providing an environment to delight both birds and homo sapiens. Reference pages that follow, illustrate examples of suitable plant material chosen for availability and ease of culture. Many are native and could be won from the wild; some grow in the surrounding garden already...*









TREES & PALMS  
FOR SWAMP

*Bambusa lako*  
'BLACK BAMBOO'

*Bambusa oldhamii*  
'OLDHAM'S BAMBOO'

*Bambusa textilis*  
'WEAVER'S BAMBOO'

*Bambusa vulgaris*  
'WAMIN'

*Bursera simaruba* *native*  
'RED BIRCH'

*Caryota mitis*  
'FISHTAIL PALM'

*Clusia rosea* *native*  
'AUTOGRAPH TREE'

*Cocos nucifera* *wild*  
'COCONUT'

*Dracaena reflexa*  
'PLEOMELE'

*Ficus aurea* *native*  
'WILD FIG'

*Guapira discolor* *native*  
'CABBAGE TREE'

*Musa acuminata*  
'BANANA'



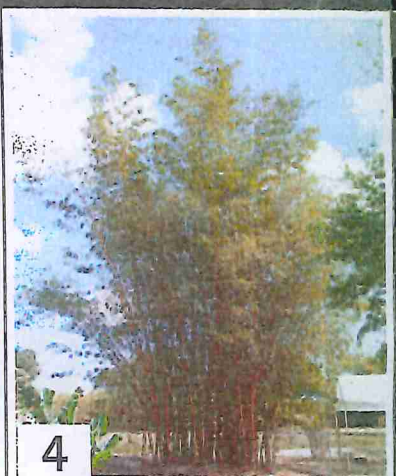
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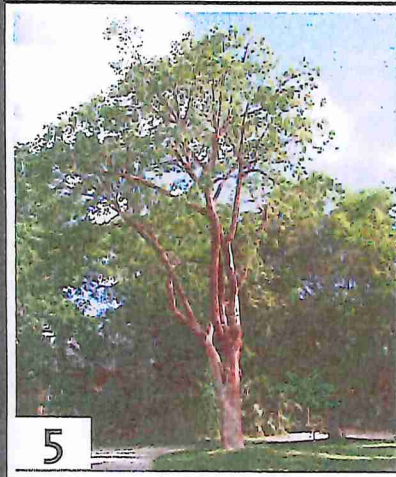
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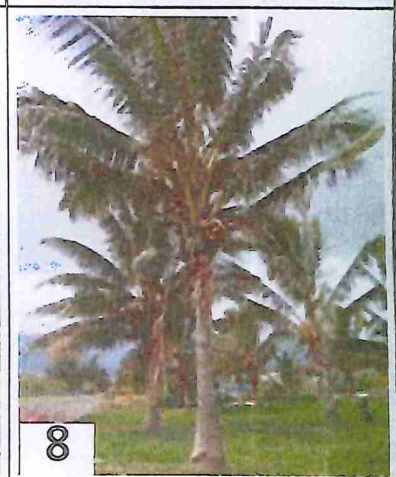
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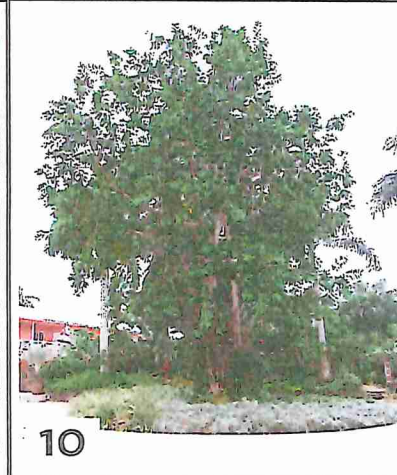
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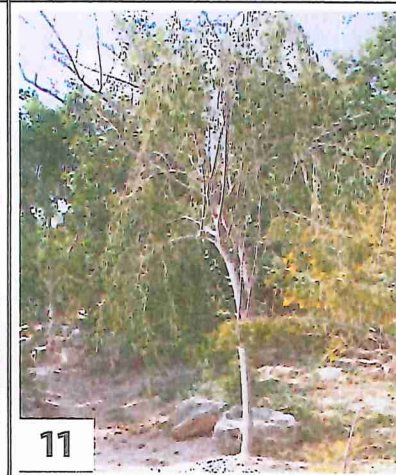
8



9



10



11



12



# TREES, SHRUBS & LARGE-PLANTS FOR SWAMP

1. *Pandanus veitchii*  
'SPINELESS SCREW PINE'



2. *Pandanus utilis*  
'SCREW PINE'



3. *Pyrochloa elegans*  
'SOLITAIRE PALM'



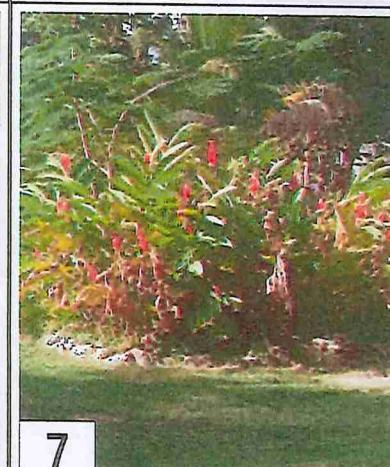
4. *Roystonea regia* *native*  
'ROYAL PALM'



5. *Strelitzia nicolae*  
'WHITE BIRD OF PARADISE'



6. *Thespesia populnea* *native*  
'POPNUT'



7. *Alpinia purpurea*  
'RED GINGER'



8. *Alpinia zerumbet*  
'SHELL GINGER'



9. *Canna indica*  
'WILD CANNA'



10. *Clusia guttifer*  
'SMALL-LEAF CLUSIA'



11. *Costus woodsonii*  
'RED BUTTON COSTUS'

12. *Crinum americanum*  
'SWAMP LILY'



SHRUBS & GROUND-COVERS  
FOR SWAMP

*Crinum asiaticum*  
'GIANT LILY'



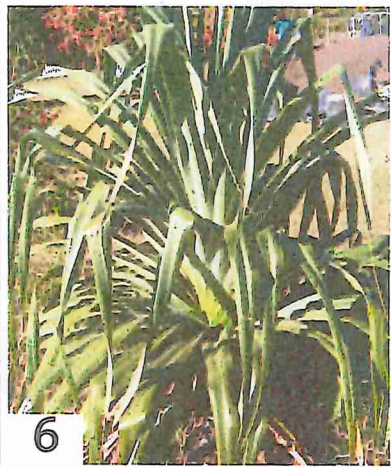
*Heliconia caribaea*  
'GIANT HELICONIA'



*Heliconia stricta*  
'DWARF JAMAICAN'

*Monstera deliciosa*  
'DELICIOUS MONSTER'

*Pandanus baptistii*  
'VARIEGATED PANDANUS'



*Pandanus veitchii*  
'SPINELESS PANDANUS'

*Thyrsanolaena maxima*  
'TIGER GRASS'

*Zingiber zermubet*  
'SHAMPOO GINGER'

*Arachis glabra*  
'CREEPING PEANUT'



*Callisia fragrans* native  
'BASKET PLANT'

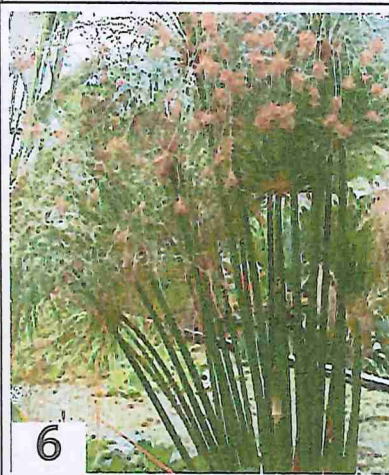
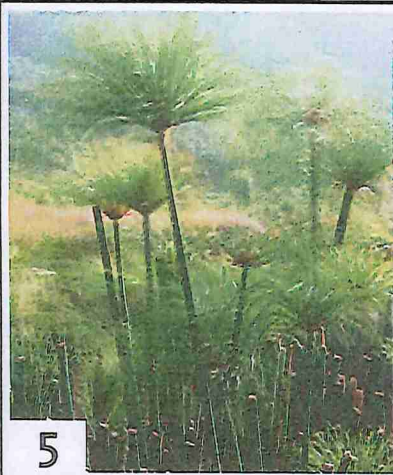
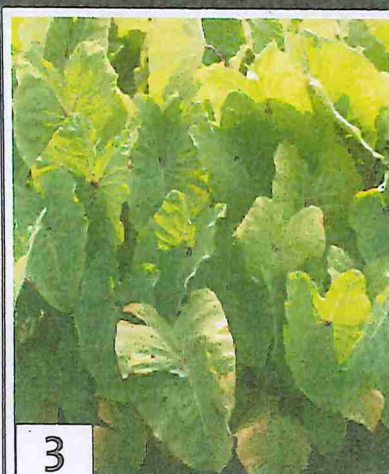
*Hymenocallis littoralis* native  
'SPIDER LILY'

*Microsorium scolopendrum*  
'WART FERN'



## WATER PLANTS FOR SWAMP

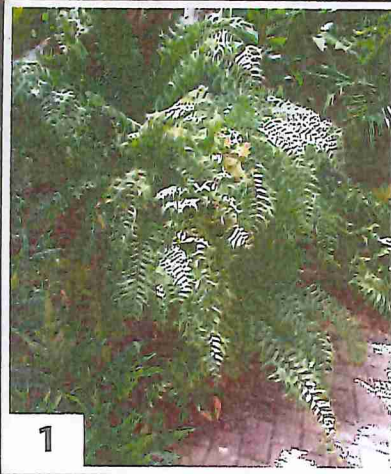
1. *Alocasia portei*  
'PERSIAN PALM'
2. *Colocasia esculenta* var.  
'FONTANESI'
3. *Colocasia esculenta* var.  
'ELENA'
4. *Cyperus alternifolius* *wild*  
COMMON POPYRUS'
5. *Cyperus isocladius*  
'DWARF POPYRUS'
6. *Cyperus papyrus*  
'POPYRUS'
7. *Nelumbo nucifera*  
'SACRED LOTUS'
8. *Nymphaea capensis* var.  
'LAVENDER WATER-LILY'
9. *Nymphaea capensis* var.  
'PINK WATER-LILY'
10. *Nymphaea ampla* *native*  
'WILD WATER-LILY'
11. *Nymphoides indica* *native*  
'SNOWFLAKE LILY'
12. *Osmunda regalis*  
'ROYAL FERN'





GROUND-COVERS & WATER PLANTS FOR SWAMP

*Nephrrolepis biserrata* 'Furcans'  
FISHTAIL FERN'



1

*Nephrrolepis biserrata*  
MACHO FERN'



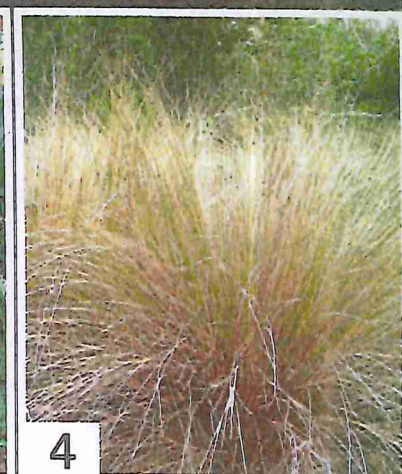
2

*Sansevieria trifasciata* *native*  
'MOTHER-IN-LAW'S TONGUE'



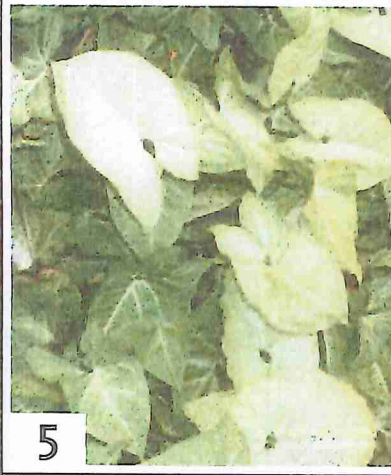
3

*Spartina bakeri*  
'SAND CORD GRASS'



4

*Syngonium podophyllum* var.  
WHITE BUTTERFLY'



5

*Trimezia martinicensis*  
WALKING IRIS'



6

*Wedelia triloba* *native*  
WILD MARIGOLD'



7

*Xiphidium caeruleum*  
DOVE'S TAIL'



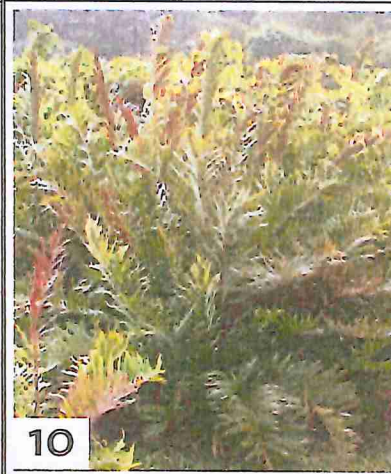
8

*Acrostichum aureum* *native*  
SWAMP FERN'



9

*Acrostichum danaeifolium* *native*  
FINE LEAF SWAMP FERN'



10

*Alocasia macrorrhiza*  
GIANT TARO'



11

*Alocasia odora*  
ELEPHANT EAR'



12



## WATER PLANTS FOR SWAMP

1. *Pontaderia cordata*  
'PICKEREL RUSH'
2. *Sagittaria lanciifolia* fls. **native**  
'ARROWHEAD'
3. *Sagittaria lanciifolia* **native**  
'ARROWHEAD'
4. *Typhonodorum lindleyanum*  
'WATER BANANAS'





**THE FUTURE:**

*to complete the project, it would be desirable to 'connect' the surrounding garden to the swamp or pond - to drift sympathetic plantings to complete the naturalistic quality of habitat.... so that it doesn't miraculously begin at the edge of the swamp but emerge from the existing garden and flow naturally into the swamp.*

*To this end, it will be necessary to plant groups of trees and shrubs around the 'shores' of the swamp.*

*A last desirable element could be to construct a simple, rustic boardwalk around the perimeter of the pond, from island to island, to provide access.*

*Dream on my dears.....*

## TREES PALMS

<i>Bambusa lako</i>	'BLACK BAMBOO'	very desirable; not available on island but worth finding	division
<i>Bambua textilis</i>	'WEAVER'S BAMBOO'	very desirable; not available on island but worth finding	division
<i>Bambusa vulgaris</i>	'GOLDEN BAMBOO'	fairly common on island - worth seeking out	division
<i>Burseras simaruba</i>	'RED BIRCH'	large trees or limbs may be planted easily	search <b>BR</b>
<i>Caryota mitis</i>	'FISHTAIL PALM'	fast-growing - big bang for bucks	buy locally <b>PF OR PATRICK P.</b>
<i>Clusia rosea</i>	'AUTOGRAPH TREE'	slow-growing but indestructable native	buy locally
<i>Cocos nucifera</i>	'COCONUT PALM'	a must-have - at least 7 of them	search
<i>Dracaena reflexa</i>	'PLEOMELE'	excellent, indestructable plant for size and bulk	buy locally
<i>Ficus aurea</i>	'WILD FIG'	huge, fast-growing native - good fruit for birds	in the wild
<i>Guapira discolor</i>	'CABBAGE TREE'	must-have, elegant, weeping native - good fruit for birds	Bot Gardens <b>BC</b>
<i>Musa acuminata</i>	'BANANA'	bulky, handsome and fruitful	division
<i>Pandanus veitchii</i>	'SCREW PINE'	very large cuttings taken from existing specimen	very large cuttings
<i>Pandanus utilis</i>	'COMMON SCREW PINE'	slow-growing but worth it	large cuttings
<i>Ptychosperma elegans</i>	'SOLITAIRE PALM'	elegant, slender, fast-growing	buy locally
<i>Roystonea regia</i>	'ROYAL PALM'	this native is a natural choice for swamp conditions	buy locally <b>PF OR PP</b>
<i>Strelizia nicolae</i>	'WHITE BIRD OF PARADISE'	excellent, fast-growing, care-free, large plant	division <b>NICOLA - EXPENSIVE</b>
<i>Thespesia populnea</i>	'POPNUT'	nativ, swamp-loving, fast-growing tree	large cuttings <b>RB.H.</b>

## SHRUBS LARGE PLANTS

<i>Alpinia purpurea</i>	'RED GINGER'	already growing in the garden - plant near the shore	division - LBH
<i>Alpinia zerumbet</i>	'SHELL GINGER'	forms massive, lush clumps	division
<i>Canna indica</i>	'WILD CANNA'	good foliage, easy to grow, bright, natural-looking flowers	easy from seed
<i>Clusia guttifera</i>	'SMALL-LEAF CLUSIA'	indispensible large, tough, dark-green shrub	buy locally B G.
<i>Costus woodsonii</i>	'RED BUTTON COSTUS'	easy to grow, lowish key - plant near shores	division
<i>Crinum americanum</i>	'SWAMP LILY'	should do very well - grow in large clumps	division
<i>Crinum asiaticum</i>	'GIANT LILY'	very similar to above - slow but classic swamp plant	division
<i>Heliconia caribaea</i>	'GIANT HELICONIA'	superb for background effect	Kaykay Hunter
<i>Heliconia stricta</i>	'JAMAICAN DWARF'	plant nearer shores - a superb species	Kaykay Hunter
<i>Pandanus baptistii</i>	'VARIEGATED PANDANUS'	I prefer the plain green, but a good plant	large cuttings RBH
<i>Pandanus veitchii</i>	'SPINELESS PANDANUS'	an invaluable plant for filler and background use	large cuttings
<i>Thyrsolaena maxima</i>	'TIGER GRASS'	an absolute MUST! Plant at least 5 of them	division - Bot Gardens
<i>Zingiber zerumbet</i>	'SHAMPOO GINGER'	maybe difficult but could be fun to try	search



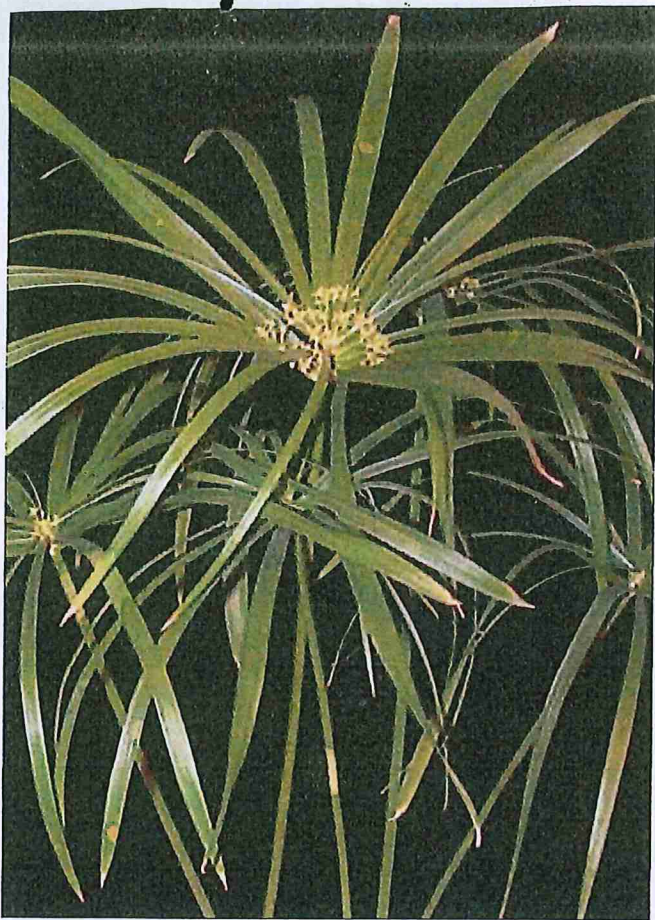
## GROUNDCOVERS

<i>Arachis glabra</i>	'CREEPING PEANUT'	fast-growing ,fine deep green carpeting groundcover	cuttings
<i>Callisia fragrans</i>	'BASKET PLANT'	very easy, fast-growing, coarse-textured native	pieces
<i>Hymenocallis littoralis</i>	'SPIDER LILY'	rather slow but worth it! In large clumps	East End beaches
<i>Microsorium scolopendrum</i>	WART FERN'	good, hardy, creeping fern cover	division
<i>Nephrolepis biserrata var.</i>	'FISHTAIL FERN'	pretty, easy to grow - plant in fluffy clumps	division
<i>Nephrolepis biserrata var.</i>	'MACHO FERN'	excellent but a thug - you already have it	division RBH
<i>Sansevieria trifasciata</i>	'MOTHER-IN-LAW'S TONGUE'	excellent but a thug - you already have it	division RBH
<i>Spartina bakeri</i>	'SAND CORD GRASS'	fine, but tough, sturdy fountain-like grass to hold banks	division PF or ? CANW
<i>Syngonium podophyllum</i>	'WHITE BUTTERFLY'	very easy and durable for shady spots	cuttings
<i>Trimezia martinicensis</i>	'WALKING IRIS'	plant near water in large masses near water	division PF
<i>Tripsacum dactyloides</i>	'FAKAHATCHEE GRASS'	a must for naturalistic effect	division ✓
<i>Wedelia triloba</i>	'WILD MARIGOLD'	tried and true - you already have it - good stabiliser	cuttings
<i>Xiphidium caeruleum</i>	'DOVE'S TAIL'	gentle and very, effective in large masses	Bot Garden

# WATER PLANTS

<i>Acrostichum aureum</i>	'COMMON SWAMP FERN'	common native; very worthy	local freshwater swamps <i>IBH</i>
<i>Acrostichum danaeifolium</i>	'FINE-LEAF SWAMP FERN'	less common native; very worthy	local freshwater swamps
<i>Alocasia macrorrhiza</i>	'GIANT TARO'	superb giant water plant - a must if you can find it	search
<i>Alocasia odora</i>	'ELEPHANT EAR'	good staple plant; very easy and prolific	Simon & Babbity Barwick - ✓
<i>Alocasia portei</i>	'PERSIAN PALM'	superb giant with palm-like leaves - worth a search	search
<i>Colocasia esculenta var</i>	'FONTANESI'	gorgeous silver-purple leaves - may be difficult to locate	Bot Gardens?
<i>Colocasia esculenta var</i>	'ELENA'	easy to grow and prolific once it get going	I will get for you
<i>Cyperus alternifolius</i>	'COMMON PAPYRUS'	grows wild in ditches in East End; easy, prolific	local freshwater swamps <i>PF</i>
<i>Cyperus isocladius</i>	'DWARF PAPYRUS'	nice little compact dwarf for edges	buy locally <i>VIGORO</i>
<i>Cyperus papyrus</i>	'EGYPTIAN PAPYRUS'	superb and a MUST in several groups	buy locally
<i>Nelumbo nucifera</i>	'SACRED LOTUS'	difficult but worth a try - needs deep. Fresh water	search
<i>Nymphaea capensis (blue)</i>	'WATER LILIES'	not sure if they'll 'do' but worth a try	Bot Gardens
<i>Nymphaea ampla</i>	'WILD WATER LILY'	native found in swamps near George Town	local freshwater swamps
<i>Nymphoides indica</i>	'SNOWFLAKE LILY'	quite a common native - a very sweet plant	local freshwater swamps
<i>Osmunda regalis</i>	'ROYAL FERN'	may grow here - not absolutely sure but worth a try	buy locally
<i>Pontaderia cordata</i>	'PICKEREL WEED'	may be difficult to find but worth a try	search
<i>Sagittaria lancifolia</i>	'ARROWHEAD'	a great native - need to plant many of them	local freshwater swamps
<i>Typhonodorum lindleyanum</i>	'WATER BANANAS'	may be difficult to find but definitely worth a try	search





cyperus.jpg



'Gamma Grass'  
Dwarf Fakahatchee 'G72D2C1A.jpg'



Fakahatchee grass.jpg

also Macho fern  
Heliconia  
Wedelia - for edges



Pond.gif

Travis - East End - Lake Quaggy Rd.





Acrostichum aureum.jpg



Acrostichum danaeif#2D2E4D.jpeg



Alocasia Elephant Ear.jpg

3-5  
not in water



Bambusa malengensis.jpg





Spartina bakeri .jpeg  
Dune Grass



Swamp Fern.jpg



Tiger Grass.jpg

Up to 10' Tall.

The Central Planning Authority. Grand Cayman

24.2.2021

Dear Sirs,

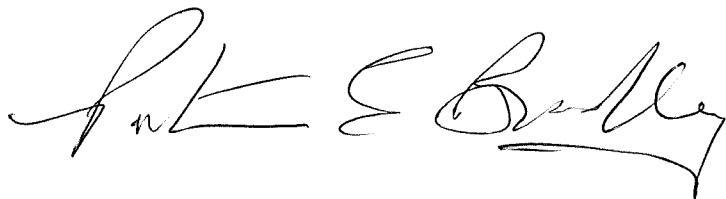
Freshwater habitat is the most threatened ecosystem on Grand Cayman. It has declined over 95% in the western half of the island due to intense development pressure in the last 20 years.

Thus I wish to register my support for the appeal by the Quin family to preserve the freshwater pond at the east end of 23B parcel 96, half of which belongs to the family. I object to the road planned to bisect the pond which will destroy this wetland. I also object to clearing the adjacent mangrove which, in an urban area, will result in a steep decline of urban wildlife and increase local flooding.

I am an ornithologist and have been working on birds, biodiversity and their preservation for 40 years in these islands and the region. I am very familiar with the Quin pond having advised, over 10 years, the management of the site to increase invertebrate and plant density and to provide food and habitat for birds. The project has been a success resulting in a highly biodiverse site with 5 species of heron feeding in flocks, one heron and 3 rails breeding and 2 flocks of West Indian Whistling-Duck raising young twice each year. The latter is a threatened species under international law, as the rarest duck in the Caribbean, and is protected in the Cayman Islands.

Now It is proposed that Grand Cayman enters a new and expanded phase of development with a corresponding large increase in the resident population. To date there is no public information on how Planning will address the carrying capacity of the island in the areas of roads, traffic density, pollution, schools, water, and health, or how woods, wetlands and areas for recreation will be incorporated to protect the health of the population. As a matter of urgency imaginative planning is needed to ensure that small areas of woodland, fresh water ponds and mangrove are maintained as urban islands so that biodiversity is not entirely lost.

I urge the board to modify the planned road and the development in order to maintain this pond as urban wildlife habitat, and not allow it to become another causality of development.

A handwritten signature in black ink, appearing to read 'Patricia e. Bradley'. The signature is fluid and cursive, with the first name 'Patricia' and the last name 'Bradley' being the most prominent parts.

Patricia e. Bradley, MBE, BSc.

A founder of the National Trust for the Cayman Islands

Manager of Sister Islands Tourism project 1996-2006

## Appendix 'B'





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

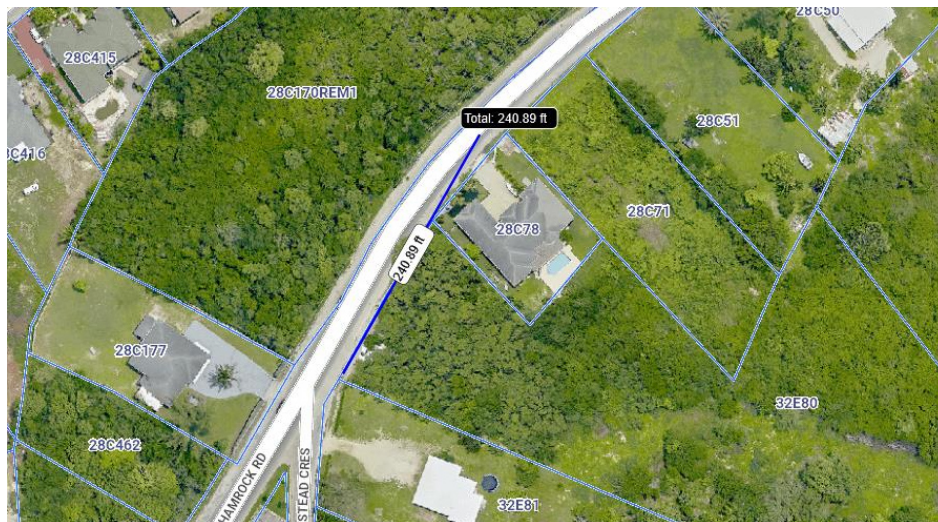
VIA EMAIL - February 8<sup>th</sup>, 2021

Dear Sir,

**RE: RAINBOW DEVELOPMENT LTD. – P20-1137  
APPLICATION FOR SUB-DIVISION ON BLOCK 32E PARCEL 80**

We refer to comments by the NRA regarding the above captioned project. As part of our initial consultations with the NRA on the subdivision road layout the concern over sight line was raised as a potential issue by them.

As we have contended with sight line issues in projects in the past (*even on straight roads – where neighbours situate walls and hedges right to the boundary*) we purposefully designed the entrance road to the West side of the property to allow us to reserve a clear site line to the right. Upon receiving NRAs comments recommending an alternative access, we did approach the parcel owners as they have recommended, but they have all declined to sell or offer right of ways. In an effort to shift the entrance road even further to the West, we have proposed the attached (**Schedule 1**) modification which will require a truncation on our neighbour's parcel to the West – which he has agreed to. When sight lines are viewed from this new location – from the actual shoulder, where cars will be joining traffic from – the sight distance is significantly better.



---

homes@rainbow.ky | phone: 345.949.7677 | fax: 345.949.2634

P.O. Box 1775, Grand Cayman, KY1-1109

Further, upon receiving the NRAs comments we cleared the overgrowth at the entrance area of the parcel to demonstrate what the actual sight lines would be upon construction and we are satisfied that the realigned entrance and dedicated clear zone will give this property safe access on to Shamrock Road.

In conclusion, the property has no other means of accessing Shamrock Road. The access on to Shamrock Road that we are currently using was deemed as an adequate access/Right of Way when this property was subdivided in 2003 (F03-0038). No access restrictions were placed on the property at that time.

Please let us know should you require any further details.

Your sincerely,



Stephen Hislop  
Director

**Attachments**

- Schedule 1: Revised Entrance Plan



## Appendix 'C'



6.1/A

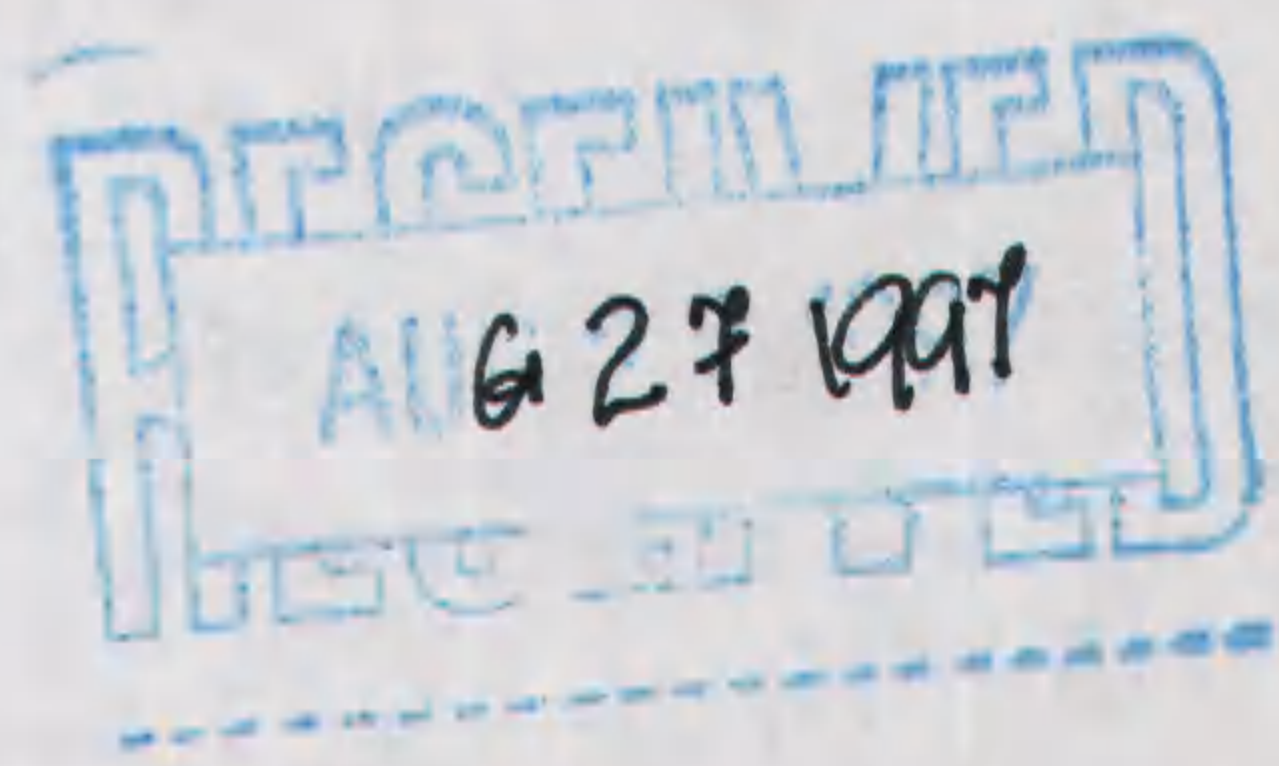
CPA/23/97 Item 7.04



Central Planning Authority  
P.O. Box 1036  
George Town  
Grand Cayman

August 4, 1997

Thomas Jackson  
C/O P.O. Box 1072  
George Town  
Grand Cayman



Dear Sir:

**Subject: Proposed Amendment to Planning Permission of March 26, 1997 (CPA/09/97; item 6.01) For a Nine (9) Lot Subdivision on Block 28B Parcels 84 REM 5 & 243 (165/93) (R.L./D.R.H.)**

At a meeting held on July 16, 1997 your application was considered and it was resolved to amend planning permission of July 21, 1993 (CPA/22/93; item 6.4) to delete the LPP designation of Parcel 243. It was further resolved to amend planning permission of March 26, 1997 (CPA/09/97; item 6.01) to enlarge the Lands for Public Purposes by a minimum of 0.37 acre (equivalent to the size of parcel 243), and to add lot 'J', subject to the following.

1. All previous conditions of CPA/09/97; item 6.01 are still applicable.
2. You shall advise the Planning Department in writing of the parcel number of the lot(s) reserved as Lands for Public Purposes upon registration of the subdivision.

Yours faithfully,

James W. Corcoran  
Director of Planning

JWC/ks



# REGISTRY MAP EXTRACT

SECTION : SAVANNAH

BLOCK: 28B

PARCEL NO/S: 84 REM 5

Client:

Operator: COUNTER\_LS

Scale: 1 to 2500

Date & Time: 06 Feb 1997 10:21 AM

Date of Last Mutation : 23/05/1996

Lands & Survey Dept., P.O. Box 1089, George Town, Grand Cayman, BWI.  
Telephone No.: 949-7999 Ext. 3424, Facsimile No.: 949-2187

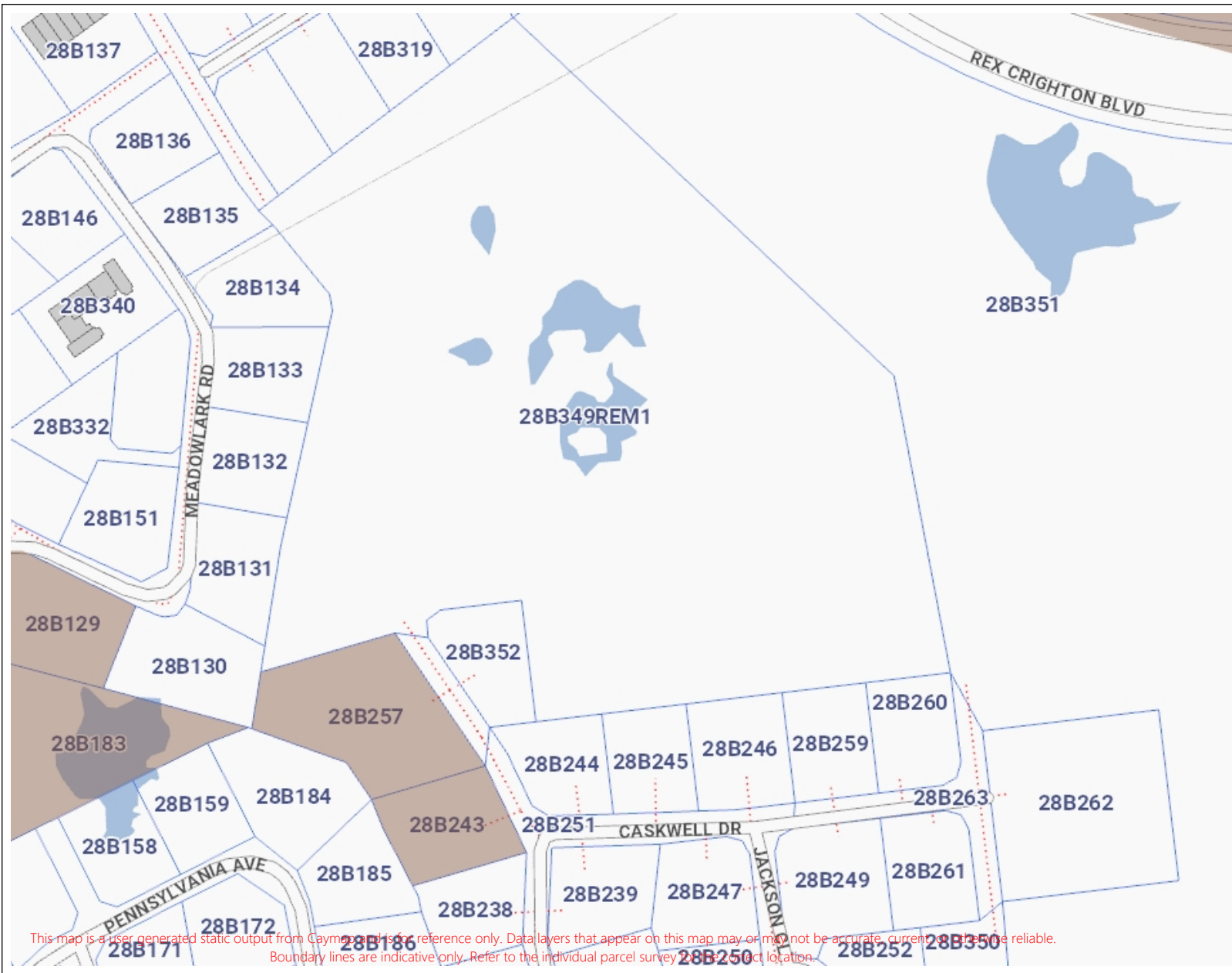








[Add Map Title]



Legend

 Land for Public Purposes

3/5/21 8:11 AM

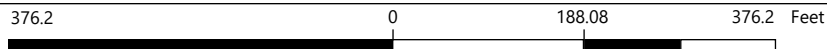
1: 2,257



Notes

[Add Map Notes]

This map is a user generated static output from Cayman Land Info for reference only. Data layers that appear on this map may or may not be accurate, current or otherwise reliable. Boundary lines are indicative only. Refer to the individual parcel survey 28B250 for exact location.





## Appendix D



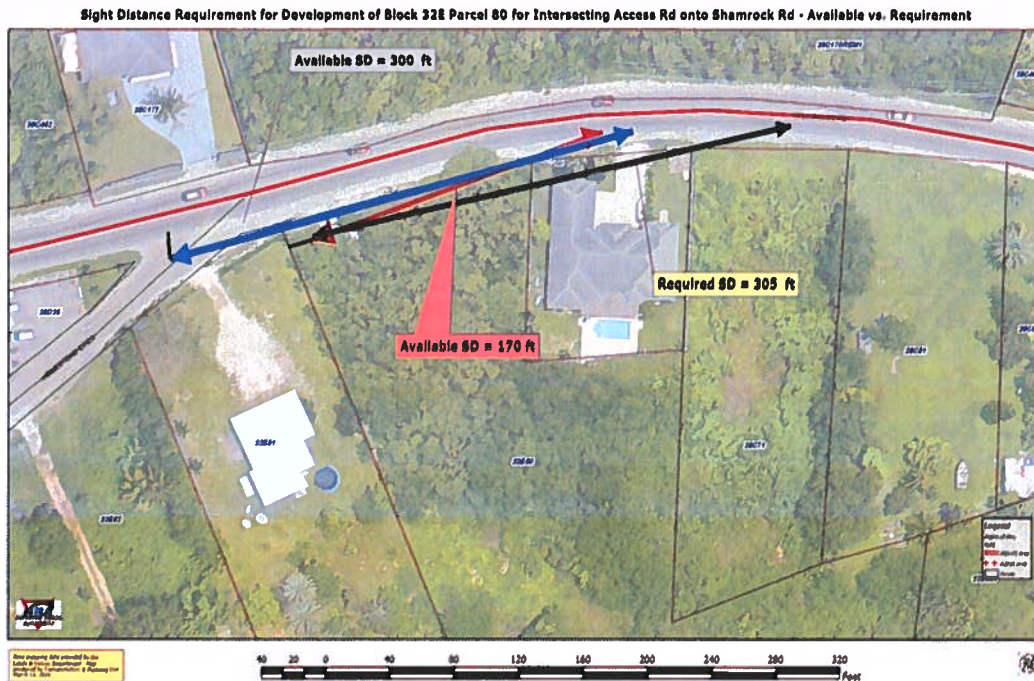
**TO: DIRECTOR OF PLANNING**  
**FROM: MANAGING DIRECTOR**  
**DATE: MARCH 12<sup>TH</sup> 2021**  
**OUR REF: RDS/DEV/32E**

**YOUR REF: P20-1137**

**SUBJECT: NRA Second Set of Comments on Proposed Subdivision on Block 32E Parcel 80 – Rainbow Development Ltd**

The applicant's letter addressed to the CPA dated February 8<sup>th</sup> 2021 regarding the above-noted development refers.

The subject parcel abuts Shamrock Road at the end of a horizontal curve of about 1,000 feet radius. The residence on neighbouring parcel to the east (28C78) has a three (3) feet high perimeter wall along the property boundary that received planning permission many years ago. The posted speed limit of this section of Shamrock Road is **30 mph**. Based on such a speed limit, a minimum stopping sight distance (SD) of **305** feet is required at a new intersection. Please note that the SD is measured 15 feet from the edge of the right-of-way or behind a stop-bar line and there is only 170 feet of available SD, a shortfall of 135 feet. The applicant's graphic in his letter showing 240 feet of SD is therefore misleading and incorrect. The following graphic clearly illustrates the available versus required SD distance at the proposed intersection of the subdivision application. For ease of reference, available SD from the intersection of Homestead Crescent at Shamrock Road (located about 75 feet west of proposed subdivision) falls just short of the minimum requirement. Anyone that has used that intersection to execute a northbound right-turn onto Shamrock Road knows how difficult that turning movement can be.





Shamrock Road is classified as a Secondary Arterial roadway and traffic volumes over the years have gradually increased as more development has occurred. The Weekday Average Daily Traffic volumes have grown from 11,950 vehicles per day (vpd) in 1999, to 16,200 vpd in 2008 and 20,425 vpd in 2018. Once the Covid pandemic situation has been lifted, it is anticipated that, at some point, residential and commercial developments will resume in the Bodden Town area and traffic growth will likely resume in a similar as the recent past as shown.

Based on standard geometric design such as the American Association of State Highway and Transportation Official (AASHTO) for Design Intersection Sight Distance, an available SD of 170 feet indicates a road Design Speed of 15 mph (10 mph for Posted Speed Limit). On that basis, approving the proposed subdivision in its current configuration and layout which would be deemed safe for all road users would require the Traffic Management Panel to reduce the posted speed limit on Shamrock Road to 10 mph - the NRA would never make such a recommendation for a Secondary Arterial road.

The horizontal geometric curve on Shamrock Road at the intersection of this proposed subdivision is a major safety concern for the NRA. Unless the applicant obtains an alternate means of access, it is the NRA recommendation to the CPA that the application be denied planning permission.

---

**Denis Thibeault**  
**Assistant Director**  
**Transportation & Planning Unit**  
**for Managing Director**





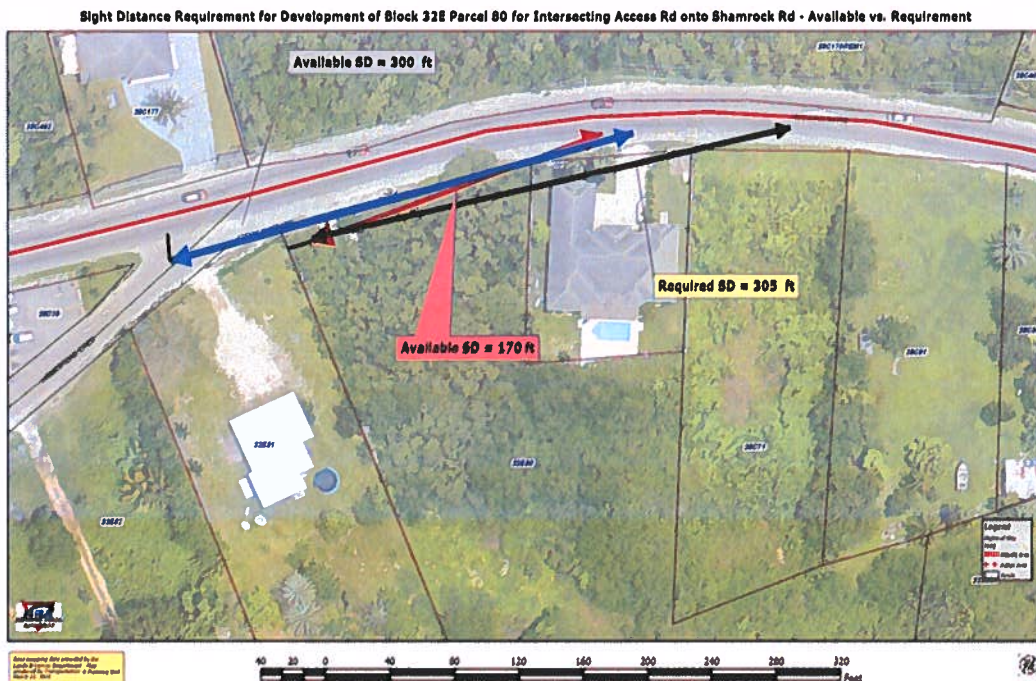
**TO: DIRECTOR OF PLANNING**  
**FROM: MANAGING DIRECTOR**  
**DATE: MARCH 12<sup>TH</sup> 2021**  
**OUR REF: RDS/DEV/32E**

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---

**Denis Thibeault**  
**Assistant Director**  
**Transportation & Planning Unit**  
**for Managing Director**

## Appendix E



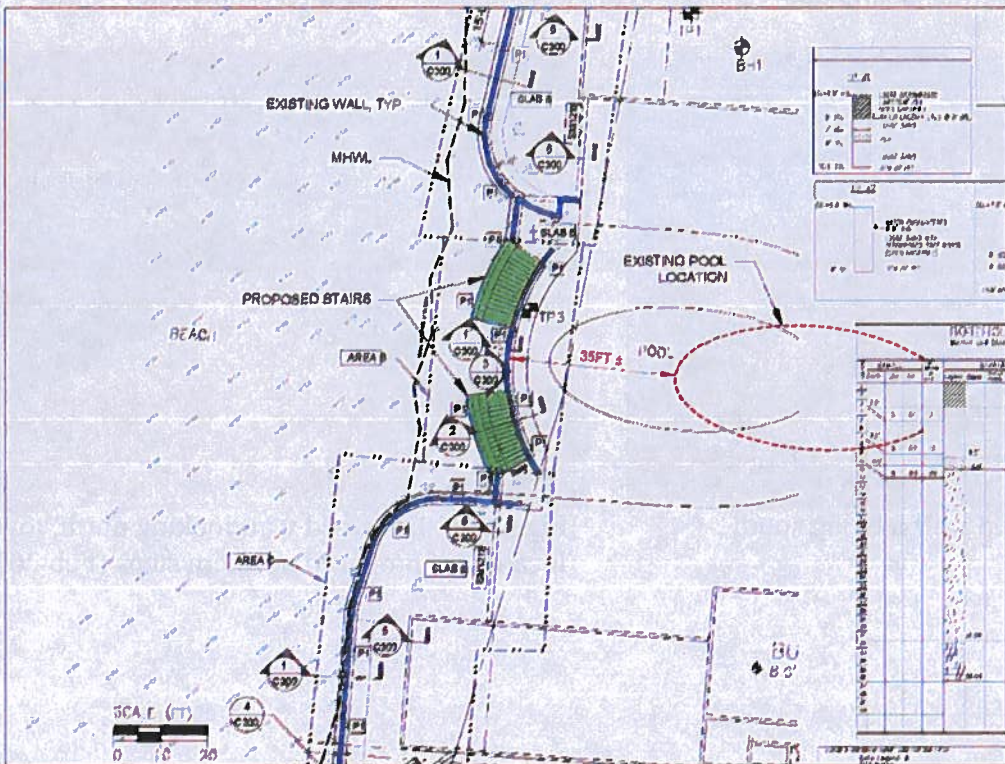






Figure 1 c: Damaged wall looking north (Feb 2021)

The applicant is seeking permission to rebuild the damaged wall which is approximately 200ft long. The DoE understands the rationale for the works and the applicant's urgency to protect their property by rectifying the situation. The works also include the construction of two sets of concrete steps and associated seawall that extend the existing structure footprint by about 8 feet further onto the beach, as shown in Figures 2a & 2b.









*(3) Every entity shall, in accordance with any guidance notes issued by the Council, consult with the Council and take into account any views of the Council before taking any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect on the environment generally or on any natural resource.*

*(4) Every entity, except Cabinet, in accordance with any guidance notes issued by the Council and regulations made under this Law, shall apply for and obtain the approval of the Council before taking any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect, whether directly or indirectly, on a protected area or on the critical habitat of a protected species”.*

**The application site is directly adjacent to a Marine Protected Area, namely the Seven Mile Beach Marine Park. The beach of the adjacent property directly to the north is a turtle nesting beach. All marine turtle species are listed in Part 1 of Schedule 1 to the National Conservation Law, 2013, as being ‘protected at all times’.**

### **Application Submission**

After geo-referencing the application plans, it was identified that the existing pool is incorrectly depicted as being about 35 feet closer to the seawall than it actually is (see Figure 3). We tried to clarify this situation with the applicant’s agent, but to-date no response has been received. Additionally, Olsen & Associates noted that the graphic scale on sheets C-201 and C-202 is incorrectly labelled (it appears correct on the left side of ‘0’, but incorrect on the right side of ‘0’), and the location of the existing seawalls (and/or demolition plan, as applicable) is not shown in the Sections, sheet C-300. [See Figures 6 & 7.] Olsen & Associates note that these discrepancies are important for the following reasons:

*“(1) The plans, as-drawn, suggest that there is little or no space to provide beach access or seawall re-construction between the pool and the existing seawall. However, when examined in actual existing conditions [Figure 4], there is about 35-ft space between the pool and the wall.*

*(2) The plans, as-drawn in section, do not clarify where the new repaired wall shall be built upon the beach relative to the existing walls. In planform view, it appears that the repaired wall locations will be at or very near the existing locations; but this is not specifically indicated. Clarification of same would be important to a permit document”.*



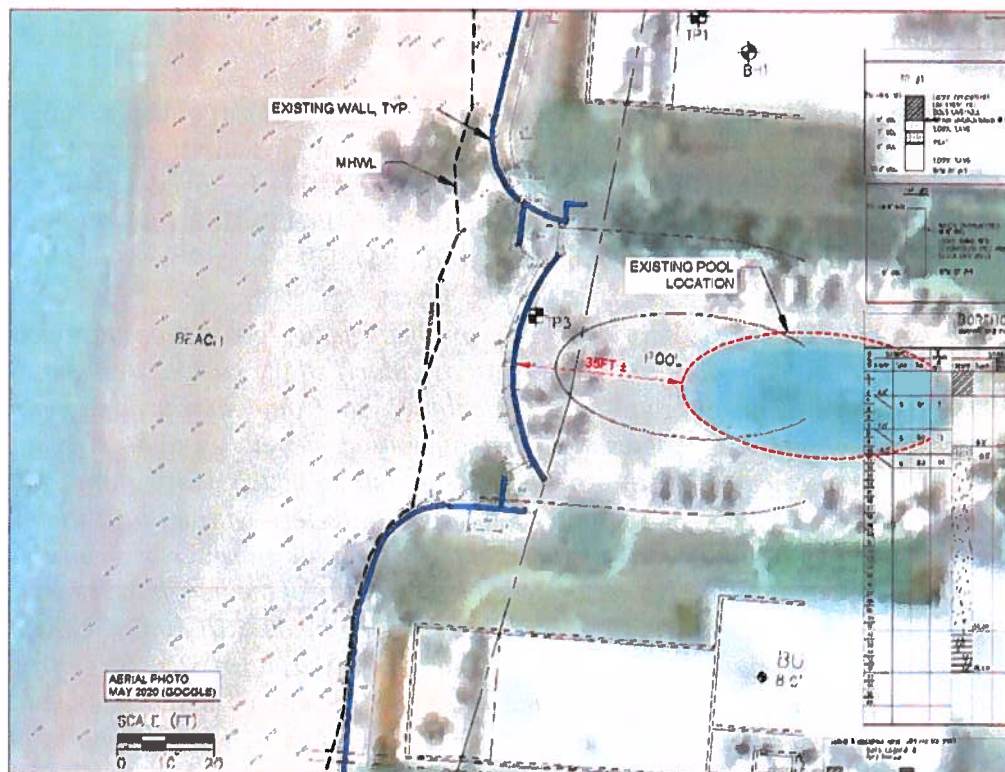


Figure 3: Geo-referenced application plan (Nov 2020) overlaid on Google imagery (May 2020). (Source: Olsen & Associates, 2021).

The applicant has not included a construction methodology for the works. The Department reached out to both the applicant’s agent (Whittaker & Watler) and design engineer (APEC) for more information regarding the methodology. APEC advised that as a contractor for the project had not been appointed, the construction methodology had not been determined, but would typically involve an approach such as that listed below:

- *“Existing damaged CMU wall to be broken down using hand actuated jackhammers. Broken down material to be lifted to access paths on the properties north and south boundaries and placed in the back of dumper trucks.*
- *Some broken down concrete will remain on site and reused as fill between the proposed concrete seawall and the adjacent building foundations.*
- *Seek permission from adjacent property owner for a tracked continuous flight sugar (CFA) drill rig to gain access to the beach. In this case the closest property with enough space is the Royal Palms property.*
- *Concrete pump to be set up on northern and southern access paths. Concrete to be pumped over the seaward facing condo buildings to the CFA rig when the piles are being installed. Pumps also to be used at the same locations for delivering readymix concrete for the retaining wall stems and decks spanning between the walls and building foundations.”*

Given the proximity of the works to a Marine Protected Area (MPA) and the potential significant deleterious impacts of construction activity in close proximity to the MPA, and the requirement for machinery to potentially require access over a turtle nesting beach, the DoE directs that a written methodology statement be agreed in writing with the DoE prior to commencement of works.



## Coastal Engineering Review prepared by Olsen & Associates

The DoE requested a review of the proposed works by Olsen & Associates a firm of coastal engineers that has experience working in the Caribbean and the Cayman Islands. The Coastal Engineering Report is included in Appendix 1 and **the DoE respectfully requests that this be used as the expert guidance when determining this planning application.** Extracted directly from the Engineering Report, Olsen & Associates advise as follows [**emphasis placed by DoE**]:

*Central to coastal engineering evaluation of shorefront improvements is the location or encroachment (and elevation) of proposed works upon the sandy beach – particularly in the case of a resort, where protection and longevity of the beach is paramount as a premier asset. Contemporary and historical evaluations of this shoreline describe that encroachment of upland structures upon the natural, fluctuating beach are a principal cause of beach erosion and the limited beach width along southern Seven Mile Beach. Hard structures (such as seawalls, stairs, etc.) interfere with natural fluctuating beach processes. They displace the sandy beach by direct intervention, by storm erosion seaward of the wall (which is greater than without a wall), and by decelerated ability of the beach to recover after a storm. As such, any structure that encroaches upon the natural sand beach will diminish the beach and/or its ability to recover after a storm. And on the other hand, retreat of structures from the shoreline will enhance the beach width and stability. This particularly includes creation or enhancement of “cove-like” embayments, such as along the Regal Beach pool deck, described above. The adverse effect of structural encroachment upon the beach will only increase in the near- and mid-term future, as sea level rise continues, and the rate of sea level rise accelerates. I have observed the latter myself, during the last 30+ years of practice.*

*In this context, the following observations are presented.*

- 1. To the extent that the proposed seawall repairs & replacements are made in the seawall's present location, little can be said or improved – except to clarify (specify) that the new repaired walls shall coincide in location with the existing walls; i.e., shall be no further seaward. Excepting the central 55± feet of shorefront of the pool deck area, there is little opportunity to relocate the seawall location further landward – owing to the close proximity of the existing buildings to the seawalls.*
- 2. The construction of the new concrete stairs (including the new wall on the stairs' west side) is an approximate 8-ft wide encroachment upon the existing sand beach “cove” along the pool area. While this may not seem like much, 8-ft is half the width of this minor beach “cove”. And, an 8-ft wide encroachment upon the beach displaces almost 1-ft height of the marginal dry beach berm along this area. Structural displacement of 1-ft height of beach berm means significant potential loss of dry beach along the project area at high tide. Means to avoid or minimize this structural encroachment upon the beach are in the best mutual interest of the environment and the facility; that is, measures that maximize the potential for some dry beach to appear along the shorefront – i.e., along the 55± ft wide pool cove area – during most or all tidal and seasonal conditions.*
- 3. At minimum, given the small size of the pool deck area, reducing the plan to a single set of beach access stairs (instead of two sets of stairs within 20 to 40 feet of one another), would appear prudent and reasonable. One set of stairs would amply provide guest access to the beach without inconvenience, and it would cut the encroachment of new structures upon the beach by half. That is, it would double the size of the available dry beach berm width along the pool deck wall, relative to the outcome of the proposed plan. Cutting the new structural footprint upon the sand beach (seaward*



of the existing pool deck wall) by half would serve toward avoiding & minimizing the works' impact upon the sand beach. This would directly benefit the facility and the size and stability of the beach, with little or no impact to the function of the proposed works.

4. **Additionally, eliminating the wall along all or most of the west side of the new stairs would further decrease the width of the structure, and the vertical surface area of reflective wall that is upon the sand beach.** This wall (above the stairs' tread height) does not serve a seawall function, since there is already a repaired seawall in the lee of it, along the pool deck. When the beach sand level is low, the top of the wall (elevation = +8.6' MSL) will be well over the guests' heads, such that a person would access the beach behind and around a solid towering wall. When the beach sand level is high, and only a few stair treads are exposed and needed, the west-side wall will extend some 8 or 9 feet further along the sand beach beyond the visible stairs – such that a person would walk along a 6-ft wide corridor upon the sand, between the two walls of the pool deck and the beach stairs. Accordingly, the function of the proposed wall on the west side of the stairs (beyond supporting a handrail) is not clear; and its presence is adverse to the sand beach.

5. **Further prudent would be relocating the pool-deck seawall and beach access stairs further landward.** While this would encroach upon the pool deck area, it would increase the sand beach "cove" area, and benefit the facility and the environment. Contrary to the drawings, there is about 35-ft available width between the pool and the existing seawall. There is ample unused area – 60 feet width – landward of the pool to provide additional pool deck space. If the existing pool deck seawall is to be demolished for purposes of repair (which is implied, but not clear from the plans), then one could consider relocating this pool deck wall – and integral beach access stairs – further landward, by say, 15+ to 20 feet. This would double the size of the "beach cove" pocket along the pool deck that presently serves as the facility's most reliable sand beach area. That is, it would provide additional reliable dry sand beach area and elevation irrespective of tide or season.

6. **Even if the existing pool deck seawall was not relocated closer to the pool, it would be prudent to consider locating the single set of beach access stairs landward of the existing seawall – so as not to further encroach hard structure upon the sand beach and further diminish the "cove" beach area and stability.** That is, this would **locate the beach access stairs into the pool deck, rather than seaward of the pool deck.** In contrast to the submitted drawings, there is ample space (~35 ft) between the existing seawall and the pool to re-locate the seawall and beach steps toward the upland – increasing the beach area – while not significantly encroaching upon the existing pool deck area and guest experience near the beach.

7. **It is noted that the proposed new (replacement) seawall indicates no apparent increase in the elevation of the wall height relative to its existing height.** From the drawings and the photographs, it appears that the design wall height (+8.6) would remain unchanged -- at about 1.0 ft higher than the adjacent sidewalks and pool deck slabs. The existing wall height appears very low and is likely subject to frequent overtopping. The proposed recurved seawall cap may reduce spray and some overtopping; but, constructed at the same elevation as the existing wall, it will not likely reduce future overtopping to a significant extent. Given the documented accelerated rise in sea level in the region (i.e., a presently observed rate that will increase sea level by at least 1 to 1.5 feet in 50 years – versus a historical increase of 0.4 to 0.5 feet in 50 years), **coastal engineering guidance is to increase wall height elevations when building an entirely new seawall or slab.** To the extent that the structural design (dead & wave loads) of the wall can withstand some increase in wall height, I would definitely recommend some increase in the new wall height, toward reducing overtopping and addressing acknowledged historical and future increases in sea level. I believe that this can be done without



*adversely impacting sight lines and the guest experience; and, it is consistent with contemporary "resiliency" planning & practice at coastal sites throughout the world. Relative to the cost of the new replacement seawalls, a modest increase in the wall height typically represents a marginally small increase in cost, but it yields a substantial long-term physical and economic benefit in terms of resiliency planning (less damage after storms).*

8. *Storm water drainage through the wall is not indicated in the drawings, unless I misunderstood it. Photos of the existing wall show many large storm water drainage pipes from the upland sidewalk to the beach. [See Figure 3, prior page, and Figure 8, below.] It is not clear whether these pipes will be incorporated to the new replacement walls; and if not, how upland storm water will be routed through the new walls. The size and number of the existing storm drain pipes are notable. It is not clear to me how much of the rainwater from the upland development (roofs and impervious grade) collects at the oceanfront edge of the site – that is, the seawall – and is then vented through the wall onto the beach via the large pipes.*



*Figure 8: Storm water drain pipes through existing seawall.*

9. *Frequent and/or high volume discharge of upland storm water, onto the beach, is a significant cause of beach erosion. If this is occurring, it would exacerbate the area's beach erosion that already occurs owing to structural encroachment upon the beach. So, another fundamental question of mine regarding the proposed permit activity would include consideration of the amount of stormwater that is being collected at the seawall and discharged directly onto the beach. **To what extent does, or can, the proposed plan mitigate the discharge of stormwater onto the beach?***

*In general summary, I note the following:*

- A) The repair & replacement of a previously permitted seawall in its existing location – where there is little or no practicable space for landward relocation – is a reasonably expected activity; but,*
- B) To the extent that any such wall – and especially any new structural feature such as the concrete stairs -- can be relocated further landward, particularly if and when the existing wall is to be demolished and upland space is available, then such wall & structure should be relocated landward, and no further seaward encroachment should be permitted. Architectural features on the beach (such as the wall west of stairs) should be avoided. This is in the mutual best interest of the environment and the facility, vis-à-vis providing increased protection and preservation of the sand beach asset.*
- C) Any new engineered seawall – replacing a prior seawall – should be raised in elevation to prudently account for ongoing and reasonably anticipated future sea level rise.*



*D) Discharge of upland storm water upon the sand beach – particularly along the sensitive erosional shoreline of south Seven Mile Beach – should be limited; i.e., re-directed to interior water bodies or soak-aways, etc. as much as possible.*

*I recognize that some of these observations may or may not fall into the specific purview of the Department's review of the subject application. Nonetheless, I offer all of these observations and recommendations toward overall evaluation of the proposed works from a professional coastal engineering perspective, for consideration by the applicant and the Department as appropriate. All of these observations are those that I would provide toward development of any plan for oceanfront repairs and improvements at the Regal Beach site. From my long-term experience in Caribbean resort development, and in my professional opinion, I believe that pragmatic incorporation of these recommendations would protect and benefit the best interests of the environment and the Regal Beach facility.*

### **Impacts on Turtle Nesting**

Although the section of beach immediately in front of the application site does not experience turtle nesting, other sites along the coastline to the north, including the properties the applicant intends to gain heavy equipment access over are turtle nesting beaches. Heavy equipment on beaches can crush turtle nests and compact sand which can prevent baby turtles (hatchlings) from emerging from their nests. Conditions to minimize the impact of the proposed works on nesting turtles have been included in the recommendation and directed conditions section below.

### **Recommendations & Directed Conditions**

Should the Central Planning Authority (CPA) be minded to grant approval for the proposed development, under Section 41(5)(a) of the National Conservation Law, the National Conservation Council **respectfully directs** the CPA to include the below as conditions of approval.

- The section plans shall be updated to clarify where upon the beach, relative to the existing walls, the new wall shall be built. The proposed wall shall be built no further seaward than the existing pool deck sea wall.
- All construction material shall be stockpiled landward of the proposed seawall to prevent run-off and debris from entering the Marine Protected Area.
- Prior to the commencement of works, the appointed project contractor shall provide a written construction methodology statement for review and approval by the DoE. The construction methodology should include but is not limited to, details of the stages and methods of construction, details of the heavy equipment required for the works, the access route for equipment, any mitigation measures proposed to prevent run-off and debris entering the Marine Protected Area, the location of stockpiled construction materials and demolition debris and a timeline for the duration of works.



**Given the advice provided by Olsen & Associates (included as an appendix to this review), the Department also strongly recommends:**

- The proposed wall should be raised in elevation to reduce overtopping and improve climate resiliency by accounting for ongoing and reasonably anticipated future sea-level rise.
- If the existing pool deck seawall is to be demolished for the purpose of repair (implied but not clear from the plans) then the pool deck wall and integral beach access stairs should be repositioned further landward by approximately 15 to 20 feet to provide increased protection and preservation of the sandy beach.
  - Additionally, even if the existing pool deck sea wall is not relocated closer to the pool we strongly recommend a **single** set of beach access stairs (rather than 2 sets of stairs), positioned landward of the existing seawall.
- Discharge of upland storm-water on the sand beach should be avoided; i.e., re-directed to deep wells or soak-aways, etc. to prevent runoff contributing to further erosion.

**To minimise impacts to sea turtles we also recommend the inclusion of the below conditions in any grant of planning permission.**

- Prior to the commencement of works, the property owner/contractor/agent shall contact the DoE to check for the presence of turtle nests along the access route for the heavy equipment; written approval shall be obtained from the DoE that no nests will be impacted by the commencement of works.
- No construction work, vehicle access, storage of equipment/ materials or other operations shall take place on the turtle nesting beach to the north during turtle nesting season (1st May – 30th November) without the express consent of the DoE.
- Any sand excavated during construction should be retained on-site and beach quality sand should be placed along the active beach profile. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it should be the subject of a separate consultation with the National Conservation Council.

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**



10 March 2021

Ms. Wendy Johnston  
Manager, Environmental Management Unit  
Department of Environment  
Cayman Islands Government



Re: **Permit Application for Regal Beach Seawall,  
Seven Mile Beach, Grand Cayman; Coastal Engineering Review.**

Dear Ms. Johnston:

The following presents my professional coastal engineering review and observations in regard to proposed seawall repairs and directly related work at Regal Beach, Grand Cayman. These comments are based upon my review of the construction drawings prepared by APEC Consulting Engineers Ltd. (6 sheets, November 2020), contemporary site photographs, and my prior knowledge of the shoreline processes relevant to the project setting.

Per my understanding, the proposed work entails the repair and re-construction of about 200 shorefront feet of existing damaged seawall. (With curvature and return walls, the total wall-length of repair is slightly greater.) The overall site location is shown in **Figure 1**.



**Figure 1:**  
Project site. Aerial  
photograph dated 13  
Jan 2021 (Google Earth).

It appears from the plan view drawings that the re-built seawall will be at, or within about 1 foot seaward, of the location of the existing wall. And, the new wall will include a recurved seaward cap of about 13" width, well above beach grade. As such, that work would be a repair / replacement of the existing damaged wall. The "new" work in the proposed project includes construction of two



sets of concrete steps and associated seawall that extend the existing structure footprint by about 8 feet upon the existing small beach “cove” area along the pool deck. This “cove” (as I will call it for convenience) is actually a 55± feet wide area where the pool deck seawall is “set-back” from the property’s adjacent seawalls by about 16 feet. This minor indentation of the seawall more readily allows for dry beach sand along this area. From site photographs, it is my understanding that these concrete steps and seawall would replace wooden steps that presently provide access from the pool deck to the sand beach at this “cove” area. See **Figure 2**, below. **Figure 3** presents some other recent photographs of the damaged wall conditions.



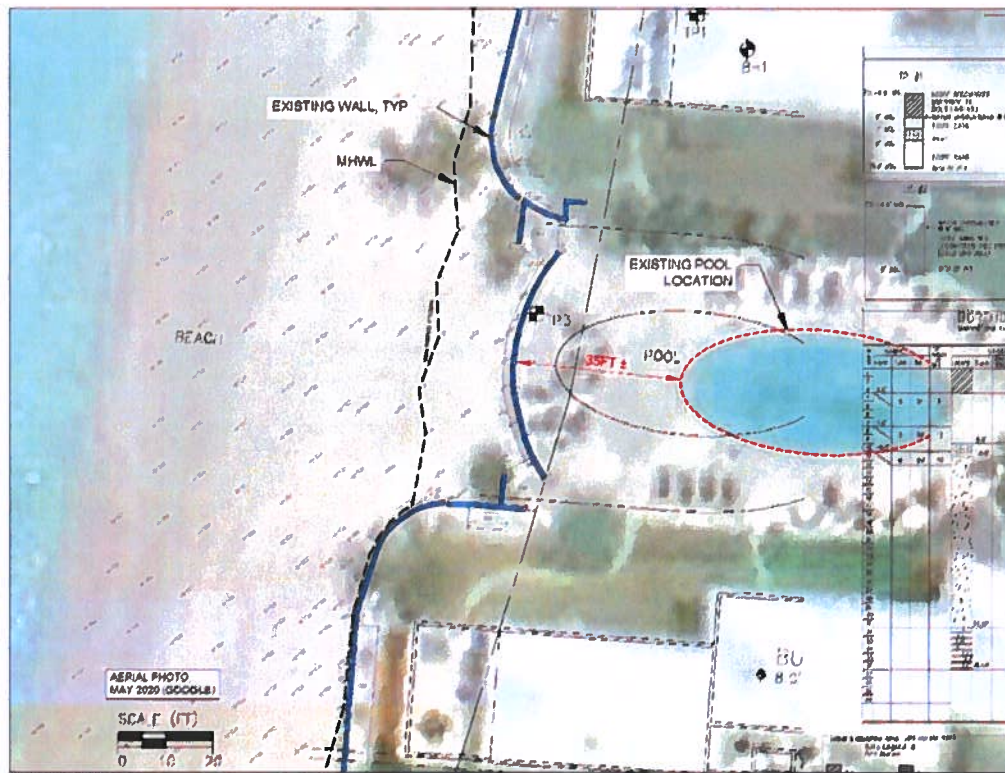
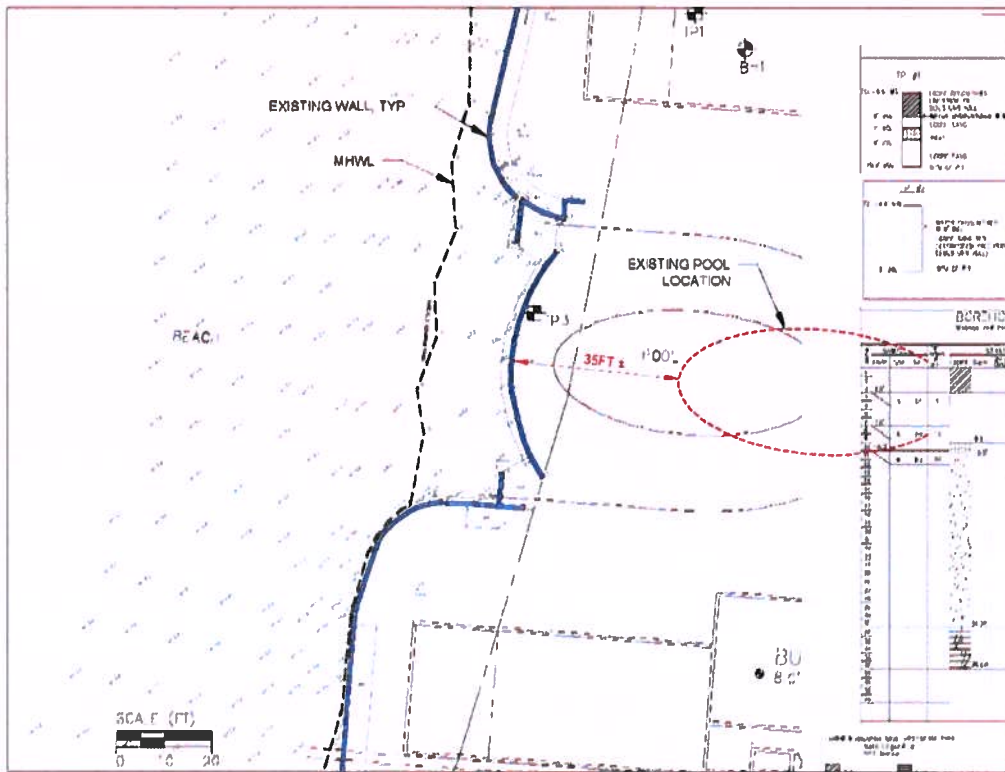
**Figure 2:**  
Pool deck seawall at right, upon which person is sitting. Wooden steps from pool deck to the beach, where the pool deck seawall is ‘set back’ from the adjacent seawalls. Damaged seawall in background, left of stairs. Photograph circa Feb 2021.



**Figure 3:**  
Site photographs, circa Feb 2021.

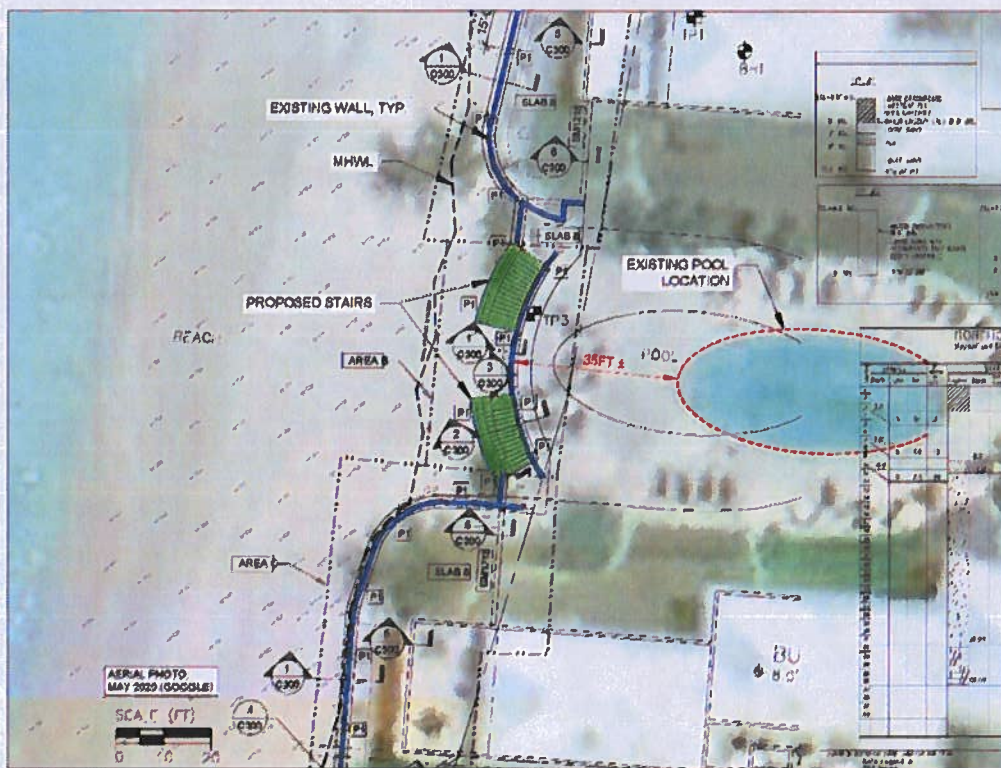
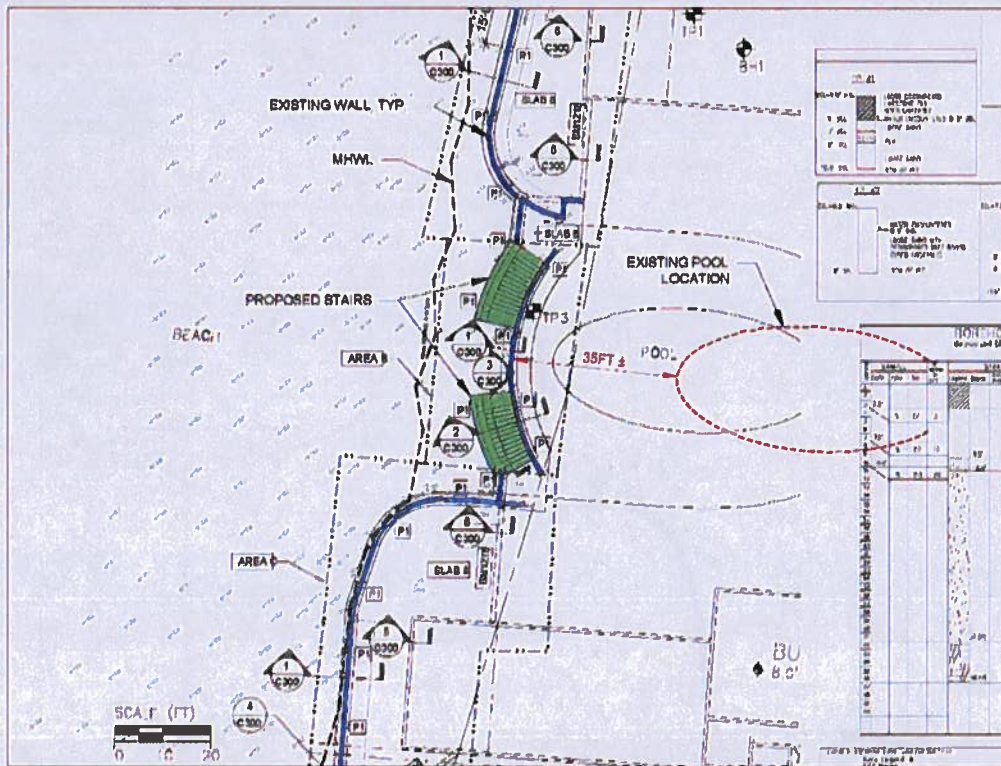
**Figure 4** depicts the existing structure condition along the central project area, reproduced from the plans – with the existing seawall highlighted in blue. **Figure 5** depicts the proposed structure improvements, reproduced from the plans – with the seawall in blue and new stair structures in green, based on our understanding of the plans. **Figure 6** is the cross-section of the proposed seawall repair/replacement, typical. **Figure 7** is the cross-section of the newly proposed beach stairs, seaward of the existing pool deck seawall, reproduced from the plans.





**Figure 4:** Location of existing seawalls, highlighted in blue, reproduced from the Nov 2020 plans. (We added the May 2020 aerial photograph as an underlayer, in the lower figure.) Note that the location of the pool in the submitted permit application drawings is shown as 35 feet seaward of its actual location.





**Figure 5:** Location of proposed seawall repairs (highlighted in blue) and addition of new steps (shaded in green). Figure is reproduced from the Nov 2020 plans. (The May 2020 aerial photograph was added as an underlayer, in the lower figure.)



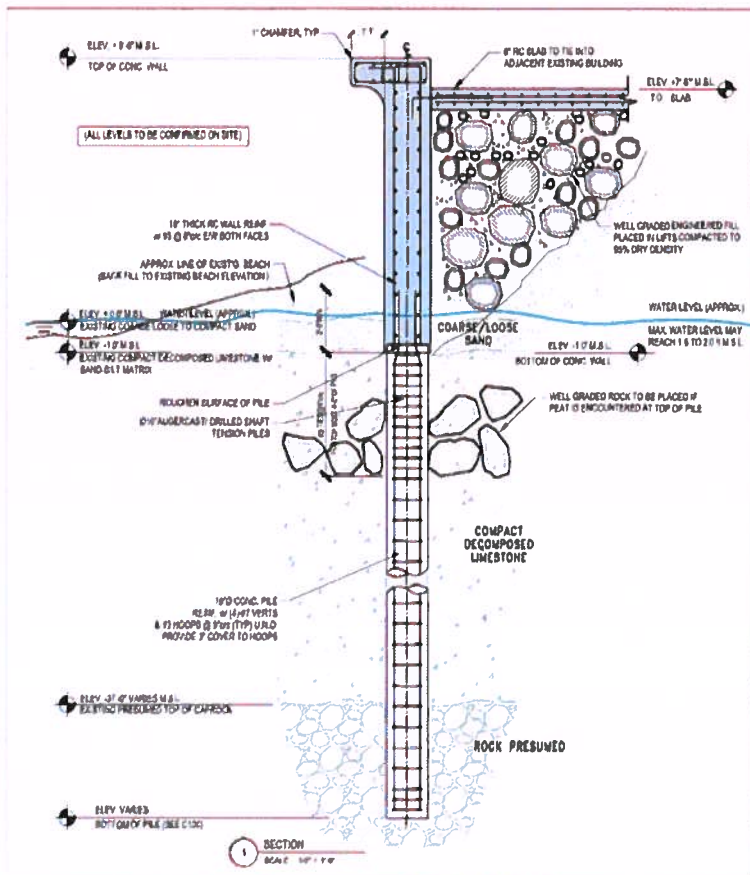


Figure 6: Seawall repair section, reproduced from plans.

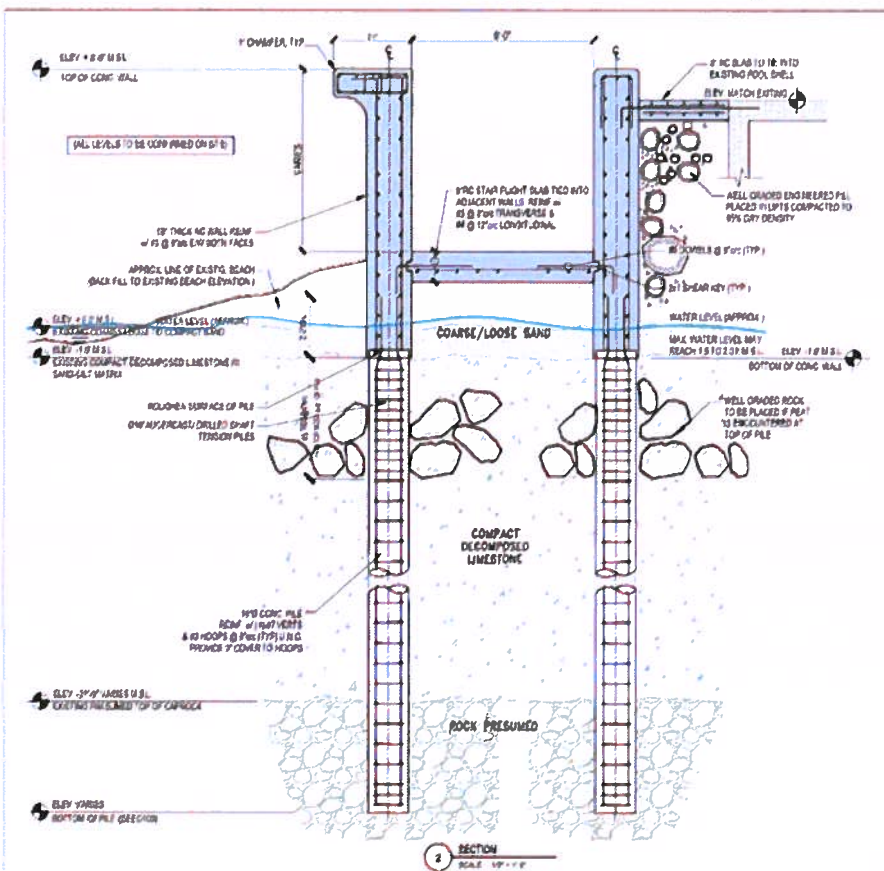


Figure 7: Section through new beach stairs and west-side seawall with recurved cap, seaward of existing pool deck seawall.



There is some error and ambiguity in the drawings which required discernment. The graphic scale on sheets C-201 and C-202 is incorrectly labelled. (It is apparently correct on the left side of ‘0’, but incorrect on the right side of ‘0’, after some study). The existing pool is incorrectly depicted as being about 35 feet closer to the seawall than actual. [See **Figures 4 & 5.**] The location of the existing seawalls (and/or demolition plan, as applicable) is not shown in the Sections, sheet C-300. [See **Figures 6 & 7.**]

These discrepancies are important for the following reasons. (1) The plans, as-drawn, suggest that there is little or no space to provide beach access or seawall re-construction between the pool and the existing seawall. However, when examined in actual existing conditions [**Figure 4**], there is about 35-ft space between the pool and the wall. (2) The plans, as-drawn in section, do not clarify where the new repaired wall shall be built upon the beach relative to the existing walls. In planform view, it appears that the repaired wall locations will be at or very near the existing locations; but this is not specifically indicated. Clarification of same would be important to a permit document.

Central to coastal engineering evaluation of shorefront improvements is the location or encroachment (and elevation) of proposed works upon the sandy beach – particularly in the case of a resort, where protection and longevity of the beach is paramount as a premier asset. Contemporary and historical evaluations of this shoreline describe that encroachment of upland structures upon the natural, fluctuating beach are a principal cause of beach erosion and the limited beach width along southern Seven Mile Beach. Hard structures (such as seawalls, stairs, etc.) interfere with natural fluctuating beach processes. They displace the sandy beach by direct intervention, by storm erosion seaward of the wall (which is greater than without a wall), and by decelerated ability of the beach to recover after a storm. As such, any structure that encroaches upon the natural sand beach will diminish the beach and/or its ability to recover after a storm. And on the other hand, retreat of structures from the shoreline will enhance the beach width and stability. This particularly includes creation or enhancement of “cove-like” embayments, such as along the Regal Beach pool deck, described above. The adverse effect of structural encroachment upon the beach will only increase in the near- and mid-term future, as sea level rise continues, and the rate of sea level rise accelerates. I have observed the latter myself, during the last 30+ years of practice.

In this context, the following observations are presented.

1. To the extent that the proposed seawall repairs & replacements are made in the seawall’s present location, little can be said or improved – except to clarify (specify) that the new repaired walls shall coincide in location with the existing walls; i.e., shall be no further seaward. Excepting the central 55± feet of shorefront of the pool deck area, there is little opportunity to relocate the seawall location further landward – owing to the close proximity of the existing buildings to the seawalls.
2. The construction of the new concrete stairs (including the new wall on the stairs’ west side) is an approximate 8-ft wide encroachment upon the existing sand beach “cove” along the pool area. While this may not seem like much, 8-ft is half the width of this minor beach “cove”. And, an 8-ft wide encroachment upon the beach displaces almost 1-ft height of the marginal dry beach berm along this area. Structural displacement of 1-ft height of beach berm means significant potential



loss of dry beach along the project area at high tide. Means to avoid or minimize this structural encroachment upon the beach are in the best mutual interest of the environment and the facility; that is, measures that maximize the potential for some dry beach to appear along the shorefront – i.e., along the 55± ft wide pool cove area – during most or all tidal and seasonal conditions.

3. At minimum, given the small size of the pool deck area, reducing the plan to a single set of beach access stairs (instead of two sets of stairs within 20 to 40 feet of one another), would appear prudent and reasonable. One set of stairs would amply provide guest access to the beach without inconvenience, and it would cut the encroachment of new structures upon the beach by half. That is, it would double the size of the available dry beach berm width along the pool deck wall, relative to the outcome of the proposed plan. Cutting the new structural footprint upon the sand beach (seaward of the existing pool deck wall) by half would serve toward avoiding & minimizing the works' impact upon the sand beach. This would directly benefit the facility and the size and stability of the beach, with little or no impact to the function of the proposed works.
4. Additionally, eliminating the wall along all or most of the west side of the new stairs would further decrease the width of the structure, and the vertical surface area of reflective wall that is upon the sand beach. This wall (above the stairs' tread height) does not serve a seawall function, since there is already a repaired seawall in the lee of it, along the pool deck. When the beach sand level is *low*, the top of the wall (elevation = +8.6' MSL) will be well over the guests' heads, such that a person would access the beach behind and around a solid towering wall.<sup>1</sup> When the beach sand level is *high*, and only a few stair treads are exposed and needed, the west-side wall will extend some 8 or 9 feet further along the sand beach beyond the visible stairs – such that a person would walk along a 6-ft wide corridor upon the sand, between the two walls of the pool deck and the beach stairs. Accordingly, the function of the proposed wall on the west side of the stairs (beyond supporting a handrail) is not clear; and its presence is adverse to the sand beach.
5. Further prudent would be relocating the pool-deck seawall and beach access stairs further landward. While this would encroach upon the pool deck area, it would increase the sand beach “cove” area, and benefit the facility and the environment. Contrary to the drawings, there is about 35-ft available width between the pool and the existing seawall. There is ample unused area – 60 feet width – landward of the pool to provide additional pool deck space. If the existing pool deck seawall is to be demolished for purposes of repair (which is implied, but not clear from the plans), then one could consider relocating this pool deck wall – and integral beach access stairs – further landward, by say, 15+ to 20 feet. This would double the size of the “beach cove” pocket along the pool deck that presently serves as the facility's most reliable sand beach area. That is, it would provide additional reliable dry sand beach area and elevation irrespective of tide or season<sup>2</sup>.

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<sup>1</sup> For example, the beach sand elevation at the base of the proposed stairs, shown in the drawings, is about +2.1. So, during that surveyed condition, the stairway wall (+8.6) would be *6.5 feet* above the beach sand elevation at the base.

<sup>2</sup> We successfully implemented the exact same approach at Half Moon Resort, Montego Bay, Jamaica in 2015 – where we removed about 18' x 45' of existing oceanfront deck at the main hotel lobby area. The deck was severely threatened and undercut by beach erosion. We replaced the cut deck with an 18' wide sand beach that subsequently provided new recreational space and beach stability to the overall shorefront.



6. Even if the existing pool deck seawall was not relocated closer to the pool, it would be prudent to consider locating the single set of beach access stairs landward of the existing seawall – so as not to further encroach hard structure upon the sand beach and further diminish the “cove” beach area and stability. That is, this would locate the beach access stairs into the pool deck, rather than seaward of the pool deck. In contrast to the submitted drawings, there is ample space (~35 ft) between the existing seawall and the pool to re-locate the seawall and beach steps toward the upland – increasing the beach area – while not significantly encroaching upon the existing pool deck area and guest experience near the beach.
7. It is noted that the proposed new (replacement) seawall indicates no apparent increase in the elevation of the wall height relative to its existing height. From the drawings and the photographs, it appears that the design wall height (+8.6) would remain unchanged -- at about 1.0 ft higher than the adjacent sidewalks and pool deck slabs. The existing wall height appears very low and is likely subject to frequent overtopping. The proposed recurved seawall cap may reduce spray and some overtopping; *but*, constructed at the same elevation as the existing wall, it will not likely reduce future overtopping to a significant extent. Given the documented accelerated rise in sea level in the region (i.e., a presently observed rate that will increase sea level by at least 1 to 1.5 feet in 50 years – versus a historical increase of 0.4 to 0.5 feet in 50 years), coastal engineering guidance is to increase wall height elevations when building an entirely new seawall or slab. To the extent that the structural design (dead & wave loads) of the wall can withstand some increase in wall height, I would definitely recommend some increase in the new wall height, toward reducing overtopping and addressing acknowledged historical and future increases in sea level. I believe that this can be done without adversely impacting sight lines and the guest experience; and, it is consistent with contemporary “resiliency” planning & practice at coastal sites throughout the world. Relative to the cost of the new replacement seawalls, a modest increase in the wall height typically represents a marginally small increase in cost, but it yields a substantial long-term physical and economic benefit in terms of resiliency planning (less damage after storms).
8. Storm water drainage through the wall is not indicated in the drawings, unless I misunderstood it. Photos of the existing wall show many large storm water drainage pipes from the upland sidewalk to the beach. [See **Figure 3**, prior page, and **Figure 8**, below.] It is not clear whether these pipes will be incorporated to the new replacement walls; and if not, how upland storm water will be routed through the new walls. The size and number of the existing storm drain pipes are notable. It is not clear to me how much of the rainwater from the upland development (roofs and impervious grade) collects at the oceanfront edge of the site – that is, the seawall – and is then vented through the wall onto the beach via the large pipes.



**Figure 8:** Storm water drain pipes through existing seawall.



9. Frequent and/or high volume discharge of upland storm water, onto the beach, is a significant cause of beach erosion. If this is occurring, it would exacerbate the area's beach erosion that already occurs owing to structural encroachment upon the beach. So, another fundamental question of mine regarding the proposed permit activity would include consideration of the amount of stormwater that is being collected at the seawall and discharged directly onto the beach. To what extent does, or can, the proposed plan mitigate the discharge of stormwater onto the beach?

In general summary, I note the following:

- A) The repair & replacement of a previously permitted seawall in its existing location – where there is little or no practicable space for landward relocation – is a reasonably expected activity; *but*,  
B) To the extent that any such wall – and especially any new structural feature such as the concrete stairs -- can be relocated further landward, particularly if and when the existing wall is to be demolished and upland space is available, then such wall & structure should be relocated landward, and no further seaward encroachment should be permitted. Architectural features on the beach (such as the wall west of stairs) should be avoided. This is in the mutual best interest of the environment and the facility, vis-à-vis providing increased protection and preservation of the sand beach asset.  
C) Any new engineered seawall – replacing a prior seawall – should be raised in elevation to prudently account for ongoing and reasonably anticipated future sea level rise.  
D) Discharge of upland storm water upon the sand beach – particularly along the sensitive erosional shoreline of south Seven Mile Beach – should be limited; i.e., re-directed to interior water bodies or soak-aways, etc. as much as possible.

I recognize that some of these observations may or may not fall into the specific purview of the Department's review of the subject application. Nonetheless, I offer *all* of these observations and recommendations toward overall evaluation of the proposed works from a professional coastal engineering perspective, for consideration by the applicant and the Department as appropriate. All of these observations are those that I would provide toward development of any plan for oceanfront repairs and improvements at the Regal Beach site. From my long-term experience in Caribbean resort development, and in my professional opinion, I believe that pragmatic incorporation of these recommendations would protect and benefit the best interests of the environment and the Regal Beach facility.

Thank you for the opportunity to offer these observations and recommendations. Please do not hesitate to contact me at [kbodge@olsen-associates.com](mailto:kbodge@olsen-associates.com) or US 904-387-6114 if you have any questions regarding this report.

Sincerely,



Kevin R. Bodge, Ph.D., P.E.  
President, Olsen Associates, Inc.

Cc: Gina Ebanks-Petrie (DoE)  
Timothy Austin (DoE)  
Jerrica Wood (DoE)